

THE ACADEMIC COUNCIL ON THE UNITED NATIONS SYSTEM
INFORMATIONAL MEMORANDUM
No. 76 • Autumn 2008

The Universal Declaration of Human Rights at Sixty

Bertrand Ramcharan, *UN High Commissioner for Human Rights ad interim from 2003 to 2004 and Deputy High Commissioner from 1998 to 2003. He sits on the ACUNS Board of Directors.*

The Universal Declaration of Human Rights is one of the great inspirational documents of the modern world and it is a rallying banner for the young, the poor, and the oppressed in their quest for a more just world. Its great features are that it is universal and that it offered for the first time in the history of the world, an international human rights document built on the interrelationship and interdependence between economic, social and cultural rights and civil and political rights.

John Humphrey, who undoubtedly did the intellectual groundwork for the Declaration, was rooted in the Commonwealth tradition of aspirations for the rule of law and of the defence of civil and political rights, but he passionately believed that the Declaration must also offer a vision of the realization of economic, social and cultural rights alongside them. René Cassin, who built on Humphrey's work and helped cast the Declaration in the form it was eventually adopted, drew up in 1948 a blueprint that depicted the Universal Declaration as a temple of justice built on the foundations of four great pillars: a social and international order; duties towards the community; fundamental rights and freedoms, and safeguards against the destruction of the edifice of freedom. Between these four great pillars, he saw three doors of entry – liberty, equality, and fraternity.

P.C. Chang of China, one of the founding drafters, strongly advocated grounding the Declaration in the cultures and religions of the world. Mrs. Hansa Mehta of India pleaded the cause of justice and equality for women with great conviction. And Charles Malik of Lebanon, undoubtedly the philosopher of the Declaration, powerfully argued for the spirit of freedom in all human beings. General Romulo of the Philippines took a leading part in shaping, with Cassin, the opening article: 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. Hernan Santa Cruz of Chile and Osman Ebeid of Egypt called upon the international conscience to alleviate the plight of the poor and of those living in colonial bondage. Sixty years after it was proclaimed at the Palais de Chaillot in Paris on 10 December, 1948, the Universal Declaration has inspired a veritable international code of human rights which covers practically every aspect of the relationship between the individual and the State. There is greater awareness about human rights than there was before the founding of the United Nations. Numerous human rights treaties bind Governments to respect, protect, and ensure a broad range of rights. Under these treaties reports are submitted by States, then examined by human rights treaty bodies, which make recommendations and general comments and, in some instances, also render views on individual petitions received from persons or groups claiming that their rights have not been respected. The international human rights jurisprudence thus built up is one of the great achievements of the past sixty years.

In accordance with the provisions of the Universal Declaration of Human Rights and the normative instruments it has inspired, Governments are expected to put in place national systems for the promotion and protection of human rights with constitutional, legislative, judicial, pedagogical, preventive, and institutional dimensions, the last referring to specialized promoting and protecting institutions such as national human rights commissions. There is still much work to be done in the establishment of such national protection systems and probably no State in the world can claim that it yet has in place a fully adequate national protecting system.

Notwithstanding greater awareness about human rights, a normative edifice, and cooperation under international human rights treaties, the state of respect for human rights sixty years after the Universal Declaration was proclaimed is dismal and shocking. Women and children continue to undergo numerous deprivations and atrocities. Trafficking, sexual exploitation, and violence betray the very opening article of the Universal Declaration calling for respect for the dignity and conscience of every human being. Every day, every month, every year, year after year, investigators of the United Nations Human Rights Council (previously the Human Rights Commission) uncover evidence of arbitrary killings, enforced disappearances, torture, violence against women, human trafficking, sexual exploitation of children, religious intolerance, arbitrary detention, violations of freedom of opinion and expression, deprivations of the rights to food, health, shelter, and depredations against the poor and the down-trodden. Governments and others do these things to their own people. And even supposedly democratic countries committed to the rule of law have been known to engage in torture under various euphemisms. Let there be no mistake: Sixty years after the Universal Declaration, human rights are far from being universally respected, protected, and ensured world-wide.

The pull of the Declaration, however, is such that we can never afford to give up or be complacent about the state of human rights in the world. Instead of cursing the wind we must try to harness it. That is precisely the great strength of the Declaration: that it beckons us to mobilization even when the task is daunting. That raises the question: how should we mobilize in the future? The starting point is to rally young people in support of the Declaration.

I. The Cause of the Young

Young people are the ones who will vindicate the Universal Declaration of Human Rights. Anyone who has had opportunities to interact with students from different parts of the world will know that there is one important conviction that they share: they want to shape their societies in the image of the Universal Declaration of Human Rights and of international human rights norms. The Universal Declaration inspires them, and, at the end of the day, they think for themselves, whatever ruling orthodoxies might try to impose upon them. Young people aspire to the world of the Universal Declaration, and they will bring it about. In the future, therefore, we must pitch international regional and national efforts for human rights to mobilise and energise the young. The place to start is with human rights education from primary school onwards.

II. Human Rights Education

The UN Human Rights Council has initiated the process of drafting a declaration on human rights education. The idea behind this project is to work towards the conclusion of an international convention on human rights education. This process has in mind some simple objectives: every teacher at the primary, secondary or university level should be provided with a teaching manual, in local languages, so that she or he might discuss the core human rights ideas with students and thereby impart the values of the Universal Declaration. This may appear a trite objective. But it is not. Human rights education is very sparse world-wide. Countries

struggling with economic and social problems do not normally think of allocating the resources needed to provide human rights teaching aids to instructors. A convention on human rights education would eventually help make the case for priority in the allocation of resources. World-wide human rights education will help spread a universal culture of human rights. It will help shape tomorrow's leaders by instilling in them an understanding that the purpose of government is to strive for the realisation of the economic, social and cultural rights of their people while respecting, protecting and ensuring their civil and political rights. Human rights education thus has a powerful strategic objective. Another strategic objective must be to push more and more for preventive human rights strategies in the future.

III. Preventive Human Rights Strategies

Historically, the human rights movement has worked with strategies of promotion and protection. Both have had some results but, as seen earlier, the state of human rights is still a sad one. Promotion and protection strategies both have some elements of prevention within them but, in the future, there will be need for more pronounced preventive strategies in human rights work. In the contemporary world human rights are affected by eight phenomena: environmental changes, migratory movements, poverty, conflicts, terrorism, gross violations, inequality, and poor governance. It will be crucial to develop preventive strategies in respect of all eight of these phenomena if we are to ever hope to achieve the universal realisation of human rights.

A. Environmental changes: Whether they are due to natural or human causes, environmental changes, global warming, encroaching deserts, and rising oceans can affect the rights to life and livelihood of large numbers of people. To the extent that preventive actions are possible they should certainly be undertaken. But preventive action is also required from a human rights point of view. Environmental mapping and projections and discussion of desirable policy options can help anticipate human rights problems related to mass exoduses, internal displacement and refugee movements. One should not wait until the problem is upon us before scrambling to deal with them.

B. Migratory movements: There are some projections that indicate that if the warming trend continues and if oceans rise, millions upon millions of people will seek to move across frontiers in the quest for life. It will be necessary to think through a human rights regime to plan for, and cope with, such massive changes. The present international and normative policy instruments we have are nowhere near being adequate.

C. Extreme Poverty: Two-thirds of the world population live in dire poverty. The Millennium Development Goals, which sought to halve world poverty by 2015, are woefully far from being achieved. It would be essential, in the future, to bring into the picture the concept of preventable poverty. Every country should be expected to map the situation of its poor people, identify the extremely poor, and act to prevent extreme poverty to the extent that this can be achieved using already available national resources. The concept of preventable poverty can be buttressed by giving courts and national human rights institutions the competence to adjudicate on situations of gross violations of economic, social and cultural rights. Some courts, such as the Indian Supreme Court, have developed social action jurisprudence precisely along these lines.

D. Conflicts: While recent years have seen a reduction in the number of conflicts, they nevertheless continue to be distressingly frequent in many parts of the world. The prevention of conflicts, especially in multi-ethnic countries, is closely related to the promotion and protection of human rights and cultural rights, especially the rights of composite populations and minorities.

Strategies for the prevention of conflicts must be built on the foundations of respect for human rights.

E. Terrorism: Whatever the doctrinal debates about whether terrorists commit violations of human rights or crimes, for the victims the consequences are the same: deaths, maiming, and fear. The Security Council has called on Member States of the UN to cooperate in fighting against terrorism. It has also called for counter-terrorism efforts to be pursued with respect for human rights. Preventive measures are necessary to safeguard against violations of human rights in the struggle against terrorism. The US 9/11 Commission called for independent monitoring bodies to safeguard against excesses. That would be a good starting point for preventive measures in the field of human rights.

F. Gross Violations of Human Rights: As mentioned earlier in this essay, gross violations of human rights are rampant in the world. United Nations human rights 'special procedures' among others, endeavour to document these violations, to take urgent intercessionary action where possible, and to make the case for justice for the victims. But international efforts in the future should place the accent more and more in the future on preventive strategies, beginning with preventive strategies at the national level to guard against the dangers of gross violations of human rights.

G. Inequality: Inequality on grounds of gender, race, social origins, or economic situation is, alas, widespread in the world. It would be interesting to make an assessment of how strategies pursued to date are contributing, or not contributing, to the prevention of discrimination. Educational efforts could be decisive in preventing gender or racial discrimination.

H. Poor Governance: Without a doubt, a great part of the miseries of the world have to do with bad governance which, in turn, wreaks havoc on human rights world-wide. Efforts for the promotion of democracy and the rule of law are meant to help here but they have so far seen only partial results. The Human Rights Council should establish a special rapporteurship on the promotion of democratic governance. And efforts to promote democracy and the rule of law should increasingly build in a preventive dimension. The responsibility to protect must also come into the picture here.

Through preventive strategies such as the above, future efforts to build the world of the Universal Declaration of Human Rights might help bring us nearer to the mark. However, three other policy issues must remain a matter of the highest priority: strengthening the system of human rights special procedures; giving practical expression to the right to development; and deliberate scrutiny of the national protecting system of every country.

IV. Strengthening the system of human rights special procedures

The system of human rights special procedures consists of thematic and country-related rapporteurs and working groups that study or investigate phenomena associated with gross violations of human rights, make recommendations globally or in relation to particular countries, undertake urgent intercessions in cases of need, and contribute to the development of international norms for the prevention of gross violations of human rights. These special procedures mandate-holders are under increasing pressure from the voting majority in the UN Human Rights Council, which makes the case for dialogue and cooperation rather than

confrontation when dealing with situations of gross violations of human rights. There are problems of principle with such arguments. If the United Nations is seen to be absent when people are undergoing traumatic violations of human rights, the peoples of the United Nations will have no time for it. One can never be neutral towards gross violations of human rights. The human rights special procedures are the strongest protection actors available in the United Nations today and it is of the utmost importance to preserve and strengthen the system – which includes a procedure on the right to development.

V. National Implementation of the Right to Development

The international community has on several occasions reaffirmed its attachment to the right to development. The World Conference on Human Rights (1993) expressed an undoubted universal consensus on this right. Since then there have been innumerable debates about how to proceed with its implementation. The debate has so far concentrated mainly on international dimensions of implementation of the right to development. But what about the national dimensions? This has so far received little attention. Whatever debates take place internationally in the future, it is essential to let the right to development take on practical meaning within each country. The human rights movement must claim attention for national implementation of the right to development. This means, simply, that whatever resources a country has should be used for the benefit of its people as a whole, rather than for the benefit of ruling cliques or classes.

VI. Strengthening National Protection Systems

The strengthening of national protection systems inside each country must be a top priority for international human rights cooperation in the future. The Universal Periodic Review within the Human Rights Council offers good scope for this. The UPR process should also place the accent on preventive human rights approaches.

Conclusion

Yes, the Universal Declaration remains a great inspirational document. But in most places around the globe the peoples of the world still yearn for its realization. Gross violations of human rights are rampant. Poverty, conflicts, terrorism, inequality, atrocities, and poor governance wreak havoc on the rights of individuals and peoples. Nevertheless, the poor and the oppressed use it as a rallying banner. And young people want their countries to be shaped in its image. We must build on the energies of the young. More human rights education will help. The accent on the future should be on prevention, alongside promotion and protection. We must strengthen the system of human rights special procedures. There is need for a special rapporteurship on democracy. And there is need for more emphasis on national implementation of the right to development. The enhancement of the national protection system of each country is a fundamental requirement. Approaches such as these will help bring us closer to the world of the Universal Declaration.