

# Reclaiming and rebuilding the history of the Universal Declaration of Human Rights

SUSAN WALTZ

**ABSTRACT** *The political history of the Universal Declaration of Human Rights (UDHR) is not well known and obscurity has fostered a number of assumptions that require inspection. Recent scholarship challenges the notion that the UDHR was uniquely sponsored and promoted by the Western powers, and indeed raises questions about great power support for efforts to craft international human rights standards. This article explores four political myths about the Universal Declaration, each of which contains a grain of truth, but each of which also misleads. If the historical role of large states in advancing human rights norms is exaggerated, the role and contribution of small states has likewise been overlooked. The Universal Declaration is a negotiated text and many states participated in its construction. Its legitimacy extends from the political process that gave it shape and all states thus have an interest in small states reclaiming their share in its history.*

Few people are prepared to dispute the claim that *human rights* is a Western concept. The claim bears some examination, however, because the ready identification of *human rights* with Western philosophy has given rise to a contemporary debate over the universality of human rights. It has led some to question whether international human rights standards can be compatible with the broad array of world cultures.

It would be foolish to deny a connection between Western philosophy and the modern notion of human rights: philosophical writings in support of human rights are easily located in the larger body of Western thought. It is one thing, however, to recognise the tradition of human rights within Western philosophy; it is quite another to equate the two. Western philosophy is certainly not uniform with respect to human rights. Alongside the philosophical proponents of rights, one may find many prominent Western philosophers whose ideas are less compatible with the contemporary notion of human rights. Aristotle, for example, argued for the priority of the state. Jean-Jacques Rousseau, sometimes described as the philosopher of the French Revolution, argued that individual rights were subordinate to the general will. Utilitarian Jeremy Bentham minced few words, dismissing the notion of natural rights as ‘nonsense on stilts’.

*Susan Waltz is Professor of Public Policy at the Gerald R Ford School of Public Policy, University of Michigan, 440 Lorch Hall, 611 Tappan Street, Ann Arbor, MI 48109-1220, USA. E-mail: swaltz@umich.edu.*

Philosophy, in any case, provides only one of the paths to consideration of human rights. Human rights can also be analysed as a legal concept, with attention paid to positive law and justiciable claims. Likewise, it can be regarded as a unique political project of the twentieth century, a series of political negotiations that produced the Universal Declaration of Human Rights (UDHR) and subsequent international treaties.

It is this final approach that I adopt in this brief essay. If the idea of human rights has been around for centuries, taking different forms in different cultures, how was it transformed into the mid-twentieth century project of universal human rights? How did we come to have a Universal Declaration of Human Rights, followed by legally binding human rights treaties?

The answers to that question, based on recent research, may present some surprises even to those rather familiar with the UDHR's history. In writing this article I draw on several sources, including most prominently Paul Gordon Lauren's *The Evolution of International Human Rights, The Universal Declaration of Human Rights* by Johannes Morsink, my own investigation of the contribution of small states to the UDHR, and Mary Ann Glendon's new work on the role of Eleanor Roosevelt, *A World Made New*.<sup>1</sup> The collective effect of these research efforts is to dismantle some prominent myths about the politics of human rights. These separate research efforts also open the door to a broader interpretation and understanding of the ownership of the mid-century commitment to the protection and promotion of human rights.

### **Dismantling myths**

Four popular understandings of the history of the Universal Declaration of Human Rights reinforce the idea that the mid-century human rights project was the brainchild, and a favoured project, of the Western powers. Recent research suggests that each of these understandings is a myth that requires re-examination. As with most political myths, each of the popular understandings contains a grain or more of truth. But in most cases the broader context has been swept away in the mythical version, causing some players to disappear and others to loom larger than life.

#### *Myth 1. The UDHR as response to the Nazi Holocaust*

Many assume that it was the Nazi Holocaust in Germany that inspired political leaders to draft a Universal Declaration of Human Rights at mid-century. The Nazis' brutally calculated atrocities, perpetrated on an unimaginable scale, certainly shocked the world's conscience and provided political momentum, and in that important sense the Nazi Holocaust cannot be separated from the human rights project. As Herman Burgers' archival research has established, however, both the pressures and the plans to promote an international bill of rights were well developed long before the scale of the Nazi horrors was fully known.<sup>2</sup>

Non-state actors led the way in promoting the political idea of human rights. There was great intellectual interest in the notion of rights at the opening of the twentieth century. Movements for women's rights and minority rights flourished

in the West and elsewhere. In Iran Talibov-i Tabrizi published *Izahat dar Khusus-i Azadi* (Explanations Concerning Freedom); in China, Kang Youwei published early segments of his *Datong shu* (The Book of Great Harmony), promoting individual liberty, freedom, equality and the natural rights of all humanity.<sup>3</sup> The International Federation of Human Rights was founded in Paris in 1922. By the late 1920s it was issuing calls for an international declaration of rights. A decade later, during the first months of World War II, British socialist and science fiction writer HG Wells published his own draft of an international declaration of rights. A preamble was followed by specifically mentioned rights, including the right to protection without discrimination and provision for basic social and economic needs. Wells' manifesto was published in numerous non-European languages and as the war progressed it was even dropped behind enemy lines.<sup>4</sup>

Eventually Franklin Delano Roosevelt became the best known proponent of international human rights, but during this period he had not yet spoken out on the question. During the 1930s Roosevelt's attention was primarily focused on economic recovery in the USA and powerful opponents within the Congress. It was both disappointing and frustrating to Eleanor Roosevelt that FDR's administration declined to pursue legislation against racially motivated mob hangings known as lynchings; FDR was silent on the travesties of the Spanish Civil War and his administration initially equivocated in its condemnation of Nazi policies in Germany.<sup>5</sup> By 1941, however, FDR's advisers had persuaded him of the pressing need for political leadership internationally.<sup>6</sup> Under the power of Roosevelt's oratory, human rights and fundamental freedoms became the rhetorical rallying point not only for Americans, but for much of the world. Freedom was a *Leitmotif* in FDR's well-known speech to Congress in 1941, and it was embedded in the Atlantic Charter produced by the USA and Great Britain later that same year.

Roosevelt instructed the US State Department to examine the possibility of an international bill of rights as part of its postwar preparation and planning. It was through this process that the USA came to advocate an international declaration of human rights. Through the same process US policy makers also expressed their preference for a declaratory statement rather than a legally binding document.<sup>7</sup> Some members of Roosevelt's cabinet, however—including Secretary of State Cordell Hull—preferred not to pursue the idea at all, considering human rights as war-time rhetoric best forgotten with the war concluded.<sup>8</sup>

But proponents of the idea were not ready to relinquish a dream nurtured over many decades. For many, human rights were the very heart of a vision for a new world order. In 1939 HG Wells had subtitled his human rights manifesto, 'What Are We Fighting For?' By the time Auschwitz was liberated in May 1945 the newly created United Nations had already committed itself to producing a declaration of human rights. The full picture of Nazi atrocities, revealed to the public over the course of the Nuremberg trials, only galvanised support.

At mid-century the unfathomable but undeniable truth of the Nazi Holocaust hung over the UN like a heavy grey cloud, a sober and ever-present reminder of the need to protect human rights. Nazi horrors supplied a collective memory, but as constant and inescapable as that memory was, it was not the only experience

of abusive human rights practice that participants brought to the table as the UDHR was shaped. The Spanish Civil War, and the ruthless bombing of Guernica, had deeply affected many Latin Americans. Well over 200 000 Chinese had been slaughtered when Japanese soldiers invaded and sacked Nanking in 1937. In South Africa the Nationalist Party was rising to power on a platform of racial and ethnic discrimination. Pakistan and India were at war that some called genocidal. Tensions were rife in Palestine, where Zionist leaders would soon claim a right to statehood, dispossessing and displacing thousands of Palestinian Arabs in the process. Lynchings in the USA were common and the humiliation of colonial rule was painfully familiar to many. Soviet intentions to limit individual freedoms had long been apparent, even if the scope of Stalin's brutal policies were not yet fully appreciated. Unfortunately, people who were ready to think about human rights, and the need to protect them, had many experiences on which to draw.

### *Myth 2. Support of the Great Powers*

It is commonly supposed that it was the Great Powers, victorious in World War II, who championed the idea of human rights at mid-century. That is partially fact and partially fiction. They were most committed to the idea of rights during the war, but even then the commitment was not strong. As Lauren puts it, 'There were times during the war when some Allied governments actually appeared to be enthusiastic in leading the crusade for human rights'.<sup>9</sup> After the war the human rights idea quickly developed as a weapon in the Cold War. Beyond that, the Great Powers generally sought to curtail or contain the rising interest in development of universal human rights norms.<sup>10</sup>

Plans for a new international organisation to replace the defunct League of Nations began to take shape as early as 1943. Specific proposals were developed and discussed by four powers at two conferences held in 1944 at Dumbarton Oaks, just outside Washington, DC. The USA, Great Britain and the USSR attended the first conference, and the second was attended by the USA, Great Britain and China. The USA and China were proponents of including human rights in the charter of the United Nations, although by 1945 the highest ranking officials within the US State Department were not enthusiastic about it.<sup>11</sup> Britain and the USSR opposed the idea, and they twice rejected a proposal that the UN be specifically required to promote the observance of human rights.<sup>12</sup> According to Lauren, British officials were concerned that inclusion of language about human rights would fuel unrest and threaten the Empire. Soviet officials knew that an internationally accepted doctrine of human rights could not be reconciled with Stalinist policies of coercive collectivisation, political purges, internal exile and forced labour camps.<sup>13</sup>

By the time China joined the Dumbarton Oaks talks, the Big Three had already decided to obscure mention of human rights within the text.<sup>14</sup> It is ironic to learn that China alone remained deeply attached to the idea of human rights and the enforcement of justice, declaring its willingness 'to cede as much of its sovereign power as may be required'.<sup>15</sup> Through the promise of human rights China hoped to promote peace and combat the international racism from which its people suffered.

The finalised Dumbarton Oaks proposals were forwarded to the charter meeting of the United Nations, convened in San Francisco in April 1945 (a mere two weeks after Roosevelt's death). They contained only one reference to human rights. Before the San Francisco meeting, however, the proposals were circulated widely, and Latin American states held their own meeting, in Mexico, to discuss them.<sup>16</sup> Through their efforts and those of New Zealand, Australia and France, seven references to human rights were added to the UN Charter.<sup>17</sup> Panama's delegation came to the San Francisco conference with a draft declaration of human rights (prepared by Chilean jurist Alvaro Alvarez), and many small states were disappointed that the UN charter was not amended to provide enforceable means of addressing human rights problems around the world.

Contrary to popular suppositions, at mid-century it was small states and non-governmental organisations rather than the great powers who were the most ardent and outspoken champions of human rights.<sup>18</sup> Some 42 US-based and international non-governmental organisations attended the 1945 San Francisco conference that created the United Nations, and, as William Korey has related, it was largely thanks to their lobbying efforts that a Human Rights Commission was established.<sup>19</sup> With the war over, large states were primarily concerned to reorient their economies, reassert the doctrine of national sovereignty and project their hegemony abroad.

### *Myth 3. The UDHR: a single author*

A third myth surrounds the authorship of the UDHR. In 1968 French legal scholar René Cassin, a former adviser to General De Gaulle and the Free French, was awarded the Nobel Peace Prize for his contributions to the drafting of the Universal Declaration 20 years earlier. René Cassin developed an elaborate metaphor to describe the textual architecture of the Universal Declaration of Human Rights,<sup>20</sup> and he is credited with doing more to promote that foundational document than any other single participant in the 1948 deliberations.<sup>21</sup> Cassin participated actively in discussions during the drafting phase: he condensed, edited, rearranged and polished—and wrote out by hand—a version of the text that had been prepared by the UN Secretariat. In the process, he provided a coherent legal structure for the text. His contribution was substantial but, contrary to the myth, he did not author the Declaration. Describing Cassin's role, Johannes Morsink in fact goes as far as to say that Cassin 'did not really enter the room until after the baby was born'.<sup>22</sup>

Morsink's terse comment extends from an account offered by the UN's first director of human rights, John Humphrey. Humphrey's memoir suggests that the initial draft he prepared served as the basis for the work of the UN's first Human Rights Commission from 1946 to 1948. The Commission asked the UN to prepare a working draft, and Humphrey set to work with the document prepared by Alvaro Alvarez for the American Law Institute (and submitted by Panama to the UN in 1946).<sup>23</sup> He supplemented this draft with a review of numerous national constitutions and commentaries from private individuals and non-governmental organisations. The initial compendium amounted to more than 400 pages, including the collated sources,<sup>24</sup> for he wished the draft UDHR to have the

fullest international grounding possible. Morsink's review of archival materials, including Humphrey's papers on deposit at McGill University, substantiates Humphrey's account. Cassin did eventually edit the UN Secretariat's draft, but careful comparison of the two documents shows that at least three-quarters of Cassin's text flowed directly from the UN document.<sup>25</sup>

In fact, the construction of the UDHR involved the energy and efforts of many people. Over the course of two years (1946–48) the document was negotiated as a stand-alone declaratory statement of 30 articles. During the first long phase of negotiation, a drafting committee of eight states, and then the entire 18-member UN Human Rights Commission, discussed, debated and amended the text prepared by Humphrey. As chairman of the Human Rights Commission, Eleanor Roosevelt presided over this process, and throughout it both non-governmental organizations and states not represented in the Human Rights Commission were invited to comment.<sup>26</sup> In May 1948 the Commission referred its final draft to the UN General Assembly's Third Committee, where in daily sessions over a two-month period delegates scrutinised the text, article by article. Charles Malik presided over these sessions, wherein some 168 amendments were proposed and debated. Finally, the text was referred to the General Assembly for another round of oratory and debate, and amendment, before a final vote. On 10 December 1948 it was adopted without dissenting vote (eight states abstained).<sup>27</sup> It is difficult to imagine a more elaborate process and, indeed, many expressed fears that the declaration would be forever mired in discussion and debate.

For those more concerned with the content than with the origins of the UDHR, the controversy over authorship may seem moot. However, the question remains significant for those who, 50 years later, either claim or question ownership of the document. Over the years numerous sources have credited René Cassin with authorship. With the benefit of archival materials and close scrutiny of contemporaneous documents, however, it is now clear that the UDHR never had a single author, at any stage. In a fundamental sense, the UDHR is a composite and negotiated text.

#### *Myth 4. US commitment to international human rights*

Unwarranted inferences are often drawn from the fact that Eleanor Roosevelt, widow of FDR, chaired the UN Human Rights Commission during the UDHR's initial drafting phase (ie before the opening of debates in the UN Third Committee in 1948, which were chaired by Charles Malik of Lebanon). Eleanor Roosevelt played a key role in the process that brought to fruition the UDHR project. The process of drafting the UDHR was an arduous one made more difficult by emerging cold war tensions. Mrs Roosevelt's grace and steadfast calm were widely appreciated, and her political acumen and firm determination were invaluable to the process. Without her the entire project might have been lost.<sup>28</sup>

Nevertheless, Eleanor Roosevelt made few direct contributions to the substance of the UDHR. Glendon summarises her political contribution by comparing her to George Washington as chairman of the US Constitutional Convention: Washington's presence was seen as politically crucial, but the document was framed by others.<sup>29</sup> In his memoir Humphrey lauds Eleanor Roosevelt's heroic

work in managing what was often an unwieldy debate among delegates with very different perspectives, but he identifies the two main intellects as Peng Chun Chang of China (Vice Chair of the Commission) and Charles Malik of Lebanon (Rapporteur of the Commission and eventually Chair of the UN Third Committee).<sup>30</sup>

Whatever Eleanor Roosevelt's personal convictions, the positions she espoused within UN bodies were constrained by the US State Department and political currents at home. Eleanor Roosevelt may have been adored as 'First Lady of the World', but in the USA, neither she nor the idea of human rights enjoyed great popularity. In fact, by the late 1940s support for Roosevelt-era ideas was on the wane in the USA. Right-wing opponents known as the Old Guard included Senator John Bricker of Ohio and Frank Holman, President of the American Bar Association. Both men fiercely opposed the international human rights initiative. Their main consideration was the balance of power between states and the federal government and the US president's ability to make international agreements, but lurking just under the surface was the ugly question of race. Racists working under the banner of 'states' rights' rallied to the Old Guard's arguments that an enforceable human rights treaty would compel states to bring racist practices—including lynchings—to an end. At one point the Old Guard had nearly enough support to pass an amendment to the US Constitution limiting executive powers to sign treaties. The initiative failed, but the margin was a single vote. By 1952 the pressure exerted by the Old Guard was sufficient to persuade President Dwight Eisenhower that the USA should back away from the cause of international human rights.<sup>31</sup> In 1953 the USA announced—and widely disseminated—its intention not to ratify the covenants and essentially withdrew from the process.<sup>32</sup>

US interest in the human rights project was shelved for many years. The US Senate waited until 1989 to ratify the 1949 Genocide Treaty, and the International Covenant on Civil and Political Rights was ratified only in 1992. The International Covenant on Social, Cultural, and Economic Rights was signed by Jimmy Carter in 1977, signalling US intent to abide by provisions of the treaty, but it has not yet been ratified by the US Senate.

In the meantime, the US movement for civil rights and racial equality had developed during the 1960s without reference to international standards of human rights. *Civil rights* and *constitutional rights* remained important political concepts in the USA, but *human rights* had slipped out of the political lexicon. Members of Congress reintroduced it to Americans in 1974, in the aftermath of the Vietnam debacle, but as a specific consideration of foreign policy.<sup>33</sup> By consequence, the USA's congressionally mandated annual report on human rights practices covers every country—except the USA. Concerns about domestic human rights practices are referred to the US Civil Rights Commission; the US government prefers to reserve the phrase *human rights* for its foreign policy.<sup>34</sup>

### **Negotiating the Universal Declaration: another view**

The West was integrally involved in the mid-century project of human rights—

but its involvement was more complex and more nuanced than is generally supposed. Non-governmental groups and other elements of civil society led the crusade for international human rights in the West and beyond. Individuals like René Cassin and Eleanor Roosevelt were deeply committed to the protection of human rights, and they used both personal skills and political position to advance that cause. Western statesmen and governments, too, were sometimes disposed to commit substantial resources to the defence of high principles. At the same time and without apparent contradiction, these governments also sought ways to advance their more narrowly construed interests through the project of human rights.

There should be nothing surprising or curious about the large states' concern for their own narrowly defined interests. Small states and the Communist bloc countries behaved in similar fashion. Such are the common dynamics of politics. What is curious, and surprising, is how a sense of proportion and perspective about the mid-century human rights project has been lost, or distorted. Few are aware of and appreciate the substantial contributions of small states to the construction of the Universal Declaration and the two main human rights covenants.

Three examples may illustrate this point. First, delegates from small states were instrumental in removing gender bias from the text. Article 1 of the UDHR begins: 'All human beings are born free and equal in dignity and rights.' That text represents a change from various drafts under consideration by the UN Human Rights Commission from 1946–1948, which read 'All men are born free ...' The change from 'all men' to 'all human beings' owes much to the insistence of Hansa Mehta of India, who in the Human Rights Commission ardently defended the need for inclusive language against protests that the word 'men' should be interpreted generically.<sup>35</sup> Minerva Bernardino of the Dominican Republic echoed these concerns, arguing on more than one occasion that countries that recognised rights for 'everyone' did not necessarily extend rights, including voting rights, to women.

A second example extends from Articles 22–27 of the UDHR, which address various social and economic rights. The Soviet bloc argued for this group of rights, but so did most of the states that would eventually join the UN Group of 77. Latin American delegates were particularly attached to this issue, which they linked to their own political histories.<sup>36</sup> So, too, did the Syrian delegation, which sought to introduce the notion of social justice, and the Saudi Arabian delegate, who spoke with pride of the practice of *zakat* and the system of social security anchored in the Muslim tradition.<sup>37</sup> Delegates from the Philippines and China introduced the right to food and clothing as basic needs (Article 25).<sup>38</sup> And in the debate on Article 16, Shaista Ikramullah of Pakistan—who was herself raised in *purdah*—took exception to a proposal by the Saudi Arabian delegate and argued instead that the full consent of both spouses should be required for marriage, at full age.<sup>39</sup>

The debate over Article 2 presents a third example of the substantial contributions made by small states. Within the body of the Declaration's enumerated articles, the strongest expression of the principle of universality is to be found in Article 2, which reads:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

This article was the subject of heated, and protracted, debate and dispute. The first of the two clauses prohibits discrimination on the basis of personal attributes and identity. It was fully supported by the UN Third Committee, with no opposition and only one abstention. The second clause, which removes the barrier of territorial status, was far more controversial. Communist powers introduced the argument that rights should extend fully to colonised peoples, and Egyptian delegate Omar Lotfi supplied the comprehensive phrasing—‘whether it be independent, trust, non-self-governing, or under any other limitation of sovereignty’.<sup>40</sup> The inclusion of this clause as an article unto itself was strongly opposed by the colonial powers, and Britain eventually took the matter before a plenary session of the General Assembly.

Although the placement of a phrase or a clause may seem inconsequential today, the controversy must be viewed in historical context. In 1948 many territories were under the control of colonial powers. Small states attending the early sessions of the UN were active participants in the UDHR debate. They saw in the concept of human rights a chance to establish a new and respected standard of behaviour for all governments, and hope for retrieving and extending their own political autonomy. From 1949 to 1952 several of these states were at the forefront of efforts to develop international human rights law. Led by Afghanistan and Saudi Arabia, they pushed to have the right to self-determination included in the covenant that would turn the declaration of human rights into a fully recognised instrument of international law. The result of their efforts is common Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Social, Economic, and Cultural Rights.<sup>41</sup>

These three simple examples of small state contributions to the UDHR invite speculation about what might have been the shape of the Declaration, and the two covenants that anchor it in international law, had its fate rested in the hands of the USA and its close allies, or with the USSR. To begin with, the UDHR might have been a shorter document, an inspirational statement, as the USA wanted.<sup>42</sup> A mutually agreeable, ‘least common denominator’ compromise among the great powers would no doubt have weakened the Declaration substantially. Throughout the draft and discussion phases, the US resisted reference to discriminatory practices and to socioeconomic rights; colonial powers resisted the idea of universal extension of rights; and the USSR adamantly opposed the idea of inherent rights that could not be rescinded by the state.

A continuously changing mix of small states, from all parts of the world, rose to defend these various ideas. Their numbers were limited when work on the UDHR began in 1946, but by the time the covenants were completed in 1966 UN membership had more than doubled. Without the insistence of small states, many of them newly independent, the human rights project might never have succeeded

in establishing legal obligations. Many states, including the UK, had initially favoured a legally binding and justiciable bill of rights and were willing to pursue that idea despite US resistance. As negotiations of the human rights covenants dragged on over 20 years, however, the commitment of some states flagged, and many of the original human rights defenders disappeared from the scene. There were several points at which the entire project might have been lost, and diplomats from smaller states were often the ones who argued to move the project forward. At various moments and for various reasons, champions of the human right project (or some aspect of it) included diplomats from the Netherlands and New Zealand, Chile, Lebanon and Saudi Arabia.<sup>43</sup> In the end, their perseverance produced the texts of the two covenants that establish the bedrock of international human rights law. The text of these two treaties was approved unanimously by the UN General Assembly in 1966 (this time without any abstentions), and they have long since acquired ratifications sufficient to enter into international law.

### Conclusion

What conclusions can be drawn from this brief review of the myths surrounding the Universal Declaration of Human Rights? At the very least, those concerned about the broad acceptance of human rights claims must think critically about the proposition that human rights were a Western political project. The record suggests a much more complex history. The birth of the UDHR and its legally binding companion covenants must be recognised as a political event. Like every other formal agreement among states, the UDHR and the subsequent human rights treaties were negotiated texts. It is the political recognition that accompanies such negotiation, rather than any supposed intellectual lineage, that gives the UDHR legitimacy as a standard for good behaviour by states and by peoples.

As Syrian delegate Abdul Rahma Kayala put it during the UN General Assembly plenary session that approved the UDHR:

Civilization [has] progressed slowly through centuries of oppression and tyranny, until finally the present declaration [has] been drawn up. It was not the work of a few representatives in the Assembly or in the Economic and Social Council; it was the achievement of generations of human beings who [have] worked towards that end. Now at last the peoples of the world [will] hear it proclaimed that their aim has been reached by the United Nations.<sup>44</sup>

Non-governmental organizations convening in Bangkok in 1992 registered similar views:

Universal human rights standards are rooted in many cultures. We affirm the basis of universality of human rights which afford protection to all of humanity ... While advocating cultural pluralism, those cultural practices which derogate from universally accepted human rights, including women's rights, must not be tolerated.

In our contemporary setting, discussions about the nature of human rights and whether or not they can be considered 'universal' should be welcomed. Without

such discussions, the Universal Declaration of Human Rights cannot find a local anchor. However, as these discussions progress it is important for proponents of universal human rights to develop a more robust appreciation of the document's origin. As the more obscure parts of the UDHR history are reclaimed, perhaps arguments about the document's parentage can be set aside, permitting this landmark declaration in its entirety to be claimed as a heritage for all.

---

## Notes

- <sup>1</sup> Paul Gordon Laurent, *The Evolution of International Human Rights: Visions Seen*, Philadelphia, PA: University of Pennsylvania Press, 1998; Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*, Philadelphia, PA: University of Pennsylvania Press, 1999; and Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, New York: Random House, 2001. See also Susan Waltz, 'Universalizing human rights: the role of small states in the construction of the Universal Declaration of Human Rights', *Human Rights Quarterly*, 23, 2001, pp 44–72.
- <sup>2</sup> J Herman Burgers, 'The road to San Francisco: the revival of the human rights idea in the twentieth century', *Human Rights Quarterly*, 14, 1992, p 477.
- <sup>3</sup> Lauren, *Evolution of International Human Rights*, p 75.
- <sup>4</sup> See Michael Foot, *HG: The History of Mr Wells*, Washington, DC: Counterpoint Publishers, 1995; Burgers, 'Road to San Francisco', pp 464–468; Lauren, *Evolution of Human Rights*, pp 152, 160.
- <sup>5</sup> Blanche Weisen Cook, *Eleanor Roosevelt*, Vol 2, 1933–1938, New York: Viking, 1999, pp 243–247, 304–334, 443–444.
- <sup>6</sup> Lauren, *Evolution of International Human Rights*, p 141.
- <sup>7</sup> *Ibid*, p 162.
- <sup>8</sup> *Ibid*, p 165.
- <sup>9</sup> *Ibid*, p 160.
- <sup>10</sup> See Tony Evans, *US Hegemony and the Project of Universal Human Rights*, London: Macmillan, 1996.
- <sup>11</sup> Lauren, *Evolution of International Human Rights*, p 167.
- <sup>12</sup> Farrokh Jhabvala, 'The drafting of the human rights provisions of the UN Charter', *Netherlands International Law Review*, 3, 1997, p 3.
- <sup>13</sup> Lauren, *Evolution of International Human Rights*, pp 168–169.
- <sup>14</sup> *Ibid*, p 169.
- <sup>15</sup> *Ibid*, pp. 166, 331, n112.
- <sup>16</sup> A LeRoy Bennett, *International Organizations: Principles and Issues*, Englewood Cliffs, NJ: Prentice Hall, 1995, p 50; and Burgers, 'Road to San Francisco', p 475.
- <sup>17</sup> See Jhabvala, 'Drafting of the human rights provisions', pp 1–31, *passim*.
- <sup>18</sup> See also William C Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*, New York: St Martin's, 1998.
- <sup>19</sup> *Ibid*, pp 34–38.
- <sup>20</sup> See Marc Agi, *René Cassin: Fantassin des droits de l'homme*, Paris: Plon, 1979.
- <sup>21</sup> Morsink, *Universal Declaration of Human Rights*, p 29.
- <sup>22</sup> *Ibid*. In a footnote Morsink traces some of the events and publicity that led to a widespread belief that Cassin provided the initial draft (p 343 n58). At a critical moment in the drafting process, René Cassin served as rapporteur of a small working group. In that role, he was charged to prepare a draft Declaration, based on an outline provided by the UN Secretariat. Some biographers later exaggerated his role at this juncture, and by displaying his handwritten text, the United Nations helped establish a myth of single authorship. Cassin did not exactly claim authorship, but late in life he did attribute to himself 'sole responsibility' for the initial draft. See Glendon, *A World Made New*, pp 60–66 and various notes on pp 252–253.
- <sup>23</sup> John Humphrey, *Human Rights and the United Nations: A Great Adventure*, Dobbs Ferry, NY: Transnational Publishers, 1984, p. 32. See also comments by Charles Malik before the UN General Assembly session on 9 December 1948, *United National General Assembly Official Records, Third Session, Part I, Plenary Session*, 1948, p 858. Morsink's findings are reported in *The Universal Declaration*, p 6. The American Law Institute was composed of jurists from all over the Western hemisphere, and was heavily influenced by Latin jurists. See Lauren, *Evolution of International Human Rights*, p 158.
- <sup>24</sup> Morsink, *Universal Declaration of Human Rights*, p 7.

- <sup>25</sup> *Ibid*, pp 8, 29. AJ Hobbins, archivist at McGill University and editor of Humphrey's papers and diaries, has facilitated scholarly review of the relevant Humphrey papers. Glendon, thus, is able to substantiate Morsink's claim, and in appendices to *A World Made New* (pp 271–280) she provides texts of the 'Humphrey Draft' and the 'Cassin Draft' for ready comparison.
- <sup>26</sup> Morsink, *Universal Declaration of Human Rights*, pp 4–11, divides this first phase into five separate 'stages', which include three meetings of the Human Rights Commission and two meetings of its Drafting Committee.
- <sup>27</sup> Also abstaining were South Africa, the USSR, Byelorussia, Ukraine, Poland, Czechoslovakia and Yugoslavia.
- <sup>28</sup> See M Glen Johnson, 'The contributions of Eleanor and Franklin Roosevelt to the development of international protection for human rights', *Human Rights Quarterly*, 9, 1987, pp 19–48; and, more recently, Glendon, *A World Made New*.
- <sup>29</sup> Glendon, *A World Made New*, p 206.
- <sup>30</sup> Humphrey, *Human Rights and the UN*, p 23.
- <sup>31</sup> See Richard O Davies, *Defender of the Old Guard: John Bricker and American Politics*, Columbus, OH: Ohio State University Press, 1993; and Duane Tananbaum, *The Bricker Amendment Controversy. A Test of Eisenhower's Political Leadership*, Ithaca, NY: Cornell University Press, 1988.
- <sup>32</sup> *Foreign Relations of the United States, 1952–1954*, Vol. III, Washington, DC: US Government Printing Office, 1979, pp 1550–1581.
- <sup>33</sup> See David P Forsythe, *Human Rights and US Foreign Policy*, Gainesville, FL: University of Florida Presses, 1987, pp 1–23; and Lars Schoultz, *Human Rights and United States Policy toward Latin America*, Princeton, NJ: Princeton University Press, 1981, pp 168–266.
- <sup>34</sup> Kathryn Sikkink offers a comparison of the US and European approaches to human rights in 'The power of principled ideas: human rights policies in the United States and Western Europe', in Judith Goldstein & Robert O Keohane (eds), *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*, Ithaca, NY: Cornell University Press, 1993.
- <sup>35</sup> See Morsink, *Universal Declaration of Human Rights*, pp 116–119; and Humphrey, p 24.
- <sup>36</sup> Morsink, *Universal Declaration of Human Rights*, pp 130–134.
- <sup>37</sup> *United Nations General Assembly Official Records, 3rd Session, Pt. 1, 1948, Third Committee*, pp 504, 515.
- <sup>38</sup> See Morsink, *Universal Declaration of Human Rights*, pp 192–199.
- <sup>39</sup> *UNGA Third Committee*, p 374. See also Shaista Ikramullah, *From Purdah to Parliament* (London: Oxford University Press, 1998).
- <sup>40</sup> Morsink, *Universal Declaration of Human Rights*, p 98.
- <sup>41</sup> See Waltz, 'Universalizing human rights.'
- <sup>42</sup> Morsink, *Universal Declaration of Human Rights*, p 8.
- <sup>43</sup> The only diplomat to have participated in the UN Third Committee proceedings from start to finish (1948–66) was Jamil Baroody, representing Saudi Arabia. See Susan Waltz, 'Universal human rights: the Muslim contribution', paper presented to the Association of Muslim Social Scientists, Dearborn, MI, October 2001.
- <sup>44</sup> *UNGA Plenary Session*, p 922.

Copyright of Third World Quarterly is the property of Carfax Publishing Company and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.