

50 Years of Universal Declaration - The Basic Lesson

Be Always Alert to New Human Rights Issues

Hon. Justice Michael Kirby AC CMG

Ed. note: This article by Mr. Justice Kirby was prepared for Justice of the Hong Kong section of the International Commission of Jurists. Mr. Justice Kirby is a High Court Justice in Australia and a member of the UNESCO International Bioethics Committee. He was formerly a president of the International Commission of Jurists and a special representative of the U.N. secretary-general for human rights in Cambodia.)

The 50th anniversary of the adoption of the Universal Declaration of Human Rights is upon us. We can reflect upon the extraordinary achievements which have been made in the intervening half century - the success as well as the failures.

Mrs. Eleanor Roosevelt and herrepid colleagues, who assumed the ambitious task of drafting and proposing the Universal Declaration to the General Assembly of the United Nations, expressed the hope that the document might become a kind of magna Carta for humanity. Yet in the bleak atmosphere of the Cold War, their optimism was muted. Their celebrations were rather short-lived.

However, in such a relatively short space of time, this little instrument has had an enormous impact on the imagination of humanity. Contrary to some uninformed suggestions, a study of the debates within the U.N. committee working on the final text reveals the profound impact which the delegates from what we would now call

developing countries of the Third World had upon its text. Although in those days they were fewer in number in the United Nations than they are today, the voices of people of different social, ethical, religious and political traditions played an enormous part in securing the final text and structure of the document as it now appears. In particular, the delegates from the developing and socialist countries played a pivotal role, in alliance with Mrs. Roosevelt, in ensuring that the Universal Declaration embraced not only the civil and political aspects of human rights (found in the traditional statements in the Western hemisphere) but also the economic, social and cultural rights to which other traditions attached so much importance. For Mrs. Roosevelt, these were important because of the programme which her husband, the late U.S. President Franklin D. Roosevelt, had advocated in the United States during the Great Depression. In adversity people discover true priorities.

So here was a universal document. But it might have withered on the vine had it not been for the energy and enthusiasm of the many successive advocates within and outside the United Nations. They pushed forward the attempt to translate the noble ideas of the Universal Declaration into binding statements of international law. The result at the end of the century is a great network of national constitutions, regional conventions, commissions and courts, and international treaties and treaty bodies,

which today provide the global machinery of human rights protection.

This machinery has, in turn, called forth the activities of important civil society organisations of free people. Bodies such as the International Commission of Jurists, Amnesty International, the Human Rights Initiative of the International Bar Association and Human Rights Watch stimulate, irritate and advocate the causes of human rights. Whenever they can interrupt the unrelenting diet of propaganda and trivial entertainment, they try to capture the attention of the global media. They put a spotlight on the worst abuses of human rights. Science and technology have thus come to the aid of human rights promotion for, truly, we are now all part of a global village.

The idea inherent in the Charter of the United Nations is even more clear today than it was after World War II. Abuses of human rights anywhere represent, potentially, a danger to international, regional and domestic peace and security. It is in this sense that human rights legitimately now engages the attention of international law and has rendered the individual a proper subject of international law, as was never previously conceived to be possible.

It is in the nature of human beings ever to be questioning for new horizons. This is a lesson which Dag Hammarskjöld taught when he was secretary-general of the United Nations. There is always a new horizon

enlightenment. It beckons us to appreciate new implications in established principles of human rights as well as to see the need for new principles addressing completely new challenges.

Within the past year, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) has adopted a new universal declaration - the Universal Declaration on the Human Genome and Human Rights. That document addresses challenges to the human rights of our species presented by advances in human biology and genetics. There can be few more important issues for "human rights" in the coming millennium than a reflection upon who will be the "humans" of future ages to whom fundamental "rights" belong. How will the precious diversity of humanity be preserved, and human dignity respected, in a context in which science and technology may potentially alter the genes of an individual and those of that individual's progeny?

NEW CHALLENGES

There are many other challenges to human rights which could not be addressed, or were not even imagined, in 1948. These include the challenges presented by the dangers of the proliferation of nuclear and other weapons of mass destruction. Of great importance are the challenges presented by informatics and the development of cyberspace with the growth of the Internet. Science and technology overwhelmingly bring advantages to humanity. But lawyers and human rights advocates must be as imaginative and energetic in addressing the challenges as are the scientists and technologists in pushing forward the boundaries of human knowledge.

New insights into old problems instantly arise: sometimes by unexpected developments not reshadowed in 1948; sometimes by receptions of old issues which we can see afresh. Thus the advent of AIDS has produced many difficult

and unpredicted problems for preserving respect for human rights in a context of effective public health measures. These and other causes (including genetic research) have also addressed attention to discrimination against people on the basis of sexual orientation as an aspect of human rights which was rarely, if ever, talked of in 1948. The human dignity of people dependent upon or using drugs of addiction may, in the future, be seen as a human rights issue. The human rights of women and children - often disempowered by society and its laws - demand fresh attention and resolute action. As we reflect upon the advances we have made in human rights, we should note that each new generation sees new issues about which past generations were all too often totally blind.

So this is the fundamental lesson of the Universal Declaration of Human Rights. It is not necessarily that we should be discontented: although being so seems to be part of human nature. But it is that we should be alert to new human rights issues upon which the Universal Declaration of 1948 was silent or ambiguous. Mighty achievements have been made in 50 years. But the struggle for universal human rights continues. And the perception of what are universal human rights continues to expand as the frontiers of freedom and knowledge are pushed forward by the unquenchable thirst of human beings to defend, uphold and advance their dignity and basic rights. ▽

