

# **BORN FREE AND EQUAL: The History of the Universal Declaration of Human Rights**

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## **Introduction**

The information presented here is based on available published sources and insights obtained from work at the UN intermittently from 1979 to 2007.

The Universal Declaration of Human Rights turned 70 on 10 December 2018. It heralded a new world order that changed the world by initiating the human rights regime, which developed into more than 75 universal, legal instruments, improving the lives of the world population. The Universal Declaration states crystal clear that everybody is born free and equal, entitled to both civil and political rights and economic, social and cultural rights, which accords everybody a secure and decent life, including the right to seek and be granted asylum against persecution.<sup>i</sup> What was the contribution of various UN member states, one can wonder? How did China pave the way for the Universal Declaration? How did an Indian woman prevent gender discrimination in the first article? What did an Egyptian man do to ensure the right to be free and equal? Europe loves to have a monopoly of grand ideas, but is it fair?

## **Historical evolution**

Many believe that it was the Nazi extermination of Jews, which brought about the Universal Declaration. It was not only that. Even though the Nazis' brutally calculated wickedness had shocked the world opinion and created political momentum for the human rights project, plans of an international human rights declaration existed, before the Nazi atrocities began. The International Federation of Human Rights, established in Paris in 1922, began a few years later to advocate for an international declaration of human rights. In 1939, the British socialist and science-fiction novelist, H. G. Wells, rose to the challenge and went public with his personal draft of a rights declaration the following year: *The Rights of Man*.<sup>ii</sup> It consisted of a preamble followed by some specific rights (right to protection of personal security, to social and economic support, et cetera) just as the Universal Declaration of Human Rights itself. Well's draft became quite a well-known document, translated into numerous languages (non-European included) as the Second World War broadened in geographic scope.

On the political scene, President Franklin Delano Roosevelt was one of the two most known exponents of international human rights (Prime Minister Winston Churchill the other), but not until the 1940s onwards. His wife, Eleanor Roosevelt, however, was earlier onto it and had already at the end of the 1930s attempted to exert influence on her husband, to persuade him to legislate against the quite extensive racial lynching, terrorizing the African-American population in the US.

It was, however, what happened on the world scene, and not at home, which convinced Roosevelt of the justification of international human rights in the course of 1941, after the Germans had launched the first concentration camp, Auschwitz, in 1940, when he realized the need for political leadership at the world level to ensure humanity its rights. With Roosevelt's conviction and oratorical gifts as impetus, assiduously assisted by those of Churchill, the goal of providing the fundamental human rights and freedoms became a leitmotif during the Second World War for not only the US and Great Britain, but also a more significant part of the war-afflicted part of the world.

With Roosevelt and Churchill's conviction, human rights were included in the eight points of the Atlantic Charter on the goals of WWII, the subsequent peace treaty and post-war period, prepared by Roosevelt and Churchill in August 1941 (drafted by Churchill, revised by Roosevelt), on board a battleship on the Atlantic Ocean.<sup>iii</sup> About the same time, Roosevelt asked his staff to explore the possibilities of an international rights manifesto and, as a part of this process, the American administration decided on a declaration, one of the intents rather than a legally binding document. There were hawks in the American administration though – Foreign Secretary Cordell Hull for instance – who thought it best to forget all the talk about human rights once the war was over. Nonetheless, the idea of human rights was for many, not only in government circles of the Allied but far afield, the very substance of a vision of a new world order of equality, freedom, justice and a decent existence for all. Hence, the plan of a human rights declaration proved viable. And, three months after Auschwitz had been liberated in January 1945, the United Nations, established in April 1945, began discussions of a universal declaration of human rights.

Beforehand, an exciting negotiation process had evolved. Inspired by the Atlantic Charter, plans of establishing a new world organization to take over from the League of Nations were discussed already in 1943 at a meeting of the foreign secretaries of the US, Great Britain and the Soviet Union in Moscow. The details were worked out afterward by government officials at two conferences at Dumbarton Oaks outside Washington. The first with the participation of the US, Great Britain, and the Soviet Union, the second with the US, Great Britain, and China. As it turned out, the US and China were most keen on the mention of human rights in the United Nations Charter, although the US began to get cold feet prior to Roosevelt's passing in April 1945, as it was realized in more full political circles that human rights had to be also observed domestically for the African-American population. Great Britain and the Soviet Union were not particularly inclined to mention human rights in the Charter. Great Britain because they thought it could lead to rebellion in the overseas territories, not least in India where Mahatma Gandhi was reckoned quick to seize the opportunity of directing the human rights arguments against Great Britain and threaten the British Empire. The Soviet Union, because the regime knew that such an international doctrine could not be reconciled with Stalin's forced collectivization, political persecution and labor camps.

Hence, when China joined the negotiations, the US, Great Britain, and the Soviet Union had agreed to disguise the references to human rights in the UN Charter. It was actually China, which saved the idea of

human rights in these negotiations by insisting on mentioning them in the Charter, and by declaring its willingness to denounce as much sovereignty as it might take. Ironic in a way, one could say, seen in terms of current insights into China's repeated gross breaches of human rights during the Cultural Revolution in 1967 onwards. China's thinking at the time seems nourished by the hope to promote world peace and fight the international racism against Chinese in particular, prevailing at this point of time.

The negotiated draft Charter from Dumbarton Oaks, which ended with just one reference to human rights, was handed over to the conference on the UN, taking place in San Francisco in April through June 1945, but had fortunately been distributed to participating states beforehand and given them the opportunity to firm up their positions. In Mexico, Latin American countries held a coordination meeting before the conference in San Francisco, and it is with their help assisted by New Zealand, Australia, and France that the draft Charter ended up to include seven references to human rights altogether. Simultaneously, Panama's delegation brought to the conference a draft for the Universal Declaration prepared by the Chilean jurist Alvaro Alvarez from the American Law Institute in Philadelphia, which Panama submitted to the UN in 1946. In the same year, John Humphrey, the first UN director of human rights began to prepare a working sketch for the member states to consider.<sup>iv</sup> In doing this, he used Alvarez's draft, which he elaborated on by using the national constitutions of member states and comments and suggestions solicited from experts and voluntary organizations, and with this anchored the sketch in international, constitutional rights, and in proposed, constitutional rights from around the world.

During 1946-1948, the sketch was debated and amended in the UN Commission of Human Rights under the leadership of Eleanor Roosevelt and hence ended in its current form as a declaration with a preamble, setting out the premises, and thirty operative articles, inspired by the French Declaration of the Rights of Man and of the Citizen of 1789.<sup>v</sup> The French delegate René Cassin participated very actively in the discussions, was for years recognized as the principal author of the Universal Declaration and won the Nobel Peace Prize for it in 1968.<sup>vi</sup> Research since then has shown that it was in fact, Humphrey.<sup>vii</sup> The sketch was discussed and amended during two-and-a-half years before the final text was passed on to the General Assembly for adoption on 10 December 1948 where 48 member states voted for it, nil against it and eight abstained. A genuinely long and thorough process, worthy for a vision of new world order, and which reminds us of the process that led to the Sustainable Development Goals.

### **Member state contributions**

Some people view human rights as a western project. The story of the Universal Declaration shows that this is far from the case even though its ideological base is of western, in particular, European, origin. In the opening article of the Universal Declaration, which reveals its vision of humankind, the first sentence states: "All human beings are born free and equal in dignity and rights."<sup>viii</sup> A simple universal statement without any inherent discrimination. The original formulation, however, was gender discrimination against women. Here wasn't talk about "all human beings," but about "all men" similar to declarations of earlier times, which inspired the Universal Declaration. The amendment prevailed because the delegation of India included a woman who insisted on the use of a language, which couldn't be

interpreted as referring to a specific gender. A position that was backed by the Dominican Republic regarding the fact that member states which already observed the practice to refrain from giving women their full rights, such as the right to vote, could utilize the term "men" to promote conditions of men at the expense of women. It is striking though that these objections came from developing countries, and not donor countries, taking into account the massive assistance accorded to women in developing countries by western donor countries 20-30 years later on with the specific purpose to assist women there to obtain equality with men. Clearly, somebody in the developing world had risen to the challenge much earlier and prepared the ground for gender equality around the globe, which mattered on a mega scale.

Another example is article 2, which accords rights to everybody on an equal footing, no matter which one is and where one belongs geographically. The first sentence, which prohibits discrimination owing to personal identity, went smoothly through the negotiation process. The second sentence, however, which forbids bias owing to territorial status caused grave problems, was a thorn in the eyes of those member states that were still colonial powers. It wasn't until the representative of Egypt seized the floor with the language we have today that momentum resulted.<sup>ix</sup> His word unambiguously abolished discrimination of the populations of the colonies as also in areas under trusteeship, and he was so insistent on his formulation that it ended up as the final wording. Thus, one can say that the article not only is the Third World's most striking contribution to the Universal Declaration. Seen from a current perspective, it also heralded acceleration of the decolonization process, initiated with India's independence in 1947. The very reference to countries under colonial rule in the Universal Declaration was somewhat of an obstacle for Great Britain that controlled large overseas areas at the time. From a contemporary perspective, the wording of article 2 was a clear hint to colonial powers to amend their visions of the human being and change the course of action for the overseas areas. Great Britain even endeavored to prevent the second sentence from getting into the Universal Declaration by taking it to the vote but lost to a majority of a different mindset in a commission where each country counted the same.

Apart from the fact that non-western member states actively participated in the formulation of the Universal Declaration and marked it towards more thoroughly equality thinking, the Universal Declaration provided an occasion for small countries to leave their imprint on the human rights legislation. In subsequent years, 1949-1952, many small states took the lead in the attempt to turn the Universal Declaration into the two resulting covenants on the civil and political rights and the economic, social and cultural rights, respectively, adopted in 1966, which turned the human rights project into international law in 1976, when they entered into force. Further, the small states, led by Afghanistan and Saudi Arabia, were pushing for the right to self-determination (the right to be independent) to be included in the covenants. As a result, this particular right was incorporated as the first article in the two covenants and, hence, given the most prominent place in the international law of human rights.<sup>x</sup>

That the small states turned so determining in the later phases of the human rights project is related to the fact that they saw it as a niche in which they could advance their particular interests in the international community on an equal footing with more significant, influential states. By bringing the project forward, small states could influence the international community to a degree which otherwise would have been impossible for them. Discussions in the UN about universal rights and obligations turned out to be not merely a process with the purpose of establishing a new world order in the form of a legally binding code of conduct, also a method in which assiduous and active states had significant

newly independent states could fight for what they had been deprived of so painfully: the right to independence from the colonial power.

During the period of formulating the human rights to international law, 1946-1966, the engagement of states in the project varied. Some of the original human rights defenders disappeared from the scene, and the human rights project could have sanded up if constantly changing small states had not taken over and carried it forward. When work on the Universal Declaration began in 1946, the UN had 51 member states. When the two international human rights covenants were adopted twenty years later, the figure had increased to more than 100. Without the engagement of the small states in the debate in the UN – many of them newly independent states – the human rights project could have ended up as a declaration of good intentions and remained wishful thinking for contemporary and subsequent generations.

## Conclusion

Which member state provided most support, one may wonder? An educated guess of where the most persistent support of the human rights project came from would be that group of small states, which supplied the project with expertise and steady political and diplomatic penetration: Chile, Lebanon, the Netherlands, New Zealand, and Saudi Arabia. Hence, to claim that human rights as we know them and live with them today is a western political project does not reflect the reality of the situation. They are indeed a negotiated project based on input from over 100 member states from around the world, across continents, cultures, and religions, which made up the United Nations, when the covenants were adopted by the General Assembly in 1966. A project that is far too comprehensive to be assigned to any particular cultural sphere.

The Universal Declaration of Human Rights is translated into 370 languages and is the most-translated document in the world.<sup>xi</sup>

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<sup>i</sup> See <https://www.un.org/en/universal-declaration-human-rights>.

<sup>ii</sup> See <https://www.penguin.co.uk/books/294/294544/the-rights-of-man/9780241976760.html>.

<sup>iii</sup> See Winston S. Churchill, *The Second World War, Vol. III: The Grand Alliance*, London, The Folio Society, 2000, pp. 348-360.

<sup>iv</sup> See <https://www.un.org/en/sections/universal-declaration/history-document/index.html>.

<sup>v</sup> See <https://Oll.libertyfund.org/pages/declaration-of-the-rights-of-man-and-the-citizen>.

<sup>vi</sup> See <https://www.nobelprize.org/prizes/peace/1968/summary>.

<sup>vii</sup> See <https://www.britannica.com/biography/Rene-Cassin>.

<sup>viii</sup> See un.org, Op. cit.

<sup>ix</sup> Ibid.

<sup>x</sup> See <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> and <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

<sup>xi</sup> See <https://www.ohchr.org/EN/NewsEvents/pages/UDHRin370languages.aspx>.