

The Universal Declaration at 50: Changing the world?

by [Douglas Cassel](#) in the [December 23, 1998](#) issue

December 10 marked the 50th anniversary of the United Nation's adoption of the Universal Declaration of Human Rights. I believe that the continuing impact of this historic document is changing the world for the better, even though doubters can point to considerable contrary evidence.

On the 44th anniversary of the Universal Declaration, for example, ethnic cleansing and mass rape began in Bosnia. The Declaration's 46th anniversary witnessed the genocide of nearly a million human beings in Rwanda. During this 50th year, Colombia's leading human rights lawyer was assassinated. Prisoners continue to be tortured in Turkey and elsewhere, and in our own country people are on death row following trials that demean basic standards of due process. Respect for the Universal Declaration remains far from universal.

Yet many more safeguards for human rights exist in today's world than in 1948. Thanks in significant part to the Universal Declaration, the last half century has seen explosive growth in human rights consciousness and activism, and in international human rights laws and institutions.

Anyone who wonders if this heightened awareness has had an impact need only ask General Augusto Pinochet. At the age of 83, the man who once terrorized Chile now looks forward to spending his first Christmas in London, under guard, while awaiting extradition to Spain for prosecution. Or they might ask General Radislav Kirstic. He is the Bosnian Serb officer accused of directing the genocide at Srebrenica in 1995. This year he, too, will spend Christmas away from home, sampling Dutch cuisine in the detention cells of the International Criminal Tribunal for the Former Yugoslavia, located in the Hague. Those who prefer to consult a civilian might ask former Rwandan Prime Minister Jean Kambanda. This year he pled guilty to genocide before the International Criminal Tribunal for Rwanda. This Christmas will be his first of many in prison.

Reports also indicate that Guatemalan generals, who not long ago eradicated entire villages of Mayan men, women and children, are reassessing their travel plans, too. If this trend keeps up, how long will it be before tyrants reassess not only their travel plans but also their style of governing?

But what is the Universal Declaration of Human Rights and how did it come to be adopted? Few Americans know much about it.

When the UN adopted the Universal Declaration 50 years ago it was not intended to be part of international law. It was adopted only as a resolution of the General Assembly, not as a binding treaty. It was the expression of a hope, not the enactment of a law. Yet after half a century we can now recognize the Universal Declaration as among the most influential documents of our age. It proclaims not only a bill of rights, most of which have now in fact become embodied in international law, but a moral and philosophical vision which aspires to universality.

The Universal Declaration emerged from World War II. During the war President Franklin D. Roosevelt persuaded the Allies to list human rights as a war aim, and to popularize the idea, he campaigned at home for the "Four Freedoms"--freedom of speech and belief, and freedom from fear and want. In homage to his vision, the preamble to the Universal Declaration proclaims the Four Freedoms as "the highest aspiration of the common people."

Then, when the United Nations was founded at San Francisco in 1945, nongovernmental groups lobbied to include a bill of rights in the body's charter. They were unsuccessful. But the charter does declare promotion of human rights to be a purpose of the UN. In closing the conference, President Truman stated that "under the charter we have good reason to expect the framing of an international bill of rights acceptable to all nations involved."

When the UN Human Rights Commission was established the next year, Eleanor Roosevelt became its first chair, and the U.S. promptly asked the commission to draft an international bill of rights. By the end of 1947, under Mrs. Roosevelt's leadership, the commission approved not only a draft Universal Declaration but also a treaty to make it legally binding and a proposed international human rights court to enforce it.

But in 1948 UN member nations were not ready to accept either a human rights treaty or a human rights court. Why? For one reason, key European powers still held

colonies which included most of Africa. For another, every seventh UN member vote was controlled by Joseph Stalin. And in the U.S., racial segregation remained constitutional. Another six years would pass before the Supreme Court declared racially segregated public schools unconstitutional in *Brown v. Board of Education*. In the meantime, Washington worried that segregationist laws could be condemned by UN human rights initiatives. Already alarm bells were sounding. In 1947 a group of American blacks led by W. E. B. Du Bois, under the auspices of the NAACP, had appealed to the UN to redress "the denial of human rights to minorities in the case of citizens of Negro descent in the United States of America." In 1948, when the Supreme Court struck down a California law discriminating against Japanese Americans, four of the nine justices found that the law violated not only the U.S. Constitution but also the UN charter.

American racists were not alone in their concern over the Human Rights Commission's work. Conservatives in this country generally viewed the UN human rights proposals with dismay. The American Bar Association opposed the court and asked for more debate on the treaty and declaration. Even the declaration, argued ABA officials, threatened U.S. national sovereignty, states' rights, capitalism and democracy. The draft declaration, warned the ABA's president, was "dangerous" and "revolutionary."

He was half right. While the Universal Declaration was hardly dangerous, it was indeed revolutionary. Together with the Nuremberg and UN charters, it would overturn a longstanding doctrine of international law that left human rights, with few exceptions, within the domestic sovereignty of each nation. Once the Universal Declaration was adopted, the rights it proclaimed would become matters of international legal concern.

Given opposition to the Universal Declaration, with its revolutionary implications, how did it come to be adopted at all? The answer can be stated in two words: the Holocaust. Newsreel footage of Nazi concentration camps and the Nuremberg trials had helped convince millions of people that basic rights could no longer be left entirely to national governments. Public opinion demanded a new international commitment to human rights.

Consequently, on December 10, 1948, after lengthy debate, the UN General Assembly adopted the Universal Declaration by a vote of 48 yes, none opposed and eight abstentions (six Stalinist states and satellites plus Saudi Arabia and South

Africa). For the first time in history, governments accepted a set of human rights standards for the entire world.

Then, as now, the task was monumental. In a world of capitalist and communist, Christian and Confucian, Muslim and Jew, north and south, have and have-not, how could agreement be achieved on rights for everyone? The question, if anything, is even more acute now, when issues of cultural and legal pluralism are under passionate debate.

The Universal Declaration answers these challenges with a simple, broadly accepted premise: "All human beings are born free and equal in dignity and rights" (art. 1). In other words, our freedom, our equality, our dignity and our most basic rights are inherent in our nature as human beings. They are too precious to be left to mere civil rights, which depend on laws passed by governments. Human rights are rights which governments can neither grant nor deny, but can only recognize.

Such a principle may sound familiar to Americans. Our Declaration of Independence holds that "all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the Pursuit of Happiness." Indeed, the Universal Declaration embodies most rights cherished by Americans. Among them are life, liberty, security of person, freedom from slavery and from torture and inhumane treatment; equality before the law; the right to judicial remedies for wrongs; freedom from arbitrary arrest and detention; fair trials and due process of law, including the presumption of innocence; privacy; freedom of movement; equal rights in marriage; freedoms of speech, press, assembly and association; and free elections. On the other hand, the Universal Declaration omits the Anglo-American right of trial by jury, and two peculiarly North American conceptions: the right to bear arms, and the prohibition of established religion.

But in two other important respects, the Universal Declaration goes beyond the core concepts of American rights. First, it does not aim merely to protect individuals from governments. It views all human beings as both individuals and members of society. Hence it rejects the extremes of both individualism and collectivism. Individuals have rights, but they are also "endowed with reason and conscience and should act towards one another in a spirit of brotherhood" (art. 1). The goal is neither Marlboro Man nor Mao's Model Worker. Instead, "Everyone has duties to the community in which alone the free and full development of his personality is possible" (art. 29). Only so can both individual and community thrive.

Second, the Universal Declaration understands that human beings are more than voters. Ill-fed people cannot march for their rights. Homeless people cannot secure their privacy. The illiterate cannot read or write dissenting political opinions. Hence everyone is entitled to the "economic, social and cultural rights indispensable for his dignity and the free development of his personality" (art. 22). The recognition of such rights does not reflect a bias toward communism; the Universal Declaration also recognizes the right to property. Nor is it utopian; economic rights are recognized only "in accordance with the organization and resources of each State." Rather, the Universal Declaration's affirmation of rights to social security, to work, to rest, to an adequate standard of living, and to education are rooted in religious values and in the tenets of social democracy. They parallel the provisions of many state constitutions in this country and popular initiatives such as the Cardinal Bernardin Amendment, recently approved in a referendum by over 80 percent of Cook County, Illinois, voters, to make health care a right.

The Universal Declaration's balanced view of individual and community, with its integral concept of civil, political, economic, social and cultural rights, has gained broad appeal throughout the world. This appeal reflects the conscious effort made during its drafting to seek recommendations and comment from diverse cultural and religious traditions. Replies to an elaborate questionnaire were received not only from Western but from Chinese, Islamic and Hindu perspectives, including one from Mahatma Gandhi. All UN member governments--some 58 countries, representing four fifths of the world's population--were given ample opportunity to comment.

There were at the time, however, only four UN members from Africa, and most of the drafters were schooled in Western traditions. Still, these circumstances by no means render the Universal Declaration a parochial document. As the Nobel Prize-winning economist Amartya Sen of Bangladesh has taught, the Western tradition has no monopoly on human rights and, indeed, can hardly lay claim to a long record of consistent respect for human rights. So-called Asian values, for example, are in fact quite diverse. Buddhist tradition, Sen has observed, attaches great importance to freedom, while earlier Indian traditions allow much room for free choice; even Confucian values, with their emphasis on order, do not live up to the "monolithic image of an authoritarian Confucius."

Even so, some contemporary Asian leaders, like Malaysian Prime Minister Mahathir Mohamad, denounce the Universal Declaration as Western cultural imperialism. But such claims are belied by popular protests like those now under way in Indonesia

and Malaysia itself. On quite a different note than the Malaysian prime minister, South Korean President Kim Dae Jung has written that the Universal Declaration "reflects basic respect for the dignity of people, and Asian nations should take the lead in implementing it."

But, to return to my initial affirmation, in a world of continuing genocide, torture and hunger, how can it be accurately argued that the noble precepts of the Universal Declaration have made a difference?

First, as the power of an idea, the Universal Declaration undergirds a new global human rights consciousness. For illustration of this one need only read the daily newspapers and mark the space given to human rights news such as Pinochet's detention and alleged violations of rights around the world.

Second, as moral inspiration, the Universal Declaration has helped launch nongovernmental human rights groups across the planet, including the influential organization Amnesty International, which numbers more than one million members worldwide. Twelve years ago Mexico had only a handful of human rights groups; today it has literally hundreds of them.

Finally, the Universal Declaration is the bedrock of most international human rights law, and of those institutions created in the last half century to protect human rights. The U.S. alone is now party to international treaties on civil and political rights and on the rights of refugees, as well as treaties prohibiting genocide, torture and race discrimination. Complaints are regularly filed against us before the Inter-American Commission on Human Rights. Mexico's request for an advisory opinion on the right to consular notification in instances in which Mexican nationals are involved in U.S. death penalty cases, is now pending before the Inter-American Court of Human Rights. In recent years the International Court of Justice--the World Court--has ruled against the U.S. in human rights cases brought by Nicaragua and Paraguay.

Unfortunately, as the world's superpower, the U.S. is among the least enthusiastic supporters of international law, at least when applied to its own conduct. We defied the World Court in the Nicaragua and Paraguay cases. We avoid international human rights courts and commissions whenever possible. We have ratified human rights treaties only after making them subject to extensive reservations.

But we are one of a dwindling number. European nations routinely comply with judgments of the European Court of Human Rights. Latin American nations now regularly comply with judgments of the Inter-American Court. This summer, when some 120 nations voted to establish a permanent international criminal court for genocide, war crimes and crimes against humanity, the U.S. found itself one of only seven countries, including such bedfellows as China and the Sudan, to vote against the new court. The road to effective international protection of human rights stretches long before us, but the direction is clear and the progress irreversible. But even so powerful a document as the Universal Declaration is not self-propelled--a truth Eleanor Roosevelt underscored when she wrote that the "destiny of human rights is in the hands of all our citizens in all our communities." The Universal Declaration of Human Rights is a tool for people of conscience to use in the struggle for a world more respectful of human dignity.