



ECONOMIC RIGHTS AND GLOBAL LEGAL ORDER: A CONFLICT BETWEEN THE UDHR AND NEO-LIBERAL NORMS

Janhavi Nitin Chaudhari*

ABSTRACT

This article explores the conflict between the economic rights outlined in the Universal Declaration of Human Rights (UDHR) and the global legal framework influenced by neoliberal liberal norms. The rights enshrined in the UDHR are available to all regardless of any form of stratification. These rights were infringed upon during the Second World War, leading to the formation of the UDHR. It serves as a foundational document in international human rights law. While UDHR affirms the universal right to work, social security, healthcare, and adequate living conditions, Neoliberal norms focus on globalisation, privatisation, and reduced state intervention, which undermine the protections provided by the UDHR by treating these rights as market commodities. Through case studies and legal analysis, the article highlights how neo liberal framework dilutes state obligations and ends by looking at the emerging alternatives, urging a shift towards legal systems that centre human rights protection over market interests, ensuring that economic rights regain their rightful place in international law and policy.

Keywords: UDHR, Neoliberal Norms, Economic Rights, Privatisation, Globalisation, International Law.

INTRODUCTION

Human rights are rights that every human being possesses by their human dignity. Regardless of our age, sex, sexual orientation, religion or belief, disability, race, or any other status, they are equally ours. They're founded on principles like justice, equality, respect, and dignity, but

*BA LLB, SECOND YEAR, INDIAN LAW SOCIETY'S LAW COLLEGE, PUNE.

they are more than simply noble concepts; they have legal safeguards. Human rights encompass civil, political, economic, social, and cultural rights, as well as the collective rights of people.¹

UDHR: The United Nations General Assembly passed the Universal Declaration of Human Rights (UDHR) in 1948. It is one of the most crucial components of current international human rights law. It upholds a wide range of economic, social, and cultural rights in addition to civil and political liberties. These clauses, especially those found in Articles 22 to 25,² represent the post-World War II unanimity that the satisfaction of material needs and individual liberties is essential to maintaining human dignity and world peace.

Always keeping this declaration in mind, there is an attempt to ensure that every individual and every organ of society seeks to encourage and respect these rights and freedoms through teaching and education, and likewise through progressive national and international measures.

Neo-Liberal Norms: However, this vision of UDHR has been radically questioned by the rise of neoliberalism as the prevalent worldwide economic worldview since the 1980s. The neoliberal legal system prioritises investor protection, individual property rights, and economic efficiency. It has its foundation on market-centric ideas, including deregulation, privatisation, and less government involvement. By doing so, it frequently reinterprets social and economic entitlements as goods or services that may be obtained through market participation rather than as rights.

The legal and normative conflicts between the UDHR's conception of economic rights as universal and unalienable and the neoliberal legal system that bases such rights on market principles are examined in this article. Through a comparative examination of legal documents, institutional procedures, and case studies, the article makes the case that neoliberal legal frameworks have played an integral part in the marginalisation, reinterpretation, or suppression of vital financial rights guaranteed by the UDHR. To resolve these conflicts and reestablish the importance of human dignity over economic dogma, it ends by looking at new developments in international law.

¹ Human Rights: Nature and Constituents

https://archive.mu.ac.in/myweb_test/SYBA%20Study%20Material/fc.pdf accessed on 13 June 2025.

² United Nations, International Covenant on Economic, Social and Cultural Rights. (1966) 993 UNTS 3

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights> accessed on 13 June 2025.

ECONOMIC RIGHTS IN THE UDHR

Article 22: As a member of society, everyone is entitled to social security and the realisation of the economic, social, and cultural rights that are indispensable for their dignity and the unrestricted development of their personality through national effort, international cooperation, and in accordance with each State's constitution and resources.³

Article 23:

- Everyone has the right to work, to choose a position of their choice, to fair and comfortable working circumstances, and to be safeguarded against unemployment.
- Equal compensation for equal work is a right that all people have, without exception.
- Every worker has the right to fair and advantageous compensation, which guarantees him and his family a life deserving of human dignity and is augmented, if required, by additional social protections.
- Everyone is entitled to create and join a trade union to safeguard their interests.⁴

Article 24: Everybody has the right to relaxation and leisure, which includes the right to periodic paid holidays and a fair restriction on working hours.⁵

Article 25: Everybody has the right to a living standard sufficient for their own and their families' health and well-being, which includes access to food, clothing, housing, healthcare, and essential social services, as well as the right to security. In the event of sickness, incapacitated old age, widowhood, unemployment, or any other absence of income due to uncontrollable circumstances. Special attention and support should be given to motherhood and childhood. All children, whether born in or out of wedlock, shall enjoy the same social protection.⁶

All human rights, including economic rights, are inalienable and interrelated, according to the UDHR. This implies that all human rights must be honoured, upheld, and fulfilled by states, and that the attainment of one right can be impacted by the fulfilment of another.

³ National Human Rights Commission- UDHR (1948) https://nhrc.nic.in/sites/default/files/UDHR_Eng_0.pdf accessed on 14 June 2025.

⁴ Ibid

⁵ ibid

⁶ ibid

The acknowledgement of economic rights in the UDHR encourages states to include these rights in their laws, policies, and practices on the other hand The International Covenant on Economic, Social, and Cultural Rights (ICESCR), which imposes more precise legal specifications on nations, is one of the international human rights agreements that are built upon the UDHR.

NEOLIBERAL LEGAL FRAMEWORK – CORE FEATURES

Neo-liberal laws are legislative and policy tools that embody the tenets of neo-liberalism, a political-economic philosophy that gained prominence in the latter half of the 20th century, especially under the leadership of Margaret Thatcher and Ronald Reagan. These laws support market-driven governance, the importance of the private sector, and little government involvement. While neoliberals emphasise the importance of democracy, they also emphasise its limitations. They are frequently linked to deregulation, privatisation, globalisation, and the shrinkage of the welfare state.⁷

Core Features -

Market Deregulation: In a neoliberal legal framework, market deregulation refers to the reduction or elimination of government regulations and restrictions on economic activities, often intending to promote free markets and economic growth. This framework generally emphasises private property rights, free trade, and minimal government intervention in the economy.

Privatisation of Public Goods: Transferring ownership and control of public assets and services to the private sector is a common feature. This includes utilities, transportation, and even social services. The privatisation of public goods is aimed at the goal of market efficiency and reduced public spending. This legal framework, underpinned by principles like free markets and deregulation, can lead to reduced public access, increased costs, and a focus on profit over social welfare.⁸

Trade Liberalisation: Trade liberalisation within a neo-liberal legal framework involves reducing trade barriers such as tariffs and non-tariff barriers to encourage international trade.

⁷ Stanford Encyclopaedia of Philosophy, 'Neoliberalism' (2017) <https://plato.stanford.edu/entries/neoliberalism/> accessed 14 June 2025.

⁸ David Harvey, A Brief History of Neoliberalism (Oxford University Press 2005).

Rooted in free-market principles, it promotes economic growth and efficiency by fostering a more open and competitive global market. Strong intellectual property rights are emphasised to support innovation and attract investment. Agreements like Free Trade Agreements (FTAs) ensure predictability, stability, and fair dispute resolution. Open trade also boosts economic growth through increased investment, exports, and job creation.⁹

Austerity measures and reduced state spending: In a neoliberal legal framework, austerity measures primarily involving reduced state spending are viewed as necessary for economic stability and promoting free markets. Neoliberalism favours minimal government intervention, seeing austerity as a means to shrink the state, reduce public debt, and stimulate economic growth to ensure long-term economic sustainability and fiscal discipline.

These norms are institutionalized through international bodies like the World Trade Organisation (WTO)- **General** Agreement on Trade in Services (GATS),¹⁰ Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS),¹¹ Agreement on Agriculture (AoA), International Monetary Fund (IMF), and World Bank, and reinforced via **Free Trade Agreements (FTAs)**, **Bilateral Investment Treaties (BITs)**, and structural adjustment programs. Often prioritising property rights, investor protection, and market access over collective economic rights and state intervention.

THE CONFLICT BETWEEN THE UDHR AND NEO-LIBERAL NORMS

Although seen as optional market goods under neoliberalism, economic rights are Universal Human Rights under the UDHR, which envisions a society where all people, regardless of wealth, have rights to food, shelter, work, and social security. These remain unfulfilled for millions not due to scarcity, but due to market-focused regulatory structures over human needs.

An alternative legal and intellectual system has emerged with the rise of neoliberalism. Market efficiency, deregulation and investor protection are given top priority by neo-liberal standards, which are ingrained in trade, investment, and financial regimes. Neoliberalism frequently deprives states of their ability to uphold economic rights since it is embedded in trade and financial legislation.

⁹ *ibid*

¹⁰ World Trade Organisation. (1995). General Agreement on Trade in Services (GATS). Marrakesh Agreement Establishing the WTO, Annexe 1 B.

¹¹ World Trade Organisation. (1994). Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Annexe 1C to the WTO Agreement.

These two frameworks are not only theoretically different but often legally incompatible. This section explores key conflicts, showing how neoliberal legal frameworks hinder the realisation of economic rights under the UDHR and highlights the growing legal contradiction between market-driven international economic law and the rights-based approach of the UDHR.

Universality vs. Market Conditionality: Articles 22–25 of the UDHR affirm rights to social security, employment, housing, healthcare, and education for all, regardless of nationality, income, etc. However, neoliberal legal systems treat these as commodities. Access is limited by user fees, housing driven by speculation rather than human security, and healthcare and education services privatised, causing structural exclusion that undermines the UDHR's universalist vision.

State Obligation vs. Austerity and Structural Adjustment: The UN Committee on Economic, Social and Cultural Rights insists on the state's obligation to fulfil socio-economic rights, even under economic reforms. The UDHR expects states to uphold economic rights using all available resources.¹² However, IMF structural adjustments and austerity measures legally mandate spending cuts, service privatisation, and labour deregulation, especially in the Global South. This undermines states' ability to meet obligations, leading to frequent violations of Articles 23 and 25 on fair wages and living standards.¹³

Public Regulation vs. Investor Rights: Bilateral Investment Treaties (BITs) and ISDS mechanisms let corporations challenge public policies that affect profits. States face costly lawsuits for regulating labour rights, health, or the environment.¹⁴ For example, Veolia sued Egypt over a minimum wage hike. This creates a chilling effect, discouraging social protections and undermining states' UDHR obligations.

Rights-Based Governance vs. Commodification of Public Goods: The UDHR envisions a society where equity, dignity, and social justice govern basic services. Neoliberalism inverts this by tying access to purchasing power through the privatisation of essentials like water and education. Human rights principles like non-discrimination, accountability, and affordability

¹² UN CESCR, 'General Comment No 3' (1990). accessed on 16 June 2025.

¹³ International Monetary Fund, Structural Adjustment Programs <https://www.imf.org/external/pubs/ft/esaf/exr/> accessed on 16 June 2025.

¹⁴ David Singh Grewal and Jedediah Purdy, 'Neoliberalism and the Law' (2014).

are often absent in the legal frameworks driving such privatisation. Water privatisation in Bolivia is a key example of neoliberalism conflicting with human rights.¹⁵

These tensions are more than just theoretical; they show up as actual legal disputes, inconsistencies in policy, and disparities in daily life. The economic rights guaranteed by the UDHR are at risk of being undermined, reinterpreted, or completely ignored as neoliberal legal standards become more ingrained in international investment, trade, and financial systems. The global legal order must address and correct the systematic legal biases that place a higher priority on market freedoms than on fundamental human rights if it is to preserve the UDHR's goal of dignity for all.

CASE STUDY

Nepal: Some Nepalese cultural practices impose significant barriers to the fulfilment of women's human rights in the decade of 2010. Issues related to sexuality are considered taboo. During the decade, the erosion of the infrastructure connecting women to the health-care system caused the deaths of many women who could not access urgently to needed medical care. The insurgency also saw high levels of violence against women and girls, including many incidents of torture and rape. This violated articles 23 and 25 of the UDHR. The UNFPA Fifth Country Programme for Nepal (2002–2006), developed within a human rights framework, reaffirmed its support to the Government in its efforts to improve reproductive health and advocate well-reasoned population and development strategies.¹⁶

India's liberalisation post-1991: Dismantling of public sector employment and vs. Article 23 and 25: A new economic policy emerged in 1991, which resulted in improving the performance of various sectors of the economy in India. The overall post-reform growth rate has been higher, the fiscal balance and inflationary tendency have been controlled, and the growth competitiveness and the business competitiveness of the country are increasing. However, this growth is not inclusive of

The privatisation, liberalisation, and globalisation started in post-1991, which included the contraction of public sector enterprises, selling off shares to the private sector, and reducing the number of industries reserved for the public sector. Individuals are forced into exploitative

¹⁵ Oscar Reyes, 'Water Privatisation: A Human Rights Conflict' (2004).

¹⁶ Case study: <https://unsdg.un.org/sites/default/files/Normative-Operational-Study-FINAL.pdf> accessed on 16 June 2025.

labour due to a lack of alternative employment opportunities; liberalisation has led to a weakening of workers' rights and a decline in social security provisions.

The reforms are just confined to the economy, and they are not spreading to the social sector. The social sector, including healthcare, education, social security, gender equity and environmental protection, has suffered a setback owing to the decline of public investment in these crucial areas. Thus, Article 25 of the UDHR was infringed.

ALTERNATIVE LEGAL PARADIGMS

In response to the tensions between the UDHR's vision of economic rights and the dominant neoliberal legal order, several alternative legal paradigms have emerged. These frameworks seek to re-centre human dignity, equity, and social justice within international economic governance and legal design.

Human Rights Impact Assessments (HRIAs) of Trade and Investment Agreements:

HRIAs are tools used to evaluate how trade and investment treaties may affect human rights, particularly economic, social, and cultural rights. While neoliberal legal instruments like Bilateral Investment Treaties (BITs) and WTO agreements are structured to protect capital and trade flows, they often ignore or undermine human rights standards. HRIAs offer a counterbalance by:¹⁷

- Highlighting rights risks in ex ante treaty analysis (e.g., privatisation of water affecting the water rights).
- Proposing safeguard clauses and exception provisions that allow states to prioritise rights over commercial obligations.

Example: The UN Special Rapporteur on the Right to Health (Paul Hunt) recommended conducting HRIAs before signing trade agreements, especially in the Global South.

The Right to Development (RTD):¹⁸ Adopted in the 1986 UN Declaration on the Right to Development, the RTD affirms that development is a human right and must include active, free, and meaningful participation of all peoples. The RTD stands in opposition to neoliberal

¹⁷ United Nations Human Rights Council, (2011) Guiding Principles on Human Rights Impact Assessments of Trade and Investment Agreements (A/HRC/19/59/Add.5) 2,3,4 <https://docs.un.org/en/A/HRC/19/59/Add.5> accessed on 16 June 2025.

¹⁸ United Nations General Assembly. (1986). Declaration on the Right to Development, A/RES/41/128 <https://legal.un.org/avl/ha/drd/drd.html>.

doctrines that impose one-size-fits-all economic models. It places people, not markets, at the centre of development, requires states and international institutions to cooperate and ensure equitable benefits from development, and calls for redistributive justice, not merely economic growth.

Though not a binding treaty, the RTD has gained significant traction among Global South countries and is increasingly cited in legal arguments against unfair global economic structures. Also, several countries have constitutionalised economic and social rights and empowered courts to enforce them, like South Africa and India.

Example: The African Charter on Human and Peoples' Rights (Article 22) enshrines RTD as a justiciable right.¹⁹

UN Guiding Principles on Business and Human Rights (UNGPs): Adopted in 2011, the UNGPs rest on three pillars: The state's duty to protect human rights, the corporate responsibility to respect human rights, and the right to access a remedy.²⁰ Although soft law (non-binding), the UNGPs provide a framework for integrating human rights into corporate operations and transnational business law, which are largely governed by neoliberal logic. They have led to: National Action Plans (NAPs) in many countries, Greater scrutiny of supply chains and investment activities, and Integration into public procurement and corporate due diligence laws. The limitation is the lack of binding enforcement. Often seen as voluntary and reliant on corporate self-regulation.

Treaty on Business and Human Rights (Binding Treaty Proposal):²¹ Led by Ecuador and South Africa, the UN Open-Ended Intergovernmental Working Group (OEIGWG) is negotiating a binding treaty on transnational corporations and human rights. This treaty aims to move beyond soft law and create enforceable obligations for companies regarding human rights. It directly challenges the immunity of corporate actors under neoliberal legal structures, which often prioritise investor protections over human welfare.

¹⁹ African Charter on Human and Peoples' Rights (1981), Article 22.

²⁰ United Nations Human Rights Council. (2011). Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (A/HRC/17/31). https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf accessed on 16 June 2025.

²¹ United Nations Human Rights Council. (2021). Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises: Third Revised Draft (OEIGWG).

Key Proposals in Treaty Drafts: Binding corporate due diligence, Extraterritorial jurisdiction for home states, International legal accountability for transnational corporations. Currently, the negotiations are ongoing. Resistance remains from powerful states aligned with corporate interests. The alternatives to neoliberal legal frameworks described above offer pathways to reintegrate economic rights into the heart of global law and governance. While they vary in legal status (soft vs. hard law) and scope, they share a commitment to dignity, accountability, and justice over deregulation and profit maximisation.

CONCLUSION

There is a clear conflict between the economic rights promised in the Universal Declaration of Human Rights (UDHR) and the rules of the neo-liberal global economy. The UDHR focuses on human dignity, fairness, and the basic needs of people, like work, healthcare, etc. It expects government intervention to ensure that everyone benefits.

On the other hand, neo-liberalism promotes free markets, privatisation, and less government control. It puts the interests of businesses and international investors above public welfare. This often leads to cutting social services, making essential goods expensive, reducing job security, and limiting government intervention.

These tensions are not merely theoretical—they manifest in concrete legal conflicts, policy contradictions, and lived inequalities. As neoliberal legal norms become more entrenched in global trade, investment, and financial systems, the economic rights enshrined in the UDHR face erosion, reinterpretation, or outright neglect. If the global legal order is to be upheld, there should be:

- Stronger rules to control multinational companies.
- Fairer trade and investment agreements.
- Greater freedom for governments to provide social services.
- More focus on human well-being instead of only profit.

The UDHR's vision of dignity for all must confront and redress the systemic legal biases that prioritise market freedoms over fundamental human rights.