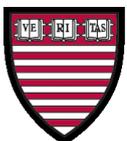


# On the Future of Human Rights

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# On the Future of Human Rights

## About the Author

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## **ABSTRACT**

The human rights framework has had many successes in the 70 years since the Universal Declaration of Human Rights was adopted, but is still relevant to today's challenges? In the last few years, human rights practitioners have raised the alarm on what seems like sustained attacks on human rights from some governments. But there is a bigger threat to the future of human rights: that people could see them as less relevant to their lives. My aim is to provide a constructive critique of human rights practice and messaging, together with three main proposals: 1. putting climate change at the top of the human rights agenda; 2. significantly increasing the amount of work on Economic, Social and Cultural (ESC) rights undertaken by human rights advocacy and campaigning organizations, and 3. adopting a system-analysis and solutions-based approach to human rights.

## **INTRODUCTION**

The Universal Declaration of Human Rights (UDHR) is 70. Numerous people concerned with human rights have pointed to the threat they face from aggressive populism, xenophobia and diminishing international support from governments.<sup>1</sup>

I will not dwell on these factors, but will highlight aspects of the practice of human rights, which I believe threaten to erode support (and are likely to have already eroded support) for the human rights framework. My aim is to provide a constructive critique, and to make proposals for change, which I hope will contribute to learning from past mistakes and missed opportunities by the human rights community. Ultimately, my aim is to support change that will ensure that the UDHR is relevant and thriving for another 70 years.

My critique focuses on three main propositions:

1. Human rights practice has, until recently, overwhelmingly placed people above our natural environment, failing to respond to the dual crisis of environmental destruction and climate change. This is changing but not fast enough.
2. Internationally and in many countries, human rights organizations have done too little to advance economic and social rights, with detrimental impact on popular support for human rights.
3. Human rights issues are often analysed from the sole perspective of the human rights framework, not taking into account interacting systems and as such not proposing practical solutions.

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<sup>1</sup> See, for example, Amnesty International 2017/18 Annual report at <https://www.amnesty.org/en/latest/research/2018/02/annual-report-201718/>; the EU's 2017 study on the shrinking space for civil society at [http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578039/EXPO\\_STU\(2017\)578039\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2017/578039/EXPO_STU(2017)578039_EN.pdf) as well as the piece by Human Rights Watch's Executive Director, Ken Roth, for the organization's 2018 World Report at <https://www.hrw.org/world-report/2018/pushback-against-the-populist-challenge>, which also offers a glimmer of hope.

## 1. HUMAN RIGHTS AND THE ENVIRONMENT

The idea of a healthy environment being a prerequisite to the enjoyment of human rights dates back decades.<sup>2</sup> A right to a healthy environment has been incorporated in many constitutions and the United Nations established a mandate for a special rapporteur on human rights and the environment.<sup>3</sup> In 2008, the UN Human Rights Council adopted the first of several resolutions on the human rights implications of climate change<sup>4</sup> and in 2009, the Office of the High Commissioner for Human Rights published a seminal study on the relationship between human rights and climate change.<sup>5</sup>

These are important steps in terms of standards development and it appears that, at the level of UN agencies, there has been significant movement towards embracing the environment and climate change as important human rights issues. However, the picture is very different when it comes to human rights advocacy organizations.

There is a noticeable lack of quantitative research into the work of international human rights organizations, so it is difficult to assess the extent of their work (or lack thereof) on any given area. To arrive at some indicative values, I undertook a set of keyword searches on the websites of major human rights organization, as follows:

- searches included 8 keywords, one for climate change, 4 for civil and political issues, and 3 for ESCR issues.
- searches were set for text within a page, which means that a result would be returned even if a keyword was mentioned only once.
- searches were set for pages updates up to one year prior to the search dates, which was 19 June 2019.
- the websites searched were those of 3 major international human rights NGOs: Amnesty International, Human Rights Watch and the Federation International des Droits de L'Homme; one specialist international NGO, Article 19; ACLU, the major US human rights organization; and the Office of the High Commissioner for Human Rights.
- Using the raw numbers I computed the percentages of pages including each search term in relation to the overall number of pages in the search set.

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<sup>2</sup> See this overview on the UN Environment Programme's website.

<sup>3</sup> See <https://www.ohchr.org/en/Issues/environment/SREnvironment/Pages/SREnvironmentIndex.aspx>

<sup>4</sup> United Nations Environment Programme, *Climate Change and Human Rights*, December 2015, pp13-14.

<sup>5</sup> See online at <https://www.ohchr.org/EN/Issues/HRAndClimateChange/Pages/Study.aspx>

### Incidence of keywords in websites of major human rights organizations in one year June 2018-2019

	aclu.org*		amnesty.org		article19.org		fidh.org		hrw.org		ohchr.org	
"climate change"	10	1.5%	59	5.6%	2	3.8%	1	0.2%	40	4.0%	155	13.7%
"freedom of expression"	196	29.5%	200	18.8%	-	-	198	32.2%	200	19.9%	186	16.5%
"torture"	195	29.3%	205	19.3%	31	59.6%	196	31.9%	253	25.2%	174	15.4%
"refugees"	60	9.0%	194	18.3%	7	13.5%	24	3.9%	250	24.9%	180	16.0%
"death penalty"	203	30.5%	200	18.8%	12	23.1%	190	30.9%	161	16.0%	158	14.0%
"right to housing"	1	0.2%	80	7.5%	0	0.0%	1	0.2%	13	1.3%	69	6.1%
"right to water"	0	0.0%	39	3.7%	0	0.0%	4	0.7%	20	2.0%	35	3.1%
"right to health"	0	0.0%	85	8.0%	0	0.0%	1	0.2%	67	6.7%	171	15.2%
<b>Climate change + ESCR terms percentage</b>	<b>1.7%</b>		<b>24.8%</b>		<b>3.8%</b>		<b>1.1%</b>		<b>13.9%</b>		<b>38.1%</b>	

Keyword search results using Google on main domains of six major human rights organizations. Search parameters were: keywords in text, pages updated in the past year, English language. Figures for each search are with the "omitted results" default in Google search. For [aclu.org](http://aclu.org) I used the term "free speech" instead of "freedom of expression". I included Article 19 as its focus on freedom of expression is relevant to all human rights issues; for this same reason I excluded "freedom from expression" as it would have skewed the results.

#### Limitations:

- the search results are limited in that they are purely quantitative and offer no qualitative assessment of the importance of an issue in the returned results - i.e. one mention of climate change in a report would be equal to a whole report dedicated to the right to health.
- different terminology might be used by different authors.
- the percentages in the tables are only relative to the 8 terms searched for; values would be different if a different set of search terms were used.
- overall, this can only be used as an indicative proxy to the prevalence of work on a certain issue rather than an exact study.

#### with that in mind, some important observations can be drawn (in relation to climate change):

- there is very little mention of climate change on the websites of the human rights organizations examined, with the exception of OHCHR. Of the 5 NGOs, Amnesty International had the highest mentions of climate change, but only at 5.6%.
- OHCHR is notable because mentions of climate change are nearly as prevalent as individual civil and political issues, whilst also being the only non-campaigning human rights institution in the examined organizations.
- overall, it appears that climate change, arguably the most important challenge facing humanity today<sup>6</sup> receives very little attention from international human

<sup>6</sup> The evidence for this is abundant; for illustration see the UN Secretary General' speech on climate action of 10 September 2018 in New York - *'Direct existential threat' of climate change nears point of no return, warns UN chief*, online at <https://news.un.org/en/story/2018/09/1018852>

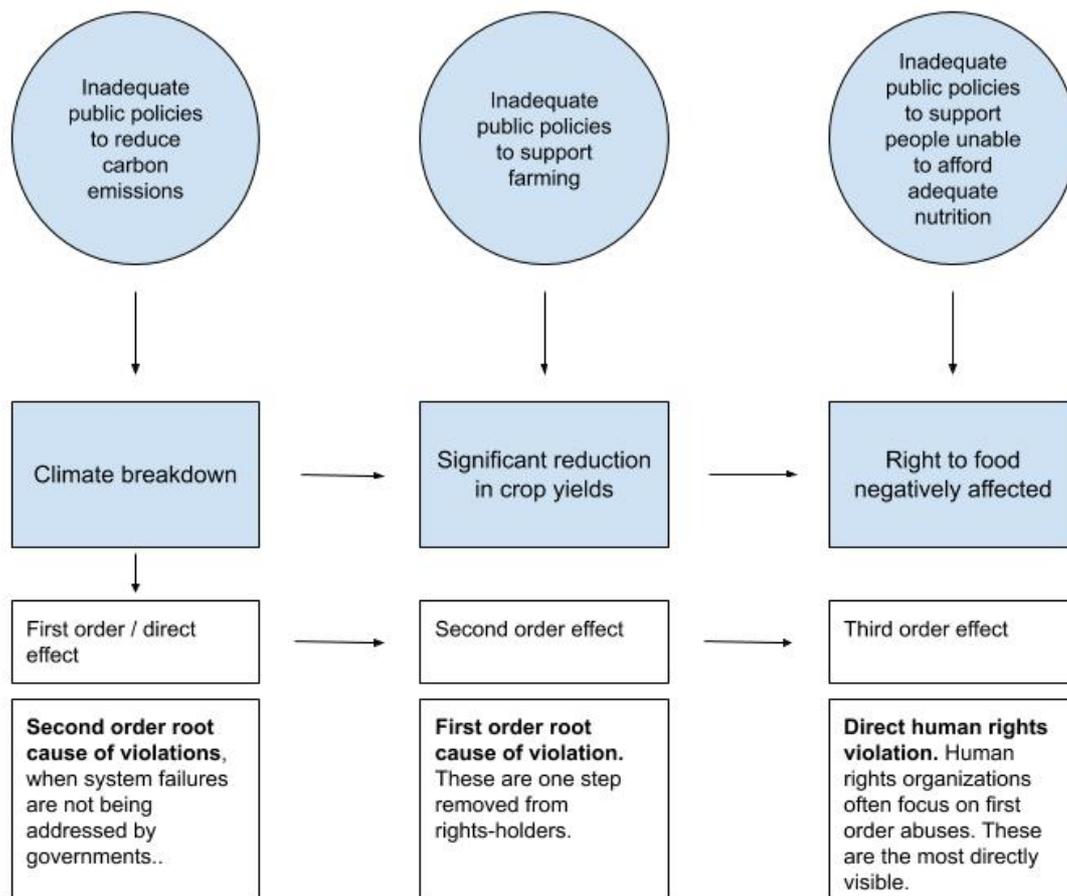
rights organizations - at least based on this sample.

I believe there are three reasons for this:

**The first is the *de facto* prioritization of civil and political (C&P) rights** by many organizations in the human rights movement, at least in the global north. The principle of the indivisibility and interdependence of human rights is well accepted in legal and academic circles but less practiced on the ground - and when it is, it often reverts to issues around freedom of expression and assembly linked to economic, social and cultural (ESC) rights. The environment and climate change do not just impact ESC rights, but their impact is more directly felt on food, water, health and housing, among others. I will expand on the matter of C&P v ESC rights in section 2.

**The second reason is that the human rights framework is, in practice, usually used in relation to what can be termed direct human rights violations**, and to a lesser extent, root causes of violations. However, second order root causes of violations, are seldom addressed. What I mean by this is the following:

- we can point to human rights abuses such as torture, imprisonment of journalists and denial of the right to education to people from a specific ethnicity – these are **direct violations**, where the abuse is directly pointing to human rights as identified by international treaties.
- we can also sometimes point to indirect human rights abuses such as when the lack of access to transportation for remote communities results in an effective denial of access to health care, or if industrial pollution results in the denial of access to clean water. These are often referred to in human rights practice as (first order) **root causes of violations** – this is where the root of the abuses suffered by people occur within a separate system.
- However, the human rights framework is seldom applied to **second order root causes of violations**, those resulting from breakdown in systems further removed, such as ecological, economic or financial systems. One of the best, and most important, examples of second order root causes of violations, is climate change.
- Examining human rights violations at the level of direct violations limits the examination to an individual, group or community, usually involving one or a small number of rights, within a specific period of time. First order root causes can impact wider groups and rights over a longer period of time. Second order root causes can impact whole societies, or even the global population on a multitude of rights and a prolonged timescale.



Even though the link between the environment - then climate change - and human rights was established at the UN standard setting level decades ago, major international human rights organizations have, until recently, largely been absent from the climate change debate. I have had numerous conversations with human rights experts where the prevalent view was that climate change should be left to environmental organizations. This view points to a huge gap in the common approach to human rights: that the rights of people are distinct from the health of the planet and other species.

In reality, they are highly interconnected systems. The UN's sixth Global Environment Outlook (GEO6), published in March 2019 was unequivocal about the link between the two, as these excerpts from the key message of the report show:<sup>7</sup>

Unsustainable production and consumption patterns and trends as well as inequality, combined with population growth-driven increase in resource use, put at risk the healthy planet needed to attain sustainable development. These

<sup>7</sup> United Nations Environment Assembly of the United Nations Environment Program, *GEO-6 Key Messages (Developed by the Bureau members of the Summary for Policymakers meeting)* Fourth Session, Nairobi, 11-15 March 2019

trends are deteriorating planetary health at unprecedented rates with increasingly serious consequences especially for poorer people and regions.

Past and present greenhouse gas emissions have already committed the world to an extended period of climate change with multiple and increasing environmental and society-wide risks.

Air pollution, currently the cause of 6 to 7 million premature deaths per year, is projected to continue to have significant negative effects on health, and still cause between 4.5 million and 7 million premature deaths annually by mid-century.

Biodiversity loss from land-use change, and habitat fragmentation, overexploitation and illegal wildlife trade, invasive species, pollution and climate change is driving a mass extinction of species, including critical ecosystem service providers such as pollinators. **This mass extinction compromises Earth's ecological integrity and capacity to meet human needs.** [emphasis added]

It's time for the human rights movement to fully embrace environmental issues as part and parcel of human rights. Tackling system level failure that lead to human rights abuses, at the level of first or second order root causes, has a multiplying positive effect on human rights as corrective action propagates from national and global systems to various subsystems to communities and individuals.

This means not only tackling climate change as an existential threat to humanity (and standing up to the lack of sufficient action on climate change as a major violation of human rights obligations) but also to embrace broader environmental and ecological issues. The fate of plant, animal and insect species that are close to extinction may seem far removed from human rights but the reality is that the environment that sustains us and where our species has thrived is dependent on a careful ecological balance.

Human rights practitioners should be as concerned about carbon emissions and the ecological threat to bees (as an essential component in global food production),<sup>8</sup> as they are about freedom of expression and freedom of assembly.

*For illustration of the importance attached to climate change, the World Economic Forums' 2017 Global Shaper's Survey, found that 48.8% of respondents said that climate change was the most important issue facing the world today, ahead of large scale conflicts (38.9%) and inequality (30.8%).<sup>9</sup> Deloitte's 2019 Global Millennial Survey*

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<sup>8</sup> According to The Food and Agriculture Organization of the United Nations "Close to three-quarters of the world's crop species depend, at least in part, on bees and other pollinators" - see the organization's report, *The importance of bees and other pollinators for food and agriculture*, online at <http://www.fao.org/3/I9527EN/i9527en.PDF>

<sup>9</sup> World Economic Forum, Global Shapers Survey 2017, p.15, online at:

similarly finds climate change to be the issue of most concern to respondents.<sup>10</sup>

I believe the human rights community at large - and not just the subset that focuses on environmental issues - needs to embrace environmental protection and climate change action as **the** top priority for human rights in the decades to come. There are no human rights, or for that matter humans, without a livable planet. If it is to stay relevant, and hopefully to thrive, the human rights movement must also become an environmental and climate change movement. If it doesn't it will become ever less relevant and will eventually wither and die.

## 2. ESCR AND THE 90%

There has been a historical division in human rights – between civil and political rights, like the rights to liberty, freedom of expression and freedom from torture, on one hand, and economic, social and cultural rights, like the rights to health, work and housing, on the other.<sup>11</sup> The division reflected the politics and economics of the 1960s, with the US focused on civil and political rights and less so on social services provision, while the USSR and China focused on providing public services but not political freedoms.

Today, these divisions don't reflect the real world. The vast majority of countries have long moved away from the communist/capitalist divide of the Cold War and what we have is a range of economic models with varying degrees of what were historically right or left economic policies. Almost every government has a policy of improving access to employment, healthcare, housing and education, even though the means of achieving them and the level of involvement from the state can vary widely.

However, many prominent international human rights institutions, from UN agencies to international NGOs, as well as national human rights institutions, have historically had a disproportionate focus on civil and political rights. There is very little, if any, quantitative data on the proportion of ESC v C&P work at major human rights organizations. But there is strong anecdotal evidence that supports this assumption, for example the 2016 report of the Special Rapporteur on extreme poverty and human rights to the UN Human Rights Council, which makes a number of pertinent points:<sup>12</sup>

- “Specialist studies indicate that while a handful of [national human rights] institutions have devoted significant attention to economic and social rights, the

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[http://www.shaperssurvey2017.org/static/data/WEF\\_GSC\\_Anual\\_Survey\\_2017.pdf](http://www.shaperssurvey2017.org/static/data/WEF_GSC_Anual_Survey_2017.pdf)

<sup>10</sup> Deloitte, *The Deloitte Global Millennial Survey 2019*, p.6, Online at:

<https://www2.deloitte.com/global/en/pages/about-deloitte/articles/millennialsurvey.html>

<sup>11</sup> European Parliament, *Indivisibility of human rights, Unifying the two Human Rights Covenants?* 2018, online at

[http://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628296/EPRS\\_ATA\(2018\)628296\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/ATAG/2018/628296/EPRS_ATA(2018)628296_EN.pdf)

<sup>12</sup> Human Rights Council Thirty-second session, *Report of the Special Rapporteur on extreme poverty and human rights*, 28 April 2016.

vast majority have not... The bottom line is that few of these “institutions are producing regular, comprehensive reports on ESC rights fulfilment in their countries”.

- [UPR] Only one out of five recommendations adopted have been specifically concerned with economic, social and cultural rights. Only 11 per cent of the recommendations put forward by the regional group that have made, by far, the most recommendations overall dealt with economic, social and cultural rights.”
- “When constitutions are being rewritten, the major NGOs are vocal in calling for the inclusion of civil and political rights, but rarely mention economic and social rights.”

**Incidence of keywords in websites of major human rights organizations in one year June 2018-2019**

	aclu.org*		amnesty.org		article19.org		fidh.org		hrw.org		ohchr.org	
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*Similarly to climate change, the keyword search of websites of major human rights organizations described in section 1 shows low levels of mentions of key ESC rights.*

There is good reason for all the work that human rights organizations do on C&P rights. While no government says it tortures people and all accept (at least officially) that they shouldn't torture people, many do it;<sup>13</sup> while all governments claim there is an independent judiciary, that's too often not the case. Critically, foundational rights such as freedom of speech and freedom of assembly are severely curtailed in many countries – and without them, it is not possible for people to demand and put pressure on governments to respect their other rights, including economic and social rights. As such – and by way of illustration as this is the organization I am most familiar with – Amnesty International's focus in its first few decades of its existence on freedom

<sup>13</sup> A good summary of historical reports of torture was made by Rick Noack of the Washington Post in his article *Most countries are against torture — but most have also been accused of it*, 12 December 2014, online at [https://www.washingtonpost.com/news/worldviews/wp/2014/12/12/most-countries-are-against-torture-but-most-have-also-been-accused-of-it/?utm\\_term=.532e85f23400](https://www.washingtonpost.com/news/worldviews/wp/2014/12/12/most-countries-are-against-torture-but-most-have-also-been-accused-of-it/?utm_term=.532e85f23400)

of expression and freedom from torture made sense.<sup>14</sup>

But today, international and national human rights institutions must elevate ESC rights much higher up their agenda. I believe this is critical to grow support and commitment for human rights among the public in the first place, and as an indirect consequence, governments' commitment to human rights.

My reasoning for this is simple, whenever human rights organizations campaign on issues such as violations of the freedoms of expression and assembly, the right to life, freedom from torture, and access to justice, these are issues that, by their very nature, directly impact a small proportion of any given population at any given time (bar in exceptional circumstances such as armed conflicts). On the other hand, access to healthcare, education, work and housing directly impact, by their very nature, almost everyone in a given population.

This doesn't mean that civil and political rights are less important to people – only that their impact is often felt when someone has a problem: they are arrested, they are detained, they have to go in front of a judge, or they face retaliation for publicly challenging a government – but on most days, for most people, many civil and political rights may not be at the forefront of their thinking. On the other hand, health, work, education and housing are much more palpable issues day in and day out.

We can classify support for human rights into three broad categories:

1. People championing the rights of others who are suffering from egregious abuses they are unlikely to face themselves;
2. People fighting for their own rights and those of their communities during periods of acute abuses; and
3. People standing up for their interests and those of their communities during periods of relative stability.

The first category is predominantly about supporting people who are visibly and clearly worse off in terms of their legal, social and/or economic situation; often they are people in other countries or living in very different social and economic conditions in the same country - for example prisoners of conscience, refugees and civilians affected by conflicts in other countries.

The second category is similar to the first in that it concerns acute human rights abuses but this time communities are championing their own rights, e.g. indigenous people resisting the forced appropriation of their land, people protesting attacks on their communities during an armed conflict, or refugees calling for greater protection.

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<sup>14</sup> See online at: <https://www.amnesty.org/en/who-we-are/>

The third category covers aspects of everyday life, such as access to healthcare, education and housing. These may be less immediately acute, but they can affect a large proportion of the population in a country, including in relatively wealthy countries and during periods of relative stability.

Here human rights are often in competition with politics: for people to actively care about the human rights message, particularly that of equality and non-discrimination, they must see greater human rights protection as the means for a better future. Without this, human rights risk being seen as something that only benefits those perceived as 'other': refugees, people in faraway conflicts, and the minority of the population who are politically active.

A human rights message that resonates with people must respond to their needs: whether it's to be free to practice their religion, to have access to good medical care, to believe that they will get a fair hearing in front of a judge, to have a good school for their children, to be able to hold a corrupt government to account without fear for their life or freedom, and to have a decent house to live in. It's not one or the other, it's both. Major human rights organizations, national and international, need to change the balance of their work to something much closer to a 50/50 split between civil and political rights, and economic, social and cultural rights.

The best way to protect the rights of minorities, refugees and disadvantaged groups in a society, is to have widespread support for human rights. When people hear a human rights message that speaks to their needs they are more likely to be receptive to a human rights message about the needs of others. If the backlash we have seen against human rights across the world is any indication, the opposite is equally likely to be true.

### **3. SOLUTIONS-FOCUSED AND SYSTEMS THINKING**

The first step to righting a wrong is acknowledging it exists. For a government or a company to change a law or practice that results in human rights abuses, they must first admit (even if it's in private) that they are doing something they shouldn't. The human rights movement excels at exposing abuses by the powerful and standing up to them.

Like investigative journalists who expose government corruption and murky deals, the importance of the role of the human rights movement as a watchdog cannot be underestimated. Without the research and investigations that bring abuses to light, there is no basis on which to build effective campaigns against human rights abuses and they are doomed to fail. Simply put, if you can't prove or understand the problem, you can't possibly understand the solution.

The solutions to some human rights violations are relatively straightforward – for

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example ending torture in police custody and ending legal threats against independent journalists. Yes these require many steps and much work to achieve in practice, but if a government has the willingness, it will know what it needs to do.

The same cannot be said for all human rights problems: for example when it comes to access to healthcare, and the right to work, the answer is often not straightforward. The fulfilment of these rights is almost always heavily resource constrained. There is also seldom a clear right answer to questions such as: should healthcare be free at the point of service, what's the threshold for treatments that should be available in a public health system or when and how much should the minimum wage be raised?

This is not limited to economic, social and cultural rights. Take freedom of expression – how do you maintain the internet as an open space whilst making it safe for people? How do you protect children from predatory behaviour whilst respecting their privacy and protecting their communications? How do you combat hateful speech without restricting freedom of expression? How should governments respond to the refugee crisis?

Often, we - human rights practitioners - fail to provide solutions. Yes, exposing human rights abuses is incredibly valuable in and of itself, but we must not stop there. Human rights organizations should also propose practical solutions, ones that a government or company that accepts they must change their practices would be able to implement. We must be ready and willing to have these conversations and not just shout from the sidelines.

These solutions should go beyond legal changes – they should encompass technical and technological solutions, financial analysis and system analysis. As human rights advocates and practitioners, we must embrace the complexity of the world and see human rights as one of multiple interacting systems needed to achieve individual, societal and planetary well-being. These include economic, fiscal, political and technological systems, among others.

It's important not to fall into the trap of thinking that the human rights framework has the solution to every sociological, political or economic problem. Its legal standing, wide acceptance and international nature make it essential for sound governance but to think of it, explicitly or in practice, as the answer to everything, is to set it up for failure.

#### **HUMAN RIGHTS FOR ALL, BY ALL**

Related to approaching human rights as part of interacting systems, as human rights practitioners, we must increase our outreach and collaboration with other sectors - scientists, economists, politicians, businesses and others without whom the ideal of universal enjoyment of human rights can never be achieved.

Cross-sector collaboration exists of course, but in most cases it's very episodic - usually

consulting experts on specific research or policy questions. Where organizations have integrated experts from other fields into their core human rights teams, it has given additional depth of analysis and insights that resulted in stronger, more impactful outputs. As an example, I can point to Amnesty International's Crisis program and Amnesty Tech, which have successfully integrated military and technology expertise into their research programs. (A disclaimer, Amnesty Tech is my former team)

Beyond bringing in subject matter experts from other disciplines into human rights organizations, it's critical that we look at human rights as something that everyone owns. Yes, human rights professionals have professional expertise in research, law and campaigning, among others, but everyone can and should have an opinion about human rights - human rights are by definition everyone's business.

And critically, if we want to get to a world where everyone enjoys their human rights, civil society, governments, business (and others) must collaborate to achieve this.

Exposing violations and abuses is always needed but working together towards solutions for protecting rights is equally important.

## **CONCLUSION**

The human rights framework has had remarkable success over its 70+ years of existence. Its principles are enshrined in numerous constitutions; regional and international courts - even if only partially - enforce its rules; and most importantly, it has improved the lives of millions of people. But it's also showing signs of aging and any close observer will know that it's under threat. That human rights have their detractors is nothing new; the real threat is from less and less people seeing them as relevant to their lives.

If the ideals of the human rights framework are to survive and thrive, the practice of human rights must change. Climate change is the biggest threat human rights have ever faced; as such environmental protection - and in particular the climate crisis - should be at the top of the human rights agenda.

Equally important is for the human rights message to address the day-to-day concerns of people around the world. This means a much greater focus on advocacy and campaigning for economic, social and cultural rights than exists today.

Finally, human rights analysis will benefit from embracing the complexity of the world and the way different systems interact. It's better to acknowledge the limitations of the human rights framework than to see it as the answer to every social problem. By collaborating with experts from interconnected fields, we are much more likely to arrive at practical solutions that increase the protection of human rights, than if we address human rights in isolation.

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