



International Events

UNITED NATIONS AND HUMAN RIGHTS

THE General Assembly of the United Nations which met in Paris from September 21 to December 12, 1948, has been aptly characterized as the Human Rights Assembly. Its outstanding achievements, representing the completion of two and a half years of work on two fundamental documents, were the Universal Declaration of Human Rights and the Convention on Prevention and Punishment of the Crime of Genocide.

Adoption of Human Rights Declaration

The original International Bill of Human Rights was defined by the second session of the Commission on Human Rights in December, 1947, to include a declaration (statement of principles), a covenant (treaty), and methods of implementation. The declaration was to be a series of recommendations having no legal force but placing a moral responsibility on those governments which signed the document.

On June 18, 1948, the Human Rights Commission of the UN closed its third session at Lake Success, N. Y., with the completion of a Universal Declaration of Human Rights. Much preliminary debate over the covenant and, more important, over ways to implement it, took place at that meeting. The crux of the problem was then, and remained, the creation of an international law enforcement body acceptable to a majority of the members of the UN and capable of carrying out whatever legal measures were prescribed in a human rights covenant.

The declaration, which must be viewed as the first step toward an International Bill of Rights, was officially adopted by the General Assembly of the UN on December 10, 1948. In an effort to give the Declaration as much force as possible the Assembly passed the following resolution:

The General Assembly . . . 1. recommends Governments of member states to show their adherence to Article 56 of the Charter by using every means within their power solemnly to publicize the text of the Declaration and to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of countries or territories;

2. requests the Secretary-General to have this Declaration widely disseminated and, to that end, to publish and distribute texts, not only in the official languages, but also, using every means at his disposal, in all languages possible;

3. invites the specialized agencies and non-governmental organizations of

the world to do their utmost to bring this Declaration to the attention of their members.

The final vote was 48 to 0 with 8 abstentions: the Soviet bloc, Saudi Arabia, and the Union of South Africa. The thirty articles which appeared in the final document took almost three years of preparation and were subjected to innumerable revisions and criticisms. Upon its adoption the declaration was both applauded and deplored. The majority view of the General Assembly was expressed by its president, Herbert Evatt, in these words: "History will regard this proclamation as one of the outstanding achievements of the United Nations since its establishment. . . . This is the first occasion on which the organized international community of nations has made a declaration of human rights and fundamental freedoms. It therefore has all the authority of a collective body of opinion of the United Nations as a whole."

In opposing the declaration the Soviet delegate asserted that it seemed to negate the concept of sovereignty of governments. This opinion had been voiced several times previously by Soviet representatives in reference to specific articles of the declaration in which the rights of the individual appeared to take precedence over the rights of his country.

UNESCO and the Human Rights Declaration

The Third General Conference of UNESCO which met in Paris during December, 1948, voted immediate support of the General Assembly action by passing a resolution recommending its Director-General "to stimulate the dissemination of information about the International Declaration of Human Rights adopted by the United Nations, particularly through the projects division of the Mass Communications Department; to encourage the incorporation of the Declaration as subject-matter in the teaching about the United Nations which is given in schools; and to direct his programme sections to employ the Declaration wherever possible in their programme activities."

After adopting this resolution UNESCO concentrated a large part of its work in mass communications on a vivid, topical, and dramatic presentation of the theme of the significance and implications of the articles of the Declaration of Human Rights. It sponsored the preparation of discussion pamphlets and broadcasts on human rights. It was also planning a celebration for December 10, 1949, the first anniversary of the adoption of the declaration, one in which the press, the cinema, the radio, and schools and clubs throughout the world would participate.

PROVISIONS OF THE HUMAN RIGHTS DECLARATION

The declaration set forth civil, political, economic, and social rights and freedoms. All of these were well known and many already are present in the laws of the various nations.

In summary, the thirty articles of the Universal Declaration of Human Rights listed these rights and privileges:

Right to life, liberty, and security of person

Freedom from slavery, torture, cruel, inhuman or degrading treatment or punishment

Freedom from arbitrary arrest, detention or exile
 Right to a fair and public hearing by an independent and impartial tribunal
 Presumption of innocence
 Protection against *ex post facto* laws
 Freedom from arbitrary interference with one's privacy, family, home, or
 correspondence
 Freedom to leave any country
 Freedom of movement and residence
 Right of asylum from persecution
 Equal rights in marriage
 Right to own property
 Freedom of religion, expression, assembly, and association
 Right of the people to have their will serve as the basis of the authority of
 government
 Right to work
 Right to join trade unions
 Right to rest and leisure
 Right to social security
 Right to education
 Right to participate in the cultural life of the community
 Right to equality before law and freedom from discrimination.

The declaration also made it clear that all these rights and freedoms were to be subject only to such limitations as were prescribed by law for the purpose of securing due recognition for the rights and freedoms of others and meeting the requirements of morality, public order, and general welfare in a democratic society.

As can be seen from the contents, the articles of the declaration reflected traditional libertarian attitudes of Western Europe and the United States and the newer concepts associated with socialist theory, such as the right to work, the right to social security, and the right to protection from unemployment.

Draft Covenant of Human Rights

The United Nations Commission on Human Rights ended its fifth session on June 20, 1949, after six weeks spent in drafting a covenant on human rights which would guarantee the provisions contained in the declaration.

In its tentative form the draft covenant consisted of more than a score of articles outlawing arbitrary arrest, torture, slavery, servitude, or forced labor, as well as provisions for fair trial for accused persons, freedom of religion, and rights of assembly and association. Under its terms all nations were to be obliged to accord freedoms and rights to all persons "without discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status."

The draft covenant went to all fifty-nine member governments for study and recommendations and was to be reviewed again by the commission at its session in the Spring of 1950. Proponents hoped that the final document, which would be legally binding on nations that signed it, would be ready for action by the General Assembly in 1950.

Along with the articles already in the covenant, which laid down broad political and civil rights, member governments would be asked to comment on

a series of articles that had been proposed by the Soviet Union and Australia to guarantee economic and social rights to individuals, but which had not been included in the draft covenant.

Implementation

In addition to the contents of the covenant, the fifth session of the Commission also discussed means of implementation; in other words, the method by which the provisions of the covenant could be internationally enforced. On May 11, 1949, the United States delegate proposed that disputes arising under the draft covenant be referred to specially constituted fact-finding panels empowered to decide on the merits of the case and make recommendations to states party to the treaty. These panels would be composed of one national from the states bringing the complaint, one national from the defendant state, and three persons chosen either by agreement of the parties or by the president of the International Court of Justice. Only states adhering to the covenant could bring complaints before such a special board.

Right of Petition

A problem which received considerable attention from Commission delegates was whether or not individuals and organizations as well as sovereign states could bring charges of human rights' violations before the world organization. The right to bring charges, known as the right of petition, was considered by its proponents to be the core of the entire human rights problem. No machinery for implementation would be adequate, they felt, unless the right of individuals or groups of individuals to initiate procedures for the protection of these rights was clearly recognized and provided for. The General Assembly made the importance of this issue definite by including a resolution at its third session, in December, 1947, which requested the Economic and Social Council to ask the Commission on Human Rights to give further examination to the problem of petitions.

At the time of writing the big powers (the United States, Soviet Union, and Great Britain) were against extending the right of petition to individuals; while France, Lebanon, India, Guatemala, Uruguay, Australia, Denmark, and the Philippines supported the idea. At a meeting held on June 17, 1949, the Commission decided to study the question of individual petitions and in the meantime to examine those already on file with the UN, with a view to submitting them to the Commission for consideration at its next session.

Proposals of Jewish Groups

From the very first UN discussions of a bill of human rights, Jewish groups pressed for inclusion of certain principles which they regarded as necessary to safeguard human rights.

On June 2, 1948, the World Jewish Congress requested the Human Rights Commission to declare the fundamental right of persons to seek asylum from persecution. The Agudas Israel World Organization on June 9, 1948, asked for

a provision safeguarding the freedom of religion and the right to "practice any form of religious worship, teaching and observance."

The Consultative Council of Jewish Organizations on May 16, 1949, submitted to the Human Rights Commission a ninety-six-page memorandum containing proposals on the structure, functions, and international machinery to protect human rights. This memorandum dealt with the most important and fundamental problem of implementation of the covenant. Members of the Commission were giving this document careful study as a possible guide to the final plan. The memorandum recommended that individuals or groups of individuals be permitted to initiate action before international bodies in order to protect human rights. It proposed the establishment of a permanent central control commission on human rights, in addition to permanent regional commissions composed of independent persons not subject to instructions from their governments. The Consultative Council suggested that members of the commissions be elected for a six-year term by the General Assembly of the United Nations or a committee appointed by it, or by the Economic and Social Council, or by contracting parties. It was further suggested that the procedure before the proposed commissions be governed as far as possible by the fundamental principles applied to civil law.

Another suggestion for the handling of human rights' violations was submitted to the Human Rights Commission by the World Jewish Congress on June 13, 1949. The WJC memorandum called for the establishment of special domestic and international human rights courts to deal with complaints. It was suggested that domestic courts be established within each of the states which signed the convention, and a higher court be set up for appeals from lower court decisions. The memorandum also proposed an International Court on Human Rights to hear appeals from decisions of the highest domestic courts, and with authority to invoke the assistance of UN organs for implementation whenever necessary. It asked, too, for the rights of petition and court hearing, as complainant or *amicus curiae*, for individual complainants and for organizations which had been granted consultative status with the Economic and Social Council.

On May 16, 1949, the World Jewish Congress submitted other proposals to the Human Rights Commission. These were designed to remedy what the WJC termed "serious deficiencies" in the draft covenant. Among the recommendations made were these: Despite national emergencies no one was to be deprived of life without due process of law; mutilation, slavery, and torture were to be outlawed; liberty of movement was to be guaranteed; no one was to be deprived of liberty without a fair trial; retroactive criminal laws were to be prohibited; and freedom of religion and conscience and right of assembly and association were to be guaranteed.

On June 17, 1949, the World Agudas Israel, in conjunction with the Consultative Council of Jewish Organizations, proposed that the covenant contain a provision guaranteeing that children whose parents were killed in the late war or in other major catastrophes would be brought up in the religion of their parents.

Anticipating a delay of several years before any covenant on human rights took effect, the Coordinating Board of Jewish Organizations on May 17, 1949,

presented to the Human Rights Commission proposals which would enable immediate action on human rights by the UN. The Board proposed that:

1. a survey be made by each member nation of the present observance and protection of human rights within its territories and such measures be taken as are practicable to narrow the gap between existing practices and the standard established by the Universal Declaration of Human Rights;
2. the Secretary-General and the Commission be fully informed of the activities of these "watchdog" commissions, and be authorized to make independent studies of their own;
3. a procedure be established by which the Secretary-General and the Commission be enabled to examine the many communications now being received by the UN concerning human rights.

Sub-Commission on Discrimination and Minorities

The Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Human Rights Commission received a request from the General Assembly in December, 1948, to make a thorough study of the problem of minorities "in order that the United Nations may be able to take effective measures for the protection of racial, national, religious or linguistic minorities." At this writing the Sub-Commission was examining means of protecting the rights of minority groups until such time as international protection would be enforceable through a covenant.

On May 19, 1949, this commission received a fifty-two-page document from the Consultative Council of Jewish Organizations urging the commission to recommend bilateral or multilateral agreements among nations for the protection of the rights of minority groups. The memorandum asserted that certain states might be unwilling to establish religious freedom or religious equality, either for their own nationals or for aliens, but they might be willing to grant guarantees against ethnic discrimination. Other nations, because of historic factors, might be unwilling or unable to agree to a covenant pledging racial equality but might be eager to sign a covenant of religious freedom. Thus, according to the Consultative Council, human beings could be protected in areas vital to their group life against discrimination and against those injustices directed against them because they were members of religious, linguistic, and ethnic minorities, without creating political problems.

The Consultative Council defined those human rights which had a special bearing on the problems of minority oppression as, chiefly, freedom of religion, association, and communication; and freedom from racial, religious, and linguistic discrimination. After a survey of the history of past efforts made on the international level to protect minority rights, the memorandum concluded with a strong recommendation for a special UN agency charged with the resolution of these problems, and authorized to function in the special areas in which each nation delegated authority to it.

Public Reaction

The reception accorded the Universal Declaration of Human Rights and the proposed covenant was by no means unanimous. Certainly the declaration

made much less of an impression on the American public than its proponents would have desired.

Newspaper editorials which took note of the event for the most part viewed the declaration with favor, holding with the *New York Herald Tribune* (December 8, 1948), that:

At the most it is a statement of ideals—"a standard of achievement" as the preamble states, which every nation and individual, "keeping constantly in mind," shall strive by teaching and education to promote and by progressive measures to make secure. It would be easy to say that such a declaration, having no legal weight, is merely an expression of hopeful platitudes. But the process of debate and discussion through which the statement has been hammered out has by itself enlarged the area of agreement and has intensified the resolve to make the basic rights an operative force. Throughout history, moreover, the setting forth of accepted ideals has served to influence and shape reality.

The more skeptical approach was perhaps exemplified by the *New York Daily News* (November 10, 1948), which wrote of the declaration: "We have a feeling that the UN will get nowhere fast in selling the . . . declaration throughout the world."

Protestant and Jewish groups raised their voices in immediate approval of the human rights document. Following adoption of the declaration by the General Assembly, expressions of approval were made public by the Federal Council of Churches of Christ in America, the Commission of the Churches on International Affairs of the World Council of Churches, and the Women's Division of Christian Service of the Methodist Church's Board of Missions. Prominent Protestant clergymen, including Bishop John J. Stamm and O. Frederick Nolde, spoke in support of the human rights document.

The Protestant Council in the City of New York, in an attempt to publicize the declaration and encourage debate and study of it, sponsored a conference for that purpose on February 12, 1949.

On February 14, 1949, the Joint Commission on Social Action of the Union of American Hebrew Congregations and the Central Conference of American Rabbis issued a statement calling on the United States government to implement "to the fullest extent" the doctrine of the brotherhood of men and the principle of human equality embodied in the UN Declaration of Human Rights.

During the discussion held in the Social, Cultural, and Humanitarian Committee prior to the declaration's adoption, an amendment was offered reading "all human beings are created in the image and likeness of God." Upon objections from China, Russia, Britain, and India, because of their differing religious beliefs, the amendment was withdrawn. Subsequently an article in the Vatican newspaper *Osservatore Romano* criticized the UN for not having included any mention of God in its Declaration of Human Rights. Catholic groups were working for inclusion of acknowledgment of the divine origin of all human rights in the proposed covenant. On July 28, 1949, representatives of eight Roman Catholic organizations called at the British Foreign Office in London and presented a memorandum pledging support of the proposed covenant. They requested that the covenant show recognition of the divine

origin of human rights, that the rights of property be "more clearly defined," and that the right of corporate ownership be safeguarded.

Legal Reactions

In the United States the declaration was sharply criticized by several legal groups. The American Bar Association took a somber view of the declaration's intentions; and on January 31, 1949, at a meeting of its House of Delegates, warned that a covenant of human rights could wreck the American constitutional and legal systems. Leaders of the organization criticized what they called the undue haste with which the declaration was adopted by the Assembly in Paris on December 10, 1948. They alleged that a new procedure would be introduced whereby ". . . not only a city or a county or a state but any individual in this country may be complained against, not only by some pressure group in this country, but by some pressure group in Russia, and may be brought before an international tribunal and tried and punished by imprisonment or death." The declaration and proposed covenant were described as "revolutionary" in that they "permit the United Nations to deal with the domestic affairs of a member nation."

The American Bar Association's fears concerning the human rights documents were shared by the Association of the Bar of the City of New York and members of the New York State Bar Association. The international law committee of the New York City bar group recommended on May 10, 1949, that the Human Rights Declaration be abandoned, deeming it neither feasible nor desirable "at this time." It pointed with suspicion at "so-called social and economic rights."

At the New York State Bar Association's annual meeting held on June 24 and 25, 1949, 500 members voted to appoint a special committee to study UN proposals for safeguarding human rights. A vigorous debate on the subject drew forth once more the opinion that UN action on human rights was precipitate, that few people in the United States had actually considered the proposals. The declaration was criticized on the grounds that it did not recognize the divine origin of human rights but assumed they were bestowed by the state.

Genocide

In Paris on December 9, 1948, the same General Assembly that proclaimed a Universal Declaration of Human Rights voted unanimously to adopt the Genocide Convention which had been two years in preparation. On the day the vote was taken—50 to 0, with no abstentions—delegates of twenty countries, including representatives of the major powers of the East and West, signed the convention. To become effective the treaty had to be ratified by the parliaments of twenty of the signatory countries. At the time of writing only Norway, Australia, and Ethiopia had voted ratification. In the United States the treaty had been submitted to Congress for its examination and approval.

The adoption of the Genocide Convention marked the climax in the career of Raphael Lemkin, member of the Yale Law Faculty, who had devoted more than fifteen years of his life trying to have a ban on the destruction of human

groups written into international law. Lemkin originated the word "genocide" as a new legal formulation for the ancient crime of annihilation of religious, racial, and national groups and worked on the preparation of the UN convention.

PROVISIONS OF GENOCIDE CONVENTION

The convention wrote into international law a prohibition on genocide—the destruction in whole or in part of a national, ethnical, racial, or religious group—as well as complicity in genocide and conspiracy to incitement or attempt to commit genocide.

Biological as well as physical destruction of human beings was foreseen in the document, which defined genocide as the killing of, or causing serious bodily or mental harm to, members of a group; deliberately inflicting conditions of life calculated to bring about destruction; sterilization or other measures intended to prevent births within the group; or the forcible transfer of children from one group to another.

A four-step recourse was provided signatories who considered themselves victims of attempts at genocide. They might appeal to national courts, the International Court of Justice, any competent organ of the UN, or a special international penal tribunal whose establishment was envisaged in the convention.

The granting of asylum to persons charged with genocide, whether private individuals, public officials or responsible rulers, was forbidden, and contracting parties pledged themselves to extradite persons indicted under the convention for trial.

The UN International Law Commission requested prominent international jurists to draw up a report on the establishment of an international tribunal to try persons charged with genocide and similar crimes.

Public Reaction

When the UN decision was reached, Herbert V. Evatt, president of the General Assembly, urged ratification by all parliaments of member nations, telling the delegates that this was an epoch-making event in the development of international law.

Evatt's plea for ratification was supported by United States President Harry S. Truman, Mrs. Franklin D. Roosevelt, René Cassin of France, and statesmen of several nations.

A delegation of fifteen women's organizations, representing many members in all parts of the world, visited UN Secretary-General Trygve Lie on June 24, 1949, and pledged their influence to promote ratification of the convention by the parliaments and legislatures of the countries of the world. The organizations represented in the delegation included: the United States National Commission for the UN Educational, Scientific, and Cultural Organization; the National Council of Women of the United States; the International Council of Women; the International Children's Emergency Fund of the UN; the National Women's Forum; the United Council of Church Women; the

National Council of Jewish Women; the National Education Committee for Lasting Peace; the New York City Federation of Women's Clubs; the National Federation of Business and Professional Women; the National Council of Catholic Women; and the Women's Pan Pacific Association.

The Church Peace Union at its semi-annual meeting on June 17, 1949, urged the Senate to approve the convention.

The Association of the Bar of the City of New York also approved the Genocide Convention and urged the Senate to ratify it.

The American Bar Association through its House of Delegates spoke up as the one American organization opposed to ratification of the Genocide Convention. On February 1, 1949, this legal body voted unanimously in favor of a resolution which urged the United States Senate not to ratify the convention "until and unless there has been accorded the time and opportunity for adequate public discussion and understanding of the convention." Reacting as it had to the Universal Declaration of Human Rights, the Bar Association envisaged a dangerous encroachment by the Genocide Convention upon the American constitution and domestic laws. The president of the bar group, Frank E. Holman, said he was informed that "certain pressure groups are urging early ratification" of the convention, but he refused to name any such groups.

GERALDINE ROSENFELD