



## **“The Most Important Document of the Century”: The Universal Declaration of Human Rights at 75**

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In 1948, just a few years after the end of the Second World War, the Universal Declaration of Human Rights was a visionary document that enabled humanity to tell its story anew. The Declaration has inspired numerous international legal norms since 1948. It has been and continues to be a source for political movements that strive for coexistence in freedom and respect for the rights of all individuals.

### **A Day in History**

December 10 is a day in history. A day with a special meaning. A day that has relevance all around the world. Imagine a journey back in time from our 2023 vantage point with Human Rights Day as our travel coordinates.

On December 10, 1998, 25 years ago, the South African activist group Treatment Action Campaign announced its establishment. It was created by a group of former Anti-Apartheid activists who had identified a new urgent political cause if Post-Apartheid South Africa was to have a future in freedom and not just one with continued wide-scale societal suffering. The cause was ensuring access to life-saving treatment for persons living with HIV to mitigate the disaster of the raging AIDS pandemic.

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The Treatment Action Campaign chose the date 10 December for its moment of creation with care and intent. They wanted to write a new chapter in the history of human rights. Their ground-breaking human rights work dramatically expanding access to HIV treatment has saved millions of lives in the 21<sup>st</sup> century. Today, five million people receive such in treatment in South Africa alone and 29 million worldwide. It is an achievement that makes them one of the most successful NGOs of our times. The Treatment Action Campaign re-wrote the history of the health and human rights movement - a movement that explicitly draws inspiration from the writings of German doctor Rudolf Virchow (1821–1902) as a founding figure.

On 10 December 1996 – two years earlier – Nelson Mandela signed the final draft of democratic South Africa’s Post-Apartheid constitution into law.

On 10 December 1983, 40 years ago, President Raúl Alfonsín announced his new democratic government thereby ending seven years of brutal military dictatorship in Argentina. Alfonsín had in the election campaign run on a platform that emphasized human rights as key values to guide the new democratic era. The domestic path ahead was riddled with difficulties, but the world would soon experience the benefits of democratic change in Argentina.

In the autumn of 1984, the UN General Assembly was negotiating a draft Convention Against Torture. It had dragged on for years and it was uncertain when the work would be completed. Suddenly something happened that changed the momentum. The new Argentinean government announced at the United Nations that it now supported inserting the principle of universal jurisdiction into the Convention. Universal jurisdiction was a vital part of the Convention to address impunity and end widespread violations.

The decision led to a seismic change. Argentina had for a decade been one of the fiercest opponents of the anti-torture Convention, including the idea of universal jurisdiction. They had done everything to obstruct the Convention drafting during the years of the military junta but now a fierce opponent had become an active champion. Argentina, Sweden, and Netherlands led a process that within a matter of weeks secured the adoption

of the Convention Against Torture by the UN General Assembly. When did this vote of adoption take place? On 10 December 1984.

We could continue this journey back in time by adding more examples. The point, however, should be clear by now. The specific timing of the above-mentioned developments was not arbitrary. They were statements of intent that reflect a unique legacy.

It is a legacy that goes back to December 10, 1948, when the Universal Declaration of Human Rights was adopted - just before midnight - by the UN General Assembly. What happened 75 years ago in Paris - at the Palais de Chaillot near the Eiffel Tower - is the source from where this journey in history truly begins.

### **The Road to December 10, 1948**

The Universal Declaration of Human Rights from 1948 sits at a crossroads of the 20<sup>th</sup> century. It emerged in the aftermath of the wide-reaching brutality of the Second World War and offered a new framework for what internationalism could mean in the future and what domestic politics should be predicated on all around the world. Freedom, justice, equality, non-discrimination, and dignity were the key elements underpinning the human rights project.

The Ecuadorian diplomat Jorge Carrera Andrade was very clear in explaining the historical significance of the work when the UN negotiations entered their final stages in Paris in late September 1948. He stated that: “The international declaration of human rights was the most important document of the century.” Andrade later added that the Declaration, “must be a tool in the hands of the man in the street and not a mere ornament of international law.”

There are many ways to tell the story of how the Universal Declaration came into existence. The most obvious version starts with the adoption of the UN Charter and the founding of the United Nations in 1945. Human rights are mentioned seven times

throughout the Charter. The most noticeable part are the two mentions at the outset where human rights are defined as part of the vision and purposes of the new international organization (see Preamble and Article 1). The Charter counterweighs this by also emphasizing domestic jurisdiction and state sovereignty as a form of negation.

What is so striking is that the founding UN members gave such prominence to something – human rights – upon which there was at the time no international agreement or consensus what was. It is a rare feature of international diplomacy that state representatives will make so far-reaching agreements on something they had so little clarity what meant in concrete terms as specific language and obligations. They had of course still methods of delimitation and denial at their diplomatic disposal for later, but we are still talking about the founding of a new international organisation to govern the affairs of the post-1945 multilateral world. The outcome remains noteworthy by any standard.

The Universal Declaration provided for the first time the internationally agreed language in question. The drafting started after the establishment in 1946 of the UN Commission on Human Rights. It was from this UN body – also mentioned in the UN Charter – that we can identify the group of people that are traditionally identified as the key actors in the drafting process. They include the Commission’s Chairman Eleanor Roosevelt, the Chinese philosopher and playwright Peng Chun Chang, the Chilean judge Hernán Santa Cruz, the Lebanese philosopher Charles Malik, and the French jurist René Cassin - a former legal advisor to Charles de Gaulle in the London exile during the Second World War – all serving in capacities as diplomats appointed to the Commission by their respective countries. They were supported by the Director of the UN Human Rights Division the Canadian law professor John Humphreys who is the final addition to this “core” group of drafters.

They all made unique and distinct contributions during the process and several of them would be involved in prominent roles with the international human rights projects for two decades after this starting point (Cassin - who received the Nobel Peace Prize on 10 December 1958 -, Santa Cruz and Humphreys). John Humphreys played a key role when

the UN Secretariat produced a synthesis draft that collated rights provisions from national constitutions around the world for further study in the Commission. Peng Chun Chang proved a master drafter who played a key role in finding the final formulations agreed upon and served as a moderating voice on several occasions. René Cassin made several key contributions – one of the final ones from 30 November 1948 proving to be perhaps his most captivating and enduring contribution.

### **Major Contributors**

We should add two other categories of key contributors to the story of the development of the Universal Declaration.

The first one is the Latin American countries. They were influential in ensuring the inclusion of human rights in the UN Charter. With 19 out of the 50 participating countries, Latin America had the largest regional grouping at the 1945 San Francisco Conference. The Latin American countries had gathered in Mexico City in February 1945 at the Interamerican Conference on Problems of War and Peace, where they prepared for San Francisco where human rights became one of their priorities. They were backed by several US NGOs who were also present at the founding UN Conference.

The Latin Americans continued this influence all the way to 1948. In April 1948, they produced the “American Declaration of the Rights and Duties of Man” – a regional document also known as the Bogota Declaration. This helped give them a prominent role at the UN General Assembly session in Paris later that year. This role was reflected in the drafting debates on the declaration when the Belgian delegate had to admit on 26 November 1948 that this was “yet another proof that Pan-Americanism was ahead of other countries in international development.” The European countries - consisting of a mix of colonial powers and small states - could not offer such consistency.

The second category of actors was a group of female diplomats from countries that are now considered part of the Global South. In this early phase of the history of the United Nations, they exercised great influence in shaping the human rights provisions. They

include Bertha Lutz from Brazil, Minerva Bernardino from the Dominican Republic, and Hansa Mehta from India among others. Lutz and Bernardino were instrumental in adding the word “women” to the sentence “equal rights of men and women” from the Preamble of the 1945 UN Charter. During the 1948 UDHR debates Minerva Bernardino was claiming the wider significance of this achievement. On 9 October 1948, she stated in the UN General Assembly:

“The fact that the Charter explicitly proclaimed the equality of the sexes was a triumph for the women of the world. It was not an empty triumph; legislators in various countries were proceeding to implement those provisions of the Charter.”

This was followed up by a similar victory during the UDHR negotiations. Hansa Mehta from India was the second of only two women who were members of the UN Commission on Human Rights (Eleanor Roosevelt the other). Mehta was decisive in securing the revision of the language of Article 1 from the original opening words “All men” to reading in its final version: “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.” Changing one or two words in this context cannot only make a major difference to a text. It quite literally carries a world of meaning. Women had secured a clearer normative stature for themselves in the emerging international human rights vocabulary.

### **Exchange of ideas across countries and continents**

One can add several more names to this short list of Lutz, Bernardino and Mehta as scholars have done in recent years. The larger point is also that the work of these women diplomats from the global south illustrate the transnational nature and alliances that underpinned the human rights diplomacy at the United Nations from the outset. These women - and their larger peer group - are a perfect illustration of this point. It is a point that extends to transnational legal debates over human rights that started already during the Second World War. The debates in these networks spanning across different geographies also helped pave the way for the human rights emphasis that made their way

into international documents during these early post-war years. The American Law Institute was one such example.

This leads us to recognize the pluralist nature of the UDHR drafting process. It is possible to identify certain philosophical traditions that inspired interventions or approaches when proposing certain forms of rights thinking or specific textual suggestions. However, what really stands out is the exchange and diversity of ideas when it came to articulating what human rights were – both when it comes to those that eventually became part of the final Declaration and those that were part of the debates but were discarded or served as early versions of text that were refined during the negotiation process.

The most powerful idea was one that only secured its enduring presence at something close to the last moment. It is the idea of universality. The fact is that from the outset all the way until a matter of days before the adoption, the UN delegates were debating a text entitled “The International Declaration of Human Rights.” It was only on 30 November 1948 that it found its actual title. It happened on Rene Cassin’s initiative. It is why we speak the words “The Universal Declaration of Human Rights.”

Again, this is a change that carried a world of meaning. “International” typically refers to relations between states. “Universal” has a very different connotation with a much wider reach beyond merely matters of states. The proposal was deliberately intended to make the document feel more relevant and relatable to the people of the world. It was a brilliant move by the French jurist. A legacy. As Cassin - who had lost 26 family members in Auschwitz - said to the UN General Assembly on 9 December 1948 – the day before the vote of adoption: “The chief novelty of the declaration was its universality.” The following day the United Nations truly made 10 December a day in history. A Day to remember.

### **A visionary narrative**

The Universal Declaration of Human Rights is a multi-faceted creature. It gave the world a new definition of what internationalism could mean in the post-war era. It was the

visionary, forward-looking component of the schizophrenic UN Charter that pitted sovereignty versus international accountability against each other as a constant in international politics since 1945 – something we still struggle with in today’s world. The Universal Declaration has many legacies. It has also – in its own way - had an enduring presence in world history since 1948.

In her 2017 book *Seeing the Myth in Human Rights*, the scholar of religion Jenna Reinbold beautifully argues for a deeper narrative structure at play in the Universal Declaration of Human Rights:

“The framers of the Declaration aspired to create a narrative with the power to transition its global audience from an epoch of, as the Preamble puts it, “barbarous acts which have outraged the conscience of mankind” to an epoch of “freedom, justice and peace in the world.” In doing so they [the drafters] endeavored to do what mythmakers have aspired to do for millennia: to narrate into existence a world that is less capricious, less cruel, and more humane than it frequently appears to be.”

The Universal Declaration of Human Rights is a remarkable intellectual, moral and political achievement and a unique form of human narrative. Human rights history should try to capture this dimension even though it feels less tangible than writing histories of legal standards, international treaties and monitoring mechanisms – all things that have emerged since 1948 as a legacy of the UDHR. There is much to capture if we can appreciate the looking-glass nature of the Universal Declaration that points us toward exploring the story of the global human condition in the post-1945 world. This is why the Universal Declaration, even at 75 years of age, still carries an unfinished story within it. On this day in history, 10 December 2023, we may therefore want to once again imagine what journeys toward a better world we could embark upon today.