EVIOLUTION AND SIGNIFICANCE
OF THE DECLARATION OF HUMAN RIGHTS

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EVOLUTION AND SIGNIFICANCE
OF THE
DECLARATION OF HUMAN RIGHTS

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CHAPTER I

I. INTRODUCTION

The progress from an absolute to a limited monarchy, to a democracy, is a progress towards a true respect for the individual. Even the Chinese philosopher was wise enough to regard the individual as the basis of the empire. Is a democracy, such as we know it, the last improvement possible in government? Is it not possible to take one step further towards recognizing and organizing the rights of man? There will never be a really free and enlightened State until the State comes to recognize the individual as a high and independent power, from which all its own power and authority are derived, and treats him accordingly. Civil Disobedience—Henry David Thoreau

Since the end of World War II, and the signing of the United Nations Charter, the nations of the world have been more concerned than ever before about the respect for human rights and human freedoms. History pages are full of battles where people were striving to win their freedoms. Country after country has its own story of achieving political freedom for its citizens.

The Declaration of Human Rights is a part of a broad United Nations program designed for creating a world in which human beings will be justly treated and have equal opportunity regardless of sex, race, and creed.

When the subject first came up for discussion in the United Nations, the representative from Panama remarked that "the rights of the individual do not spring from the fact that he is a citizen of a given state." That idea is the starting point for any consideration
of Human Rights.\textsuperscript{1} The Commission on Human Rights was established in 1946 and began work on an international bill of human rights. Two years later, on the recommendation of the Commission, the General Assembly, without a dissenting vote, adopted the first part of the bill — the Universal Declaration of Human Rights. The thirty articles of the Declaration set forth man's inalienable rights in the civil, political, economic, social and cultural fields.

II. THE PROBLEM

It was the purpose of this investigation to make a study of the developments leading up to the drafting of the Universal Declaration of Human Rights, and to determine what impact this document has had on the world.

According to the Charter one of the main purposes of the United Nations was "to reaffirm faith in fundamental human rights." In Article 56, also, the Charter lays an obligation on the member states to cooperate with the organization in promoting universal respect for human rights and freedoms and universal observance of them.

The Charter does not describe what it means by these rights and freedoms. The details were left to be worked out by a Commission of Human Rights. The Commission drafted a Declaration of Human Rights

which gave meaning to the rights and freedoms mentioned in the Charter. The next problem was to translate the Declaration into treaty form. As yet, this has not been accomplished. This problem is significant because the realization of the objectives of the Charter, depends in great measure on the respect and promotion of human rights. It must be determined whether a Declaration of Human Rights has any impact on the world, or whether we need to define human rights in treaty form.

The research of this study was based on material found in United Nations Publications, periodicals, reference books dealing with the Universal Declaration of Human Rights, and letters from individuals concerned with the document. A thorough study was made of the United Nations Charter, the minutes of the Human Rights Commission, The Declaration of Human Rights and materials giving evidence of the impact of the Declaration.

III. HISTORICAL DEVELOPMENTS

The concern for human rights as evidenced by numerous references in the Charter became of major importance to a general international organization with the formation of the United Nations. Before this historic event, in the long slow development of international law and international organization, human rights had traditionally been the concern of the individual state. Each state recognized or withheld rights from its citizens according to its own concepts and no state could justifiably criticize the behavior of its neighbors. The
Charters declarations and bills which thus emerged captured the imagination of people and became a rallying point for further struggle.¹

The achievements which stand out as significant in history were gained almost always through rebellion against tyranny or resistance to threatened oppression. The British Magna Carta (1215), Petition of Rights (1628) and Bill of Rights (1689) developed from demands for the reform of particular abuses by government. These documents were intended mainly to restrain the king in his dealings with the powerful barons and church leaders at whose insistence they were drawn. Ultimately they brought the benefit of liberty to all the people. The textual provisions of the Magna Carta have little meaning for life today. Yet this charter stands as a symbol of an historic struggle and of a spirit that lives on.²

The French Declaration of the Rights of Man and of the Citizen was adopted by the revolutionary French National Assembly in 1789. It is not a legislative enactment but rather a statement of principles to guide legislators and executives. It declares that "the end of all political association is the preservation of the natural and imprescriptible rights of man." Born in rebellion, it offers a strong and clear expression of the classical doctrine of natural


rights. It has contributed much to spreading throughout the world the concept of essential and inalienable rights.

The United States Declaration of Independence was the fore-runner of the Constitution and the Bill of Rights which appears mainly in the first ten amendments. The Bill of Rights (1791) was intended to provide protection for the people and the states against the abuses of power by the newly created central government. The adoption of the fourteenth Amendment prescribing that "no state shall deprive any person of life, liberty, or property, without due process of law," extended to state action some of the restraints which had been imposed on the federal government.2

In our own generation, the renewed emphasis upon human rights has been in large degree a reaction against abuses. The Covenant of the League of Nations reflected the very limited international concern with human rights. The phrase, "human rights and fundamental freedoms," which is of such significance in the Charter of the United Nations did not appear in the Covenant. The drafters of the Covenant were preoccupied with the maintenance of security, the pacific settlement of disputes, the establishment of a mandate system for former German and Ottoman territories, and the protection of minorities in Central Europe. Neither the Council nor the Assembly of the League subsequently dealt with the questions of human rights as such or considered charges of violations of human rights. The wholesale and

1Ibid., p. 9. 2Ibid., p. 10.
systematic suppression of human liberty went officially unnoticed by the League, although the implications of these acts of tyranny were recognized by many of its members.¹

The fact that the whole subject of human rights -- whether civil and political or economic, social and cultural -- was not mentioned in the Covenant and was not dealt with by the League, reflects the traditional idea that the rights of the citizen are a matter for the state concerned and not for the international community. The Covenant contained in article 15 (8) a paragraph on domestic jurisdiction, but it related only to pacific settlement of disputes. The powers and functions of the League in the economic and social fields were sufficiently limited so that the question of domestic jurisdiction did not attain any major significance. It appeared from the records of the Paris Peace Conference and of the League of Nations that Member governments continued to feel that international law covered relations between states and not the relation of the citizen to the state.²

In two fields of human rights, however, the League of Nations made a particularly significant advance over the past -- in dealing with mandated territories and minorities problems. The activities of the League in both these fields represented in part international

²Ibid., p. 651.
concern with the rights of individuals living in territories formerly governed by the defeated enemy powers, and in part, the growing international concern with the right of self-determination of peoples and nations, which President Wilson had proclaimed during the war.\footnote{Ibid.}

International action to eliminate the worst social evils -- slavery, forced labor, the traffic in narcotics, and the traffic in women and children -- was greatly strengthened under the League. In particular, the development of conventions and recommendations by the International Labor Organization emphasized a new international concern in labor questions -- wages, hours, working conditions, and social security -- that traditionally had been regarded as a matter for national action alone. These activities of the League did not, for the most part, create the idea that any new economic and social "rights" existed; but they did reflect the growing acceptance of the concept that the affairs of labor were matters of international as well as national concern.\footnote{Ibid., p. 650.}

The major work of the League and the International Labor Organization was to provide an efficient system for developing and co-ordinating new international machinery for economic and social co-operation rather than to define rights and to devise measures for promoting them. A world depression, the Second World War, and the rise of totalitarianism were among the factors which contributed to an increasing concern of the international community for the rights
of the individual.\footnote{\textit{Ibid.}, p. 653.}

The systematic persecution of the Jewish minority in Germany, which was set in motion shortly after Hitler came to power in 1933, assumed international importance. Not only was there worldwide revulsion at the inhumanity and callousness of the dictator regimes, but there was also a clear recognition of the connection between these acts and acts of aggression against other nations. Consequently, from all parts of the world came demands by private individuals and groups that steps be taken to secure the world against a repetition of these tragic developments.\footnote{\textit{Neal, op. cit.}, p. 114.}

Most of the statements on war aims by the allied leaders during the Second World War included some reference to the need for making the world safe from tyranny. Addressing Congress on January 6, 1941, President Roosevelt proclaimed his now famous Four Freedoms.

We look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression everywhere in the world. The second is freedom of every person to worship God in his own way everywhere in the world. The third is freedom from want -- which, translated into world terms, means economic understandings which will secure to every nation a healthy peaceful life for its inhabitants -- everywhere in the world. The fourth is freedom from fear -- which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor -- anywhere in the world.\footnote{\textit{Holde, op. cit.}, p. 12.}

These freedoms did not constitute a complete catalogue of fundamental freedoms, they served as a basis for consideration of the problem

\begin{itemize}
\item \textit{Ibid.}, p. 653.
\item \textit{Neal, op. cit.}, p. 114.
\item \textit{Holde, op. cit.}, p. 12.
\end{itemize}
in the course of the following years.

The Atlantic Charter, signed by President Roosevelt and Prime Minister Churchill on August 14, 1941, included two of the four freedoms. Articles Six and Eight referred to "a peace which will afford to all nations the means of dwelling in safety within their own boundaries," and "the abandonment of the use of force." Article Five recognized the "object of securing, for all, improved labor standards, economic advancement and social security." Article Six concluded with the "assurance that all men in all the lands may live out their lives in freedom from fear and want."¹

In his report to Congress on the Atlantic Charter on August 21, 1941, President Roosevelt indicated that his first two freedoms were also implied. "It is also unnecessary for me to point out that the declaration of principles includes of necessity the world need for freedom of religion and freedom of information. No society of the world organized under the announced principles could survive without these freedoms which are a part of the whole freedoms for which we strive."²

The announced goal to secure human rights to all men was formally incorporated in a joint declaration signed by the United Nations on January 1, 1942. The governments which became parties to this declaration supported the provisions of the Atlantic Charter, which, however, had included only two of the four freedoms. To

¹Tbid.
²Tbid.
remove any doubt concerning the intentions to include all essential freedoms, a general introductory statement was incorporated in it: "Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedoms, and to preserve human rights and justice in their own lands as well as in other lands." ¹

The strong emphasis upon human rights during the war gave rise to universal demand that any organization of nations to be erected following the war should accept the protection of human rights as a major purpose. ²

On March 24, 1944, President Roosevelt again emphasized that we are concerned to eliminate oppressive practices as well as aggressive war.

The United Nations are fighting to make a world in which tyranny and aggression cannot exist; a world based upon freedom, equality and justice; and a world in which all persons regardless of race, color or creed may live in peace, honor and dignity. ³

Consistent with these statements, the Three-Power Declaration signed at Teheran by Roosevelt, Churchill, and Stalin invited the active participation in "a world family of democratic nations," of all nations, "whose peoples in heart and mind are dedicated, as are

our own people, to the elimination of tyranny and slavery, oppression and intolerance.¹

The United States Supreme Court has singled out freedom of religion, speech, press and assembly as being "of the very essence of ordered liberty." The United States, the Soviet Union, Great Britain, and China incorporated these freedoms in the Moscow Declaration for liberated Italy, which was intended also for other liberated areas. As Secretary of State Hull said in his report to Congress: "These principles -- including freedom of religion, of speech, of press and of assembly and the right of the people ultimately to choose their own form of government -- are among the most basic human rights in civilized society."²

At Dumbarton Oaks, delegates representing the United Nations met on August 21, 1944, to draw up a blue print of a world organization which would be powerful enough and would have at its disposal enough force to keep peace.

The Dumbarton Oaks Proposals, while recognizing the importance of the promotion of human rights in the creation of a peaceful world, made only general reference to action by the international organization to this end.

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations, the organization should facilitate solutions of international economic, social and other humanitarian problems

¹Ibid. ²Ibid.
and promote respect for human rights and fundamental freedoms. Responsibility for the discharge of the function should be vested in the General Assembly and, under the authority of the General Assembly, in an Economic and Social Council. ¹

An important development of international action for human rights took place at the Inter-American Conference on Problems of War and Peace, which met in Mexico City on February 21, 1945. The final act of the conference included a resolution on "International Protection of the Essential Rights of Man". The resolution declared support of "a system of international protection of these rights" and requested the Inter-American Judicial committee to prepare a draft declaration and submit it to the governments for their comments. ²

The draft prepared contains 21 articles which cover the rights of man to life; to personal liberty; to freedom of religious worship; to freedom of Assembly; to freedom of Association; to petition government; to own property; to a nationality; to freedom of family relations; to be free from arbitrary arrests; to a fair trial; to participate in election; to work; to share in benefits of science; to social security; to education; to equality before the law. The draft was submitted February, 1946, to the governments of the Americas through the Pan American Union. ³ The desire of the Latin American states for

³Ibid., p. 4.
a declaration of human rights had its effect in writing the United Nations Charter.

CHAPTER II

EVOLUTION OF THE DECLARATION

I. THE U.N. CHARTER

At the San Francisco Conference many delegations of participating states, as well as representatives of private organizations, argued for the inclusion of more detailed provisions regarding human rights. As a result of these pressures a number of enachtants to the Dumbarton Oaks Proposals were adopted which had the basic purpose of making more specific the responsibilities and powers of the organization with respect to human rights and fundamental freedoms, and providing the necessary machinery for discharging those responsibilities. When finally approved, the Charter of the United Nations, in contrast to the Covenant of the League of Nations, contained more specific provisions with respect to the obligations of states, the responsibilities and powers of the organization, and the machinery and procedures which were to be used in promoting respect for human rights and fundamental freedoms.

The basic arrangements for economic and social cooperation were included in Chapter II of the Dumbarton Oaks Proposals as follows:

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The basic arrangements for economic and social co-operation were included in Chapter IX of the Dumbarton Oaks Proposals as follows:

Chapter IX. Arrangements for International Economic and Social Cooperation

Section A. Purpose and Relationship.

Section B. Composition and Voting.

Section C. Function and Powers of the Economic and Social Council.

Section D. Organization and Procedure.

Although the Economic and Social Council was to be under the authority of the Assembly, the widespread enthusiasm for the important role of the Council was expected to fulfill was shown in a number of amendments to raise its status. As a result the first substantive decision of Committee II/3, which was charged with this part of the Proposals, was a unanimous agreement to add the economic organ to the list of "principal organs" in Article 7 of the Charter.¹

The two most widely supported demands for altering the scope of economic and social activity by the organization were to add human rights and cultural affairs in the appropriate sections of Chapters I (purposes) and V (Powers of the Assembly) of the Dumbarton Oaks Proposals. Most delegations considered such amendments to represent an extension of the purposes of the organization. But the United States thought of them primarily as clarifications. It had been understood at Dumbarton Oaks that the references to "social" activities also

covered cultural and educational concepts; and the fact that the promotion of respect for human rights was put under the Economic and Social Council (in Chapter IX) did not mean the subject was to be the concern of that organ alone. The United States Delegation was therefore prepared to accept a further detailing of these two points in the Charter. It remained opposed, however, to the many other proposals to expand the terms of Section IX-A in order, as Senator Vandenburg put it, to write "fantastic objectives -- into the Economic and Social Council."

When the Big Four met at the beginning of the conference, the Soviet Union was also ready to add human rights and cultural cooperation to the purposes of the organization. In addition it proposed, as had a number of other governments, a clause prohibiting discrimination on the basis of race, language, religion, or sex in the application of human rights. These points were readily accepted for the pertinent Dumbarton Oaks text as follows:

1. Paragraph IX-A-1 needed the least change, as it already contained a reference to human rights. There were added only the following parenthesized words:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations -- the Organization should facilitate solutions of international economic, social, (cultural), and other humanitarian problems and promote respect for human rights and for fundamental freedoms (for all without distinction as to race, language, religion, or sex).

\[\text{\cite{Ibid.}, p. 778.}\]
2. Paragraph I-3 with the new additions read:

To achieve international cooperation in the solution of international economic, social, (cultural) and other humanitarian problems and (promotion and encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race, language, religion, or sex) and

3. The pertinent portion of paragraph V-B-6 had similar additions, but, for reasons unknown, a somewhat different phraseology was used in the references to human rights, as follows:

The General Assembly should initiate studies and make recommendations for the purpose of promoting international cooperation in political, economic, social and (cultural) fields (to assist in the realization of human rights and basic freedoms for all, without distinction as to race, religion, or sex -- --)\(^1\)

The Soviet Union originally proposed that the additional language on human rights should read: "respect for human rights, in particular the right to work and the right to education, and also for fundamental freedoms -- --".

The United States and Great Britain, however, argued that it always created difficulties to specify certain of the rights in question. To name only a few, as in the Soviet amendment, would mean the exclusion of others; to name them all, would be impossible. In any event, if there was to be any specification, the list would have to go much further and include such freedoms as those of information and religion. As the rest of the proposal was acceptable to the other major powers, the Soviet delegate agreed to delete the two listed rights, and the joint amendments were adopted as above.\(^2\)

\(^1\)Ibid., p. 779.  
\(^2\)Ibid.
Of the three related provisions, I-3 was considered by Committee I/1, while the others went to II/3. One result of this separation was further divergencies in phraseology -- although not apparently in intent among the final Charter provisions.¹

After an initial discussion, the drafting subcommittee of Committee I/1 recommended the following text, substantively the same as the sponsors' proposal:

3. To achieve international cooperation in the solution of international problems of an economic, social, cultural, or humanitarian character and promotion and encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race, language, religion, or sex --  -- ²

The subcommittee reported that it had also considered proposals that the Organization "assure" or "protect" fundamental human rights, rather than merely "promote" and "encourage respect for" them. It thought, however, that "assuring or protecting" such human rights should be primarily the concern of each state. But "if such rights and freedoms were grievously outraged so as to create conditions which threaten peace or to obstruct the application of provisions of the Charter, then they cease to be the sole concern of each state." It also noted amendments to incorporate a declaration on human rights in the Charter itself, but argued that, other considerations apart, time alone would prevent drafting such a document at San Francisco. The Assembly once in session, could better undertake that assignment.³

¹Ibid.  ²Ibid., p. 780.  ³Ibid.
When the subcommittee text was considered in committee, Panama proposed to replace "encouragement" with "protection" for the human rights concerned. This move was supported by several delegates on the ground -- somewhat embarrassing from the point of view of the United States -- that it more correctly reflected the intent of the Organization as expressed in a speech by Secretary of State Stettinius a few days earlier. The United States delegate thereupon interpreted the Secretary's speech to refer only to the obligations that his government would undertake to fulfill as its contributions to the universal achievement of the principles and purposes of the Charter. As in subcommittee, it was objected that "protection" raised questions of the right of the organization to impose such freedoms within individual countries and would lead to exaggerated expectations of accomplishment. This was, of course, the official United States view also. On these arguments, the committee rejected the amendment and adopted the subcommittee text.¹

The initial paragraph of Chapter IX presented a more difficult problem, from the point of view of the United States. There was strong sentiment in Committee II/3 for elaborating the general statement of economic and social objectives, as well as for specifying both "cultural" and "educational" and for adding "health" to the enumerated list of activities. Committee II/3 finally adopted the following wording:

¹Ibid.
With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.¹

In general the conference confirmed, with some additions and clarifications, the functions assigned to the Economic and Social Council in the Dumbarton Oaks Proposals (Section IX-C). The provisions were spelled out in considerably more detail, however, after lengthy committee discussion. The Council was authorized to carry out recommendations of the Assembly on economic and social matters and to perform any functions assigned by the Assembly (Article 66); to furnish the Security Council with information and assistance (Article 65); and to make its own recommendations on international economic, social, and other humanitarian matters. This last provision was expanded by the committee into the two paragraphs of article 62:

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the

¹Ibid., p. 783.
specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.\(^1\)

The Commission on Human Rights was specifically provided for in Article 68, which reads: "The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions."\(^2\)

Finally, one of the objectives of the trusteeship system, as set forth in Article 76, is "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world."\(^3\)

The charter has been criticized for two significant omissions in reference to human rights. The phrase "human rights and fundamental freedoms" was not defined, with the result that statements made in the United Nations and documents issued by it use this phrase to connote both rights and aspirations and both individual and group rights. In the second place, the key words used were "promoting", "encouraging", "assisting the realization of" and not "protecting", "Safeguarding", and "guaranteeing". The result of these two omissions

\(^1\)United Nations Charter
\(^2\)Green, op. cit., p. 658.
\(^3\)Ibid.
has been the absence of any agreement on exactly what constitutes the field of human rights and on precisely what are the powers and functions of the organization in that field.¹

There is a question of what, if any, legal obligation the provisions of the Charter place on individual Members of the United Nations to promote human rights in their own territories. This question has been often considered in the General Assembly and other organs, in court decisions in the United States and elsewhere, and in the interpretation of jurists. The International Court of Justice has not been asked to pass on the question; and the General Assembly has taken no definite position on it, although, the Assembly has found that the actions of the Union of South Africa concerning racial discrimination have not been in keeping with its obligations and responsibilities under the Charter.²

The legal effect of the Charter in the field of Human rights has probably received greater attention in the United States than in other countries, because of the constitutional provisions that treaties are part of the "supreme law of the land" and because of the relation of this provision to the jurisdiction of the states. In the most significant case thus far, Sei Fujii v. The State of California, the California Supreme Court took the position, in effect, that the Charter is a non-self-executing treaty and that the general obligation to

¹Ibid., p. 658.  
²Ibid.
promote human rights in cooperation with the Organization would not
supercede existing domestic legislation. In so doing, however, the
court relied on the equal protection clause of the 14th amendment of
the United States Constitution instead of on the provisions of the
Charter. In other words, although the California Supreme Court re-
jected the argument of the district court as to the applicability of
the United Nations Charter, it reached the same conclusion by basing
its decision on a provision that had been in the United States Con-
stitution for 80 years.2

The interest generated by the Sei Fujii case was due not to
the substance of the decision, however, as it was to the constitu-
tional and charter issues involved. The California district court
of appeals has reasoned that:

The charter has become "the supreme law of the land, and the
judges in every state shall be bound thereby, anything in the
constitution or laws of any State to the contrary notwithstanding." (United States Constitution, art. VI, Sec. 2.)

This nation can be true to its pledge to the other signatories
to the charter only by cooperating in the purposes that are so
plainly expressed in it and by removing every obstacle to the
fulfillment of such purposes***. A Perusal of the charter renders
it manifest that restrictions contained in the alien land law
are in direct conflict with the plain terms of the charter*** and
with the purposes announced therein by its framers*** clearly
such a discrimination against a people of one race is contrary
both to the letter and to the spirit of the charter which, as a

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1Ibid., p. 659.

2U. S. Senate., Senate, Subcommittee on the United Nations
Charter, Human Rights, Domestic Jurisdiction, and the United Nations
treaty, is paramount to every law of every State in conflict with it. The alien land law must therefore yield to the treaty as the superior authority.\textsuperscript{1}

In contradicting this argument, The California Supreme Court held that a treaty does not automatically supercede local laws which are inconsistent with it unless the treaty provisions are self-executing. The court found that none of the relevant provisions of the charter were self-executing. The preamble and article 1, the court held:

\texttt{***state general purposes and objectives of the United Nations organizations and do not purport to impose legal obligations on the individual member nations or to create rights in private persons.}\textsuperscript{2}

As for articles 55 and 56 of the charter, the court reasoned that:

\texttt{***although the member nations have obligated themselves to cooperate with the international organization in promoting respect for, and observance of, human rights, it is plain that it was contemplated that future legislation action by the several nations would be required to accomplish the declared objectives, and there is nothing to indicate that these provisions were intended to become rules of law for the courts of this country upon the ratification of the charter ***. The provisions of the charter pledging cooperation in promoting observance of fundamental freedoms lack the mandatory quality and definiteness which would indicate an intent to create justiciable rights in private persons immediately upon ratification. Instead, they are framed as a promise of future action by the member nations***. The charter represents a moral commitment of foremost importance, and we must not permit the spirit of our pledge to be compromised or disparaged in either our domestic or foreign affairs. We are satisfied, however, that the charter provisions relied on by the plaintiff were not intended to supercede existing domestic legislation, and we cannot hold that they operate to invalidate the alien land law.}\textsuperscript{3}

\textsuperscript{1}Ibid.
\textsuperscript{2}Ibid.
\textsuperscript{3}Ibid.
In a more recent instance, where a plaintiff in Iowa complained of a violation of the Iowa and United States Constitution, as well as the United Nations Charter, in being denied rights of burial because of race, the Iowa courts ruled that the provisions of the United Nations Charter had no bearing on the case.

The differences revolved around the meaning of the Charter articles. Article 55 provides that:

***the United Nations shall promote***universal respect for, and observance of, human rights and fundamental freedoms.***1

and so does not impose any specific obligations on a member of the organization. A number of interpretations, however, can be placed upon the language of article 56 in which member nations have:

***pledged themselves to take joint and separate action in cooperation for the achievement of the purposes set forth in article 55.***2

In opposition to Articles 55 and 56 concerning the promotion of respect for human rights stands Article 2 (7) of the Charter, which provided:

"Nothing— except in the— Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matters to settlement under the present charter." To what extent, if any, this clause on domestic jurisdiction limits the powers and functions of the General Assembly and other organs has become a matter of great controversy especially throughout the whole field of human rights.

1Tbid.  
2Tbid.
This controversy has revolved around two questions: What is meant by the word "intervene"? What is meant by the phrase "matters—essentially within the domestic jurisdiction"?\(^1\)

The traditional interpretation of intervention has been dictatorial interference in the affairs of another state—a peremptory demand for positive action or abstention from action involving a threat or recourse to compulsion of some form. Intervention is usually thought of as meaning the use, or threat of ultimate use, of force, and involves measures short of war. The Charter of the United Nations clearly points out that the traditional concept of the term intervention was not meant. The kind of intervention proscribed by Article 2 (7) probably lies somewhere in between two extremes. The establishment of a commission to study forced labor throughout the world would not appear to constitute intervention; but the establishment of a commission to study race relations in South Africa, over the objections of that state, might be considered to be intervention.\(^2\)

The second question what constitutes "matters—essentially within the domestic jurisdiction" of any state—is equally difficult to define. Today, wholesale and systematic violation of human rights by governments of the Soviet bloc and by the Chinese Communist regime are considered a proper matter for discussion and for some kind of action by the General Assembly.\(^3\) When is a violation of human rights

\(^1\) Green, op. cit., p. 660.
\(^2\) Ibid., p. 661.
\(^3\) Ibid., p. 662.
a matter essentially within the jurisdiction of a state? When does it become a violation of a general obligation of a Member, under Articles 55 and 56 of the Charter, to promote respect for and observance of human rights? When does it become, under Article 14 of the Charter, a situation "likely to impair the general welfare or friendly relations among nations?" These questions arise continually in the efforts of the United Nations to promote respect for human rights. They reflect, however, the new and growing concern with the rights of the individual of the international organization.1

The general philosophy of the authors of the Charter with respect to the importance of the provision regarding human rights and fundamental freedoms was well stated in the report of the Secretary of State to the President on the work of the San Francisco Conference. Commenting on the general significance of these provisions, he observed

Finally, no sure foundation of lasting peace and security can be laid which does not rest on the voluntary association of free peoples. Only so far as the rights and dignity of all men are respected and protected, only so far as men have free access to information, assurance of free speech and free assembly, freedom from discrimination on grounds of race, sex, language, or religion and other fundamental rights and freedoms, will men insist upon the right to live at peace, to compose such differences as they may have by peaceful methods, and to be guided by reason and good will rather than driven by prejudice and resentment.2

1Ibid.
2Charter of the United Nations, Report to the President on the Results of the San Francisco Conference by the Secretary of State, June 26, 1945 (Department of State Publication 2349) p. 116.
II. HUMAN RIGHTS COMMISSION

The idea of drafting an "International Bill of Rights", came up at the first session of the General Assembly, in early 1946. At that time, Cuba and Panama reintroduced proposals for the preparation of a bill of rights. The Assembly did not take action on these proposals until the second part of its first session, in December 1946, when it engaged in a brief debate, largely procedural in character. On the initiative of the United States delegation, the Assembly decided not to consider the "Declaration on Fundamental Human Rights and Freedoms" proposed by Panama but rather to transmit it to the Economic and Social Council for consideration by the Commission on Human Rights "in its preparation of an international bill of rights." 1

At its first session in February 1946, the Economic and Social Council established the Commission on Human Rights, and decided that its work should be directed toward submitting proposals and reports regarding:

(a) an international bill of rights;

(b) international declaration or conventions on civil liberties, the status of women, freedom of information, and similar matters;

(c) the protection of minorities;

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1 Green, op. cit., p. 664.
(d) the prevention of discrimination on grounds of race, sex, language or religion.\footnote{1}

At the first meeting of the Economic and Social Council in London, early in 1946, a Nuclear Commission was named to recommend a permanent setup for the full Commission of Human Rights, and to consider the work which it should first undertake. These first members of the Nuclear Commission were not chosen as representatives of governments, but as individuals. Naturally, however, each government was asked to concur in the nomination from that country. There were nine members nominated, but two of them were not able to come; and one or two nations insisted on nominating their own representatives. Mrs. Franklin Roosevelt was one of the members of the original Nuclear Commission, and when they met at Hunter College, was elected chairman. The other members were: Mr. Fernanda de Husse, Belgium; Mr. K. C. Neogi, India; Professor Rene Cassin, France; Dr. C. L. Haai, China; Mr. Dusan Erkish, Yugoslavia; Mr. Borisov, U.S.S.R.\footnote{2}

The representative from the Soviet Union was at first a young secretary from the Soviet Embassy. The other members of the Nuclear Commission did not realize that he was not the regular representative and was not empowered to vote. It was not until three days before the end of the meeting that the regular member, Mr. Borisov, arrived;

\footnote{1}{Economic and Social Council, Official Records, First Year, First Session (1946), Annexes, p. 146.}

\footnote{2}{Mrs. Franklin D. Roosevelt, "Promise of Human Rights," Foreign Affairs, XX (April, 1948), 470.}
and since the representative of the U.S.S.R. who had been attending
the meeting actually had no right to vote, such votes had to be
removed from the record. The Commission was a little disturbed be-
because a number of concessions had been made in order to obtain unan-
imity. Also, this change made it impossible for any decision to be
unanimous, since the Soviet representative had been told that he could
not commit his government by a vote on any subject and therefore re-
quested a "no" vote on the first recommendations for the Commission's
organization and program of work.\(^1\)

The Commission made a number of recommendations: For instance,
they agreed that persons should be chosen as individuals and not
merely as representatives of governments. They agreed that there
should be 18 members to the full commission -- an example of a minor
point on which they had made concessions to the representative of
the U.S.S.R., because originally the various members of the group
differed as to what the proper size of the Commission should be. Mrs.
Roosevelt had been told that it made very little difference to the
United States whether the Commission numbered 12 or 25, but it was
felt the number should not be less than 12 because unavoidable
absences might cut it down to too small a group; and it was felt also
that the number should not be more than 25, for fear a large group
might make their work very difficult to accomplish.\(^2\)

\(^1\)Ibid. \quad \(^2\)Ibid., p. 471.
When Mrs. Roosevelt realized how many varieties of opinion there were, she made the suggestion as Chairman that they might make the number 21, since they were apt to discuss some rather controversial subjects, and if there were a tie the chairman could cast the deciding vote. Most of the members agreed with this until they came to the representative of the Soviet Union. He insisted that there should be 18, because, their parent body, the Economic and Social Council was made up of 18 members. As they did not feel that the size of the Commission was vitally important, and as he could not be induced to change, they agreed to recommend that the Commission consist of 18 members.¹ It was also agreed that each member would represent one of the United Nations governments, and that they should be chosen on a rotating basis with due regard for geographical distribution, except for the representative of the five great powers -- the United States, Soviet Russia, the United Kingdom, France and China. As was customary, it was agreed that these five powers should be elected automatically to the new Commission as members, leaving thirteen seats to be rotated among other members of the United Nations.

Among a number of other recommendations in their report, they suggested that the first work to be undertaken was the writing of a

¹Ibid., p. 472.

Bill of Human Rights. Many of them thought that lack of standards for human rights the world over was one of the greatest causes of friction among the nations, and that recognition of human rights might become one of the corner-stones on which peace could eventually be based.¹

At its next meeting the Economic and Social Council received the report which Mrs. Roosevelt presented, and it was then studied in detail and a number of changes made. The members of the Commission were made government representatives, chosen by their governments. The eighteen governments to be represented on the Commission were chosen by the Economic and Social Council. The United States was given a four-year appointment and nominated Mrs. Roosevelt as a member. The original members on the Commission were: Australia, Belgium, Byelorussia, China, Chile, Egypt, France, India, Iran, Lebanon, Panama, the Phillipines, Ukraine, the U.S.S.R., Yugoslavia, Uruguay, the United Kingdom, and the United States.²

The first full session of the full commission was called in January, 1947. The officers chosen at that time, in addition to Mrs. Roosevelt as chairman, were Dr. Chang of China as vice-chairman and Dr. Charles Malik of Lebanon as rapporteur. In the first meeting they requested that the Division of Human Rights in the Secretariat get out a yearbook on human rights and receive all petitions and

¹Roosevelt, "Promise of Human Rights", p.70.
²Ibid.
acknowledge them. Since they were not a court, they could do nothing actually to solve the problems that these petitions presented, but they could tell the petitioners that once the Bill of Human Rights was written, they might find that their particular problems came under one of its provisions.\footnote{Ibid.}

Also, at its first session the commission gave priority to the first item in its terms of reference — consideration of an international bill of rights. They considered some of the main points which should go into the bill of rights, and they also named a drafting committee which was to present the first draft to the next meeting of the full session.

This work was entrusted to the officers of the commission, all of whom were available in or near Lake Success, and to Dr. John Humphrey, as head of the Division of Human Rights in the Secretariat. But when the Economic and Social Council received the report of the procedure considerable opposition to the appointment of so small a committee was expressed. As it had been understood in their meeting that the chairman of the Committee was to call upon other members of the Commission for advice and assistance, Mrs. Roosevelt at once urged that the drafting committee be increased to eight members.\footnote{Ibid.} This consisted of Australia, Chile, China, France, Lebanon, the Soviet
Union, the United Kingdom, and the United States.¹

The drafting committee met in June 1947. The delegate from the U.S.S.R., Mr. Koretsky, who was unauthorized to vote on an unfinished document and lacked instructions from his government, participated very little in the general discussion of the drafting committee, though he did agree to the principles that all men are created equal and that men and women should have equal rights.²

Very early in the meetings of the Commission they discovered that while it would be possible to reach some kind of agreement on the Declaration, they were going to be in for a great deal of controversy with the Russian representatives, particularly Dr. Pavlov, who attempted to write a bit of Communist philosophy into the document. For example, at the end of practically every article the Russians proposed to amend the Declaration to read: "This shall be enforced by the state".³

When such an amendment was proposed, Mrs. Roosevelt, or one of the other Western delegates, would argue against it on the ground that this was an international declaration by the United Nations and that we did not believe it should be imposed by the power of the individual governments. The Western delegates would then ask for a vote and the

¹Green, op. cit., p. 665.
²Roosevelt, "Promise of Human Rights".
³Roosevelt, On My Own, p. 95.
amendment would be defeated.\textsuperscript{1}

As soon as the next article was completed the Soviet delegate would again propose the same amendment and again the commission would have to go through the whole business with the same result -- the defeat of the Soviet proposal. This became very monotonous to the members of the commission, but the Russians never gave up.\textsuperscript{2}

The drafting of the articles continued over many months. During their early work on the Covenants and measures of implementation it became apparent that it was going to be exceedingly difficult to agree on articles that would, if accepted, be legally binding on the various nations. This was difficult enough in regard to civil and political rights that have become fairly well accepted throughout the civilized world, but when it came to economic and social rights at times it seemed to the commission that agreement would be all but impossible.\textsuperscript{3}

The reason for this, in part, was the vast social and economic differences between the various countries -- the social and economic conditions in the United States, for example, as contrasted to existing conditions in a country like India.

They found that it was not only the economic problems of underdeveloped countries that provided one stumbling block, but the political systems of other countries, particularly the United States.

\textsuperscript{1}Ibid. \hspace{1cm} \textsuperscript{2}Ibid. \hspace{1cm} \textsuperscript{3}Ibid.
The United States delegation had to insist on including a states' rights clause because we could only act in regard to matters that were under the jurisdiction of the federal government. The United States had to explain that in other matters which were under the control of the states we had power only to "recommend" that the states take appropriate action. Australia and Canada were the only other countries in a similar position.¹

The second meeting of the full Commission was called in Geneva, Switzerland, because some members felt strongly that the Human Rights Commission should hold a session in Europe. They were scheduled to meet on December 1, 1947, but since many of the members were delayed in arriving they actually met on December 2.²

They mapped out their work very carefully, since the members wanted to be home by Christmas. The position of the United States had been that it would be impossible in these initial meetings to do more than write a Declaration. If the Declaration were accepted by the General Assembly the next autumn, it would carry moral weight. Many of the smaller nations were strongly of the opinion that the oppressed people of the world and the minority groups would feel that they had been cruelly deceived if we did not write a Convention which would be presented for ratification, nation by nation, and which when

¹Ibid., p. 96.
accepted would be incorporated into law in the same way that treaties among nations are accepted and implemented. The Government of the United States had never been opposed to writing a Convention; it simply felt that the attempt would not be practical in these early stages. When it was found that feelings ran high on the subject, the United States immediately cooperated.¹

The Commission divided into three groups. The group to work on the Declaration consisted of the representatives of Byelorussia, France, Panama, the Phillipines, the U.S.S.R., and the United States. The group to work on the Convention was made up of the representatives of Chile, China, Egypt, Lebanon, the United Kingdom and Yugoslavia. The third group, to work on methods of implementation, which would later, of course, be included in the Convention, consisted of the representatives of Australia, India, Iran, Ukraine and Uruguay.²

At the first meeting of the Commission in Geneva, the representative from Australia made the suggestion that a Court of Human Rights be created. There had been a good deal of discussion of this idea in previous meetings. The general feeling was that this action could not be taken under the Charter as it then stood and would raise the problem of revision of the Charter.³

At the start, the United Kingdom had brought to the drafting committee a Declaration and a Convention which included suggestions for implementation. The U.S.S.R., while still not committing itself

¹Ibid. ²Ibid. ³Ibid., p. 474.
to any vote, as the Soviet Government still insisted that until a furnished document was prepared they could not vote on it, nevertheless was willing to participate in the discussions which concerned the writing of a Declaration. Their representative took active part, particularly in the discussion and formulation of the social and economic rights of the individual which are considered in some detail in the Declaration.¹

The Commission finished its work at 11:30 P.M. on the night of December 17, and the documents were sent to all of the member governments in the United Nations. The draft declaration covered civil, political, economic, social, and cultural rights, but the draft convention was limited to civil and political rights. The report of the third working group, containing suggestions for possible measures of implementation, either as part of the convention or separately, was not acted on by the commission. The commission decided that the term "International Bill of Rights" would embrace all three documents.²

The documents were requested by early April, so that the Human Rights Division of the Secretariat could go over them carefully and put them in shape for the drafting committee which met again in Lake Success on May 3, 1948. The full commission met at Lake Success on May 17, to give final consideration to the Bill of Human Rights. The commission first considered a document of 408 pages prepared by the Secretariat, containing an annotated draft of forty-eight suggested

¹Ibid., p. 474. ²Green, op. cit., p. 666.
articles, together with the draft declarations and proposals of Chile, Cuba, India, Panama, and the United States, and excerpts from the constitutions and legislation of many countries. The commission devoted most of its session in May-June 1948 to revising the draft declaration in the light of comments received from the Geneva Conference on Freedom of Information, the Commission on the Status of Women, and the Subcommission on the Prevention of Discrimination and the Protection of Minorities. Several of the specialized agencies and many of the non-governmental organizations participated actively in the debates of the commission.¹

The text of the draft Universal Declaration of Human Rights as completed by the Commission on Human Rights in June 1948, contained a preamble and twenty-eight articles. The draft declaration was approved in the commission by a vote of 12-0, with only Byelorussia, the Ukraine, the Soviet Union, and Yugoslavia abstaining. The representative of Iran did not participate in the session, and the alternate representative of the Philippines stated that if he had the right to vote, he would vote in favor. The draft declaration was then forwarded by the Economic and Social Council, after a brief debate, to the General Assembly for consideration.

The third session of the General Assembly, held in Paris in the fall of 1948, completed the first general instrument on human

¹Ibid., p. 668.
rights. The tone of the session was set at the opening session by United States Secretary of State Marshall:

Systematic and deliberate denials of basic human rights lie at the root of most of our troubles and threaten the work of the United Nations. It is not only fundamentally wrong that millions of men and women live in daily terror of secret police, subject to seizure, imprisonment, or forced labor without just cause and without fair trial, but these wrongs have repercussions in the community of nations. Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field.¹

The Third (Social, Humanitarian, and Cultural) Committee of the Assembly, to which the declaration was referred, held eighty-six meetings, in addition to twenty meetings of its drafting subcommittees, to consider and revise the text. The committee went over every word of the text prepared by the commission, and the forty members not represented on the commission reopened many of the issues and presented countless amendments.² On October 3, 1948, the New York Times came out with a summary of the meeting of the Social, Humanitarian and Cultural Committee held that day in Paris.

In the debate today in the United Nations General Assembly's Committee No. 3, the Social, Humanitarian and Cultural Committee, the Soviet delegate, Alexei Pavlov, accused the Western Powers of seeking to use the United Nations "in preparation for a third world war." Mr. Pavlov, Russian Ambassador to Belgium, assailed the draft declaration of Human Rights, which is under debate by the Committee. He charged the United States, Britain and other reactionary powers, of trying to use the declaration and accompanying treaties of enforcement as "tools of war against Russia".

¹Green, op. cit., p. 669.
²Ibid.
"Plans for the so-called cold war against the Soviet Union are being made in the guise of defending human rights," said Mr. Pavlov, adding that plans for enforcement of these rights tended to invade national sovereignty.1

In the final vote in Committee 3 on presenting the Declaration to the Assembly, delegates from four Moslem countries abstained, explaining that they believed the article on religious freedom was contrary to the Koran.2

This setback came at a critical time near the end of the Paris session, but fortunately for the Committee, they consulted Sir Zafrulla Khan, the foreign minister of Pakistan, whose delegate on the Commission had abstained, and he rose in the General Assembly to defend the Declaration. Since Pakistan was the largest Moslem nation involved his position was important.3

"It is my opinion," he declared, "that our Pakistan delegate has misinterpreted the Koran. I understand the Koran to say: 'He who can believe shall believe; he who cannot believe shall disbelieve; the only forgivable sin is to be a hypocrite.' I shall vote for acceptance of the Universal Declaration of Human Rights."4

In the end there was no vote against the Declaration in the General Assembly, but there was some disappointing abstentions. The Soviet Union and its satellite countries abstained, since the Russian

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2_Roosevelt, On My Own_, p. 91.
3_Tbid._
4_Tbid.,_ p. 109
delegate contended that the Declaration put emphasis mainly on "eighteenth-century rights" and not enough on economic, social and cultural rights. The delegate from Saudi Arabia, Jamil M. Baroody, abstained, saying that he was quite sure King Ibn Saud would not agree with Sir Zafrulla in interpreting the Koran. South Africa also abstained; its delegate said that they hoped to give their people basic human rights, but that the Declaration went too far. Two small countries were absent. The Declaration was finally accepted by the General Assembly on December 10, 1948.1

III. THE DECLARATION OF HUMAN RIGHTS

Wording the Declaration was no easy job. Nations had agreed in the Charter to support human rights but everyone had a different mental picture of what those two words meant.

In arriving at a compromise, differences of tradition and systems of government had to be overcome. It was also difficult to be sure that a word or phrase had the same meaning for every representative especially when it was translated into various languages. Customs differ in many parts of the world, and some freedoms common in one part of the world are shocking to another.2

There are a total of thirty articles in the Declaration. The first two and the last three articles are of a general character, and they apply to all the rights set forth in the Declaration. The

1Ibid.  2Ibid.
major portion of the Declaration is devoted to two broad categories of rights: (1) personal, civil and political rights (articles 3 to 21) and (2) economic, social and cultural rights (articles 22-27). ¹

The Universal Declaration of Human Rights begins with a preamble, which stresses the "dignity and worth of the human person."

Article 1 of the Declaration, which the Assembly adopted unanimously, expresses the basic philosophy of the whole document: "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." The article is based on two assumptions: (1) that the right to liberty and equality is man's birthright and cannot be alienated, and (2) that man is a rational and moral being, as distinguished from other creatures on earth.²

The second article states that "everyone is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, nation or social origin, property, birth or other status." This is an elaboration of the provision in the Charter that the United Nations should promote the observance of human rights and fundamental freedoms "for all without distinction as to race, sex, language, or religion." The article further says that


²Ibid.
there should be no distinction on the basis of the status of the
country or territory to which a person belongs, whether it is inde-
pendent, trust or non-self-governing.\(^1\)

Articles 3 to 21 deal with personal, civil and political rights,
which have long been recognized in the constitutions and laws of the
majority of the countries in the world.

Article 3 says that "everyone has the right to life, liberty
and security of person." It is closely related to the articles which
follow it: "No one shall be subjected to torture or to cruel, in-
human or degrading treatment or punishment" (article 5). The Soviet
Union, proposed that Article 3 should provide that the state should
guarantee the right of life and should abolish the death penalty.
This amendment, with many others, were rejected.

In the modern state, human rights are protected under the rule
of law. To this end, the Declaration says that everyone should be
recognized "as a person before the law" (article 6); that all are
"equal before the law" and are entitled to "equal protection of the
law" (article 7); and that everyone has "the right to an effective
remedy" if his fundamental rights are violated (article 8).

The Declaration protects the rights of the guilty not less
than those of the innocent. The Declaration provides that no one
may be arbitrarily arrested, detained or exiled (article 9), that
everyone has the right to a fair and public trial (article 10);

\(^1\)Ibid. \(^2\)Ibid., p. 5.
that everyone has "the right to be presumed innocent until proved guilty of any offence on account of an act which was not an offence at the time it was committed (article 11)."

The Declaration, in article 12, protects the sanctity of the home and the secrecy of correspondence, as well as a person's honor and reputation. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. "Everyone has the right to the protection of the law against such interference or attacks." 2

Under article 13 "everyone has the right to freedom of movement and residence within the borders of each state." It goes on to state that a person has "the right to leave any country, including his own, and to return to his country."

Throughout history, men and women have been persecuted at the hands of the tyrant or dictator and driven from their country in search of asylum. Article 14 provides that "everyone has the right to seek and to enjoy in other countries asylum from persecution." This article does not go so far as to say that everyone has "the right to be granted" asylum, the granting of asylum being considered a sovereign right of the state. 3

Article 16 says "Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry

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1 Ibid.  
2 Ibid.  
3 Ibid.
and to found a family. They are entitled to equal rights as to marriage, during marriage and its dissolution." Part 2 of Article 16 says "Marriage shall be entered into only with the free and full consent of the intending spouses." Part three says, "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State." Family rights as defined in this article are intended, in the words of M. Cassin, "to insure equality of rights between men and women in laws governing marriage." This includes rights at "the moment of contract," during marriage, and at the time of dissolution if it be desired. Many questions were raised in the Paris Committee. For example, what is "full age"? What is the meaning of the phrase," as to marriage"? What would this article mean in a country where the custom is for children to be given in marriage? The delegate of Saudia Arabia, a Moslem, thought it reflected too much the customs and standards of Western civilizations. There was agreement, however, regarding part 3 of the article.¹

Article 17 says that everyone has the right to own property and that he shall not be arbitrarily deprived of it. This article takes on a different meaning in almost every country. Ownership of property varies with the social system of a nation. In the U.S.S.R., certain kinds of property -- personal possessions such as books, a home, etc.-- are allowed to individuals, but large units of property, such as mines,

¹Wesley F. Rennie, Marion V. Royce, We, the People, and Human Rights (New York: Association Press, 1949)p.46.
means of communication, banks, and large industries are owned by the
state or by small groups known as co-operatives. Similarly, in Great
Britain, New Zealand, and Australia public utilities are increasingly
becoming the property of governments, while more personal possessions
belong to the individual.¹

Article 18 declares that "everyone has the right to freedom of
thought, conscience and religion." The article further states that
the right includes freedom to change one's religion and freedom to
manifest it in teaching, practicing, worship and observance. In the
Committee discussion, several delegates criticized the activities of
Christian missionaries who, they charged, often have become the
"forerunner of political intervention." Considerable thought was
given also the power of the state as it relates to the religious be-
liefs and practices of its citizens. The Uruguayan delegate strongly
expressed the conviction that freedom of conscience is not a concept
to be legislated upon.²

Article 19 declares that "everyone has the right to freedom of
opinion and expression." The article goes on to indicate the meaning
and scope of this right. It says that this right includes "freedom
to hold opinions without interference and to seek, receive and impart
information and ideas through any media and regardless of frontiers."³

¹Ibid., p. 47.
²Ibid.
³Ibid., p. 48.
Article 20 states that "everyone has the right to freedom of peaceful assembly and association," and goes on to say "no one may be compelled to belong to an association."\(^1\)

The will of the people, says article 21, is "the basis of the authority of government." Every people has the right to choose its own government. The article stipulates that there should be free, secret and periodic elections on the basis of "universal and equal suffrage," and that everyone has "the right to take part in the government of his country" and "the right of equal access to public service in his country."\(^2\) The discussion of the Paris Committee brought out fear of the misuse of political rights. Some delegates felt that freedom of speech and the press might be used to provoke hatred among nations and to spread Fascism and aggression. Similarly, with respect to freedom of association, Haiti feared that "associations of evil doers" might use the article to justify their activities. The Soviet delegate held that gatherings of an anti-democratic nature should be forbidden. Poland and Belgium proposed that freedom of association be limited to aims in conformity with the principles of the United Nations.\(^3\)

Article 22 says that "everyone, as a member of society, has the right to social security" and is entitled to such economic, 


\(^2\)Ibid.

\(^3\)Rennie, Royce, *loc. cit.*
social and cultural rights as are "indispensable for his dignity and free development of his personality." These rights may be achieved through national effort and international cooperation and in accordance with the organization of each state."¹

Article 23 states "everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment." It further provides that "everyone has the right to equal pay for equal work" and the "right to just and favourable remuneration between men and women workers, between persons of different religions or races, and the remuneration should be adequate to ensure "an existence worthy of human dignity." Finally, the article states that "everyone has the right to form and to join trade unions for the protection of his interests."²

Article 24 provides that "everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay."³

Article 25 covers the whole field of social security and social assistance. It recognizes the right of everyone to a standard of living adequate for the health and well-being of himself and his family and the right to security in the event of such circumstances as unemployment, sickness, disability, widowhood or old age. Mothers

²Ibid.
³Ibid.
and children are entitled to special care.\textsuperscript{1} Educational cultural rights are set out in articles 26 and 27. Article 26 first states that "everyone has the right to education." This right is now almost universally recognized. The article deals with different levels of education. Elementary education must be free and compulsory. Technical and professional education must be made generally available. Higher education must be equally accessible to all on the basis of merit. "Education shall be directed to the full development of human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace."\textsuperscript{2}

Under article 27, everyone has the right "freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits."\textsuperscript{3} Social and economic rights, such as those in articles 22-27, were not included in earlier statements of human rights. Magna Carta, the French Declaration of Human Rights, and the American Bill of Rights were concerned rather with the political status of the individual. "But," said the Polish delegate in Paris, "political rights are useless

\textsuperscript{1}Ibid., p. 9. \textsuperscript{2}Ibid. \textsuperscript{3}Ibid.
without social and economic rights," and for the most part the other delegates agreed with him.¹

Article 28 says "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized."²

The idea that the individual has duties as well as rights, which was incorporated in the draft declaration submitted by Panama at the San Francisco Conference is also included in the Universal Declaration. Article 29 prescribes these duties as well as the general limitations on the exercise of the rights and freedoms:

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.³

An additional safeguard is included in Article 30, which was designed to make clear that freedom implies respect for the rights of

¹Rennie, Royce, op. cit., p. 50.

²Ibid.

³Green, op. cit., p. 673.
others: "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activities or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein."

Two additional proposals were omitted, after long deliberation, from the final text of the Declaration. The early drafts of the Declaration contained an article on the right, either individually or in association with others, to petition the state or the United Nations. The Commission on Human Rights did not include this provision in its final text, because it had not yet discussed measures of implementation. After a long debate, in which a number of delegations urged the inclusion of such a provision in the Declaration, the General Assembly ultimately agreed merely to ask the commission to examine the problem further when studying the covenant and measures of implementation. The preamble of the resolution approved by the Assembly stated, however, that "the right of petition is an essential human right, as is recognized in the Constitution of a great number of countries."

The early drafts of the Declaration had also included an article on the rights of ethnic, linguistic, and religious minorities, but this too was omitted by the commission from its final text. During the debates in the General Assembly, the delegations of Denmark, the Soviet Union, and Yugoslavia submitted proposals for articles on this subject.

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1 Ibid., p. 674.
2 Ibid.
The Assembly decided, however, merely to request the Commission on Human Rights and the Subcommission on the Prevention of Discrimination and the Protection of Minorities to make a thorough study of the problems 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."\(^1\)

\(^1\)Ibid.

It is the first occasion on which the organized community of nations has made a declaration of human rights and fundamental freedoms, and it has the authority of the body of opinion of the United Nations as a whole, and millions of men, women and children all over the world, very miles from Paris and New York, will turn for help, guidance and inspiration to this document.\(^2\)

Following the adoption of the Universal Declaration of Human Rights by the United Nations General Assembly, the Assembly recommended that governments of member states use every means available to publicize the text of the Declaration and to have it explained in schools and other educational institutions. Specialized agencies and private international organizations were invited to bring the Declaration to the attention of their members. In consequence the 1960 UNESCO General Conference, meeting at that moment at Beirut, by acclamation instructed the Director General to circulate widely and to "encourage the incorporation of the Declaration, as subject matter in the teaching about the United Nations which would help any teacher wanting to prepare

\(^2\)Green, op. cit., p. 574.
materials on human rights for national use.\(^1\)

At the time of the 1949 General Conference, UNESCO with the help of the French government organized for display a descriptive and historical exhibition on the Universal Declaration which remained on view for three months. In connection with the exhibition, UNESCO produced an eight-minute film, "Droits de l'Enfant, Droits de l'Homme" (Rights of the Child, Rights of Man), which was shown throughout the exhibition, and on December 10, Human Rights Day, was run in twenty-five of the leading motion picture theaters of Paris. The exhibition was then sent to various countries of Western Europe. Subsequently the panels and other materials included in the exhibition were reproduced in a loose-leaf Human Rights Album, which was widely distributed to member states for possible use in schools, clubs, and other groups.\(^2\)

In 1950 a series of six filmstrips on the history of human rights was produced, including such topics as "Abolition of Slavery," "Emancipation of Women," "Right to Education," and "Freedom of Thought." Member States were invited to celebrate Human Rights Day on December 10 (as well as United Nations Day on October 24) by commemorative exercises in which such materials could be used.\(^3\)


\(^2\)Ibid.

\(^3\)Ibid.
CHAPTER III

SIGNIFICANCE OF THE DECLARATION OF HUMAN RIGHTS

After the General Assembly had adopted the Universal Declaration of Human Rights, the President of the Assembly (Evatt of Australia) declared:

It is the first occasion on which the organized community of nations has made a declaration of human rights and fundamental freedoms, and it has the authority of the body of opinion of the United Nations as a whole, and millions of men, women and children all over the world, many miles from Paris and New York, will turn for help, guidance and inspiration to this document.¹

Following the adoption of the Universal Declaration of Human Rights by the United Nations General Assembly, the Assembly recommended that governments of member states use every means available to publicize the text of the Declaration and to have it explained in schools and other educational institutions. Specialized agencies and private international organizations were invited to bring the Declaration to the attention of their members. In consequence the 1948 UNESCO General Conference, meeting at that moment at Beirut, by acclamation instructed the Director General to circulate widely and to "encourage the incorporation of the Declaration, as subject matter in the teaching about the United Nations which would help any teacher wanting to prepare

¹Green, op. cit., p. 674.
In 1952 UNESCO organized a "Seminar on Active Methods of Educa-
tion for Living in a World Community" at Woudschoten near Zeist, Holland,
with particular attention to teaching about human rights. As part of
the preparation for this seminar, a pamphlet of suggestions for teachers
was prepared. In addition, four international teachers\footnote{1} organizations
prepared, at the request of UNESCO, reports of methods currently in
use in schools. Participants in this seminar, including teachers,
administrators, and textbook authors, worked out suggestions on teach-
ing about human rights to three different age groups -- children under
twelve, children between twelve and fifteen, and youths between fif-
teen and eighteen.\footnote{1}

Among activities in member states to develop practical appli-
cation of the principles of the Declaration, the National Commission
of the Philippines brought out in 1956 an illustrated handbook,
Understanding and Observing Human Rights, for students in the upper
elementary grades and the high schools. Each article in the Declara-
tion was accompanied by illustrations and a story dealing with a
situation where, for example, the right to education or to freedom
of thought and religion was involved.\footnote{2}

Finally UNESCO provided special assistance in relation to pro-
posals advanced by the United States in 1953, when it announced its
unwillingness to sign the proposed Covenants. These proposals were

\footnote{1}{Ibid.} \footnote{2}{Ibid., p. 269.}
designed to initiate immediately, without waiting for the Covenants to come into force, progressive implementation of human rights. They were based on the assumption that education of the general public, designed to make clear the importance of the individual citizen and to raise the economic and social level of the less economically developed peoples, might further human rights more effectively than conventions which might fail of ratification or, if ratified, of application.\footnote{\textit{Ibid.}}

The United States proposals called for reports from national governments on what they had done to improve individual rights; advisory services to member states by the United Nations agencies, to aid in application of Human Rights; and detailed studies on a world-wide basis of specific aspects of human rights, to be initiated by the Commission on Human Rights. In response to requests from the Commission, UNESCO submitted a series of observations, outlining the forms of assistance which it might provide, including experts, fellowships, and international seminars or work groups. The Economic and Social Council proposed in 1956 that the first subject for study should be the right of freedom from arbitrary arrest, detention, and exile.\footnote{\textit{Ibid.}, p. 270.}

It is generally agreed that the Declaration is a statement of general principles and is of the highest moral authority. It was adopted by the General Assembly as a resolution, but it was not
drafted in the form of a treaty and therefore did not require signature or ratification by any state. As such, the Declaration cannot, strictly speaking, be said to constitute part of international law or of any municipal law. And it is generally recognized that the Declaration is not a legal instrument. However, the Declaration, having been adopted by the highest authority in the community of nations, possesses a moral authority which cannot be ignored. If the standard set forth in the Declaration in respect of each right or freedom is accepted as the moral standard by governments and peoples alike, the Declaration may be said to possess an authority superior to or more pervasive than any single treaty or law.¹

There are publicists and jurists who hold the view that the Declaration has legal authority, or at least is not entirely devoid of legal force. They argue as follows: The Charter of the United Nations is a legally-binding treaty. Under the Charter, all member states "pledge themselves to take joint and separate action" to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion" (Articles 55 and 56). The Charter, however, does not define human rights. It is the Universal Declaration that gives an authoritative interpretation. To the extent that member states are bound by the human rights provisions of the Charter, they

¹United Nations, A Standard of Achievement, p. 11.
are to the same extent obliged to observe the Universal Declaration.\(^1\) The Declaration may also be considered to contain "general principles of law recognized by civilized nations," to use the expression of Article 38 of the Statute of the International Court of Justice, and may very well be regarded as a source of international law.\(^2\)

At the present time we may say that questions of human rights are no longer exclusively questions of domestic concern; they are questions of international concern. In the General Assembly of the United Nations many questions of human rights, have been placed on the agenda, and resolutions were adopted in respect thereof. These were questions of:

1. the treatment of Indians in the Union of South Africa;
2. the alleged violation by the U.S.S.R. of fundamental human rights;
3. the observance in Bulgaria and Hungary of human rights and fundamental freedoms, including questions of civil and religious liberties, with special reference to recent trials of church leaders.
4. racial problems in the Union of South Africa;
5. the development of educational facilities in trust territories;

\(^1\)United Nations, A Standard of Achievement, p. 11.

6. human rights in non-self governing territories;

7. interference with radio signals;

8. the office of the UN High Commissioner for Refugees.\(^1\)

In 1954, resolution 820 (IX) of the General Assembly, recalled that its Commission on the Racial Situation in the Union of South Africa had concluded that the racial policies of the Government of the Union of South Africa were contrary to the United Nations Charter and to the Universal Declaration.\(^2\)

In resolution 843 (IX), the General Assembly found that, in certain areas of the world, women were subject to customs, ancient laws and practices relating to marriage and the family which were inconsistent with the principles set forth in the Charter and the Universal Declaration. It recommended, inter alia, efforts to inform public opinion in those areas concerning the Universal Declaration.\(^3\)

Resolution 547 H (XVIII), previously adopted by the Economic and Social Council on the same subject, contained similar references to the Universal Declaration.\(^4\)

The Economic and Social Council in resolution 5450 (XVIII), invited the International Labour Organization to undertake a study of

\(^1\)Ibid., p. 248.


\(^3\)Ibid.

\(^4\)Ibid.
discrimination in the field of employment and occupation, to be carried out on a global basis in accordance with article 2, paragraph 2, of the Universal Declaration.¹

In resolution 545D (XVIII) the Council, recalling the contents of article 13 of the Universal Declaration, requested the Sub-Commission on Prevention of Discrimination and Protection of Minorities to take, as the objective of its study of discrimination in relation to "emigration, immigration, and travel", article 13, paragraph 2 of the Universal Declaration -- namely, the right of everyone to "leave any country, including his own, and to return to his country".²

In resolution 5471 (XVIII) the Council expressed its belief that the statutory matrimonial regimes in many countries were incompatible with the equality of spouses during marriage and at its dissolution proclaimed in the Universal Declaration.³

The General Assembly in resolution 837 (IX) requested the Commission on Human Rights to complete its recommendations concerning international respect for the right of peoples and nations to self-determination, including recommendations concerning their permanent sovereignty over their natural wealth and resources, having due regard to the rights and duties of states under international law and to the importance of encouraging international co-operation in the economic

¹Ibid. ²Ibid. ³Ibid.
development of underdeveloped countries. Two proposals elaborated by the Commission at its tenth session had been returned to it by the Economic and Social Council for reconsideration (Council resolution 545G (XVIII)).

The resolutions above are typical of the yearly work of the United Nations in relation to human rights. The number of resolutions yearly shows the impact that the Declarations has on the world organization. The above resolutions are for the year 1951.

The influence of the Universal Declaration has been particularly strong in the matter of United Nations action relating to Non-Self-Governing and Trust Territories. The General Assembly made the question of the implementation of the Universal Declaration of Human Rights a subject of reporting of Administering Members under Article 73 (e) of the Charter. The General Assembly invited Administering Members to include in the information to be transmitted a summary of the extent to which the Universal Declaration is implemented in the Non-Self-Governing Territories and requested Administering Members to describe the manner in which human rights, in accordance with the principles set forth in the Declaration are protected by law (GA resolution 446 (V), 551 (VI) and others.)

As far as Trust Territories are concerned, the questionnaire amended by the Trusteeship Council in 1952 asks the Administration

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1 Ibid., p. 408.
Authorities to state which human rights and freedoms included in the Declaration exist in the territory and explain what impediments preclude the full application of any of these rights and freedoms. The Universal Declaration forms an integral part of the questionnaire (T/1010).  

The General Assembly resolutions do not mean that questions of human rights are no longer within the domestic jurisdiction of states, but they do clearly mean that such questions are of international concern and are within the scope of the United Nations Charter.  

What impact does a General Assembly resolution concerning human rights have on the world? This can best be shown by describing human rights in Eastern Europe and the Hungarian Revolt.

Hungary, Bulgaria, and Romania ended World War II as defeated allies of Germany. They were given peace treaties under which they promised to grant the ordinary democratic rights and liberties to their people. They were repeatedly proposed for UN membership by the Soviet Union, but rejected by the majority as not being "able and willing" to carry out the obligations of membership.

In early 1949, Bolivia called the Assembly's attention to the

1Tbid.
2Eagleton, loc. cit.
fact that a Hungarian court had sentenced Cardinal Mindszenty to life imprisonment. A few days later Australia asked the Assembly to take action on violation of religious and civil liberty in Bulgaria and Hungary. In Bulgaria a court had sentenced four Protestant leaders to life imprisonment and eleven others to shorter prison terms.¹

Several countries who were parties to the peace treaties had tried to get the offending governments to appoint negotiators, according to the terms of the treaties, to discuss the question of possible treaty violation. The UN Assembly adopted a resolution on April 30, 1949, pointing out to Hungary and Bulgaria the serious accusations and urging them to cooperate with the other signers of the treaties in a settlement of these questions.²

Australia also brought in an accusation that Romania had set up an oppressive control system over the courts, the expression of opinion, and the exercise of religion, and had persecuted the churches when they protested.³

The Assembly noted on October, 1949, that Bulgaria, Hungary, and Romania were still refusing to cooperate, and it asked the International Court to give an opinion as to several questions on the interpretation of the peace treaties. On the strength of the Court's opinion the Assembly on November 3, 1950 passed resolution (385(V) condemning the three governments as "willful refusal" to honor their treaty obligations.

¹Ibid. ²Ibid. ³Ibid., p. 73.
Considering that one of the purposes of the United Nations is to achieve international co-operation in promoting and encouraging respect for human rights, and fundamental freedoms for all without distinction as to race, sex, language, or religion, Having regard to General Assembly resolutions 272(III) and 294(IV) concerning the question of the observance in Bulgaria, Hungary and Romania of human rights and fundamental freedoms, and to its decision in the latter resolution to submit certain questions to the International Court of Justice for an advisory opinion,

2. Condemns the willful refusal of the Governments of Bulgaria, Hungary and Romania to fulfill their obligation under the provisions of the Treaties of Peace to appoint representatives to the Treaty Commissions, which obligation has been confirmed by the International Court of Justice;

5. Invites members of the United Nations, and in particular those which are parties to the Treaties of Peace with Bulgaria, Hungary and Romania, to submit to the Secretary-General all evidence which they now hold or which may become available in the future in relation to this question;

5. Likewise invites the Secretary-General to notify the members of the United Nations of any information he may receive in connection with this question.¹

On October 28, 1956, the Security Council met and took up the question of the Hungarian revolt, in spite of Soviet objections. Three days later Imre Nagy, who had come to power in Hungary, cabled saying that Hungary had withdrawn from the Warsaw Treaty by which she was allied with the Soviets, and asking the Assembly to discuss the matter. He also said that Soviet armies were invading the country. But within the next few days Nagy was overthrown and the Kadar government, supported by the Soviets, took over. In the Council a resolution calling the Soviets to end their interference was vetoed by the Soviet delegate, and the question then went to the Assembly, which passed a

similar resolution on November 4. \(^1\)

For two months the Assembly tried to send observers to Hungary, but they were refused admittance, and at last on January 8 it set up a Special Committee, of Australia, Ceylon, Denmark, Tunisia, and Uruguay, to find out the truth and report. \(^2\) The Committee submitted its full report to United Nations Members on June 12, 1957. \(^3\)

In this report, the Committee expressed regret that, owing to the attitude of the Hungarian Government, it had not been in a position to establish and maintain direct observation in Hungary as enjoined by General Assembly resolution 1132(XI). After hearing witnesses at United Nations Headquarters in New York, the Committee had held hearings in Europe from March 11 to April 16 at the European Office of the United Nations, in Geneva, and thereafter in Rome, Vienna, London, and again in Geneva. The Committee heard 111 witnesses: 35 in New York, 21 in Geneva, 16 in Rome, 30 in Vienna, and 9 in London. \(^4\)

(The General Assembly) \ldots

4. Finds that the conclusions reached by the Committee on the basis of its examination of all available evidence confirms that:

(a) The Union of Soviet Socialist Republics, in violation of the Charter of the United Nations, has deprived Hungary of its liberty and political independence and the Hungarian people of the exercise of their fundamental human rights;

(b) The present Hungarian regime has been imposed on the Hungarian people by the armed intervention of the Union of Soviet Socialist Republics;
(c) The Union of Soviet Socialist Republics has carried out mass deportations of Hungarian citizens to the Union of Soviet Socialist Republics;
(d) The Union of Soviet Socialist Republics has violated its obligations under the Geneva Conventions of 1949;
(e) The present authorities in Hungary have violated the human rights and freedoms guaranteed by the Treaty of Peace with Hungary;

5. CONDEMNS these acts and the continued defiance of the resolutions of the General Assembly;

6. REITERATES ITS CONCERN with the continuing plight of the Hungarian people;

7. CONSIDERS that further efforts must be made to achieve the objectives of the United Nations in regard to Hungary in accordance with the purposes of the Charter and the pertinent resolutions of the General Assembly;

8. CALLS UPON the Union of Soviet Socialist Republics and the present authorities in Hungary, in view of evidence contained in the report, to desist from repressive measures against the Hungarian people, to respect the liberty and political independence of Hungary and the Hungarian people's enjoyment of fundamental human rights and freedoms, and to ensure the return to Hungary of those Hungarian citizens who have been deported to the Union of Soviet Socialist Republics;¹

The Resolution concludes requesting the President of the eleventh session of the General Assembly, H.R.H. Prince Wan Waithayakon, as the General Assembly's special representative on the Hungarian problem, to take such steps as he deemed appropriate, in view of the findings of the Committee, to achieve the objectives of the United Nations in accordance with various resolutions of the Assembly and to report and make recommendations as he might deem advisable to the Assembly.²

¹Ibid.
²Ibid.
What effects, if any, result from investigations and resolutions of the General Assembly in a situation of the type found in Hungary? It is to be admitted that the Hungarian rebels achieved none of their immediate goals. However, many representatives in the United Nations apparently think that resolutions passed by substantial majorities are of value in expressing a form of international public opinion and that resolutions of censure will have a long-range effect on the policies of governments. This opinion may be difficult to substantiate, but a government representative who votes for a motion of censure is certainly expressing a form of disapproval of the international behavior of the government which is the object of the censure.

Reports coming from Hungary in 1957 indicated that after the Assembly demanded an end to mass deportations many who had been deported were brought back and further deportations were "substantially diminished."¹

Provisions and principles of the Declaration have been embodied in a great number of international conventions and have thus become part of both international law and of the internal law of States. In some instances the Declaration as a whole has been incorporated in international or constitutional instruments and thereby become part of the immediately applicable law (examples are the trusteeship Agreement for Somaliland under Italian administration, and the Statutes of the Trust Territories of Togoland and the Cameroons under French administration. The most recent example was the Special Statute for Trieste, which was

¹Coyle, op. cit., p. 75.
annexed to the memorandum of understanding concluded by Italy, the United Kingdom, the United States, and Yugoslavia on October 5, 1954. In the first article of the Special Statute, Italy and Yugoslavia agreed as follows: "In the administration of their respective areas the Italian and Yugoslav authorities shall act in accordance with the principles of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on the 10th of December, 1948, so that all inhabitants of the two areas without discrimination may fully enjoy the fundamental rights and freedoms laid down in the aforesaid Declaration."

The Declaration has also become a source of direct legal obligation by its incorporation in the preambles of various international instruments, including the Peace Treaty with Japan of 1951, the Conventions on the Political Rights of Women of 1952 and on the Nationality of Married Women of 1957, The Supplementary Slavery Convention on 1956, the Convention concerning the Abolition of Forced Labour of 1957 and the Discrimination (Employment and Occupation) Convention of 1958.²

Within nine years, the Universal Declaration of Human Rights had its influence on the constitutions of Indonesia, Costa Rica, Syria, El Salvador, Haiti, Jordan, the Federal Republic of Germany, Egypt, Eritrea, Libya, Pakistan and Japan.² "The Japanese constitution,"

1Green, op. cit., p. 676.

said Mrs. Roosevelt, "included some of the articles, verbatim, from the Declaration but without any background material. That is, there was no reference to the record of the hearings that preceded the drafting of the Human Rights Declaration."¹

Finally, a number of national legislatures and courts have had occasion to cite the Declaration. A Fair Employment Practices Act, passed by the legislature of Ontario (Canada) in April 1951, mentioned the Declaration in its preamble. The Federal Republic of Germany referred to the Declaration in a law concerning the status of displaced persons in its territory. As mentioned before in this study, the District Court of Appeals in California, on April 24, 1950, cited the human rights provisions of the Charter, as well as the Declaration, in invalidating the Alien Land Law of California, which discriminated against alien (chiefly Japanese) residents ineligible for citizenship.²

The Universal Declaration has become the subject of an annual world-wide celebration -- Human Rights Day on December 10, the anniversary of its proclamation by the Assembly. On the initiative of the United States, the General Assembly, at its session in 1950, invited all states and interested organizations to observe Human Rights

¹Roosevelt, On My Own, p. 138.

Day and to report to the Secretary-General on their activities. One measure of popular interest is the fact that the special commemorative Human Rights Day stamp, issued by the United Nations Postal Administration on December 10, 1952, received 200,000 advance orders; and a number of countries have issued their own stamps or made special cancellations to honor this occasion. The Secretary-General's annual summary of the celebrations -- involving meetings, government proclamations, radio programs, and similar activities -- shows the continuing importance of the Universal Declaration as a statement of goals toward which to strive.\(^1\)

In determining the significance of the Declaration, a study was made into the attitudes of certain countries toward the Declaration.

Uruguay: Commenting on the scope and legal effect of this Declaration, the Uruguayan representative said that it was "a natural complement of the Charter, and that, its enforcement and respect for its provisions would become one of the obligations of Member States." The idea this statement was intended to convey was that after the adoption of the Declaration there was no remaining doubt or possibility of discussion as to which were the fundamental human rights referred to and protected in Articles 1, 55 and 56 of the United Nations Charter. The Declaration was well received in Uruguay although there was some scepticism as to the practical effect it would have. "Not for this," said El Bien Publico, the Union Civica Paper, "will the supplanting of free regimes by dictatorial ones cease in America nor will the struggles caused by racial or cultural intolerance in India and the Arab world (end)."\(^2\)

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\(^1\)Green, Loc. cit.

England: The Economic and Social Council's work on human rights has received considerable publicity but without any obvious impact on the behavior of states; universal declarations (or even conventions) elaborating specific human rights can have little impact when the basic condition of respect for the innate worth and dignity of the individual is so noticeably lacking in over half the world.  

Japan: The Declaration is an international agreement based upon a high moral code. It does not possess a legally binding character, but it is not far from the truth to say that it was indeed an epoch-making incident in the history of mankind when the nations of the world agreed to promote respect for human rights.  

Israel: Israel is deeply concerned with the problem of human rights and their protection by appropriate international procedures. Proper respect for human rights is seen to be an essential requirement of national policy for the state of Israel not only because of its own minorities but of its concern for the Jewish people all over the world. In a parliamentary answer on 12 May 1952, the Foreign Minister defined the Universal Declaration as one of the fundamental declarations of the United Nations. But, as he pointed out, it is an expression of intention rather than the imposition of legal and constitutional obligations upon member states.  

Canada: Canadians while sympathetic to the general objectives, displayed a reserved attitude toward the actual document. In Canada, with its system of law inherited from Great Britain, protection for the rights of the individual rests not on any general declaration of principles, but on statute law and judicial interpretation. It was criticized on the ground that some of its clauses seemed to be mandatory, and the impression of its wording in this respect led Canada to

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abstain when it was voted on in committee in the third session of the General Assembly. Canada decided, however, to accept the Declaration because of sympathy with its principles and a wish to avoid any misunderstanding on that score. In point of fact, the objections quoted above were more applicable to the draft covenants that were designed to implement the principles of the Declaration through formal international agreement.¹

Denmark: The Universal Declaration of Human Rights has been the subject of comments that have been primarily sceptical and critical in tone. This applies particularly to statements by jurists who base their criticism on the grounds that the Declaration is not binding on states, that its provisions are couched in vague terms, and that it confuses many different ideas concerning relations between the individual and society. One of these critics, Professor Alf Ross, has gone so far as to claim that the Declaration is an escape from reality, without seriousness of purpose, sincerity or effort. The hypothesis that declarations of principles adopted by the United Nations on such matters are able to influence public opinion in individual countries and so brings about practical results is to a certain degree confirmed by an examination of the new Danish constitution of June 5, 1953. By way of justifying the inclusion of a new paragraph concerning the right to work, it was claimed that the provision was in accordance with the United Nations Declaration of Human Rights.²

The fact that the General Assembly, after extreme efforts by various United Nations organs over a period of three years, was able to reach agreement on the Universal Declaration has had, however, one adverse effect. The very success of the Declaration led some governments, non-governmental organizations, and individuals to place too much emphasis on the value of defining human rights. During the third


session of the Assembly in 1948, Argentina introduced a proposal for a Declaration on the Rights of the Aged. The General Assembly adopted in 1959 a Declaration of the Rights of the Child, designed to amplify the declaration adopted in 1924 by the League of Nations. The United Nations Educational, Scientific, and Cultural Organization has given consideration to a Declaration on the Rights of Teachers. No final action has been taken on two of these proposals; but this tendency, if continued, might eventually detract from the dignity and significance of the Universal Declaration of Human Rights.¹

¹Green, op. cit., p. 677.
CHAPTER IV

SUMMARY AND CONCLUSIONS

I. SUMMARY

The purpose of this investigation was to make a study of the developments leading up to the drafting of the Universal Declaration of Human Rights, and to determine what impact this document has had on the world.

In the United Nations Charter the task of promoting respect for Human Rights is "vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council." The General Assembly, the Charter says, "shall initiate studies and make recommendations for the purpose of assisting in all the realization of human rights and fundamental freedoms for all." The Economic and Social Council makes "recommendations for the purpose of promoting respect for and observance of, human rights and fundamental freedoms for all." One of the basic objectives of the Trusteeship Council is "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion."¹

Now for the first time, the nations which signed the Charter

at San Francisco specifically stated, that the promotion and protection of human rights, formerly vested in nation states, should now also be an international responsibility.

The Second World War brought to people all over the world a fresh realization of the need to assert and safeguard human rights. People were shocked that millions of people could be dragged from their homes, tortured, and killed. It seemed impossible that they could lose all their human rights, so easily. They began to realize that denial of these rights was a basic cause of the war.\(^1\)

The Atlantic Charter of 19\(\frac{1}{2}\)1 expressed the hope that a peace would be established which would afford assurance that all men in all the lands might live out their lives in freedom from fear and want. The Washington Conference of 19\(\frac{1}{2}\)2, the Moscow Conference of 19\(\frac{3}{4}\), the Proposals at Dumbarton Oaks in 19\(\frac{1}{4}\)4 gave assurances to the still struggling world that the conflict would end with an everlasting concern for human rights.\(^2\)

By the time the San Francisco Conference opened in 19\(\frac{1}{2}\)5, the demand for broad guarantees of human rights was intense and worldwide. The Dumbarton Oaks Proposals contained one reference to human rights. The Charter, refers to human rights in no less than seven places. It


is significant that it is not the "High Contracting Parties" who reaffirm their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women of nations large and small. It is rather "We the peoples of the United Nations," who assume this great responsibility.\(^1\)

The Economic and Social Council, at its first session set up a Commission "for the promotion of human rights." On the basis of this Commission's recommendations the Council decided that one of the first things the Commission should direct its attention to was an international bill of rights.\(^2\)

The Human Rights Commission met in January 1947 and elected as its Chairman, Mrs. Franklin D. Roosevelt of the United States. The Vice-Chairmen were Dr. P. C. Chang, of China, and Professor Rene Cassin, of France. Dr. Charles Malik, of Lebanon, was the Rapporteur. These four plus the representatives of Australia, Chile, the Soviet Union and the United Kingdom, were asked to do the first draft.\(^3\)

The Secretariat at Lake Success gathered together constitutions, statements and suggestions from all over the world and made a first outline. Working on this, Professor Rene Cassin produced a draft with a preamble and \(\frac{4}{5}\) suggested articles. This was discussed and revised and finally submitted to the Commission on Human Rights, which forwarded

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\(^1\text{Ibid.}\)  
\(^2\text{Ibid.}\)  
\(^3\text{United Nations, Our Rights As Human Beings, p. 7.}\)
it to Member governments for their comments. After further comments by sub-commissions, the Commission on the Status of Women, the Conference on Freedom of Information and by non-governmental organizations, it was re-drafted, discussed and debated, and the number of articles reduced from 44 to 30. When the revised draft declaration was finally ready, it was again sent to all Member governments of the United Nations for comment, and then to the Economic and Social Council for its consideration.¹

It was then presented to the General Assembly in Paris in the autumn of 1948 for approval. The Declaration was placed on the agenda of the Third (Social, Humanitarian and Cultural) Committee of the General Assembly. This Committee devoted 85 meetings to the Declaration. This was considerably more time than any organ of the General Assembly had spent on any other subject. It was approved at last on December 7, and three days later, on the night of December 10, was finally adopted by the General Assembly. Forty-eight countries were in favor, none against, two were absent and eight abstained.²

The civil and political rights proclaimed in the Universal Declaration are briefly: the right to life, liberty and security of person; the right of freedom of thought, speech, and communication of information and ideas; freedom of religion and assembly; the right to self-government through free elections; the right of the individual to move freely within the state where he lives and to leave it if he desires; the right to seek asylum in another state; the right to a

¹Ibid., p. 8. ²Ibid.
nationality; freedom from arbitrary arrest, and arbitrary interference with privacy, family and home; prohibition of slavery and torture.

The economic and social rights include: the right to work, to protection against unemployment, to join trade unions; the right to a standard of living adequate for health and well-being; the right to education and the right to rest and leisure. All of these rights are to be recognized without distinction as to race, color, sex, language, religion, political or other opinion, property or other status, birth or national or social origin.¹

II. CONCLUSIONS

In commenting on the significance of the Declaration, Mrs. Roosevelt stated:

a great satisfaction should permeate the thoughts of all men, for the great documents declaring man's inherent rights and freedoms which in the past have been written nationally, are now merged in an international, universal declaration. It is quite possible that this Assembly, which met at Paris in 1948, may become known as the Rights of Man Assembly.²

Dr. Charles Malik, Rapporteur of the Commission on Human Rights has been intimately associated with Human Rights developments in the United Nations from its inception. His insistence upon human dignity and the necessity of recognizing those rights which man by virtue of his dignity possesses has contributed spiritual depth to the provisions of the Declaration. His appraisal of the Declaration reflects his

¹Nolde, op. cit., p. 69.  ²Neal, op. cit., p. 124.
concern for human rights.

Whoever values man and his individual freedom above everything else cannot fail to find in the present Declaration a potent ideological weapon. If wielded in complete goodwill, sincerity and truth, this weapon can prove most significant in the history of the spirit.¹

Only the future can prove whether the ideals expressed by Mrs. Roosevelt and Mr. Malik will become meaningful or meaningless throughout the world or in portions of the world. There is no way to predict the course of this struggle for increased emphasis on human dignity.

The Universal Declaration has had considerable impact in some areas since its adoption. Its influence is reflected not only in the work of the United Nations itself, but in international treaties and national legislation.

1. The Universal Declaration is frequently cited in resolutions of the General Assembly and other organs of the United Nations; and proposals concerning future work of the Commission on Human Rights and its Subcommission on Prevention of Discrimination and Protection of Minorities envisage reports, studies, debates, and other activities based on the specific rights set forth in that document.²

2. The Universal Declaration has been the model for the human rights provisions of new constitutions.³

3. In 1950, the 15 nations of the Council of Europe signed in

¹Ibid., p. 50.
²Green, op. cit., p. 675.
³"Supra, p. 70".
Rome the European Convention for the Protection of Human Rights and Fundamental Freedoms. This treaty, which became effective in September 1953, lists rights protected by this convention based largely on corresponding articles either of the Universal Declaration or the United Nations Draft Covenant on civil and political rights.¹

4. On October 5, 1954, the governments of Italy, the United States, the United Kingdom, and Yugoslavia initiated an agreement on the administration of Trieste. In a special statute annexed to this agreement, the Italian and Yugoslav Governments expressed their intention "to ensure human rights and fundamental freedoms without discrimination of race, sex, language and religion in the areas coming under their administration," and established that "in accordance with the principles of the Universal Declaration of Human Rights all inhabitants of the two areas" will enjoy the fundamental rights and freedoms laid down in the Declaration.²

5. The Japanese Peace Treaty, signed on September 8, 1951, calls upon Japan to "strive to realize the objectives of the Universal Declaration of Human Rights."³

²Ibid.
³Green, op. cit., p. 676.
really says is that each person should be considered on his or her merits and all deserve a chance to live a full and happy life.\(^1\)

The extent to which the Declaration will become meaningful in the lives of individuals depends upon (1) the awareness of individuals of the action by their representatives in adopting the Declaration, (2) the degree of their ability to influence government to implement these professions, and (3) the willingness of government officials to bring about the implementation of these ideals.

Again, the Universal Declaration is but the first step in the total structure of the projected International Bill of Rights. The next two steps to which the Commission on Human Rights has turned is the working out of conventions or international treaties on human rights which governments will sign, and by which they will be legally bound, and the setting up of measures of implementation or enforcement, including the possibility of an international court on human rights to which individuals and groups would appeal for protection, a possibility sponsored by the Government of Australia. The Declaration is important because any conventions will be based on its text, and any measures of implementation will have to implement these rights. Consequently, any further advance in the field of human rights must take account of the present Declaration.\(^2\)

The problem facing the Commission in the drafting of a convention

\(^1\)United Nations, Our Rights as Human Beings, p. 11.

\(^2\)Royce, Rennie, op. cit., p. 22.
6. The influence of the Universal Declaration has been particularly strong in the matter of United Nations action relating to Non-Self-Governing and Trust Territories. ¹

7. A number of national legislatures and courts have had occasion to cite the Declaration.²

It is to be admitted that declarations of intention or the listing of rights in a document is no necessary guarantee that these rights will become fully implemented. The individual may see no immediate effect that results in his greater freedom or in his participation in decisions that affect his life. Societal changes are often slow to develop. Whether these trends will continue will depend on many factors, but they are potentially the trends which could shape a future expansion of individual freedom.

Another significance of the Universal Declaration of Human Rights is that it is a Declaration, not of one person or group of persons, not of one nation or of one people, but of the representatives of many governments. Charles Malik believes that, "the peoples of Asia, Africa, Latin-America and other countries have been awakened as to what belongs to them by nature."³ What the Universal Declaration

¹"Supra, p. 62."

²"Supra, p. 70."

was far more difficult than was found in drawing up the Declaration. Nations which will subscribe enthusiastically to a body of principles are far more wary of binding themselves to a legal commitment. As nations find it more and more difficult to agree on the covenant, they are more and more falling back on the Declaration as a way to fulfill the obligations of the Charter to advance human rights.

It would be wrong to conclude from this study that the Declaration is the final word on human rights. It would be a mistake to assume that the Declaration is the Magna Carta of the 20th century. It would be incorrect to say that the Declaration has had an immense impact on the world. The number of people living in bondage worldwide will point this out. The Declaration is but the first step in a long range plan to guarantee the protection of human rights. The future may write new declarations and bills of human rights more comprehensive in scope than the present document. Whatever the future may hold, The Universal Declaration has helped to set national and local standards, to provide for the exchange of information, to focus public opinion on violations of human rights of man, and to alert mankind to the evils of men like Hitler and Stalin. The Declaration has given meaning to the United Nations Charter, and only the future will tell if the objectives of the Charter will be upheld.
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