

30 ARTICLES ON THE 30 ARTICLES

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AT 70: STILL WORKING TO ENSURE FREEDOM, EQUALITY AND DIGNITY FOR ALL

This is the final article in the month-long series published by the UN Human Rights Office on the 30 Articles of the Universal Declaration of Human Rights, one of the most important and influential texts ever produced. The Declaration celebrates its 70th Anniversary tomorrow, Monday 10 December 2018.

Article 30: Rights are Inalienable

A judge at the European Court of Human Rights, Elisabet Fura-Sandström, was asked which of the rights in the Universal Declaration of Human Rights (UDHR) is most important. “Life? Freedom? Democracy? I hope I never need to choose,” she replied.

This idea that rights are indivisible is at the heart of Article 30. All the rights in the UDHR are connected to each other and are equally important. They all have to be followed, and no one right trumps the others. These rights are inherent to every woman, man and child, so they cannot be positioned in a hierarchy, or exercised in isolation.

As we saw when we discussed Article 28, the Declaration can be imagined as the portico of a Greek temple. Take away any one element, and the portico collapses. In this analogy, suggested by UDHR drafter René Cassin, it is Articles 28-30 that bind the whole structure together.

“It was the UDHR that contributed most to entrenching human rights principles into our law, perhaps more than any other international legal instrument... It was also the fibre that connected the drafters of our Constitution... Today, we celebrate a great moment in the history of humankind that took place 70 years ago. At its essence, however, this occasion is not so much about the past. It is about the future.”

–South African President Cyril Ramaphosa, December 2018

Article 30 has been called “limits on tyrants.” It gives all of us freedom from State or personal interference in the rights in all the preceding Articles. However, it also stresses that we may not exercise these rights in contravention of the purposes of the United Nations. Working in the shadow of the Second World War, the drafters wanted to prevent Fascists’ returning to power in Germany by, for example, taking advantage of freedom of expression and freedom to stand for election at the expense of other rights and freedoms. They were acutely aware that many of the atrocities inflicted by Hitler’s regime were based on an efficient legal system – but with laws that violated basic human rights.

Drafters were looking for an international legal framework to guard against excesses of individual countries, and to prevent another war or Holocaust. States that treat their own citizens well, they believed, were less likely to have aggressive designs on other countries.

What they produced was an astonishing achievement. In the midst of recovery from war, at the outset of the Cold War, with the United Nations in its infancy, the drafters managed to agree on a text that transcended differences in language, nationality and culture – not completely, but to an extent unprecedented in international relations.

The magnitude of this achievement is underscored by the fact that it took a further 18 years to reach agreement on the other two documents that, with the UDHR, make up the international Bill of Rights: The International Covenant on Economic, Social and Cultural Rights, and The International Covenant on Civil and Political Rights. And then 11 additional years until enough countries ratified them to bring them into effect.

In 1948, most regarded the Declaration as creating moral but not legal obligations. However, Belgian prime minister Count Carton de Wiart believed the UDHR had not only “unprecedented moral value,” but also “the beginnings of a legal value.” Cassin, one of the chief architects of the UDHR, believed it would have legal standing because it was the first declaration by an international group having its own “legal competence.”

Because it is not a treaty, The Universal Declaration does not directly create legal obligations for countries. However, as an expression of the fundamental values which are shared by all members of the international community, it profoundly affected the development of human rights law. Its provisions were further elaborated by a number of other international instruments, including The Convention on the Elimination of All Forms of Discrimination Against Women (1979), The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) and The Convention on the Rights of the Child (1989).

Some argue that because countries have consistently invoked the Declaration over decades, some of its components have grown into customary international law, and many academics and lawyers are of the view that they are therefore binding, for example the total prohibition of torture. The UDHR has been an extraordinarily flexible foundation for broadening and deepening the concept of human rights. Today it is embedded in laws, and in the DNA of regional intergovernmental organizations and of NGOs and human rights defenders everywhere. But the fact that some lawyers view the Declaration as legally binding does not, of course, mean it is uniformly observed.

Yet, over the last 70 years, there has been remarkable progress. “Globally, human life has improved immensely, including in health and education,” says UN Human Rights Chief Michelle Bachelet. “Governments have grown in their understanding of how they should serve their people. Businesses are more aware of their responsibilities towards the protection of human rights and prevention of violations.”

Perhaps Eleanor Roosevelt, the tireless human rights champion who steered the drafting process, expressed best the aims and impact of the Declaration. Where, she used to ask audiences, do universal human rights begin? Her answer: “In small places, close to home – so close and so small that they cannot be seen on any maps of the

world. Such are the places where every man, woman and child seeks equal justice, equal opportunity, and equal dignity, without discrimination. Unless these rights have meaning there, they have little meaning anywhere.”

Today, 70 years on, the Universal Declaration of Human Rights, the most translated document in the world, is still a vibrant force for all those people in villages and cities throughout the world who, without necessarily knowing that is what they do, struggle to make human rights a reality in their daily lives in their own communities.

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