

The Human Right *of* Property

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Significant Instruments Recognizing the Right to Property in International Law

#	Instrument			Defined Right	Beneficiaries
	Year	Name	State Parties		
1	1883	Paris Convention for the Protection of Industrial Property, article 1	194*	<ul style="list-style-type: none"> ▪ Right to <i>industrial property</i>. 	<ul style="list-style-type: none"> ▪ Nationals of member states and nationals of others domiciled or established in the member states
2	1886	Berne Convention for the Protection of Literary and Artistic Works*	182	<ul style="list-style-type: none"> ▪ <i>Protection</i> of literary and artistic works, e.g., exclusive right to translate, make reproductions, to broadcast, to perform in public dramatic and musical works, to make motion pictures, adaptations and arrangements of the work. 	<ul style="list-style-type: none"> ▪ Authors of literary and artistic works.
3	1891	Madrid Arrangement Concerning the International Registration of Marks	56	<ul style="list-style-type: none"> ▪ Right to <i>protection</i> for marks. 	<ul style="list-style-type: none"> ▪ Nationals of member states and nationals of others domiciled or established in the member states
4	1907	Hague Convention Respecting the Laws and Customs of War on Land	38	<ul style="list-style-type: none"> ▪ Right of prisoners of war to <i>property over personal belongings</i>. ▪ <i>Prohibition to destroy or seize enemy property</i>. ▪ <i>Prohibition of confiscation of enemy property during capitulations</i>. ▪ <i>Right to private property of municipalities, and institutions dedicated to religion, charity and education, the arts and sciences</i>. 	<ul style="list-style-type: none"> ▪ Prisoners of war. ▪ Parts in hostilities. ▪ Capitulating parties to hostilities. ▪ Municipalities, and institutions dedicated to religion, charity and education, the arts and sciences
5	1948	Universal Declaration of Human Rights, article 17	**	<ul style="list-style-type: none"> ▪ Right to <i>own property</i>. ▪ Right <i>not to be deprived of property arbitrarily</i>. 	<ul style="list-style-type: none"> ▪ Individuals ▪ Groups (“in association with others”)
6	1948	American Declaration of the Rights and Duties of Man, article XXIII	35***	<ul style="list-style-type: none"> ▪ Right to <i>own property</i>. 	<ul style="list-style-type: none"> ▪ Every person

Significant Instruments Recognizing the Right to Property in International Law

7	1949	Convention (IV) relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)	196*	<ul style="list-style-type: none"> ▪ Right <i>not to have property destroyed</i>. Internees: ▪ Right <i>to possession of articles of personal use and of those who have a personal or sentimental value</i>. ▪ Right <i>to remuneration</i>. ▪ Right <i>to retain a certain amount of money, to be able to make purchases</i>. 	<ul style="list-style-type: none"> ▪ Individuals and groups during armed conflict or military occupations ▪ Internees
8	1949	ILO Convention concerning the Protection of Wages (No. 95)	98	<ul style="list-style-type: none"> ▪ Right <i>to receive wages</i> directly, regularly, in legal tender, and without deductions. ▪ Right <i>to dispose freely of wages</i>. 	<ul style="list-style-type: none"> ▪ “[A]ll persons to whom wages are paid or payable” (article 2.1)
9	1951	Convention relating to the Status of Refugees	145	<ul style="list-style-type: none"> ▪ Right <i>to treatment which is</i> (i) as favorable as possible, and (ii) not less favorable as other aliens <i>in the acquisition of property and other rights pertaining thereto</i>. ▪ Right <i>to movable and immovable property</i> (Industrial property also protected by art. 14). 	<ul style="list-style-type: none"> ▪ Refugees
10	1952	Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms, article 1	45	<ul style="list-style-type: none"> ▪ Right <i>to the peaceful enjoyment of possessions</i>. ▪ Right <i>not to be deprived of possessions</i> (with exceptions). 	<ul style="list-style-type: none"> ▪ Every natural or legal person
11	1954	Convention relating to the Status of Stateless Persons, article 13	89	<ul style="list-style-type: none"> ▪ Right <i>to treatment which is</i> (i) as favorable as possible, and (ii) not less favorable as other aliens <i>in the acquisition of property and other rights pertaining thereto</i>. ▪ Right <i>to movable and immovable property</i> (Industrial property also protected by article 14). 	<ul style="list-style-type: none"> ▪ Stateless persons
12	1954	Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict with Regulations for the Execution of the Convention	127*	<ul style="list-style-type: none"> ▪ Obligation <i>to protect cultural property</i>. 	<ul style="list-style-type: none"> ▪ States
13	1955	Standard Minimum Rules for the Treatment of Prisoners	-	<ul style="list-style-type: none"> ▪ Right <i>to a safe custody</i> of money, valuables, clothing and other effects. 	<ul style="list-style-type: none"> ▪ Prisoners

Significant Instruments Recognizing the Right to Property in International Law

14	1957	ILO Convention concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (No. 107)	27	<ul style="list-style-type: none"> ▪ Right of <i>ownership of lands traditionally occupied</i>. ▪ Respect to <i>traditional mechanisms of transmission of rights</i>. 	<ul style="list-style-type: none"> ▪ Indigenous peoples: both individuals and collectives
15	1961	European Social Charter	43	<ul style="list-style-type: none"> ▪ Right to <i>fair remuneration for work</i>. 	<ul style="list-style-type: none"> ▪ Workers
16	1961	Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, article 7(1)	92	<ul style="list-style-type: none"> ▪ Right <i>to the protection of performances</i>. 	<ul style="list-style-type: none"> ▪ Performers, producers of phonograms and broadcasting organizations.
17	1961	Vienna Convention on Diplomatic Relations	179*	<ul style="list-style-type: none"> ▪ Right to <i>inviolability of property, residence, papers and correspondence</i>. ▪ Right <i>to be exempt from taxation</i>. 	<ul style="list-style-type: none"> ▪ Diplomatic agents.
18	1962	ILO Convention concerning Basic Aims and Standards of Social Policy (No. 117), article 4	33	<ul style="list-style-type: none"> ▪ Right to <i>ownership and use of land, which must serve certain social purposes</i>. 	<ul style="list-style-type: none"> ▪ Agricultural producers
19	1965	International Convention on the Elimination of All Forms of Racial Discrimination, article 5	178*	<ul style="list-style-type: none"> ▪ Right to <i>own property</i> without racial discrimination. ▪ Right to <i>inherit</i> without racial discrimination. 	<ul style="list-style-type: none"> ▪ Individuals ▪ Groups ("in association with others")
20	1969	American Convention on Human Rights, article 21	22****	<ul style="list-style-type: none"> ▪ Right <i>to the use and enjoyment of property</i>. ▪ Right <i>not to be deprived of property</i> unless under certain conditions. 	<ul style="list-style-type: none"> ▪ Everyone
21	1970	Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property	131****	<ul style="list-style-type: none"> ▪ Right to <i>the protection of cultural property</i>. 	<ul style="list-style-type: none"> ▪ Everyone
22	1971	Geneva Convention for the Protection of Producers of Phonograms against unauthorized Duplication of their Phonograms, article 2	79*	<ul style="list-style-type: none"> ▪ Protection against the duplication and distribution of phonograms. 	<ul style="list-style-type: none"> ▪ Producers of phonograms

Significant Instruments Recognizing the Right to Property in International Law

23	1979	Convention on the Elimination of All Forms of Discrimination against Women, articles 15 & 16	189****	<ul style="list-style-type: none"> ▪ Equal right to <i>administer property</i>. ▪ Same rights as men in respect of the <i>ownership, acquisition, management, administration, enjoyment and disposition of property</i>. 	▪ Women
24	1981	African Charter on Human and Peoples' Rights, article 14	53	<ul style="list-style-type: none"> ▪ Right <i>to property</i>. 	▪ Human beings
25	1989	ILO Convention concerning Indigenous and Tribal Peoples in Independent Countries (No. 169)	22	<ul style="list-style-type: none"> ▪ Right of <i>ownership and possession</i> over the lands traditionally occupied. ▪ Right to <i>safeguard</i> the lands not occupied, but accessed for subsistence and traditional activities. ▪ Right to <i>participate in the use, management and conservation of natural resources</i> pertaining to their lands. 	▪ Indigenous peoples
26	1990	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 15	50	<ul style="list-style-type: none"> ▪ Right <i>not to be deprived of property arbitrarily</i>. 	▪ Migrant workers and members of their families
27	1994	North American Free Trade Agreement (NAFTA), chapter 11	3*	<ul style="list-style-type: none"> ▪ Right <i>not to be expropriated</i>. 	▪ Foreign investors from NAFTA
28	1994	Agreement on Trade-Related Aspects of Intellectual Property Rights	164*	<ul style="list-style-type: none"> ▪ Right to <i>the protection of intellectual property</i>. 	▪ Everyone entitled to intellectual property
29	1995	Unidroit Convention on Stolen or Illegally Exported Cultural Objects	37	<ul style="list-style-type: none"> ▪ Right to <i>compensation for returning a stolen or illegally exported cultural object</i>. 	▪ Possessors of stolen or illegally exported cultural objects
30	1994/ 2004	Arab Charter on Human Rights, article 25 (1994 version, never entered into force), article 31 (2004 version, entered into force in 2008)	12	<ul style="list-style-type: none"> ▪ Right to <i>own private property</i>. 	▪ "Every citizen"
31	2000	Charter of Fundamental Rights of the European Union	28	<ul style="list-style-type: none"> ▪ Right to <i>own, use, dispose of and bequeath lawfully acquired possessions</i>. ▪ Right to <i>intellectual property</i>. 	▪ "Everyone"

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32	2000	United Nations Convention against Transnational Organized Crime	187*	<ul style="list-style-type: none"> ▪ Implies the existence of a right to <i>acquisition, possession or use of property.</i> 	<ul style="list-style-type: none"> ▪ Everyone
33	2003	Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	36	<ul style="list-style-type: none"> ▪ Right <i>to acquire and administer property during marriage.</i> ▪ Right <i>to an equitable sharing of property deriving from marriage.</i> ▪ Right <i>to property over land.</i> ▪ Right <i>to inherit.</i> 	<ul style="list-style-type: none"> ▪ Women
34	2006	Convention on the Rights of Persons with Disabilities, article 12.5	172****	<ul style="list-style-type: none"> ▪ Equal right <i>to own or inherit property.</i> ▪ Equal right <i>to control their own financial affairs and have access to credit.</i> ▪ Equal right <i>not to be arbitrarily deprived of property.</i> 	<ul style="list-style-type: none"> ▪ Persons with disabilities
35	2012	ASEAN Human Rights Declaration, article 17	ASEAN has 10 member states	<ul style="list-style-type: none"> ▪ Right <i>to own, use, dispose of and give lawfully acquired possessions.</i> ▪ Right <i>not to be arbitrarily deprived of property.</i> 	<ul style="list-style-type: none"> ▪ "Every person"

References:

*: The United States is a party to this treaty.

**: The United States voted in favor of this declaration.

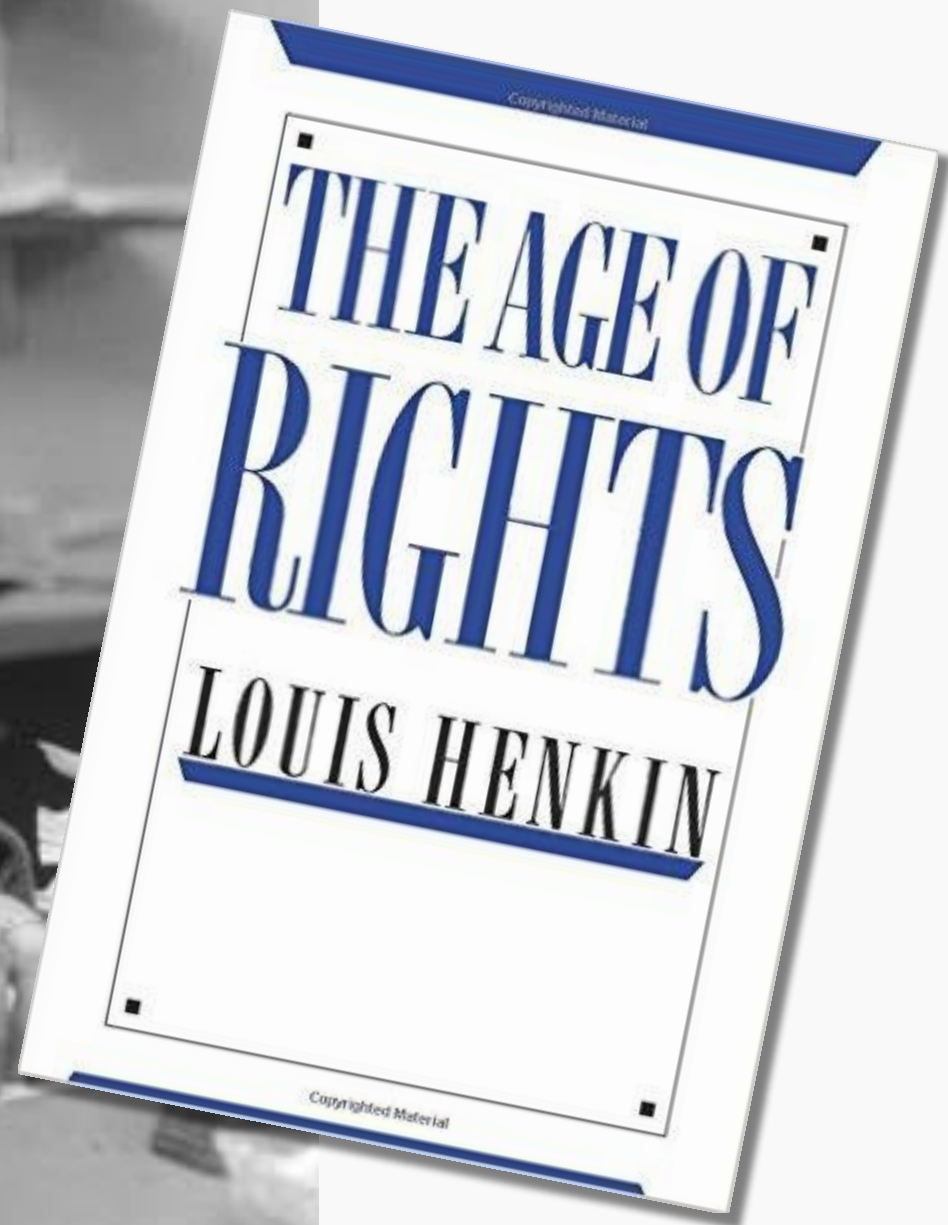
***: This declaration is now incorporated into the OAS Charter and according to the OAS, the United States is therefore a party to it (and to subject to the jurisdiction of the Inter-American Commission (but not Court) of Human Rights).

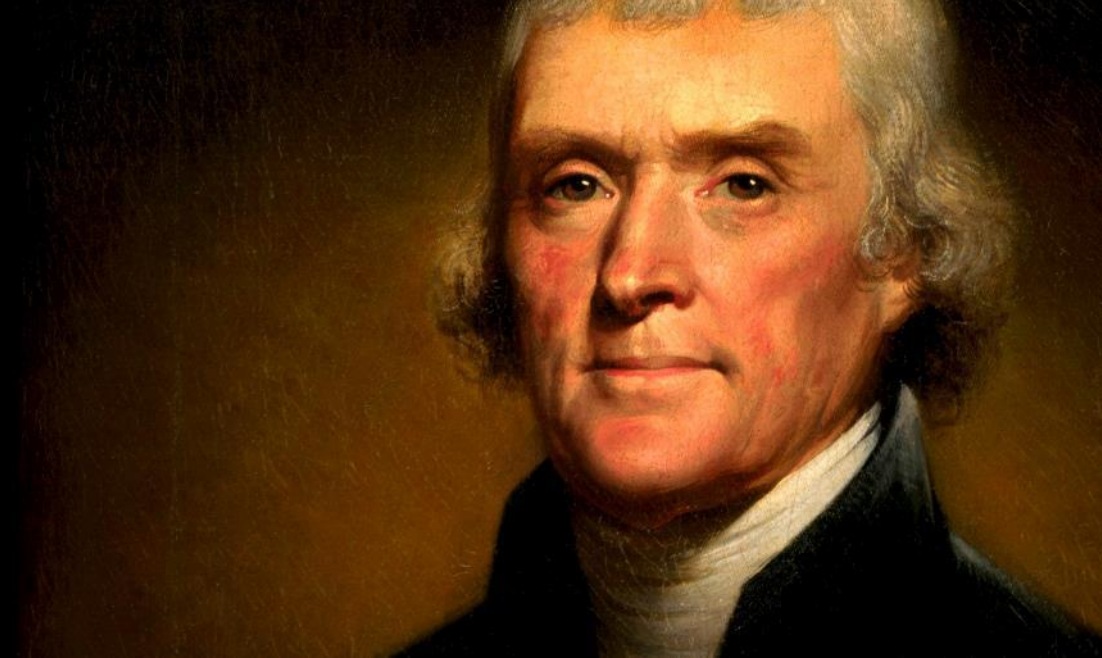
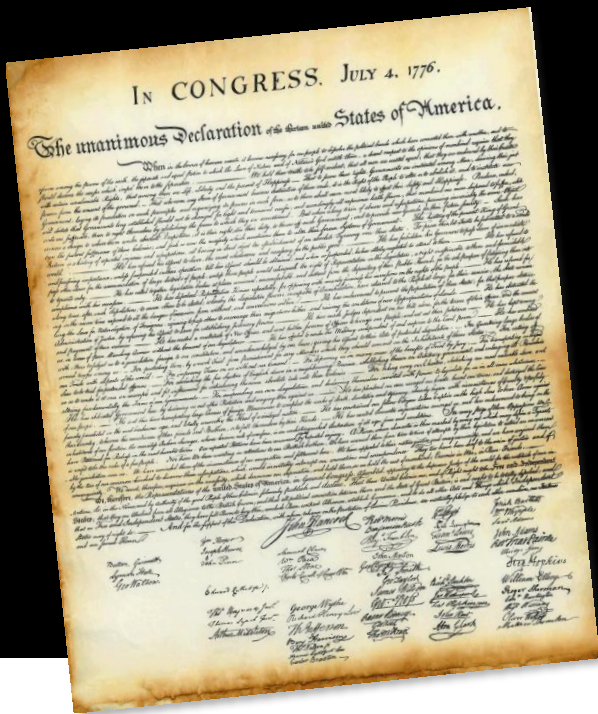
****: The United States signed this treaty, but has not ratified it.

“Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.”

Art. 17, Universal Declaration of Human Rights (1948)

- 132 State parties to one regional human rights regime containing property rights (i.e., either the European Convention, American Convention, African Charter, or the Arab Charter)
- All but two states (Palau and South Sudan) are parties to at least one multilateral treaty that prohibits discriminatory treatment with respect to property (ie, CEDAW, CERD, Migrant Workers Convention, or Disabilities Convention)
- Estimated that some 95 percent of the world's states guarantee the right to property under their national laws, most commonly in their national constitutions





"all men are created equal, that they are endowed by Their Creator with certain inalienable rights, that among these are Life, Liberty, and the pursuit of Happiness."

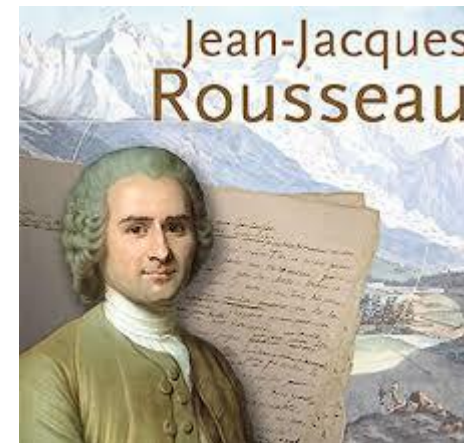
-Declaration of Independence, 1776

“[A]s a rule, when a foreign nation confiscates the property of its own nationals, it does not implicate principles of international law” (quoting another 11th circuit ruling) . . . “such claims simply are not international.”

Nelson J. Mezerhane v. Venezuela, 785 F. 3d at 550 (May 7, 2015)

“[They] bound new fetters on the poor, and gave new powers to the rich . . . irretrievably [they] destroyed natural liberty, eternally fixed the law of property and inequality, converted clever usurpation into unalterable right, and, for the advantage of a few ambitious individuals, subjected all mankind to perpetual labour, slavery, and wretchedness.”

- Discours sur l'inégalité



“You shall not covet your neighbor’s house. You shall not covet your neighbor’s wife, or his male or female servant, his ox or donkey, or anything that belongs to your neighbor.”

- Exodus 20:17



**NO
TRESPASSING
PRIVATE PROPERTY
VIOLATORS WILL
BE PROSECUTED**