

Fifty Years After the UN Universal Declaration of Human Rights: Cause for Celebration or Concern?

By Jennifer M. Hentz*

The United Nations has declared 1998 the year of human rights. This year also marks the anniversary of two of the most important international agreements in human rights law, the UN Universal Declaration of Human Rights and the Convention on the Prevention of the Crime of Genocide (Genocide Convention).

Created in 1948, these documents, and the principles they embody, represented the most fundamental concerns of the international community at the time of a new post-war world. Reflecting on the horrors of the Second World War, the international community vowed to eradicate the use of genocide in times of war and peace and establish the fundamental requirements for human dignity. The creation of the UN Universal Declaration of Human Rights and the Genocide Convention established the minimum standards for the conduct of states and persons in the new international community.

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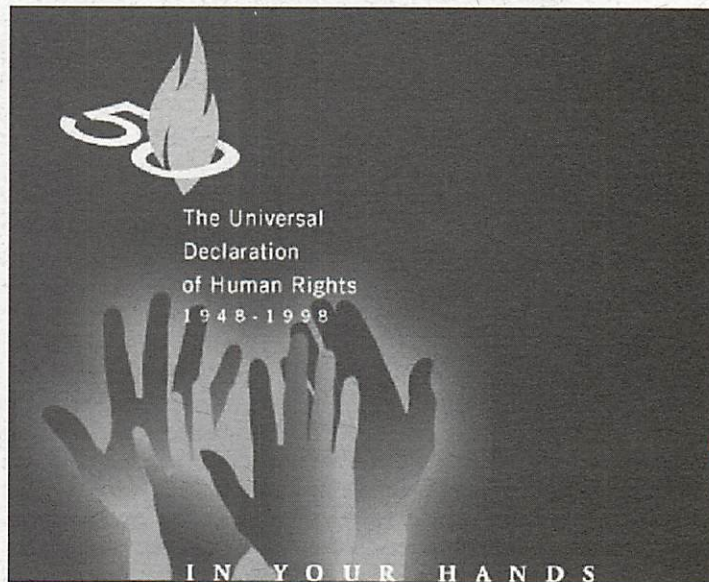
The Genocide Convention in its preambulatory language remarks that “[A]t all periods of history genocide has inflicted great losses on humanity” and that “to liberate mankind from such an odious scourge, international cooperation is required.”

In conjunction with this promise to ourselves and each other never to repeat the horrors witnessed during the Second World War, the United Nations established the framework and limitations of the basic requirements for human dignity in the 30 articles of the Universal Declaration of Human Rights. In this agreement the United Nations recognized “the inherent dignity” and “the equal

and inalienable rights of all members of the human family in the foundation of freedom, justice and peace in the world.” The Genocide Convention creates a “common standard of achievement for all peoples and all nations.” The Convention in its substantive provisions provides for the right of all people, without discrimination, to be free from torture, arbitrary arrest and detention, and interference with their privacy. The Declaration affirmatively provides that all persons have the right to asylum, a nationality, the ability to marry as one chooses, and freedom of thought and religion. More progressively, the Declaration assures the members of the world community of the right to “a standard of living adequate for the health and well being of himself and his family,” the right to social security, and the entitlement to “a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.”

United Nations Secretary-General Kofi Annan, in a statement to the International Bar Association remarked that “Many thought, no doubt, that the horrors of the Second World War—the camps, the cruelty, the exterminations, the Holocaust—could never happen again. And yet they have. In Cambodia, in Bosnia and Herzegovina, in Rwanda. Our time—this decade even—has shown us that man’s capacity for evil knows no limits.”

The 1993 UN Conference on Human Rights, recognized the continued presence of atrocities and violations of fundamental human rights principles. One-hundred seventy-one states in attendance at the Conference adopted the Vienna Declaration and Programme



of Action. This Declaration requested that the UN Secretary-General prepare a report on the implementation of human rights norms on the 50th anniversary of the UN Universal Declaration of Human Rights. The Conference also reaffirmed a principle tenet of the UN Universal Declaration of Human Rights, stating that “human rights and fundamental freedoms are the birthright of all human beings” and that “the promotion and protection of all human rights and fundamental freedoms must be considered as a priority objective of the United Nations.”

In light of this prioritization, and the 50th anniversary of these documents, the UN Commission on Human Rights has called upon governments to

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“review and assess progress made in the field of human rights since the adoption of the Universal Declaration.” This review includes efforts to identify obstacles to progress, determine ways to

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overcome these obstacles and ways in which education regarding fundamental human rights can provide a better understanding of universal rights.

This spirit of self-examination is appropriate as the world celebrates the 50th anniversary of the recognition of these fundamental principles and protections. Reflecting on only the past several years, the failures are striking. The situations in Rwanda and the former Yugoslavia alone are startling examples of the horrors the international community swore would never again be

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tolerated. Unfortunately, these examples are not isolated. Scholars around the world have been quick to point out, however, that failures to enforce international human rights norms are not limited to particular regions, or the less developed areas of the world. The United States and others are responsible for allowing the perpetration of these abuses. UN Secretary-General Annan reminds us that the Universal Declaration and the Genocide Convention are premised on "the idea that the behavior of States and the relations between them shall be governed by one law, equal and applicable to all."

The universality of this law gives the members of the international community of States a responsibility to intervene and take notice when mass abuses of fundamental rights occur. Assertions of neutrality with respect to basic human rights norms become unacceptable because the fundamental principles

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enshrined within the Universal Declaration are seen as mandatory obligations. This creates a tension between Article 2(7) of the UN Charter which requires that the UN will not "intervene in matters which are essentially within the domestic jurisdiction of any state" and the notion that massive violations of fundamental human rights norms are not a matter within the exclusive jurisdiction of the State. Any state that acts in a manner fundamentally inconsistent with human rights norms opens itself up to the interference of the international community. The creation of *ad hoc* tribunals for the former Yugoslavia and Rwanda demonstrates the ability of the international community to intervene in situations of mass abuse.

Numerous prevalent examples during the past 50 years prove the successes of the UN in protecting fundamental human rights. As the UN General Assembly asserted in its Declaration on the Occasion of the Fiftieth Anniversary of the United Nations "[t]he United Nations has been tested by conflict, humanitarian crisis and turbulent change, yet it has survived and played an important role in preventing another global conflict and has achieved much for people all over the world." These achievements include the elimination of apartheid and colonization, as well as assuring hundreds of millions of people the ability to exercise their right to self-determination.

The increase in general knowledge about the existence of fundamental guarantees is one of the largest successes of the UN over the last 50 years in the advancement of human rights. If there is a legacy to the horrors of the Second World War and the genocides in Rwanda and the former Yugoslavia, it should be that this time we learned our lesson. Fifty years after the last genocide we celebrate our ability to clarify and codify the fundamental rights guaranteed to all. Nevertheless, this ability has not stopped the genocide. It has not allowed for the full participation of all people in their governments around the world. It has not provided all people with a standard of living which allows for human dignity.

When we celebrate the one hundredth anniversary of these documents, we should be able to celebrate the fact that we have learned to implement the principles that we declare are fundamental and binding on all states. The goal for the international community for the coming 50 years must be to cre-

ate ways in which the principles we have adopted can be enforced, allowing real protection for all people.

Efforts to educate the people of the world about their rights under the UN

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Universal Declaration of Human Rights are a starting point for this effort. This alone, however, is insufficient. Continued efforts in the creation of an international criminal court are vital to this effort. The UN Charter declares the purpose of the United Nations to be the maintenance of international peace and security as well as to "achieve international co-operation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encour-

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aging respect for human rights and for fundamentals freedoms for all without distinction as to race, sex, language, or religion." As UN Secretary-General Annan reminds us "[p]eace and justice are indivisible." Therefore, if the international community seeks peace through the United Nations, justice must be provided for those who live under its auspices.

Justice has been defined within these two documents. Our role now is to learn to carry out justice through the guarantees provided within the UN Universal Declaration of Human Rights and the Genocide Convention. There is no better time to focus on these goals than now, in the year of human rights. 🌐

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