

## 1. WHO IS "HUMAN" IN THE CONCEPT OF MODERN HUMAN RIGHTS?

<p><b>1.1.</b>  <b>Professor Dr. Carmen Thiele - Germany</b></p>	<p><i>Living person regardless age, sex, ethnicity, religion and belief, social, educational and economic status (+).</i>  <i>Unborn person/conceived person (+) Art. 1 GG.</i>  <i>Ovum + sperm cell = embryo (-): only protected in certain constellations of civil law.</i>  <i>Deceased person (+): personal honor and human dignity protect a deceased person. The protection weakens the longer the person is dead.</i></p>
<p><b>1.2.</b>  <b>Professor Juliano Benvindo - Brasil</b></p>	<p><i>As far as my knowledge goes, I understand human as any person. Human rights could affect directly or indirectly anyone. The difficult question is whether the concept of "human" also embraces the embryo, which is one strong argument especially for pro-life movements. My sincere opinion is that it does not embrace it. Human rights should be directly connected to anyone that lives or has lived and there should be a direct correlation with the concept of personality (which varies across jurisdictions). Immaterial objects or animals and plants in general could, by some means, also be embraced by such a concept, though the discussion here goes much farther and has its own complexities.</i></p>
<p><b>1.3.</b>  <b>Catherine Willis-Smith/LL.M Candidate – South Africa</b></p>	<p><i>In terms of South African law, unborn babies are not considered 'humans'. In the case of S v Mshumpa and Another (CC27/2007) [2007] ZAECHC 23; 2008 (1) SACR 126 (E) (11 May 2007) the Eastern Cape High Court (East London Local Circuit Division) held that the intentional killing of an unborn child did not amount to murder for the purposes of South African criminal law. The court held at paragraph 53 of the judgment that the 'present definition of the crime of murder is that it consists in the unlawful and intentional killing of another person' (my own emphasis). The court went on to say that this 'has always been understood as requiring that the person killed had to be born alive. In terms of the present application of the definition of murder, the killing of an unborn child by a third party thus does not amount to murder'. The court declined to extend the definition of murder to include the intentional killing of an unborn child, i.e. a foetus in the womb, due to the principle of legality, which requires that the accused not be 'convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted' in terms of section 35(3)(l) of our Constitution. This was at paragraph 54. The court held furthermore that the 'Constitution does not expressly confer any fundamental rights, most importantly the right to life, on an unborn child' at paragraph 55 of the judgment.</i></p>

	<p><i>Therefore, the court found that a ‘person’ (i.e. a human) does not include an unborn baby for the purposes of South African (criminal) law. Following from the precedent set in this case, it is submitted that a ‘human’ in the concept of modern human rights would include any person who has been born alive.</i></p>
<p><b>1.4.</b> <b>Dr. Jur. Marton SULLYOK - Hungary</b></p>	<p><i>Several approaches to this issue exist, but normally those are considered to be the holders (beneficiaries, subjects) of human rights (i.e. "humans"), who are natural persons (either individually or in a group, meaning in some cases the extension of these rights to some entities as well).</i></p> <p><i>While without further explanation it is unclear what the questionnaire designates as the concept of “modern human rights” (for a point of reference of the definition of “human”), I assume that Artificial Intelligence also influences thinking about the modern concept of “human” in terms of "modern human rights". I would argue that a sentient consciousness and a moral compass enabling an individual to separate right from wrong are quintessential to any concept defining who humans are.</i></p>
<p><b>1.5.</b> <b>Benjamin Danpullo, LL.M - Nigeria</b></p>	<p><i>“human” is any homosapien, the species to which all modern human beings belong, regardless of color, race or tribe.</i></p>
<p><b>1.6.</b> <b>Professor Dr. THIO Li-ann - Singapore</b></p>	<p><i>There are so many conceptions and this remains a question of dispute, particularly in relation to the right of the unborn child to life and what feminists call the “right of reproductive autonomy.” In Asia, where sex selective abortion is carried out against female unborn children (because of son preference), it may be argued that the right to life of the female unborn child is violated because unborn children to some are not considered “human”, in the same way the Nazis called the Jews “insects” and therefore out of the class of humanity.</i></p> <p><i>There is also the issue of differentiated treatment of citizens and non-citizens/stateless/refugees etc e.g. Rohingya Muslims in Myanmar. The human rights of these “secondary” classes are not secured.</i></p>
<p><b>1.7. Prof. Dr. iur Yiren Lin - Taiwan</b></p>	<p><i>Der Menschenbild in der modernen Menschenrechte zeigt sich in Jedermann und Bürger.</i></p> <p><i>Erste ist abgesehen von der Staatsbürgerschaft, die zweite hängt von der Staatsidentität und active status ab.</i></p>
<p><b>1.8. Dr. Sri Wahyun Kadir - Indonesia</b></p>	<p><i>Humans in the concept of modern human rights are people who have the basic rights of human rights and have all the derivatives of further rights in the current era because the concept of human rights is currently undergoing transformation. Transformation is in the form of more diverse forms of of human rights, where in each country that runs it can cause problems in interpreting a right because</i></p>

	<p><i>there are no longer limits on the uniformity of forms of human rights. Sometimes in this country there is a right, but in other places have not reached the standard because of differences in politics, welfare, geography or culture. So that this causes a lot of problems, especially to define the concept of humans in modern times. For example human rights for recognition of sexual orientation. Not all countries recognize this right, but this right is now guaranteed by the states that recognize it.</i></p>
<p><b>1.9.</b> <b>Professor Marina Calamo Specchia - Italy</b></p>	<p><i>The term "human rights" in Italian constitutional law means all those rights regarding the person, protecting human life in various ways from killing, torture, slavery, assuring freedom of conscience, religion and opinions, the principle of equality against all forms of discrimination (race, sex, language, religion, political opinions, personal and social conditions) and political rights (participation in the government of the Country, institutions of direct democracy, free and periodic elections) and securing against the basic needs (health, work, wages, trade union freedom, right to housing). All these rights are aimed at ensuring a free and dignified existence.</i></p> <p><i>Historically human rights have established themselves as a form of limitation of the power of the King of England and Wales, since the 1689 Bill of Rights, and then included in special Declarations that served as Preambles to the eighteenth-century revolutionary Constitutions (the Déclaration des Droits de l'homme et du citoyen of 1789 and the US Bill of Rights of 1791).</i></p> <p><i>With the advent of the Constitutions after World War II, the Preamble technique was abandoned and the enunciation of human rights was included in the first part of the Constitutions (see, for example, the Italian Constitution of 1948, the German Constitution of 1949, the Spanish Constitution of 1978).</i></p> <p><i>These rights qualify human nature from birth and preexist therefore to the individual who can neither alienate them nor be deprived of them: for this reason contemporary Constitutions recognize these rights and do not attribute them, because they are unavailable rights and the State is called to respect them and protect them.</i></p>
<p><b>1.10. Josef Martin Zielinski Flores - Peru</b></p>	<p><i>The human being is unique, unrepeatable and individual from the moment of conception. That is to say since a sperm and an egg join in the womb.</i></p> <p><i>Any conception of a human being that goes against this biological truth is more influenced by ideology rather than truth.</i></p>
<p><b>1.11.</b> <b>Dr. Martín Risso Ferrand – Uruguay</b></p>	<p><i>The meaning of said question is not clear to me.</i></p> <p><i>You can focus on the subject by pointing to the holders of human rights and in this respect a distinction must be made. In general, the inter-American system considers that only natural persons are holders of human rights. In Uruguay, on the other hand, it is accepted with some ease that legal persons of Private Law can also be holders of fundamental rights. In fact, the Constitution expressly</i></p>

	<i>recognizes rights to private entities: to educational and cultural institutions, to political parties and trade unions. In general, legal persons of Private Law are accepted as fundamental right holders.</i>
<b>1.12.</b> <b>Professor Dr. Shinar Adam – Israel</b>	<i>I'm assuming this question refers to the positive law in Israel. For most purposes, a human is any individual present in the jurisdiction (there is an open question about the status of Palestinians in the Occupied Territories and whether they enjoy Israeli constitutional protections in addition to the protections of international law. Corporation are also considered human for some purposes (e.g. the right to property), though not necessarily for others (the right to dignity).</i>
<b>1.13.</b> <b>Assist. Professor Sombhojen Limbu – Nepal</b>	<i>Definitely we are human being. I think it could determine the concept of human rights based on political ideologies for every country such as freedom, dignity, liberty, equality, health, education, housing, job, family, social, culture, religious, and many more etc. It is totally guided by an individual interest which has not completely recognized by a country. So we can say difference between Fundamental, Legal, and Human Rights.</i>
<b>1.14.</b> <b>Suzan Tavares da Silva –Portugal</b>	<i>All human beings.</i>
<b>1.15.</b> <b>Assist. Professor Zewdu Mengesha - Ethiopia</b>	<i>This refers to all human being without any distinction as to race color, sex, language, religion and any other grounds.</i>
<b>1.16.</b> <b>Dr. Alexander Kim - Russia</b>	<i>I don't know, because it's not my field.</i>
<b>1.17.</b> <b>Prof. Dr. Vasanthi Nimushakavi - India</b>	<i>There is no definition of "human" either in the Human Rights Protection Act, 1993 or the Constitution of India, 1950 which guarantees Fundamental Rights to all persons. The Indian Constitution guarantees some rights to all persons including artificial persons like corporations. In some cases, it has been argued that artificial persons such as deities are capable of enjoying rights which has not been accepted.</i>
<b>1.18.</b> <b>Massimiliano Buriassi - Italy</b>	<i>Risp. È umano colui che rispetta il prossimo, che mostra comprensione e spirito di solidarietà nei suoi confronti, garantendo pari dignità a tutti gli uomini senza distinzione alcuna.</i>
<b>1.19.</b> <b>Professor Dr. Ahmed Aubais Alfatlawi - Iraq</b>	<i>Everybody creature ,Known as a human body and has a spirit, whether the parts are complete or not, regardless of age or gender, His or her life begins from the moment when the soul is transmitted, and still as human after death, as the body remains and has dignity against any abhorrent behavior.</i>

<p><b>1.20.</b>  <b>Professor Dr.</b>  <b>Hyunnam Kim -</b>  <b>South Korea</b></p>	<p><i>Including fetus, every human being without discrimination in the world.</i></p>
<p><b>1.21.</b>  <b>Associate</b>  <b>Professor Tomáš</b>  <b>Ľalík, Ph.D - Roman</b>  <b>Lysina, Ph.D</b>  <b>Candidate -</b>  <b>Slovakia</b></p>	<p><i>According to art. 12 and 15 of Slovak constitution, besides every natural person (living human being) who is subject of human rights, some rights belongs to beings even before they are born, e.g. right to life – see : <a href="https://www.ustavnysud.sk/documents/10182/71853347/PL_12_01.pdf/e7472cdb-cb0d-40aa-96aa-75cfd7e5a93d">https://www.ustavnysud.sk/documents/10182/71853347/PL_12_01.pdf/e7472cdb-cb0d-40aa-96aa-75cfd7e5a93d</a>.</i></p> <p><i>Also, in Slovakia, a legal person might be a subject of a human right, if the nature of the right allows for such enjoyment. State should never benefit from human rights when act as public authority while enjoy rights and freedom when acting as a legal entity in horizontal relations.</i></p>
<p><b>1.22.</b>  <b>Professor Dr.</b>  <b>Mohammad Javad</b>  <b>Javid - Iran</b></p>	<p><i>As Kant said What is human being ? It is obvious that to determine this question can help in order to define his rights in life. Actually, modern concept of HR has developed over three centuries though its history began with the birth of the first mankind. In 17 th century ,the science era, and in its following during Enlightenment period by emerging of Natural Laws and then natural rights derived out of it regarding the School of Natural Law, human rights is considered as rights coming out of natural law due to human nature. As human owns specific nature different from other creature, body, temperament, Fitra and Reason or intellect as the balace maker among all nature elements , therefore in this regard human rights are equal natural rights on the basis of Natural laws for him. These rights for human are inalienable rights since human have from birth. The declaration of Independence in America in 1776 was subject to any political, legal or religious systems. These rights are for human with no distinction of his color, gender, sex, nationality and etc. According to Philosophy of Natural law human rights are the one bestowed on human through his nature as a human. Fixed perpetual which do not differ in times of war or peace. But it is related to the subjective and individual aspect ; however, human rights has another aspect from collective or as citizen.</i></p> <p><i>The true reflection of natural rights view although was in 1789 French declaration of human rights and citizen. It is the fact that French declaration didnt distinguish between human and citizen. Natural rights of human referring to the individual aspect of this narrative but in collective regards, it is objective rather than subjective, also rights of human as citizen with the support of State in responding and meeting their needs which only in this regards, rights of them is citizen rights privileged by State may be accompanied with some positive affirmative relating to the degree of being faithful of citizens according to the</i></p>

	<p><i>Principle of Loyalty to that State. Mostly, human in modern better to say post modern concept of human rights according to my theory in relativity in citizenship rights is Citizen . Human is viewed as citizen , it can be adopted to the duty of addresse of HR treaties , States are the addresse for meeting human and in their own territory border, civil rights inside of the country .Natural rights concepts reflected in American, French revolution and in Bill of rights. After world war two due to disaster happened to the dignity of human, the issue of HR in aspect of natural law and the natural rights revived due to responding many utilitarian states on that era of history. But as mentioned after post war time, utopian view to reaching the international utopian community emerged though not accomplished up to now , it is thought by respecting and caring citizens' rights within a democratic aspect of state and government. It can be possible to reach some day a united community that HR become governed on that. But todays life HR is within the border vof a country in rgards to Citizenship rights. As seemed HR standards with the practice of legislation and mentioning them in Constitutional Law, has turned into new perspective , Citizens Rights which Iran passed the Charter of Citizen rights almost recently.</i></p> <p><i>Without human understanding , knowing bis rights cannot be possible. Human in regards of religion of Islam is the creature created by God Almightyas his creator. But human as a creature owns intellect or reason with the potentiality of authority and decision making. As Plato stated human is a creature has roots in soil and head in the heaven. This is a two dimensional creature that his soul and body are integrated to each other.</i></p>
<p><b>1.23.</b> <b>Professor Dr.</b> <b>Adrienne Stone -</b> <b>Australia</b></p>	<p><i>Background</i></p> <p><i>There are three important features of Australian constitutionalism that must be emphasised by way of background. They provide important context to the responses that follow.</i></p> <p><i>First, Australia, unlike most developed nations, has neither a comprehensive constitutional bill of rights nor a statutory national charter of rights. When the Constitution was drafted in the late-19<sup>th</sup> century, the decision was taken to follow the British model of rights protection, under which rights were protected by the common law and through the electoral process. The Constitution does, however, contain a limited set of express rights as well as some ‘implied rights’, which Australia’s constitutional court, the High Court of Australia, has derived from the text and structure of the Constitution. The rights expressly mentioned include the right to trial by jury for indictable federal offences; the right to free exercise of religion; the right not to have the federal government establish a religion; the right, where the Commonwealth acquires one’s property, to receive compensation on ‘just terms’; and a right not to be discriminated against based on one’s state of residence. The implied rights include the implied freedom of</i></p>

	<p><i>political communication, derived from the Constitution’s establishment of a system of representative and responsible government; the dual requirements that (i) the judicial power of the Commonwealth be exercised only by courts mentioned in s 71 of the Constitution and (ii) those courts only exercise the judicial power of the Commonwealth; and the right to vote in federal elections limited, except where limitation of that right is ‘appropriate and adapted’ to a substantial reason.</i></p> <p><i>Next, it is important to appreciate that the High Court’s dominant modalities of constitutional interpretation are text, structure, history and precedent, with ‘extrinsic’ modalities, such as arguments based on moral, sociological or economic considerations, bearing comparatively little weight in constitutional argument. A consequence of this approach to interpretation, typically described as ‘legalism’, lending themselves to such an approach. The dominance of the legalist mode of constitutional interpretation has meant that the Australian Constitution provides fairly weak rights protection, because in most cases the existence of a constitutional right is undermined by one of the four modalities, mentioned above, that are central to legalist methods of interpretation.</i></p> <p><i>A final important feature of Australian constitutionalism is the fact that Australia is a federation, comprising six states and two self-governing territories. Each of these subnational units also has the power to enact laws that protect human rights, provided that such laws are not inconsistent with federal law. Thus, in the absence of a national charter of rights, three subnational jurisdictions have enacted statutory charters of rights. And each of the eight subnational jurisdictions has its own human rights laws and its own agencies charged with the protection and promotion of human rights.</i></p>
<p><b>1.24.</b> <b>Professor Dr. Mark Tushnet - USA</b></p>	
<p><b>1.25. Professor em. Dr. iur Reinhard Mußgnug - Germany</b></p>	<p><i>Any person without any regard to sex, ethnical descent, religion, social position, political opinion, etc.; the unborn child is “human” as well in view of its protection by human rights.</i></p>
<p><b>1.26.</b> <b>Professor Mabid Mohammed Jarhi - Egypt</b> <b>Dr. Ali Al-</b></p>	<p><i>I am not an expert on the subject. However, from an Islamic point of view, human here refers to human beings regardless of age, sex, and ethnic origin. Human rights are established for every person starting from his being a fetus in his mother’s womb. They extend to all humans, plants and objects that would be necessary to his life, e.g., parents, siblings, relatives, those providing the person with necessary care, like, food, cloths education, law and order and health care,</i></p>

	<p><i>plants and environmental elements that are necessary for a healthy and balanced life. In addition sociopolitical institutions that are necessary to protect his/her freedom and dignity must be included, like freely elected executive and legislative branches, judiciary and free press.</i></p>
<p><b>1.27.</b> <b>Assoc. Professor</b> <b>Dr. Patrick</b> <b>Emerton -</b> <b>Australia</b></p>	<p><i>Answering in the abstract, I would say human beings – natural persons. And perhaps some human collectives (peoples, cultural groups). I recognise that some systems of rights adjudication also count commercial entities as enjoying the benefits of rights protection.</i></p> <p><i>In my own country – Australia – there is no general system/framework of rights protection (see my answer to 2). There are constitutional mechanisms that play somewhat comparable functional roles: a doctrine of political participation; and a doctrine of judicial integrity. Both can confer protection on artificial/commercial entities – the former doctrine if the entity is a vehicle used by electors to engage in political life, the latter doctrine if the entity is engaged in litigation.</i></p>
<p><b>1.28.</b> <b>Professor Dr. Hajer</b> <b>Gueldich - Tunis</b></p>	<p><i>The first article of the Universal Declaration of Human Rights of 1948 refers to humans as “endowed with reason and conscience”.</i></p> <p><i>Whereas the elements of human identification are established, the social, cultural and scientific actualities and progress have surpassed this definition. Indeed, other features today are in order when it comes to define the human. It’s not anymore about just a being that understand reason, who has a gender, a sum of beliefs... It’s about that and more.</i></p> <p><i>As were the words written in the Universal Declaration of Human Rights introduction, humans “are not country-specific, or particular to a certain era or social group. They are the inalienable entitlements of all people, at all times, and in all places, people of every color, from every race and ethnic group; whether or not they are disabled; citizens or migrants; no matter their sex, their class, their caste, their creed, their age or sexual orientation”.</i></p> <p><i>We are talking about sexual fluidity in all its orientations, humans with biohacks and body augmentations, all different religious or non religious beliefs no matter of how unusual they might seem to one.</i></p> <p><i>The importance of identifying this elements and eventually establishing who is a human is of nothing but genuine effort to include EVERYONE, without blinding discrimination, and guaranteeing their protection under the wings of universal human rights.</i></p>
<p><b>1.29.</b></p>	<p><i>Ans: All living species can be considered as human, even animals too have certain rights that mean not to be treated inhumanly and not to be suffered. The modern human rights encompass recognition of certain basic rights of highly</i></p>

<p><b>Asst. Professor Narender Nagarwal - India</b></p>	<p><i>unprivileged, deprived and marginalized sections of the society. It also includes the human rights of women, physically challenged (especially abled) racial and ethnic groups, religious minorities, etc. The vulnerable and oppressed sections of the society are not seeking special treatment but simply demanding that they should be treated fairly and proper respect for their culture, language, religion and food habits. The chauvinism of majoritarian class, the surge of hate crime against minorities and how law and enforcement machinery being pretentiously helpless put a big question mark, what kind of civilization we are representing today? The problem of the modern human rights concept is recognition. The problem is that we are not able to recognize that whether certain groups can possess human rights. In a country like India, the issue of human rights is so significant considering the various factors like ethnicity, language, race, caste, and religion as we are extremely rich in our composite culture. India must show its commitment to human rights especially religious and racial minorities. In today's world, any talk of human rights generally forbidden by the governments, police and even judiciary and India is not an exception. Now please see the case of USA, UK, and France, are minorities especially Muslims safe? Why so many hate crimes against Muslims in Europe? Is it not true that in the USA, the blacks are being persecuted unnecessary and have been facing wrath from the police? Why no respect for the human rights of deprived and marginalized sections of our society? The state-sponsored violation of human rights is the biggest challenge of the human rights movement of the 21st century.</i></p>
<p><b>1.30. Professor Gerd Oberleitner - Austria</b></p>	<p><i>The notion of "human" needs to be understood in light of the Universal Declaration of Human Rights (All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood). Every person possesses dignity by the fact alone of being a person and human rights are inalienable and indivisible and protect this dignity. The concept of human rights is based on a universal system of values shared by all peoples.</i></p>
<p><b>1.31. Professor Dr. Adnan Oweida - Jordan</b></p>	<p><i>The "human" in the concept of modern human rights is the white man, and the evidence that Western countries do not pay attention to human misery in the Middle East and Africa, while Western countries move effectively if violated Western human rights, especially Western human, and specifically human European white.</i></p>
<p><b>1.32. Dr. Andres Cervantes Valarezo - Ecuador</b></p>	<p><i>From the perspective of the inter-American system of Human Rights, the Inter-American Court of Human Rights has indicated that the protection of the Pact of San José de Costa Rica or the American Convention of Human Rights only extends to the rights of physical people and not of legal entities. However, it has also</i></p>

	<p><i>determined that Article 8.1.A of the Protocol of San Salvador grants rights to labor unions, federations and confederations, which grants them standing before the inter-american system.</i></p> <p><i>In addition, the Court has also indicated that “in some cases” (regarding to property rights and freedom of expression) physical people can exercise their rights through legal entities and, in that sense, the actions of those legal entities undertake in the domestic legal system may justify the requirement of “exhaustion of internal remedies” to access the jurisdiction of the inter-american system.</i></p> <p><i>Finally, indigenous and tribal communities also have standing before the inter-american (Advisory Opinion of the Inter-American Court of Human Rights OC-22/16. February 26, 2016 requested by the Republic of Panama). On the other hand, in Ecuador, a state that is member of the inter-american, it is considered that fundamental rights correspond to natural persons - citizens or foreigners -, to legal entities and even nature as it has been considered as subject of rights (articles 10 and 11 of the Constitution of the Republic of Ecuador 2008).</i></p>
<p><b>1.33.</b> <b>Asst. Professor Dr. Manal Totry-Jubran - Israel</b></p>	<p><i>Coming from perspective of environmental justice I believe that “human” is every creature that live and breathe which includes human beings, animals, the nature.</i></p>
<p><b>1.34. Dr. Maria Paula Garat - Uruguay</b></p>	<p><i>“Human” includes all human persons, with no distinction on sex, gender, religion, race, nationality, or others. At past, some rights were reserved to Uruguayans only, but now the concept includes all persons, with no difference with foreign persons (the difference is only in order to get some political rights).</i></p> <p><i>Uruguayan Constitution is a iusnaturalism one, so not only the rights that are included textually on it are recognized, but also all that derives from the human personality. So, all human rights are recognized and have constitutional protection.</i></p>
<p><b>1.35.</b> <b>Professor Luis G. Francheschi - Kenya</b></p>	<p><i>For too long we have emphasized the ‘rights’, often times even at the expense of ‘human’. We took the ‘human’ for granted in a hurry to grant them ‘rights’ and we compromised on ‘duties’ to the detriment of ‘human rights’. This human is made of the amalgamation of biological and spiritual features, a living organism endowed with the innate potency of consciousness in space, time, empathy, abstraction and being. Thus, a human can be defined as a creature whose essence bears life endowed with intellect and will.</i></p>

<p><b>1.36.</b>  <b>Professor Hugh Corder - South Africa</b></p>	<p><i>EVERY HUMAN BEING, OF WHATEVER AGE OR STATUS. Some rights will clearly not apply to some people, given their age ( e g the right to vote), but every person has the right to dignity, life, and equality, at the very least. Those in prison also retain rights, although they may sacrifice some e g freedom of movement.</i></p>
<p><b>1.37.</b>  <b>Asst. Professor Umar Rashid - Pakistan</b></p>	<p><i>Ans) Human is given a very wide meaning in the Pakistani constitution by the Supreme Court. It has used it to provide constitutional protection to men, women, and children, persons with disabilities, transgender persons and minorities. Even where the text of the constitution only uses the word ‘man’, the Supreme Court has interpreted it to include all humans, most famously for Article 14 which states “The dignity of man... shall be inviolable”, and the Court has interpreted it to include all humans.</i></p>
<p><b>1.38.</b>  <b>Assist. Professor Simon Alexander Wood - Malaysia</b></p>	<p><i>unfortunately in Malaysia who is human is not necessarily universal for example some minorities struggle to assert and claim certain human rights also immigrants and refugees certain persons with disabilities and moreover even the right to life is not always respected</i></p>
<p><b>1.39.</b>  <b>Professor Merris Amos-UK</b></p>	<p><i>The professor has chosen not to publish her answers.</i></p>
<p><b>1.40.</b>  <b>Ştefan Bogrea - PhD student at human rights law / Advocate - Romania</b></p>	<p><i>All natural persons, regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.</i></p>
<p><b>1.41.</b>  <b>Asst. Professor Dr. Cristina Tomulet - Romania</b></p>	<p><i>In the concept of modern human rights, anyone is human. That is the essence of human rights, after all. Complete equality and universality regarding the benefits created by human rights law for every person to enjoy.</i></p> <p><i>However, a lot of controversy exists nowadays regarding the moment from which a human being exists from a human rights law perspective. This moment is especially important as far as the right to life is concerned. In this field, religious views and secular views are at odds. Both ideologies claim to have the absolute truth. One one hand, the pro-life movement believes that the foetus is a person and enjoys the right to life from the moment of conception, which is why abortion should be banned. On the other hand, the pro-choice movement argues that the autonomy of the woman, as a part of her right to private life, is more important than the life of the foetus, which is why abortion should be permitted under certain conditions. Perhaps the answer should be found in each case without having to impose one extreme view or the other in a general manner. I personally believe that even though abortion is not a desirable course</i></p>

	<p><i>of action, law should not impose standards of morality on persons. Because it is a gray area, the woman should have the ability to choose and be responsible for her choice.</i></p> <p><i>Given the controversial character of this matter, the European Court of Human Rights failed to specifically state when the right to life begins. In the case of Vo v. France, the Court, having regard to the absence of any European consensus on the scientific and legal definition of the beginning of life, held that the issue of when the right to life begins comes within the margin of appreciation of the States. However, although abortion is not recognised as a right under the Convention, in the case of P. and S. v. Poland, the Court stated that once the State, acting within its limits of appreciation, adopts statutory regulations allowing abortion in some situations, it must not structure its legal framework in a way which would limit real possibilities to obtain an abortion. In particular, the State is under a positive obligation to create a procedural framework enabling a pregnant woman to effectively exercise her right of access to lawful abortion. In other words, if national law allows for abortion, the state should not impede women to obtain it in practice due to the anti-abortion religious mindset of the national authorities.</i></p>
<p><b>1.42.</b>  <b>Professor Dr.</b>  <b>Mahendra P. Singh</b>  <b>- India</b></p>	<p><i>A very broad and basic question connected to human rights generally entails to who or what has rights or who or what is a rights holder. The human in the concept of modern human rights are the rights holders. The idea of human is inclusive (individual humans, corporations, and future generations to have a clean environment). There has also been the argument of some nonhumans as being legitimate right holders (the animal rights movements). However, the question of legitimacy of group rights is of particular importance since the last century.</i></p>
<p><b>1.43.</b>  <b>Professor Dr.</b>  <b>Stephanie Wattier</b>  <b>- Belgium</b></p>	<p><i>S.W.: For sure, at least every human being is a “human” in the concept of modern human right. By “human being”, I mean that Belgian Law considers that life starts when the person is “alive AND viable”. For instance, a stillborn baby has been alive for several hours but then not viable. He can be recognized but he will not have juridical personality.</i></p> <p><i>Where the answer gets more controversial is regarding the “pre-human”. Must a fetus already be considered as a human? In Belgium, abortion is legal until the 12<sup>th</sup> week of pregnancy.</i></p>
<p><b>1.44. Dr. Malika</b>  <b>Tastanova M.</b>  <b>Narikyev -</b>  <b>Kazakhstan</b></p>	<p><i>The professor has chosen not to publish her answers.</i></p>

<p><b>1.45. Professor Dr. Jasna Baksic - Bosnia and Herzegovina</b></p>	<p><i>Posmatrano iz međunarodne pravne perspektie savremeni koncept ljudskih prava proizilazi iz Povelje UN koja priznaje jednakost svim vez obzira na brojnost I primarno polno određenje, muškarcima I ženama. Dopunjen je ostalim međunarodnim instrumentima od Univerzalne deklaracije pa nadalje koje razvijaju koncept građanskih, političkih ekonomskih I kulturnih prava uključujući I prava četvrte generacije od kojih posebnu važnost imaju okološna prava ( prava na zdrav život, pitku vodu, čist zrak itd) Za koncept Human značaj imaju sva svojstva koja su zabrenjeni osnov diskriminacije; rasa, bojea kože, jezik, vjera, etnička pripadnosti, invaliditet, starosna dob, nacionalno ili socijalno porijeklo, veze s nacionalnom manjinom, političko ili drugo uvjerenje, imovno stanje, članstva u sindikatu ili drugom udruženju, obrazovanje, društveni položaja i spol, seksualna orijentacija, rodnoi identitet, spolne karakteristike, kao i svaka druga okolnost koja ima za svrhu ili posljedicu da bilo kojem licu onemogućí ili ugrožava priznavanje, uživanje ili ostvarivanje na ravnopravnoj osnovi, prava i sloboda u svim oblastima života. Ove karakteristike dobivaju na važnosti u svjetlu globalnih trendova rasta ksenofobije, antisemitizma, islamofobije, homofobije I postojećih direktnih I suptilnih mehanizama isključivanja ili marginaliziranja jedinki/grupa poo vim osnovama. Nasilju nad određenom grupom uvijek predhodi njena dehumanizacija, Postupci degradiranja – negativna stereotipzacija ima za cilj opravdavanje isključivanja grupe I nasilje nad njom od dominantne grupe koja ima moć. Moć u osvom smislu podrazumijeva brojčanu nadmoć I različite oblike fizičke/oružane, ekonomske I ideološke moći.</i></p>
<p><b>1.46. Assist. Professor Dr. ĩwona Wroblewska - Poland</b></p>	<p><i>I think that the derived from the doctrines of natural law approach dominates. It combines the notion of human with the notion of dignity. Following A. Inkelas and D. N. Smith, one could say that a modern human is one who has "awareness of the dignity of others and respect for dignity of others." The concept of dignity is referred to both by international human rights acts and the constitutions of particular states. Article 30 Polish Constitution of April 2, 1997 states: "The inherent and inalienable dignity of the person shall constitute a source of freedoms and rights of persons and citizens. It shall be inviolable. The respect and protection thereof shall be the obligation of public authorities".</i></p>
<p><b>1.47. Professor Kwadwo Appiagyei-Atua - Gana</b></p>	<p><i>'Human' refers to every human being irrespective of the person's background, be it social, political, racial, religious, descent, ethnic, gender, sex/sexual orientation and other status.</i></p>
<p><b>1.48. Paidamwoyo Mukumbiri - Zimbabwe</b></p>	<p><i>Anyone who is regarded as a human being as opposed to animals who ie either living or dead. This includes an unborn child. In the Zimbabwean constitution the constitution mandates that the sate has an obligation to protect the life of an unborn child. In this regard abortion is outlawed expect in special</i></p>

	<i>circumstances where pregnancy is a result of rape, incest or the its continuance is a danger to the life of the mother.</i>
<b>1.49. Professor Dr. Helen Irving - Australia</b>	<i>In Australian law, human rights are primarily identified with reference to international law. In my own view, ‘human’ has its natural meaning, referring to all living persons. Human rights are shared with and common to all human beings, by virtue of their character as human beings.</i>
<b>1.50. Dr. Faridah Jalil - Malaysia</b>	<i>Human does not only mean ‘man’ but covers all living creatures.</i>
<b>1.51. Dr. Tatiana Khramova - Russia</b>	<p><i>Constitution of the Russian Federation</i></p> <p><i>Article 2</i></p> <p><i>Man, his rights and freedoms are the supreme value. The recognition, observance and protection of the rights and freedoms of man and citizen shall be the obligation of the State.</i></p> <p style="text-align: center;"><i>Article 17</i></p> <p><i>1. In the Russian Federation recognition and guarantees shall be provided for the rights and freedoms of man and citizen according to the universally recognized principles and norms of international law and according to the present Constitution.</i></p> <p><i>2. Fundamental human rights and freedoms are inalienable and shall be enjoyed by everyone since the day of birth.</i></p> <p><i>Article 19</i></p> <p><i>2. The State shall guarantee the equality of rights and freedoms of man and citizen, regardless of sex, race, nationality, language, origin, property and official status, place of residence, religion, convictions, membership of public associations, and also of other circumstances. All forms of limitations of human rights on social, racial, national, linguistic or religious grounds shall be banned.</i></p>
<b>1.52. Eduardo G. Esteva Gallicchio - Uruguay</b>	<i>“Human” is every individual of the human species, regardless of age, capacity or disability, sex (and sexual or gender option), place of birth, race, religious choice or other preferences, including, among others, philosophical and ideological.</i>
<b>1.53. Dr. Aldana Rohr - Argentina</b>	<i>I would say that all human beings, regardless of race, color, lineage, ethnicity; nationality; age; sex; sexual orientation; gender identity and expression; language; religion; cultural identity; political opinions or opinions of any kind;</i>

		<p><i>social origin; socioeconomic status; educational level; migrant, refugee, repatriate, stateless or internally displaced status; disability; genetic trait; mental or physical health condition, including infectious-contagious condition and debilitating psychological condition; or any other condition are “human” in the concept of modern human rights. It is the scope adopted by the Inter-American Convention Against Racism, Racial Discrimination And Related Forms Of Intolerance (2013) and the Inter-American Convention against all Forms of Discrimination and Intolerance (2013).</i></p>
<p><b>1.54. Roman Schuppli Switzerland</b></p>	-	<p><i>Today there is a consensus in the legal community that human beings have dignity and therefore have a special right to be respected. Even in torture states it is not seriously disputed that every human being is a legal subject and thus the bearer of rights and obligations. However, the practice in certain states of denying certain groups full and equal enjoyment of rights remains a reality. A person who lacks legal personality is excluded from enjoying all rights and subsequently from enforcing them – he or she is and remains legally invisible, lawless and thus defenceless. The recognition of the human being as a legal person (one also speaks of legal entity, legal capacity or legal subjectivity) makes legal rights effective: Whoever has no legal personality cannot be a holder of rights, he has no legal claims, not even the right to life and to respect for his dignity as a human being. He or she is not a subject, but a lawless object. Against this background, the simple formula of the "right to have rights" (HANNAH ARENDT) shows the core of the idea of human rights.</i></p> <p><i>The right to legal personality is an expression of human dignity and is guaranteed as a universal human right. The guarantee includes the right of every human being to be recognised as a legal person at any time and in any place without preconditions and thus to be, in principle, the bearer of rights and obligations. This right belongs to every individual belonging to the human species, regardless of his age, cognitive abilities, existing or missing citizenship or other personal characteristics.</i></p> <p><i>(Excerpt from KIENER REGINA, Das Recht auf Anerkennung als Rechtsperson, Zeitschrift für Schweizerisches Recht (ZSR) 2015 I, pp. 429 ff.)</i></p>
<p><b>1.55. Dr. Ljubomir Frckoski Macedonia</b></p>	-	<p><i>The Professor has send a book.</i></p>
<p><b>1.56. Assoc. Professor Pablo Beca F. Chile</b></p>	-	<p><i>Every person should be considered human, regardless his/her faith, nationality, gender, race, or any other difference.-</i></p>

<b>1.57. Professor Simon Rice - Australia</b>	<p><i>On a rigorous, rational interrogation, it is hard to identify a defining, rights-attracting feature of being 'human' that cannot be identified in non-human living things. Human rights are not, for pragmatic and political reasons, subjected to this interrogation, and it is accepted simply that human rights attach to a 'person': a living thing that is of the species homo sapiens. This makes historical sense when human rights are seen as a claim or defence against the state, and it makes pragmatic sense for the social and political function that human rights have. But if human rights are analysed for internal coherence, any special claim that humans have to rights and freedoms, differently from claims that can be made for (and sometimes by) other living things, becomes problematic.</i></p>
<b>1.58. Dr. Renata Bedö - Hungary</b>	
<b>1.59. Damir Banović - Bosnia and Herzegovina</b>	<p><i>The concept of human depends on the accepted definition and it can differ from one legal system to another. But still human is more related to a biological human being and the one who has been conventionally accepted as a human. Some modern legal systems recognize collectives (national minorities, e.g.) as rights holders, but in my understanding, they can't be understood as humans but as an aggregation of similar interests.</i></p>
<b>1.60. Dr. Lilla Berkes, PhD candidate) - Hungary</b>	<p><i>Generally speaking, there are three types of the concept of "human": biological, moral and legal concept. The starting point of the biological concept is that all individuals who are part of the homo sapiens are humans. The moral concept of a human is about a person who is able to have an autonomous attitude, who, as a member of the moral community, makes a moral judgment about his life and adjusts his behavior accordingly. This concept requires a minimum of attributes. The legal concept is about the abstract equality of the human beings. These three concepts mingle in the international human rights theories and practice but it is necessary to mention that each human right is inseparable from the legal entity carrying it which is the human being which leads us to note that the human rights documents should look at the human being as a whole entity instead of focusing only a few aspects of it.</i></p> <p><i>Christianity does not make this distinction, it has an other human concept: human is created to the image of God, its body and dignity is given by God, all human beings are capable of thinking and in this, they are individuals. Humans are rational beings with dignity and they are entitled to respect. In Christian philosophy human rights are derived from this human concept and from the dignity of human beings.</i></p>
<b>1.61. Professor Dr. iur. Jorge León - Peru</b>	<p><i>La Convención Americana sobre los Derechos Humanos señala "para los efectos de esta Convención, persona es todo ser humano". En la Constitución peruana se menciona en su artículo 1 que "La defensa de la persona humana y el respeto de su dignidad son el fin supremo de la sociedad y del Estado". En ese sentido,</i></p>

	<i>queda claro que cuando la Constitución habla de los derechos fundamentales, lo hace con las particularidades anotadas pensando en la persona humana, es decir la persona natural, esto es en el ser humano física y moralmente individualizado, sea nacional o no nacional. Esto significa que cualquiera puede invocar los derechos humanos, independientemente, de si se es ciudadano peruano o no. Para la delimitación en relación con los derechos civiles vale que los derechos fundamentales sean clasificados como derechos humanos y, con ello, como derechos de todos, mientras no estén reservados expresamente para los ciudadanos de la República del Perú.</i>
<b>1.62. Professor Thierry Rambaud – France</b>	<i>An article was sent by the Professor.</i>
<b>1.63. Mario Campora - Melisa Szlajen - Argentina</b>	<p><i>In 1994 the Argentina's Constitution was reformed and incorporate in its article 75.22 eleven human rights treaties with constitutional hierarchy and form the constitutional block<sup>1</sup>. Two of that treaties that belong to the Interamerican Human Right System are the American Declaration of Human Rights and the American Convention of Human Rights.</i></p> <p><i>In 1948 the document that create the OEA was sign and with it de the American Declaration of Human Rights<sup>2</sup>. That declaration is not binding for the states but was used by the Interamerican Comisión of Human Rights to interpret the state's obligations<sup>3</sup>.</i></p> <p><i>In 1969 de states part of the OEA adopt and open to sign the American Convention of Human Rights, that entry into force in 1978, the 18th of July<sup>4</sup>. Nowadays 25 states are part of that instrument<sup>5</sup>.</i></p> <p><i>The Commission has a lot of functions, one is to receive individual petitions. This system allows people or groups of persons to present cases to the Commission clamming a violation of one of the two human rights instruments mention<sup>6</sup>. The process could finish in the Commission or in the cases that a violation of the American Convention of Human Rights is claimed, if the state has accepted the competence, the Commission can send the case to the Cort<sup>7</sup>. The Convention only</i></p>

<sup>1</sup> Art. 75.22, Argentinean Constitution.

<sup>2</sup> Rodríguez-Pinzón, D. and Martin, C. "The prohibition of torture and ill- treatment in the Interamerican Human Right System", Foreword by Claudio Grossman, Vice Chair of the United Nations Committee against Torture, October 2006, p. 28/9.

<sup>3</sup> *Op. Cit.*

<sup>4</sup> *Op. Cit.*

<sup>5</sup> [https://www.oas.org/dil/esp/tratados B-32 Convencion Americana sobre Derechos Humanos firmas.htm](https://www.oas.org/dil/esp/tratados_B-32_Convencion_Americana_sobre_Derechos_Humanos_firmas.htm)

<sup>6</sup> Rodríguez-Pinzón, D. and Martin, C. "The prohibition of torture and ill- treatment in the Interamerican Human Right System", Foreword by Claudio Grossman, Vice Chair of the United Nations Committee against Torture, October 2006, p. 44.

<sup>7</sup> *Op. Cit.*

	<p><i>protects the human rights of human persons or a group of persons, but not of legal entities<sup>8</sup>. The petitions can only be presented against States<sup>9</sup>.</i></p> <p><i>Article 1 of the American Convention establish: “1. The States Parties to this Convention undertake to respect the rights and freedoms recognized here and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.2. For the purposes of this Convention, "person" means every human being.”<sup>10</sup> Also, the article 4th said: “1. Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.”<sup>11</sup></i></p> <p><i>In conclusion, the question is when we start to protect a person or when shall we consider a person exist.</i></p> <p><i>Article 4th create doubts with the expression “in general”. Some doctrinaries thought that the right to juridical personality starts on the conception and others take that expression to allege that life and person are different concepts and the person is the one that has the right to life so, for example, abortion could be legal<sup>12</sup>.</i></p> <p><i>The Interamerican Court of Human Rights in the case “Artavia Murillo vs. Costa Rica” after analyzing all the debates of the American Convention, concluded that an embryo is not a person, so it is not protect by de Convention<sup>13</sup>.</i></p> <p><i>Also the Convention of Children’s rights and the International Convenant of Civil and Political Rights - that have constitutional hierarchy - doesn’t recognize the right to life until the person is born<sup>14</sup> and in this way resolve the case call “F.A.L.” our Supreme Court<sup>15</sup>.</i></p>
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<sup>8</sup> *Op. Cit.* p. 66.

<sup>9</sup> *Op. Cit.*

<sup>10</sup> Art. 1, American Convention of Human Rigths, adopted at San José, Costa Rica, 11/22/1969, at the Interamerican Specialized Conference on Human Rights, entry into force 07/18/1978.

<sup>11</sup> Art. 4, American Convention of Human Rigths, adopted at San José, Costa Rica, 11/22/1969, at the Interamerican Specialized Conference on Human Rights, entry into force 07/18/1978.

<sup>12</sup> Red de Profesoras de la Facultad de Derecho, “Aborto: la marea verde desde el derecho”, Ditiéri, M. *El aborto desde la perspectiva del derecho internacional de los derechos humanos. El debate suscitado en nuestro país ¿hacia una posible adecuación?*, P. 107 y Herrera, M., *Legalización del aborto y derecho civil constitucionalizado y convencionalizado*, p. 127, Editores Sur, Buenos Aires, 2017.

<sup>13</sup> Interamerican Court of Human Rights, Case Artavia Murillo vs. Costa Rica, sentence of 11/28/2012, parragraph 223.

<sup>14</sup> Convention of Children’s rights, adopted by resolution 44/25 in the General Assembly the 11/20/1989, entry into force 09/02/1990 and International Covenant on Civil and Political Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) 12/16/1966, entry into force 03/23/1976.

<sup>15</sup> Supreme Court of Justice, Case “F., A. L.”, 03/13/2012, Buenos Aires.

	<p><i>Finally, our Civil and Commercial Code, that is below the Constitution, establish that a person will exist since its conception but it reserves rights and obligations for who is born with life<sup>16</sup>.</i></p> <p><i>We can conclude that, the embryo has some kind of protection, but that doesn't means that is a person. A person exist when it is born and since that moment has humans rights.</i></p>
1.64. Dr. Alaa Nafea Kttafah - Iraq	<p>ج/ الانسان وفق المفهوم الحديث لحقوق الانسان لا يختلف عن تلك المعاني والمفاهيم التي اوردها الاديان السماوية والمتضمنه كل البشر المتواجدين على المعمورة الارضية بغض النظر عن لونهم وجنسهم ومعتقداتهم واعراقهم وما الى ذلك من عناصر التمييز التي اوجدها المجتمع .</p>
1.65. Professor Silvina Ramirez - Argentina	<p><i>Ya avanzado el siglo XXI, irrumpen en el escenario de los derechos la naturaleza. Los derechos de la naturaleza se presentan como un complemento necesario de los derechos humanos. "Lo humano" comprende, entonces, un abanico de personas, incorpora fuertemente la pluriculturalidad y forma parte de un conjunto de derechos con fuertes implicancias sociales.</i></p>
1.66. Agnieszka Bieñ-Kacała - Poland	<p><i>The professor has chosen not to publish her answers</i></p>
1.67. Professor Dr. Claire Breen - Australia	
1.68. Marwan Al-Moders - Bahrain	<p><i>The Professor has send articles.</i></p>
1.69. Dhia Al Uyun - Indonesia	<p><i>Human adalah manusia. Manusia memiliki perbedaan dengan makhluk Tuhan yang lain. Manusia memiliki akal dan nurani. Akal menghasilkan penalaran, Nurani membentuk peradaban. Peradaban adalah memanusiakan manusia. Manusia tanpa peradaban bukan manusia.</i></p>

<sup>16</sup>Art. 19 and 21, Argentinean Civil and Commercial Code, National Law 26.994.