

Ideals Left Behind: Illuminating Gaps in Western-Centric Human Rights Through Indigenous and African Perspectives

Meghan M. Meehan, Webster University – Saint Louis, Missouri

Human rights are meant to be universal, belonging to all people. Yet foundational human rights documents such as the Universal Declaration of Human Rights (UDHR) often fail to account for the perspectives of marginalized and/or non-Western peoples, including those negatively impacted by colonialism and those whose cultures prioritize collective rights over individual rights. This paper considers two non-Western human rights documents – the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the African Charter on Human and Peoples' Rights (also known as the Banjul Charter) to explore what ideals are left out of traditional, Western-centric human rights norms.

Under international frameworks and binding international law, human rights are meant to be universal and inalienable. Every person – no matter their race, sex, or nationality – has a right to these fundamental protections. However, the recognition of modern human rights has not been an inclusive process because it privileges a predominantly Western worldview. Modern human rights norms emerged in the mid-twentieth century with the creation of the United Nations and the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. Despite waves of decolonization after World War II, the groups most affected by colonialism had little input in the creation of the UDHR and modern rights. While the UDHR certainly still applies to them, Indigenous and African worldviews were generally not part of the conversation.

Instead, the UDHR and ensuing human rights law is heavily influenced by Western, Euro-centric thinking with roots in Enlightenment philosophy. Many Enlightenment thinkers condoned the exploitation of Indigenous and African cultures for the advancement of new knowledge, vis-à-vis Western imperialism and colonialism. Through imperialism and colonialism, the Western world created a hierarchy, putting itself at the forefront of international discourse. With this power, Western discourse influenced many aspects of early international law and international relations. Indigenous and African cultures were not a predominant part of this discourse – in part because they were often presented as

less than human, or “savages” who needed civilized Western societies to save them (Mutua, 2001). Relatedly, Western norms center on individual rights rather than collective rights. Individual rights stem from the importance of liberalism to the West; liberalism focuses on individual autonomy and self-interest (Smith, 2006). Collective rights focus on the rights of a group as a collective community, and these rights are important priorities for many Indigenous and African cultures. Notably, modern international human rights center on individual rather than collective/group rights, with the Western world cautious to protect collective rights for fear they could be used to infringe on individual freedoms.

This paper does not seek to argue that certain human rights norms are wrong or bad, but rather to highlight how differences in worldviews are not adequately considered in the formation of modern human rights. Indigenous and African perspectives, which are greatly influenced by the effects of colonialism and respect for collective rights, are not fully represented in the UDHR and ensuing international human rights law. Two alternative frameworks – the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the African Charter on Human and Peoples’ Rights (also known as the Banjul Charter¹) – offer non-Western approaches to human rights that prioritize self-determination and provide protections against colonialism. The UNDRIP and the Banjul Charter are key frameworks to consider if we are to create a truly universal system for recognizing and protecting human rights.

Western Focus of Human Rights

The modern human rights we know of today came about through the creation of the United Nations and the International Bill of Human Rights.² Prior to World War II, human rights lacked political support because they conflicted with accepted norms of state sovereignty and the principle of nonintervention between states; a state’s treatment of its citizens was considered “a matter of protected domestic jurisdiction” (Donnelly & Whelan, 2020, p. 4). However, the mass atrocities of World War II – including the genocide of European Jews, as well as the persecution of LGBTQ+ individuals, the Roma, political dissidents, people with disabilities, and a variety of other marginalized groups – called the acceptance of protected domestic jurisdiction into serious question. Six million Jews died during the

¹ This document is also called the Banjul Charter because the final draft was produced in Banjul, the capital of the Gambia (see Mutua, 1995).

² The International Bill of Human Rights consists of the UDHR and two key UN treaties adopted in 1966: the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The UDHR is not legally binding, but the two Covenants represent binding international law and serve to reinforce the norms outlined in the UDHR.

Holocaust while the international community made little effort to stop the killing, even failing to target the railway lines that brought hundreds of thousands to slaughter at extermination camps (Donnelly & Whelan, 2020, p. 5). After the war ended, the international community was forced to face the outcomes of its inaction; there needed to be a path toward repairing international relations and holding sovereign states accountable.

In 1945, the United Nations (UN) was founded to help deal with the aftermath of World War II and to foster international peace and security. The UN was born out of the United Nations Conference on International Organization in San Francisco, California. The UN Charter was drafted and signed by 51 states, and the UN was officially established on 24 October 1945. The UN was not only a new way of engaging in international diplomacy, but it also introduced human rights norms as part of global governance. The preamble of the UN Charter lists principal objectives of the UN, including “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small” (United Nations, 1945). These statements were groundbreaking and vital for the creation of legal human rights. At the same time, human rights actions following the Holocaust established new precedents; the Nuremberg Trials, which began just after the ratification of the UN Charter in 1945, introduced the charge of “crimes against humanity” and held individuals legally accountable for their actions against citizens (Donnelly & Whelan, 2020, p. 5). In addition to the Nuremberg trials in 1946, the UN created the Commission on Human Rights with its first task to establish an International Bill of Human Rights. Other human right documents have followed – including legally binding human rights law such as the 1989 Convention on the Rights of the Child – but the documents within the International Bill of Human Rights are largely viewed as the basic building blocks for the modern human rights regime.

The Enlightenment Influence

The countries leading the creation of the UDHR and modern human rights norms (such as the United States and the United Kingdom) were deeply influenced by Enlightenment thinkers from the seventeenth and eighteenth centuries – including their doctrines related to individual liberty, representative government, the rule of law, and religious freedom. Enlightenment thinkers engaged in early discussions about individual rights and government duties; Jean-Jacques Rousseau and other “social contract” theorists like John Locke and Thomas Hobbes argued that citizens give up their absolute liberty so that a government will protect fundamental rights to life, liberty, and property. In exchange for protection from the government, citizens must adhere to certain rules to create a civilized

society (see Britannica, 2026). Enlightenment ideas were instrumental to the creation of the United States' Declaration of Independence in 1776, as well as the 1789 French Declaration of the Rights of Man and of the Citizen. Later, Enlightenment thinking spurred the creation of new knowledge and ensuing technologies – from the discoveries that fostered the Industrial Revolution to academic advancements within scholarly disciplines.

Yet some scholars contend that the Enlightenment also supported practices of colonial domination and exploitation. Linda Tuhiwai Smith (2006) writes that Enlightenment ideas “provided the spirit, the impetus, the confidence, and the political and economic structures that facilitated the search for new knowledges” (p. 91). For example, the study of science and culture was a vital interest of Enlightenment thinkers, and many “discoveries” involved the study of non-Western cultures in fields such as “orientalism.” These studies frequently created hierarchies of peoples and cultures, ranking groups based on whether they were perceived as having a “soul” and were worthy of salvation. These rankings implied that one could be “nearly-human, almost-human, and sub-human” (Smith, 2006, p. 93). These studies were often used to justify imperialism and dominating lower-ranked peoples. Smith (2006) explains: “Imperialism and colonialism are the specific formations through which the West came to ‘see,’ to ‘name,’ and to ‘know’ [I]ndigenous communities” (p. 93). Colonial powers used scientific “discovery” as justification for distinguishing themselves from Indigenous and African cultures, and then for dominating those communities.

Today, Western conceptions of human rights rely on a black-and-white understanding that does not account for cultural and historical complexities. Makau wa Mutua (2001) explains that “a historical understanding of the struggle for human dignity should locate the impetus of a universal conception of human rights in those societies subjected to European tyranny and imperialism” (p. 205). Mutua (2001) also defines a dangerous concept known as the Savages-Victims-Saviors (SVS) trope, which portrays non-Western societies and governments as savages whose citizens are victims requiring Western salvation. Mutua (2001) explains: “‘Savage’ cultures and peoples are seen as lying outside the human rights orbit, and by implication, outside the regime of political democracy. It is this distance from human rights that allows certain cultures to create victims” (p. 205). This trope justifies the Western savior, who may provide unwanted “aid” or occupation; Mutua (2001) believes that the human rights movement seeks above all to spread the political ideology of Western liberal democracy.

Enlightenment thought privileges individual rights, which often do not fit the cultural norms of non-Western societies. Individual rights are woven into modern human rights documents, including first-generation rights (civil and political rights, which protect individuals from governments abusing

certain rights – such as the freedom from torture) and second-generation rights (social, economic, and cultural rights that the government must provide, such as rights to health and education) (Tomuschat, 2014). However, there is a third-generation of rights – collective, or group rights – that are largely ignored because they do not align with the first two generations of individual rights (Tomuschat, 2014). In the West especially, states worry that respecting collective rights will come at the expense of individual rights. For instance, if a group were to have internal restrictions that restrict the individual rights of some of its group members – such as a restriction that infringes on an individual's right to religion or expression. While first- and second-generation rights are protected by the International Bill of Rights, third generation rights are not. An individual's right to property is protected, for example, but group-owned Indigenous land is often not.

Indeed, some Western-centric thinkers assume that Indigenous peoples do not value autonomy or respect individual liberty – a concept that is central to Western governance. Janet M. Derrick (2021) explains that the concept of self-rationality is central to Indigenous life and “the Self and the family co-exist with strong support for individual autonomy and independence” (Derrick, 285). From this view, autonomy is still a vital aspect of Indigenous culture; it is the concept of liberty and liberalism in Western societies that highlights the importance of the individual and their self-interests and therefore creates a divide. Advocates of collective rights argue that they protect vulnerable groups from marginalization and erasure. Will Kymlicka (2001) explains that “in many cases, group rights supplement and strengthen human rights, by responding to potential injustices that traditional rights doctrine cannot address” (p. 446). By upholding Enlightenment ideas that privilege first- and second-generation rights at the expense of collective third-generation rights, the UDHR and other human rights documents create a hierarchy of rights protection that leaves little space for alternate worldviews.

Indigenous Perspectives of Human Rights

It is important to acknowledge that Indigenous peoples exist around the world, and their worldviews can differ in different places; there is not one official Indigenous worldview that is shared by all Indigenous peoples. In this discussion, I consider Indigenous cultures in North America. These groups have been targeted by governments with attempts to eradicate their culture and exploit their resources. Indigenous worldviews in North America are heavily influenced by histories of forced assimilation, colonization, and discrimination. Government policies in the U.S. and Canada centered on forced assimilation – including the use of residential schools, where Native children were prohibited from speaking their languages, practicing their traditions, and even communicating with their families. These

policies and practices assumed that white people were superior to Indigenous people, who were viewed as “uncivilized” and in need of saving/correcting (Bombay et al., 2014). Residential schools taught Indigenous children to be ashamed of their cultures, and many children suffered severe physical and mental abuse; others were reported missing and never found (Bombay et al., 2014). Following decades of rights abuse, Indigenous people in the Americas seek ways to create a unified platform from which they can promote healing and rights protection (Derrick, 2021).

While there is not a single “Indigenous worldview,” there are common elements in many Indigenous societies that can be compared to Western belief systems. Janet Derrick (2021) explores these variations – often centering on concepts such as beliefs around relationships, Oneness, spirituality, circularity, and balance – and explains that many tensions between cultures stem from a worldview difference. For instance, Derrick (2021) explains that Oneness from an Indigenous perspective is the “values of relationship with the cosmos” (p. 286). Spirituality is a core part of Oneness, and the spirit is in everything – including plants, trees, animals, and rocks; more than simply a respect for nature and the cosmos, many Indigenous cultures have a relationship to all parts of the earth (Derrick, 2021). This is one of the reasons why Indigenous land is so vital for communities; land is often necessary for participating in Indigenous cultural life. The earth and land must be treated with “kindness and gentleness, the same kind that is required in human relationships” (Derrick, 2021, p. 287). When Indigenous cultures have been stripped of their land or moved to other places, they lose spiritual connection to their ancestral lands, and they lose traditions that predate colonial society. Without this connection, they are unable to fully experience their culture.

The UDHR and other human rights documents offer useful rights protections, but it is notable that those protections center on individual rather than collective rights. The right to culture exists in the UDHR. Article 27(1) states that “Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits” (United Nations, 1948). Indigenous people who are restricted from their ancestral lands and prohibited from engaging in their traditions do not enjoy their right to freely participate in the cultural life of the community. Furthermore, the historic eradication and removal of Indigenous groups have also been detrimental to the preservation of Indigenous culture. From an Indigenous perspective, however, this is not a matter of individual rights being violated; these are collective rights that threaten the existence of their group identity. The collective or the group is vital to Indigenous culture. Whereas Western culture emphasizes an individual life, community connections and collective living are vital to Indigenous societies – “the well-being of the family, band, or community is central, and members live as mutually collaborative

beings” (Derrick, 2021, p. 291). When individuals and their communities are split up by outside forces, the collective suffers.

United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Efforts to create today’s UNDRIP began in the 1980s, when six Indigenous groups from around the world began working on a combined effort to establish protections for Indigenous peoples. It took over two decades for a Declaration to be introduced and adopted by the UN. This process was slow for several reasons, including the fact that there are different Indigenous worldviews and the international document needed to represent a myriad of Indigenous perspectives (see Aboriginal Ministry of Justice, 2024). Another reason for the slow process was that some states took issue with core components of what would become the UNDRIP, especially the right to self-determination of Indigenous peoples and the control over natural resources existing on Indigenous peoples’ traditional lands (see Aboriginal Ministry of Justice, 2024). The right to self-determination is one of the most crucial parts of the Declaration because it allows Indigenous peoples the self-autonomy to govern as a group. Finally, the UNDRIP was adopted by the UN General Assembly on 13 September 2007 with 143 states voting in favor of the document, 4 states voting against it, and 11 abstentions. The four states that voted against the UNDRIP were Australia, Canada, New Zealand, and the United States – all countries with large Indigenous populations. (These states later changed their stance on the Declaration and supported it.)

The UNDRIP contains 46 articles and, at first glance, follows a similar style to the UDHR. Upon closer examination, however, we see key differences between the two documents. One instance where we see a deviation from the UDHR is with the language that includes both Indigenous individuals and groups. The use of the word “peoples” throughout the document highlights the importance of collective rights, as well as individual rights. Indeed, “collective right” is largely ignored by the UDHR but is a prevalent theme within the UNDRIP. This term appears in Article 7 of the UNDRIP, which outlines Indigenous individuals’ right to life, physical and mental integrity, liberty, and security. Article 7(2) stipulates: “As well as the collective right to live in freedom, peace, and security as distinct peoples. They shall not be subjected to any act of genocide, violence, or forcible removal” (United Nations, 2007).

Self-determination plays a vital role in the UNDRIP, as well. This term refers to an individual or group that possesses the power to make decisions about themselves without the influence or control of an outside party. Self-determination in Indigenous societies allows them control over their governance and cultural traditions without fear of state intervention. Self-determination is first outlined under Article 3 of the UNDRIP (“Indigenous peoples have the right to self-determination”) and continues with

Article 4: “Indigenous peoples have the right to self-determination and the right to autonomy/self-governance in their local and international matters” (United Nations, 2007). Self-determination exists at both an individual and group level. Individuals have self-autonomy, which is still a vital part of Indigenous societies because individuals make up a collective body. Derrick (2021) writes, “the Self and the family co-exist with strong support for individual autonomy and independence” (p. 285). In this understanding of group rights and self-autonomy, the group is not oppressing or restricting the individual. Rather, the group is meant to uplift and support individual autonomy. This is an example of how collective rights and individual rights can support each other. From a state perspective, self-determination is a controversial right because it can conflict with state sovereignty and a state's territorial jurisdiction. Self-determination for Indigenous peoples is important because it allows them to have control over their lands, and in turn practice their traditions and protect their culture. However, for many states, the recognition of Indigenous nations and their right to self-determination challenges the predominant, Western nation-state model that is embraced by the United Nations.

African Perspectives of Human Rights

The enjoyment of human rights in Africa would not exist without freedom from colonization. This simple truth is central for understanding the process of creating the African Charter on Human and Peoples’ Rights, also known as the Banjul Charter. The Banjul Charter both recognizes and accepts the UDHR as an important foundation of human rights. It was not created to work against the UDHR, but rather to work in conjunction with the Declaration to compensate for its shortcomings. When the UDHR was created in 1948, the majority of Africa was still under colonial rule. Many of the state parties that were members of the UN Commission of Human Rights and helped create the UDHR were also colonial powers in Africa. At the time, there was no proper representation from African nations in the creation of the UDHR and no acknowledgement of the colonial domination in the final draft. This lack of representation or acknowledgement inspired African nations to create a document that highlighted the importance of freedom from colonial powers in the human rights space (African Commission on Human and Peoples Rights, n.d.).

The world slowly began decolonization efforts during the twentieth century, especially following World War II. Many African nations began to reclaim independence from colonial powers; Namibia was the last African country to be freed of its colonial power on 21 March 1990. (It can be argued that many island nations continue to feel the direct effects of colonization, but the large-scale colonization of mainland Africa ended in the late twentieth century.) However, independence after colonization is not

easy; many of these countries were economically, politically, socially, and culturally depleted by their colonial powers and later suffered consequences such as civil war, economic crisis, apartheid, and genocide. In May 1963, the Organisation of African Unity (OAU) was created to focus on battling decolonization and apartheid on the continent. The OAU was under intense pressure from the beginning to address human rights abuses on the continent, and it decided at a 1979 conference in Liberia to begin drafting an African Charter on human rights. A draft of the African Charter on Human and Peoples' Rights was presented and unanimously adopted at a 1981 OAU Heads of States and Government meeting in Kenya. The document entered force on 21 October 1986 and has been ratified by 54 of the 55 African Union member states, with Morocco being the exception (African Commission on Human and Peoples Rights, n.d.).

The Banjul Charter

The Banjul Charter consists of a preamble and three parts. The first part outlines the rights and duties that individuals are afforded in 26 different articles. The second part covers the duties individuals must adhere to; these duties are laid out in three different articles and cover individual duties towards family, local and national community, fellow beings, security, independence, taxes, and culture. The third part discusses safeguard measures, which focus on the implementation and organization of the first two parts and the creation of an African Commission on Human and Peoples' Rights (African Union, 1981).

Part I of the Banjul Charter follows a similar format to the UDHR with its protections to liberty and security of person, but we begin to see differences with Article 20. Here the concept of self-determination arises – a concept that we also see in the UNDRIP, as discussed above, but which does not play a role in the UDHR. Article 20(1) of the Banjul Charter contends: “All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination” (African Union, 1981). Article 20(2) states that “colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community” (African Union, 1981). Article 20(3) outlines how all people have the right to state assistance to help with the liberation struggles. This article is unlike anything we see in the UDHR, as it brings up two important components: (1) Self-determination, which is vital to both Indigenous and African cultures; and (2) the right for oppressed and colonized peoples to free themselves by any means recognized by the international community. The recognition of colonization and the rights of colonized people is an important aspect of human rights that is missing from Western documents. One of the

major criticisms of the UDHR is that it failed to recognize colonialism, even though colonialism was prevalent in Africa when the UDHR was created and adopted.

Part II of the Banjul Charter also contains an interesting deviation from what we see in the UDHR and other human rights frameworks: duty to community and culture. Generally, many Western human rights documents outline the protections individuals have in reference to their state duty bearer; these are first- and second-generation rights, as outlined above. However, Part II of the Banjul Charter outlines duties that individuals have in accordance with the Charter. Articles 27, 28, and 29 outline duties that individuals must uphold. Many of the duties revolve around the theme of community, with duties to family, society, common interest, and confederation for fellow beings (African Union, 1981). While Article 27 of the UDHR protects one's right to participate in the cultural life of a community and Article 29 states that "everyone has duties to the community in which alone the free and full development of his personality is possible" (United Nations, 1948), there is a stark difference between this and the Banjul Charter. The UDHR does not outline specific protections or discuss individual duties in any specific manner; the focus centers on protecting individuals rather than communities, prioritizing one's ability to achieve "free and full development of his personality" (United Nations, 1948). Whereas the three articles in the Banjul Charter outline duties an individual must do to protect the community and continue to advance its culture. The UDHR's reliance on individuality, from an African perspective, can be very dangerous to the cultural life and community life that is vital for enjoying fundamental human rights.

Conclusion

The creation of the United Nations and its foundational human rights documents were revolutionary in the post-war era, in part because global recognition of human rights did not have a genuine place in the global order before World War II. After the Holocaust, it became clear that new systems of protection were needed, especially for the world's most vulnerable. While the UDHR paved the way for binding international human rights law, these norms were missing important components. By asserting "universal" human rights without considering non-Western perspectives, including Indigenous and African worldviews, the modern human rights regime has failed to be truly representational and inclusive.

The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) and the African Charter on Human and Peoples' Rights (Banjul Charter) were created in response to these glaring protection gaps. Not only do these documents highlight what is missing from modern human rights, but

they also offer guideposts for better protecting some of the world's most vulnerable people and cultures. They bring new ideas to the table and contribute to human rights discussion in important ways, stressing the value of self-determination and collective rights. The UNDRIP and Banjul Charter are not meant to cancel or disregard the UDHR and international human rights law, but rather offer ways to widen protection and spur dialogue. Continued attention to non-Western perspectives is vital for advancing human rights and developing a more universal approach to their protection.

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