

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

A GUIDE FOR CANADIANS



MARKING THE 40th ANNIVERSARY OF THE UNIVERSAL
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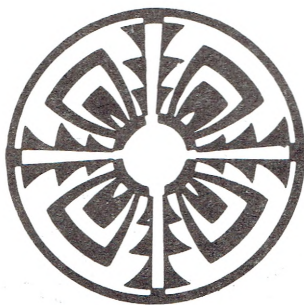


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MARKING THE 40th ANNIVERSARY OF THE UNIVERSAL
DECLARATION OF HUMAN RIGHTS

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The BCHRC was established in 1982 in order to promote public education about human rights, implementation and enforcement of human rights legislation and improved human rights legislation at the municipal, provincial and federal levels of government. We are a coalition, operating throughout the province of British Columbia. Our member groups include women, the disabled, native peoples, gays, lesbians, visible minorities, trade unions and many other community groups.



The graphic devices which are interspersed among the text are based on Navajo drypaintings. They do not represent something of and for themselves but are used in therapeutic situations as part of a healing ritual (a "prayer made visible") along with certain chants. According to the Navajo view, the dangers of the world are caused by lack of harmony. The rituals in which these symbols are used are aimed at restoring health to the individual and solidarity to his group by a renewal of commitment to the values of power, vitality, order, harmony and balance.





People all over the world want to have economic security, to live in dignity, and to be free from fear, from police arrest, and from torture. They want human rights. Where the basic requirements for a dignified human existence go unmet, as they do in many parts of the world, there is one important document which may provide help because it sets a common standard of achievement for human rights protection. This document is the Universal Declaration of Human Rights.

Forty years have passed since the Universal Declaration of Human Rights was unanimously adopted and proclaimed by the General Assembly of the United Nations. The anniversary of this historic document provides both a cause for celebration and an opportunity to assess the progress we have made toward the realization of the ideals which the Declaration embodies. Everyone knows that human rights abuses still occur in many jurisdictions. Most Canadians, however, believe that their country's record is among the best in the world. Does this mean that we can turn our attention to more pressing matters,

secure in the knowledge that our human rights are adequately protected and that what goes on in foreign lands does not have much importance for us? Has human rights activism on behalf of people in other countries really done that much good, even in the long term? This guide to the Universal Declaration will try to give you the facts you need to answer that question for yourself.

Understanding human rights requires us to ask some difficult questions. What do you think is more important, the right to vote or the right to have enough to eat? If you had to choose between the two, which would you take? Do you think it's more important that we respect a tavern-owner's right to serve whomever he pleases or the right of each and every individual to demand service from the tavern-owner without discrimination? Is a right only "real" when it is fought for and won, or can it be a birthright, something which everyone is automatically entitled to? It may become easier to answer these questions once we have a fuller understanding of what human rights are.

What Are Human Rights?

Human rights refer in a general sense to entitlements we all share by the simple fact of our humanity -- rights which are inherent in our nature and without which we cannot live as human beings. The rights and freedoms which allow us to develop fully and use our human qualities: our intelligence, our talents and our conscience, are human rights. The foundation for human rights is the idea that each and every human being is entitled to a measure of dignity and respect on the basis of his or her membership in the human family.

Rights which are claimed in this way are universal. They exist prior to and independent of governments. Human rights therefore are inalienable, that is to say, they cannot be taken away by legislation. They are based on the idea of "natural law" which takes precedence over "positive" or man-made laws. Human rights are claims asserted and recognized on the basis of what is "right", not claims upon love, or grace, or brotherhood, or charity. One does not have to earn or deserve them. Nevertheless, while these entitlements are everybody's birthright, they must still be protected.

Which rights should be considered as human rights? This has always been a

matter of controversy. Rights which we take for granted today in Canada, such as the rights to freedom of speech, or assembly, or the right of equal access to education, would not have been considered human rights 200 years ago. Fifty years ago freedom from racial or sexual discrimination was not widely thought of as a human right. Today controversy surrounds the area of economic, social and cultural rights, rights which are included in the Universal Declaration.

Many people, including lawyers and high public officials, believe that only civil or political rights, which can be enforced in court, are "real" human rights. The second type of rights, economic, social and cultural, are considered by these people not to be universal rights but things which must be earned or brought about by force. This view is reflected in the Canadian Charter of Rights and Freedoms which does not proclaim explicit safeguards for social and economic rights. It should be understood at the outset that what is to be included in a definition of human rights is constantly evolving.

The Universal Declaration of Human Rights was the first *international* agreement to not only assert that protection of human rights is the responsibility of governments, but to also provide mechanisms for individuals who believe their human rights are being abused to seek redress of their grievances in an international forum. This agreement enshrined the principle that individual human rights cannot be ignored by governments. In essence, the Universal Declaration attempts to put limitations on the power of governments. It is based on the idea that certain individual rights are more important than the rights of the collective. Thus human rights have become the responsibility of individuals everywhere.



The International Bill of Human Rights

The Universal Declaration of Human Rights was the first comprehensive single declaration of human rights which the nations of the world agreed to sign. It was not, however, the first statement of human rights to appear at the United Nations. The Charter of the United Nations provides the basis for all the human rights instruments created by the UN, including the Declaration and many other subsequent agreements. The first four human rights agreements: the Universal Declaration, The Covenant on Civil and Political Rights, the Covenant on Social, Economic and Cultural Rights, and the Optional Protocol to the Covenants, together make up what the writers of the Charter proposed at the time of the UN's founding -- an International Bill of Rights for humanity as a whole. The development of this International Bill of Rights was anticipated by several articles in the Charter which concern human rights.

Undoubtedly the primary motivation for including human rights provisions in the United Nations Charter, thereby paving the way for the creation and adoption of the Universal Declaration, sprang from the universal revulsion of the world to the Holocaust. The horror of the Nazi crime of genocide created a determination on the part of the world's statesmen to create mechanisms to prevent its recurrence. The way was opened by the Nuremburg trials where, for the first time in history, the defence of "following orders" was rejected by the Allied tribunal as an excuse for "crimes against humanity." Note that the crime of genocide is not perpetrated on nations but on a people or group of individuals. The trial and the Universal Declaration represent a turning point in the history of civilization. For the first time it was asserted that individuals have rights which stand above the practice of war and the law of nations. Leaders of nations which violate these rights may be held accountable for these violations.

Among the Purposes of the UN as set forth in Article 1 in the Charter are:

"To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

Several other articles in the Charter talk about human rights. For example Article 55 of the Charter provides:

"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 co-operation; and
- c. Universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."

In Article 56:

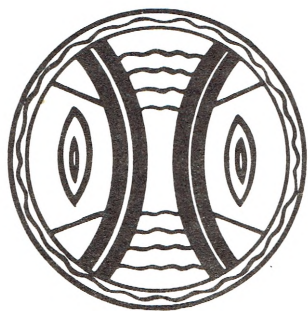
"All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55."

At the San Francisco Conference of 1945, which saw the completion of the drafting of the United Nations charter and its opening for signatures and ratification, a proposal to embody in the Charter a Declaration on the Essential Rights of Man was put forward but was not examined because it required more detailed consideration than was possible at that time. Immediately after the final session of the Conference, however, the Preparatory Commission of the United Nations recommended that the Economic and Social Council should establish a commission for the promotion of human rights. The Council established the Commission on Human Rights early in 1946. In the Commission's first session in early 1947 it began work on a preliminary draft of an international bill of human rights.

During 1947 the Commission listened to many different views expressed about what form the bill of rights should take. They finally settled on a declaration of human rights, a convention on human rights, and measures of implementation, and to call the convention "The Covenant on Human Rights." As noted above, the Covenant would eventually be split into two parts and it would take almost 30 years before they finally entered into force in 1976. The first and most important effect of these meetings, however, was the adoption and proclamation of the Universal Declaration of Human Rights on December 10, 1948 as the first of these projected instruments. Since 1948 it has been, and continues to be, the most important and far-reaching of all United Nations declarations, and a fundamental source of inspiration for na-



tional and international efforts to promote and protect human rights and fundamental freedoms. It has set the direction for all subsequent work in the field of human rights and has provided the basic philosophy for many legally binding international instruments designed to protect the rights and freedoms which it proclaims.



The Universal Declaration

The Universal Declaration provides a standard or yardstick against which human rights legislation can be measured. Its significance does not lie in its capacity to force states to comply with its provisions. It has primarily moral, rather than legal force. Even the Covenants, which are a part of international law, rely on voluntary compliance by the signatory states. The significance of the Declaration lies rather in its power to set the agenda for political debate, emphasizing the importance of certain types of individual-centred reasons for governments to act or not act, and heightening popular consciousness with respect to the importance of basic human needs and aspirations. The Universal Declaration was intended to be “a common standard of achievement for all nations.”

Ever since its adoption the Declaration has been used as a standard of conduct and as a basis of appeals urging governments to observe human rights. Global and regional treaties have been prepared which have transformed the cooperative approach toward the realization of human

rights which the Universal Declaration promotes into international law. The constitutions, laws, and court decisions of many states and international bodies now show the influence of the Universal Declaration. The declaration is a highly significant document because it represents the consensus of the international community. It defines more specifically the rights and freedoms referred to in the UN charter. It expresses the “common understanding of the peoples of the world concerning the inalienable rights of all members of the human family and constitutes an obligation for the members of the international community.”

The vision of the Declaration encompasses many diverse areas of human life. The Universal Declaration contains 30 different articles addressing issues which are all considered to be part of human rights. The two human rights Covenant and the Optional Protocol brought into force in 1976 add 98 more articles specifying economic, social, cultural, civil and political rights which are all considered to be “human” rights. Collectively the Universal Declaration, the two Covenants, and the Optional Protocol, which provides international machinery for dealing with communications from individuals claiming to be victims of violations of any rights set forth in the Covenants, make up the International Bill of Human Rights. A complex array of issues are all included in the term “human rights.”

Human rights are usually divided into two categories: civil and political rights, and economic, social and cultural rights or more simply, “political” and “economic” rights. The first group includes the rights to

- life, liberty and security of person
- freedom from slavery and servitude

- freedom from torture and cruel, inhuman or degrading treatment or punishment
- recognition as a person before the law
- equal protection of the law
- an effective judicial remedy for violations of human rights
- freedom from arbitrary arrest, detention or exile
- a fair trial and public hearing by an independent and impartial tribunal
- the presumption of innocence until guilt has been proved
- debarment from conviction for an act which was not a penal offence at the time it was committed
- freedom from arbitrary interference with privacy, family, home or correspondence
- freedom of movement and residence, including the right to leave any country and return to one's country
- asylum
- a nationality
- contract a marriage and found a family
- own property
- freedom of thought, conscience and religion
- freedom of opinion and expression
- freedom of peaceful assembly and association
- participation in the government of one's country
- a standard of living adequate for health and well being (including food, clothing, housing and medical care)
- right to security in the event of unemployment, sickness, disability, widowhood, old age, or other circumstances beyond one's control
- protection of motherhood and childhood
- education, with parents having a prior right to choose their children's type of education
- participation in the cultural life of one's community
- protection of the moral and material interests resulting from one's authorship of scientific, literary or artistic productions

While the Universal Declaration makes no distinction between political and economic rights the International Covenants on Human Rights are specifically divided along these lines. Unlike the Universal Declaration of Human Rights, these two international treaties legally bind the contracting states to abide by their provisions. The International Covenants were adopted by the General Assembly and opened for signature in December 1966 and both entered into force in 1976.

The Universal Declaration is unique. It is the only document in the world which affirms the "old" political rights which have been asserted for centuries as well as proclaiming what are sometimes called "new" rights -- economic, social and cultural rights. The human rights covenants, conventions, protocols and agreements which have followed the Universal Declaration are all narrower in scope. They deal with specific human rights issues such as the elimination of racial discrimination or discrimi-

The second group, Economic, Social and Cultural rights, includes the rights to

- social security
- equal pay for equal work
- just and favorable remuneration ensuring an existence worthy of human dignity
- form and join trade unions
- rest and leisure

nation against women, reduction of statelessness, abolishing forced labour or ensuring equal pay for equal work. The Universal Declaration is the broadest statement of human rights which exists and provides a challenge to the world by creating "a common standard of achievement for all peoples and all nations."



Rights in History

It is impossible to pinpoint a beginning point for concern with human rights. Evidence for concern with human rights issues can be found in the records of the earliest civilizations which speak to matters of right and wrong, good and evil, law, legality and illegality. Further evidence of concern for human rights can be found in the religious writings and scriptures of most of the world's religions.

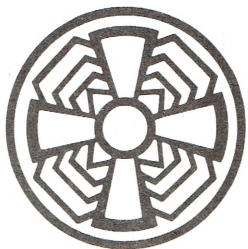
Some writers believe that the first legal code -- usually called the Code of Hammurabi after the Babylonian king who enacted it -- could be called humanity's first charter of rights. It set out laws to protect the weak from the strong and therefore contained one of the fundamental ideas of human rights legislation. Other people look to the ancient Greeks of the 4th and 5th century B.C. who believed that if humankind is responsible to a higher, God-given law, then laws created by human beings which run counter to divine law are evil and should not be obeyed. The Greeks also taught that following the dictates of human reason and conscience was more important than obeying unjust laws. Although these and other civilizations were concerned with the same questions of justice and fair play which the Universal Declaration addresses they did not use the language of human rights. The idea of human rights as we know it today did not come into being until much later.

The roots of modern human rights thought may be traced to the humanist traditions of the Renaissance, to the struggles for self-determination, independence and equality that have been occurring for over two centuries, and to philosophical concepts promoted by such men as John Locke of England, Jean Jacques Rousseau of France, Thomas Jefferson of the United States of America, Karl Marx of Germany, and V.I. Lenin of Russia. The ideas which lay behind such historic documents as the Magna Carta signed by King John of England in 1215, the adoption of the Habeas Corpus Act by the British Parliament in 1679, the U.S. Declaration of Independence of 1776, the Declaration of the Rights of Man and of the Citizen by the National Assembly of France in 1798 and the Communist Manifesto in

1848, were concerned in different ways with what we today call human rights.

Early human rights concerns were directed toward the rights of religious and minority groups and the movement against slavery and the slave trade. Gradually more "humanitarian" concerns were added, for example laws concerning armed conflict. War is sometimes said to be the greatest violation of human rights of all. Steps were taken in the early years of this century to outlaw the most brutal forms of warfare at the Hague Conventions of 1899 and 1907. With these international conventions certain means of waging war, for example the use of "dum dum" or soft-nosed bullets which leave a large wound, were outlawed. By the middle of this century rights enshrined in the Universal Declaration shifted the emphasis away from the rights of groups to the rights of individuals. This is the form in which human rights are customarily addressed today -- the rights of individuals to the free development of their human potential with a minimum amount of interference from society or the state.

The language of human rights has always had a great moral force. The problem, of course, has been to put the ideas into practice -- to move from rhetoric to reality. Human rights ideas have persuasive strength but often lack legislative power. The idea that all human beings have certain rights by virtue of their humanity, rights which are not to be set aside for any purpose whatsoever, is a powerful one. Translating this idea into particular legislative and judicial decisions which directly affect the well-being of those whose interests are in question is extremely difficult and forms the basis of the practical work of helping human rights to continue to evolve.



Even before the Universal Declaration was created the practical work of realizing human rights was recognized as including education. The Proclamation which precedes the Articles of the Universal Declaration states that

"Every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of the Member States themselves and among the peoples of territories under their jurisdiction."

This essential aspect of human rights, education, is not confined simply to teaching. It has a broader sense as used by the drafters of the Universal Declaration to encompass the promotion of human rights through political awareness of conflict, interdependence and the structure of society. Another way of saying this is to talk about the promotion of political literacy. If, for example, Canadians are unaware of how wealth is distributed in their country, they are unlikely to have a strong basis on which to judge the performance of their government in the sphere of economic rights. Another example, which is becoming increasingly important in this year of the 40th anniversary of the Universal Declaration, is the human rights challenges being posed by the indigenous peoples of this country. Without a knowledge of the history of the relations between these groups and Canadian government their demands for greater human rights protections are incomprehensible. Therefore, human rights education covers a broad spectrum of topics which might be described by the term "political literacy."

Like most General Assembly resolutions, the Universal Declaration is not legally binding. Even so, it has become a very significant document. Its effects have been felt and they can be observed in at least three important areas:

- 1) Even since its adoption, the Declaration has been used as a standard of conduct and as a basis for appeals urging governments to observe human rights.
- 2) Global and regional treaties have been prepared which have transformed the Universal Declaration into international conventional law.
- 3) The constitution, laws and court decisions of many nations and international bodies now show the marked influence of the Universal Declaration.



Human Rights and International Law

On December 10, 1948 the Universal Declaration of Human Rights was signed by all the members of the General Assembly of the United Nations. Does this mean that it is part of international law and therefore obliges every member state to abide by its provisions? This question

is difficult to answer without an understanding of what international law is and what its limitations are.

International law is a body of principles, customs, and rules recognized as binding obligations by sovereign states. These laws are based for the most part on treaties negotiated by sovereign states in accordance with customs of international relations which have developed over the centuries. Because there is no “enforcer” of international law, that is to say, no sovereign or world government, adherence to the spirit and letter of international law is, in effect, voluntary. This does not mean that international law is not law at all, it is rather a developing or imperfect form of law. If a country breaks a law which it has agreed to adhere to there are a number of ways in which the world community can bring pressure on the offending state to ensure compliance. Diplomatic protests, mediation, arbitration, economic sanctions and public opinion may all have the effect of forcing compliance to international law. In many cases, however, it is as Abba Eban, the former Israeli ambassador to the United States put it, “the law which the wicked do not obey and which the righteous do not enforce.”

Because international law was created by sovereign nations to govern their relations with one another the question arises of whether it is binding on nations alone or on individuals as well. Opinion is divided on this question. Some people believe that international law, including law relating to human rights, is solely the concern of sovereign governments because international protections such as the Universal Declaration and the International Covenants are signed by nations, not individuals. Others believe that the individual has begun to emerge.

to some extent at least, as the subject of that law. This is a very important point. If the latter view is correct then international human rights legislation places restrictions on the jurisdiction of states over their citizens. This represents an important step forward for human rights because it implies that these rights are universal and beyond the jurisdiction of the state.



UN Bodies Which Deal With Human Rights

Each of the Covenant brought into being mechanisms through which the United Nations bodies could oversee implementation of their provisions. The Human Rights Committee, a UN body of independent experts, oversees compliance by the contracting states of the Covenant on Civil and Political rights. A committee on Economic, Social and Cultural rights was established by the Economic and Social Council to monitor adherence and review progress in implementing the Covenant on Economic, Social and Cultural Rights.

A number of specialized agencies at the United Nations have produced texts, conventions, declarations and recommendations which concern human rights. Some agencies such as the International Labour Organization (ILO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) have adopted their own legal instruments for the protection of human rights in areas which specifically concern them. Some of these instruments are now included in treaties signed by the UN as a whole, such as the Covenants on Civil and Political, and Economic, Social and Cultural rights.

There are literally dozens of other groups within the United Nations which are concerned with human rights in their own areas of specialization. The Committee on the Elimination of Racial Discrimination, for example, which was established in 1970, consists of 18 experts elected by the states which have signed the Convention on the Elimination of All Forms of Racial Discrimination. This committee considers reports on the legislative, judicial and administrative measures different countries have adopted in this area, assists in settling disputes, and receives and considers communications from individuals or groups who feel they have been discriminated against on the basis of race. By the end of 1983 there were 122 states which had signed this convention, although only 10 of these recognize the right of the committee to consider communications from individuals or groups of individuals.

This raises the important question of access to UN committees by individuals and groups of individuals. Although the majority of states have signed the human rights Covenants, which specify in greater detail than the Universal Declaration the rights and freedoms of indi-

viduals, it is only through the Optional Protocol that states truly bind themselves to the provisions of the Covenants. Under the terms of the Optional Protocol the signatory states agree to allow their citizens the right to appeal alleged human rights violations directly to the appropriate UN Committee. Only 31 states (including Canada) have signed the Optional Protocol.

Most submissions under the Optional Protocol are received by the Human Rights Committee which was established in 1977 to oversee compliance with the Covenant on Civil and Political Rights. This committee considers communications in the light of all written information made available to it by the individual and by the country concerned, and forwards its views to both the individual and the government of the country concerned.

Other UN bodies which deal with human rights in the course of their work are: the Committee on the Elimination of Discrimination Against Women, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the International Law Commission, the United Nations High Commissioner for Refugees, the International Court of Justice, the Food and Agriculture Organization (FAO), the World Health Organization (WHO), and many others.



Other Human Rights Organizations

The specialized United Nations bodies described in the preceding paragraphs are not the only groups concerned with human rights. All the countries which are party to UN human rights agreements have official government bodies which can be appealed to by citizens. In Canada, for example, there is a federal Human Rights Commission and each of the provinces and territories maintains an official body responsible for administering their own human rights legislation. In many countries, however, it is the government which is abusing the human rights of its citizens. The government agencies charged with human rights protection in these countries obviously cannot be very effective.

In countries where human rights abuses by governments occur, UN human rights agencies may be powerless to do anything because UN organizations must be invited into a country before they can report on the state of human rights there. The states where human rights are not respected are rarely signatories to the Optional Protocol, or to other Conventions permitting citizens the right of direct access to international bodies, thereby cutting off appeals from individuals within the country to the UN. It is in these places that the activities of nongovernmental organizations play an especially important role.

Non-governmental organizations (or NGOs for short) play an extremely important role in safeguarding international human rights. Because they are not tied to any government or international organization they are not constrained by political considerations in their assessments of human rights violations. Probably the most famous of the NGOs concerned with human rights is Amnesty International. Its campaigns on behalf of "prisoners of conscience," that is to say people imprisoned for their political or religious beliefs, has resulted in thousands of detainees and prisoners being released since Amnesty began its work in 1961.

Several other NGOs are active in the human rights field. The value of these organizations was recognized very early on in the life of the United Nations. Article 71 of the UN Charter authorizes the Economic and Social Council (ECOSOC) to make suitable arrangements for consultation with NGOs which are concerned with matters within its competence. These NGOs may send observers to public meetings of the Council, its commissions, sub-commissions and subsidiary bodies and NGOs which have a basic interest in most of the activities of the Council may submit written statements for circulation within the Council. In studying or dealing with human rights problems, UN organs have frequently called upon NGOs for information about existing situations.

In a statement to the International Non-governmental Organization Conference held in Paris in 1968 as part of the observance of the International Year for Human Rights, Mr. Rene Cassin of France, a former chairman of the Commission on Human Rights, commented on the link between NGOs and the realization of human rights:

"First, they have provided a link between, on the one hand, human beings -- ordinary men and women, all members of the world community -- and on the other, official bodies, national and international. They were the first to make the principles of the Universal Declaration of Human Rights widely known in circles informed inadequately or not at all through official channels. It is they who keep public opinion informed of possible advances and positive achievements, of obstacles encountered and not overcome. Similarly, it is the non-governmental organizations which bring to the notice of members of official bodies, national and international, numerous facts, abuses, gaps and violations of human rights already known or, more commonly, hidden. In this general role as disseminators of information they are truly irreplaceable. It is impossible to say how many problems involving human rights would never have got on the agendas of official bodies but for the initiative or indirect action of non-governmental organizations."



Human Rights in Canada

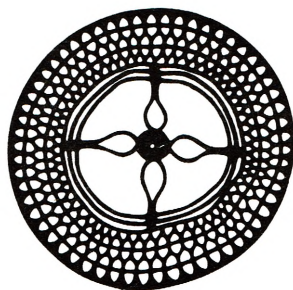
Before our century, the virtually universal belief prevailed that the treatment of its citizenry by a state was entirely a domestic matter. It is perhaps the greatest achievement of the United Nations that, through the Universal Declaration of Human Rights and the instruments which have followed, the international community has become increasingly aware of the need to safeguard the minimal rights of the individual. In consequence, human rights have become a subject of vital concern in the UN and in international law. It must be emphasized, however, that the problem of the status of the individual centers on the question of whether or not there is a legal right of international representation regarding the treatment of an individual.

Unfortunately, most individuals lack the ability to assert their rights before an international tribunal. Most of the people of the world must rely on the state to take up their cause by bringing a suit or filing a protest or claim with another state. This means that as yet it is the state that possesses international legal rights, not the individual. Only when the right to direct access to international tribunals has been acknowledged, that is to say the rights which are now granted to citizens whose countries have signed the Optional Protocol (only 31 including Canada), will the individual's status have been changed at last. Until that day comes we must look to how individual countries uphold the ideals of the Universal Declaration in their own domestic legislation.

One of the most fundamental problems of human rights is the need to translate the ideal of human rights, as represented in the Universal Declaration, into actual laws in different places. Different cultures and societies have different values. Is it possible to create universal legislation which overrides local values? Vague and abstract human rights standards are accepted at the global level. There is a need to take full account of cultural diversity of the states which agree to these standards while at the same time not abandoning the quest for a universal consensus as to their meaning. Secondly, as human rights values become specific laws the obligations for others, usually the state or the collective, become more clearly specified and often more burdensome. The more specific the right becomes the more specific the duties become.

This is because every right incurs an obligation, or reduction of someone else's freedom. For example, if you have a right to freedom of speech then I have an obligation to let you say what you like even if I disagree with what you say. If I have a right to freedom from torture then you have an obligation not to do anything which would lead to me being tortured. Rights often have to do with who has power and who doesn't. Wherever a right is claimed it puts limitations on those with power to exercise it freely.

To have a practical effect, the principles put forth in the Declaration must be translated into rules or laws in particular countries. Then there is a basis for legal arguments concerning their violation. There are two ways of doing this. Legislatures can make laws which protect human rights or they can create Bills of Rights which become part of the constitution of the state. The latter course



makes it far more difficult for legislatures to make laws which might decrease the effectiveness of existing human rights legislation. Judiciaries are given the power to declare unconstitutional state legislation or other actions of the state which conflict with the terms of the constitutional guarantees. This is the course which Canada has followed.

The British North America Act of 1867 contained no bill of rights. Protection for civil liberties came from a clause in the preamble which referred to the Constitution as being "similar in principle to that of the United Kingdom." There was no bill of rights which superseded legislators and Canadian courts were generally powerless to interfere with discrimination or restriction of civil liberties. This allowed discrimination on racial grounds to go unchecked.

Commencing in the 1940s, a series of legislative enactments dealt directly with harmful discrimination. The first Racial Discrimination Act in Canada was passed by Ontario in 1944. In 1947 Saskatchewan enacted the first detailed and comprehensive statute, the Saskatchewan Bill of Rights Act. During the 1950s and later legislators gradually enacted anti-dis-

crimination legislation but these were not based on human rights principles. In 1962 Ontario began the trend, since adopted by all provinces and federal government, of consolidating all human rights legislation into a code, bill or charter. By 1977 every province, as well as the federal government, had set up a commission or similar structure to administer anti-discrimination legislation in its area of responsibility. Anti-discrimination legislation has continued to progress, gradually incorporating such notions as affirmative action and reasonable accommodation. Legislative protection in all parts of Canada covers employment, housing, education, advertisements and access to public and most private services.

In 1960 Canada adopted a Bill of Rights which provided national protection against discrimination. With the repatriation of the Constitution in 1982 the Canadian Charter of Rights and Freedoms entrenched democratic and legal rights, mobility rights, equality rights and certain fundamental freedoms. Affirmative action is the leading edge in the anti-discrimination field. Section 15(2) of the Constitution declares that affirmative action is not discrimination.

One way to understand what the Universal Declaration represents is to think of it as a matrix. The word matrix comes from the Latin for womb and means "something within which something else originates or develops." This is exactly the function which the Declaration has performed for 40 years. From this "common standard of achievement" have flowed numerous international agreements and the Universal Declaration has served as a model for national legislation concerning human rights in many different countries.

A former high official of the United Nations once said that if the UN has an ideology it would be best described by the idea of human rights. From the matrix of the Universal Declaration this ideology is finding its way across the Earth. At each step removed from the Universal Declaration the ideals become more concrete, that is to say, they become more clearly defined and develop greater legal force. The general principles of protection of certain rights set forth in the Declaration are specified more fully in the Covenants and other UN treaties and conventions. In turn they are reflected by even more specific national legislation for individual states. Every link in this chain brings the ideals of the Universal Declaration closer to the progressive individualization of law, a continuing process whereby much of the world moves closer to the specification, regulation and enforcement of an international standard for the protection of human rights.



UNIVERSAL DECLARATION OF HUMAN RIGHTS

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore, the General Assembly proclaims

This Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1. 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.

Article 2. 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.

Article 3. Everyone has the right to life, liberty and security of person.

Article 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6. Everyone has the right to recognition everywhere as a person before the law.

Article 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9. No one shall be subjected to arbitrary arrest, detention or exile.

Article 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11. (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12. 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.

Article 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14. (1) Everyone has the right to a nationality.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15. (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17. (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private to manifest his religion or belief in teaching practice, worship and observance.

Article 19. Everyone has the right to freedom of opinion and expression; 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.

Article 20. (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widow-hood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the 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.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27. (1) 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.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28. Everyone is entitled to a social and international order in which the rights and freedoms set for in this Declaration can be fully realized.

Article 29. (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) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30. Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

