

# Freedom from Need: The Universal Right to an Adequate Standard of Living – Origins, Obstacles and Prospects

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## 1 Introduction: In Pursuit of Freedom, Including the Freedom from Want

The contemporary normative system of internationally recognized human rights was initially framed by the Universal Declaration of Human Rights (hereinafter abbreviated UDHR), adopted by the United Nations General Assembly on December 10, 1948. With few exceptions, the rights contained in the rather voluminous body of international human rights instruments now in existence are elaborations and specifications of the rights set out in the UDHR, where the subsequently adopted conventions, declarations and other documents spell out the corresponding obligations of duty-holders, the institutions and procedures for their monitoring, and requirements or recommendations concerning their implementation.

While some of the rights contained in the UDHR had their roots in the early notions of ‘the rights of man’ debated in the West in the 17<sup>th</sup> and 18<sup>th</sup> century, others – mainly the economic and social rights – have often been claimed to be new and have been questioned as a dubious proliferation<sup>1</sup>. It has also been argued that these rights were introduced mainly at the insistence of the then Socialist countries.

The purposes of this article are five-fold: (1) to show that they were not new, but reflected the developments that had taken place particularly in Western countries during the three centuries preceding the adoption of the UDHR, (2) that their inclusion was more at the initiative of Western experts and countries, including American international lawyers, than initiated by the Socialist countries, (3) that their intended implementation was closely linked to the visions of a cooperative globalization process which would create the conditions under which these rights could in fact be enjoyed by all, everywhere in the world, (4) that the initial efforts towards a cooperative globalization broke down around 1980 and was for some time replaced by a corporate-driven, economic globalization which has generated serious difficulties for the realization of these rights, and (5) that there may be prospects for a change towards a rights-driven globalization, though this is highly uncertain.

What triggered the preparation and subsequent adoption of the Declaration was a momentous initiative taken in January 1941, more than seven years before the adoption of the UDHR. Franklin D. Roosevelt had been elected U.S. President for the third time – the only time in American history with a third term for a President<sup>2</sup>. World War II was in full escalation both in Europe and East Asia. The United States was still outside the war. Roosevelt’s opponent at the election, Wendell Willkie, had mobilized on the strong isolationist sentiments in the United States. Roosevelt was convinced that the United States would not be

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1 One of the most well known early critics was Maurice Cranston, in his book *What are human rights* (Taplinger Publishing Co., New York, 1973).

2 A third term election was at that time constitutionally permissible, but had not been done or even tried before. By the subsequent passing of the 22nd Amendment of the United States Constitution in 1947, a President can now serve only for two terms of four years each.

able to stay out of the increasingly global war<sup>3</sup>, but was deeply concerned with ways to prevent such wars from erupting in the future. This was the background against which he prepared and delivered his Message to the Congress at the beginning of his third theme in January 1941.

Warning the US Congress, and the American public in general, about the hardships they were likely to face in the next few years, he declared his commitment to start preparation for a post-war world of freedom when the present conflagration had come to an end. These were his words:

In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression--everywhere in the world. The second is freedom of every person to worship God in his own way--everywhere in the world. The third is freedom from want--which, translated into universal terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants--everywhere in the world. The fourth is freedom from fear--which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor--anywhere in the world. That is no vision of a distant millennium. It is a definite basis for a kind of world attainable in our own time and generation. That kind of world is the very antithesis of the so-called new order of tyranny which the dictators seek to create with the crash of a bomb.

Many have expressed lofty visions for the future. In his case he did not stop at that, but started preparation for a new international organization intended to become the framework for this new world order. Out of this grew the United Nations itself, established in May 1945, and the Universal Declaration of Human Rights, adopted by the United Nations in 1948. The process of drafting the Universal Declaration is briefly reviewed below.

The main focus of this article is on the third of the four freedoms he listed, the freedom from need. This had been a long-standing concern for President Roosevelt. The havoc caused by the wild speculations on the New York Exchange which collapsed in 1929 and the great depression of the inter-war years had catapulted Franklin Roosevelt into Presidential power through the elections in 1932, and had led to the quest for social reform by the New Deal policy in the United States.

Section 2 below deals with the origins and evolution of the present, comprehensive normative system of contemporary human rights, while section 3 focuses on the direction taken in global cooperation of relevance for the universal enjoyment of these rights, before I draw some conclusions in section 4.

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3 His immediate concern in the closing months of 1940 was the Lend-Lease agreements and military aid to the Allies, particularly to Britain. The United States did not enter the war until December 1941 as a consequence of the Japanese attack on the US military base at Pearl Harbor.

## 2 Emergence and Evolution of the Human Rights System

### 2.1 *The Rights of Man and the Citizen, 17<sup>th</sup> to 20<sup>th</sup> Century*

In the evolutionary history of what we now call human rights, three aspects of human existence have gradually been sought to be safeguarded and promoted: human integrity, freedom and equality. Axiomatic to these three aspects is the respect for the dignity of every human being, as reflected in UDHR Article 1. The way in which these issues have been addressed has matured over time, from initial, idealistic assertions of vague principles to the adoption of the comprehensive, international normative system now in existence.

It is generally recognized that the cradle of discourse on rights properly speaking can be found in British, French and American thinking in the seventeenth century. A set of special concerns, such as freedom from arbitrary arrest (which gave rise to the notion of *habeas corpus*) and from torture, arising from the confrontation between monarchs or princes with anyone they considered as challengers or opponents, became the initial elements in a set of ideals which were increasingly articulated as a general philosophy about human dignity, equality and freedom in relation to political authorities. The initial scattered principles reflected the necessity to constrain the power of authoritarian sovereigns.

The frontrunner in this process was John Locke. It can be seen as part of his and his contemporaries' challenges to the decaying feudalism and to the emerging capital market. John Locke was among the first philosophers and political publicists to articulate rights as an integrated element in the concept of a comprehensive political system.<sup>4</sup> He made use of a hypothetical social contract, a term already introduced by Johannes Althusius ("*Politica Methodice Digesta*") in 1603, later referred to by Hugo Grotius, who appears to have been the first to assert a possible non-religious foundation of natural law, claiming that it would be valid even if God did not exist ("*De iure belli ac pacis, Prolegomena*" §16). The social contract had been eloquently further elaborated by Thomas Hobbes in his *Leviathan* (1651), and was seventy years after John Locke also used as framework by Jean-Jacques Rousseau for his political philosophy (*Du contrat social*, 1762), though with very different orientation than that of Locke.

John Locke insisted, in clear contrast to Hobbes, on the 'inherent and inalienable' rights of man, freedoms that had not been given away in the formation of the social contract. The 'rights of man' included for him life, liberty and property. Religious tolerance was also essential to his thinking but not unlimited. In his 'Letter of Toleration' he argued for religious pluralism but neither atheism nor Roman Catholicism should in his opinion be tolerated. Of particular importance for him was the right to property, which was the core element in his challenge to tradition, monarchical autocracy and to feudalism. His initial focus was on the right of the cultivator of the land, but he generalised it into a strong support for individualised property and a justification of accumulation of wealth. He has been seen not only as one of the originators of

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4 J. Locke, *Two Treatises of Government*, originally published in 1689.

the discussion of the rights of man, but also of private capitalism. He clearly considered property to be essential for the autonomy of man.

From the perspective of modern human rights, there are many weaknesses in his approach, which can be seen in his other writings and even more in his activities. By the rights of *man* (to life, liberty and property) it is clear that he had in mind the *male* person. There is no indication of a concern with the right to property of women. His position on slavery is also problematic. While in the *Treatise* he opposes slavery in general terms, in practice it is well documented not only that he condoned slavery of Africans in the American colonies, which was already in full bloom at his time, but though his shares in the Royal Africa Company and the Bahama Adventurers he even derived an income from it. His endorsement of property did not extend to the recognition of the land rights of the indigenous peoples that the colonisers met in British colonies in North America. Since the American Indians had not individualised their land they could not in his opinion claim rights to the land they used for their livelihood. The land could therefore be taken by the colonisers for what he considered useful production<sup>5</sup>.

In his endorsement of the right of the tiller of the land in opposition to the feudal lord, he did not give much attention to the potentially exclusionary function which this could have when there were a multitude of different users of the land. This became much more evident in the decades after his death, because of the implication of the Land Inclosure Acts in Britain during a century from 1750 onwards, whereby hundreds of thousands were driven from the land where they had been making a living. Some of them became the mainstay of the workers in the mines and the textile industries (operating the ‘Spinning Jenny’), whereas others ended up in extreme poverty. In the context of the unfolding British empire, slaves toiled in the colonies for the cultivation of the cotton which in Britain was manufactured by those who had been displaced through the land enclosures into cloths which i.a. was exported to India where handicraft was forbidden by the British in order to facilitate the marketing of the products of the British industrial revolution.

John Locke, the protagonist of the rights of man, had little tolerance for the poor. Poverty was in his opinion due not to ‘scarcity of provisions nor want of employment’, but ‘the relaxation of discipline and the corruption of manners’<sup>6</sup>. He was an early advocate of the special British concept of work houses. With regard to idle able-bodied adult men (he allegedly called them ‘begging drones’) he argued that they should be dragooned into service at sea, and orphaned children should be placed in workhouses and made to labour for up to fourteen

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5 Locke implied in his Second treaties that indigenous peoples in the Americas neither have proprietary rights to land nor sovereign rights over territories. For a fuller discussion of his arguments see Nils Oskal: *Political Inclusion of the Saami as Indigenous Peoples in Norway*, International Journal on Minority and Group Rights volume 8 nos. 2-3, 2001, pages 235-261, on John Locke particularly at pages 238-250.

6 In his *Essay on the Poor Law*, 1697, quoted in Roy Porter: *The Creation of the Modern World. The untold story of the British Enlightenment*. W.W. Norton & Company, New York/London, 2000, p. 378.

hours a day, from the age of three for boys and five for girls, sustained by a 'watery gruel'<sup>7</sup>.

The tumultuous industrial revolution which unfolded after his time created enormous wealth for some and bottomless poverty for others. Following a century of harsh 'laissez faire' market dominance, however, social justice emerged on the agenda through an extension of citizenship to cover all social classes.

In Britain and in the Nordic countries the social rights evolved as part of and as a result of the increasingly inclusive political process, the growing strength of the labour movement and of the trade union organisations. In some other countries social rights emerged as measures by authoritarian regimes taken in order to reduce the unrest of workers and thereby to avoid revolutionary upheavals. This was particularly so in Germany. Some of the earliest protective social rights were introduced during Bismark's time.

By the 1930s, support for a stronger role for the state in regard to social justice was substantial. The advancement of the welfare functions of the state received support from both in United States administration under Franklin Delano Roosevelt, and in the Western Europe. In the United Kingdom, Harold MacMillan, later Conservative Prime Minister of the United Kingdom, pleaded already in 1933 for social reconstruction and the elimination of poverty, and published in 1938 his 'The Middle Way' which addressed issues of minimum wage, unemployment benefits, public utility distribution and economic security<sup>8</sup>. Lord Beveridge, British Minister of Social Affairs in Churchill's government during World War II, is credited as being the first politician to conceptualize social security as a way to guarantee basic egalitarian protection to the whole population, and to introduce the notion of 'welfare state' as a positive term, in his report 'Social Insurance and Allied Services' (1942).<sup>9</sup>

Looking back in 1950 on these developments, T. H. Marshall ( professor at the London School of Economics) focused on the historical development of those attributes which were vital to effective 'citizenship'.<sup>10</sup> He distinguished three stages in this evolution, tracing the formative period in the life of each of these types of rights to a different century, and he related it to an evolving concept of citizenship. Civil rights had been the great achievement of the eighteenth century, laying the foundation of the notion of equality of all members of society before the law; political rights were the principal achievement of the nineteenth century by allowing for increasingly broader participation in the exercise of sovereign power; social rights were the contribution of the twentieth century, making it possible for all members of society to enjoy satisfactory conditions of life.

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7 These quotes are taken from Porter, *ibid.* p. 378 with references.

8 Harold Macmillan: *The Middle Way*, 1938. Macmillan & Co, London.

9 See B-A. Andreassen, *Article 22*. In Gudmundur Alfredsson and Asbjørn Eide: *The Universal Declaration of Human Rights – A Common Standard of Achievement*. Martinus Nijhoff Publishers, Dordrecht/Boston/London 1999. p. 458 with references.

10 T. H. Marshall, *Citizenship and Social Class and other Essays*, Cambridge University Press, 1950.

In the United States the Great Depression, the name given to the world wide misery caused by the wild speculations which ended with the crack on the New York stock exchange in 1929, created the ground for the election of Franklin Roosevelt as president in 1932 and to the introduction of the 'New Deal' policy. The 'New Deal' implied the promotion of social rights which were new to the United States and faced considerable resistance including also on constitutional grounds from the US Supreme Court.

Through his 'Four Freedoms' address in 1941 he sought to lift this up to a concern for the whole world. By his inclusion of 'freedom from want' he brought together two concerns: the removal of barriers to trade what would hamper the economic developments of countries<sup>11</sup>, and his general concern with the elimination of poverty, which was at the core of his 'New Deal' policy,

That he was fully concerned with freedom from want was even more strongly reflected in his Address to the Congress in 1944, at the start of his fourth term as president. In that address, Roosevelt reflected on the origins and evolution of rights in American history and the recognition that the need to include also economic and social rights had become self-evident.

“This Republic had its beginning, and grew to its present strength, under the protection of certain inalienable political rights—among them the right of free speech, free press, free worship, trial by jury, freedom from unreasonable searches and seizures. They were our rights to life and liberty. As our nation has grown in size and stature, however—as our industrial economy expanded—these political rights proved inadequate to assure us equality in the pursuit of happiness. We have come to a clear realization of the fact that true individual freedom cannot exist without economic security and independence. ‘Necessitous men are not free men.’ People who are hungry and out of a job are the stuff of which dictatorships are made.

In our day these economic truths have become accepted as self-evident. We have accepted, so to speak, a second Bill of Rights under which a new basis of security and prosperity can be established for all—regardless of station, race, or creed.”<sup>12</sup>

He then proceeded to list a set of social and economic rights that should now be accepted as self-evident: the right to work, the right to earn enough to provide adequate food and clothing and recreation, the right of every family to a decent home; the right to adequate medical care and the opportunity to achieve and enjoy good health; the right to adequate protection from the economic fears of old age, sickness, accident, and unemployment, and the right to a good education. The rights he listed corresponds well to the economic and social rights in the UDHR and the Covenant on Economic, Social and Cultural Rights (CESCR).

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11 Part of the background was the American interest in having the United Kingdom reduce or eliminate its preferential trade arrangements within its vast empire, including Canada, Australia, South Africa, and India, and thereby to open up for – among others – American trade on equal conditions.

12 The Public Papers & Addresses of Franklin D. Roosevelt (Samuel Rosenman, ed.), Vol XIII (NY: Harper, 1950), 40-42.

At the core of *social rights*, most directly linked to freedom from need, is the right to an adequate standard of living (now in UDHR Article 25 and in CSCR Article 11). The enjoyment of this right requires, at minimum, that everyone shall enjoy the necessary subsistence rights – adequate food and nutrition, clothing, housing and the necessary conditions of care and health services. Closely related to these rights is the right of families to assistance, briefly mentioned in UDHR Article 25 and elaborated in greater detail in subsequent provisions such as Article 10 of the International Covenant on Economic, Social and Cultural Rights and Article 27 of the International Convention on the Rights of the Child.

In order to enjoy these social rights, there is also a need to enjoy certain *economic rights*. These are the right to property (UDHR Article 17), the right to work and other work-related rights (UDHR Articles 23 and 24, CESCR Articles 6, 7 and 8) and the right to social security (UDHR Articles 22 and 25, CESCR Article 9).

The combination of economic and social rights serves the dual function of freedom and equality. The right to property, which had a prominent place in the early theory of natural rights, serves as a basis for entitlements which can ensure an adequate standard of living, and is also a basis of independence and, hence, of freedom. But property in the traditional understanding of the word cannot be enjoyed on an equal basis by all. It has to be supplemented, therefore, by the right to work that can provide an income commensurate with an adequate standard of living, and by the right to social security that can supplement, and where necessary fully substitute, insufficient income derived from property or from work. The right to work is also a basis of independence, provided the work is freely chosen by the person concerned, that sufficient income is obtained from it, and that workers can protect their interests through free trade unions and collective bargaining.

## **2.2 *From Citizens' Rights to Universal Human Rights: the Introduction of Human Rights into International Law***

We have shown that the comprehensive package of human rights in the UDHR reflected achievements in some countries during the preceding centuries. Moving beyond the traditional 'rights of man' it came to include civil, political, economic, social and cultural rights. What is more: this is considered by the United Nations not to be a list which can be used as a menu from which to pick and to chose, but a system of rights that are interdependent, interrelated and indivisible.

The widespread myth that the social and economic rights were introduced in the negotiations by the then Socialist countries of Eastern Europe is not in accordance with reality; representatives of the Socialist countries played very little role in the selection of rights to be included. So who selected them?

We have already noted the inspiration from the United States President in the Four Freedoms speech in 1941. The American Law Institute (ALI) and its Director, William Draper, took the initiative to establish a committee under the ALI composed of 10 prominent US lawyers (including Manley Hudson, Quincy Wright, and David Riesman), and 14 members from other countries, many of them then in exile in the United States. One of them was Henri Laugier, a French

medical scientist who had been active in human rights nongovernmental organisations, and who later became Assistant Secretary General of the UN, where he later worked closely with John Humphrey who prepared the background document for the drafting of the Universal Declaration of Human Rights (see below). Yet another was C. Wilfred Jenks, an Englishman who later became Director General of ILO and who had an important role in preparing for and adopting the Philadelphia Declaration in 1944.

This group drafted a document entitled ‘Statement of Essential Human Rights’ in the years 1942 to 1944<sup>13</sup>. Louis B. Sohn, a renowned American Professor of International Law, was closely associated with this process and has given us highly interesting information about the discussions<sup>14</sup>, including the active role of the American participants in the promotion of economic and social rights.

‘The ‘Statement of Essential Human Rights’ contains 18 articles. These deal with freedom of religion, freedom of expression, of assembly and association, due process, non-retroactivity, and political rights, and with property rights, the right to education, the right to work, the rights in work (conditions of work), the right to adequate food and housing, the right to social security, and the right to participation in government. It also includes a provision on equal protection and non-discrimination, and one on limitation of rights along the same lines as those subsequently used in international instruments.

The Statement was finalised in 1944 and made public but not formally adopted by the ALI as such. But one of its members made subsequently important use of it: Dr. Ricardo J. Alfaro, who was at that time Director of the American International Law Institute. He was from Panama and had a decade earlier been the President of that country. During the drafting of the Charter of the United Nations Charter in San Francisco in the spring of 1945, Panama proposed at his imitative that this Statement of Essential Human Rights should be included as an International Bill of Human Rights in the Charter itself. This was not accepted, but it was agreed to include in the Charter a provision for the establishment of a Commission on Human Rights, which among other tasks should be mandated with the drafting of an International Bill of Human Rights.

When the UN Commission on Human Rights started its negotiations on this task in 1947, the Secretariat was asked to review all precedents available and to come up with some suggestions for an initial draft. The then Director of the Human Rights Division of the Secretariat was John Humphrey, a Canadian Professor. Among the various drafts and precedents collected, he found the Statement of Essential Human Rights to be the most useful, and he writes in his memoirs that this is the document on which he relied most heavily in the preparation of his draft for the Commission.

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13 The text of the draft by the Committee set up by the American Law Institute (but never formally adopted by the Institute) can be found in *The ANNALS of the American Academy of Political and Social Science* 1946; 243; 18; and downloaded from “ann.sagepub.com/cgi/reprint/243/1/18”.

14 Louis B. Sohn: *How American International Lawyers Prepared for the San Francisco Bill of Rights*. *The American Journal of International Law*, vol. 89, no.3, pp. 540-553.

The UN Commission on Human Rights, composing government-appointed experts from China, India, Egypt, Eastern Europe, Latin America, Western Europe and chaired by Eleanor Roosevelt as head of the of the United States delegation, negotiated and finalised the Universal Declaration before it was adopted by the General Assembly on December 10, 1948. The French member, René Cassin, played an important role in the editing and finalising the text but much of the substance was already in the draft presented by John Humphrey, drawing mostly on the draft by the committee set up by the American Law Institute<sup>15</sup>. The list in the UDHR is quite similar to the draft by the American Law Institute, except for articles 1-7 of the UDHR, where there are no comparable provisions in the Statement of Essential Human Rights. The economic and social rights in the UDHR are more or less the same as those contained in the Statement of Essential Human Rights by the ALI, and very similar to those mentioned by president Roosevelt in his call for an Economic Bill of Rights in 1944.

When reflecting on the list contained in the Declaration, we need to revert for a moment to their origins and evolution: the initial platform was the assertion of a set of inalienable and inherent ‘rights of man’ in the sense of freedom from arbitrary state power. On that basis the rights had at the national level in some countries expanded into more comprehensive citizenship rights. This could be seen as the maturation of the evolving social contract, reflecting the evolution of social cohesion inside the early industrialising states. Social cohesion had been obtained by a reciprocal adaptation between different social groups, sustained and ensured by a responsive and accountable state. Ideally, society should function as a system facilitating interrelated and reciprocally benefitting activities by its different actors, where their different interests and needs and their reciprocal duties as members of the community are recognised and accommodated while allowing individual free choice.

That the fulfilment of duties to the community in general is necessary in order to ensure everyone’s freedom is reflected in Article 29.1 of the Universal Declaration which states that ‘*Everyone has duties to the community in which alone the free and full development of his personality is possible*’. This does not mean, however, that the enjoyment of human rights is dependent on fulfilment by individuals of their duties. Unless most people most of the time fulfil their duties (e.g. pay taxes), the authorities of the state do not have the resources by which they can implement all their human rights.

Social accommodation at the national level had taken a long time to emerge even in the politically most advanced states, however, and it had by 1948 reached only partial maturation even there. The ‘New Deal’ focus on social justice in the United States was already under challenge at the time of the adoption of the UDHR and became more strongly attacked later, particularly under the Reagan administration.

The fundamentally new step taken by the adoption of the UDHR was to proclaim these rights as *universal* human rights that should be applied

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15 John Humphrey has described this process in his book *No distant millennium: The International Law of Human Rights*, UNESCO, 1989.

everywhere in the world. Very clearly, conditions elsewhere were not ripe for an immediate implementation of the whole package of rights that had taken several centuries to mature in a few countries, but the UN General Assembly was realistic on this point. While the rights were called ‘universal’, the General Assembly stated in the preamble of the Declaration that it proclaimed the Declaration

“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 measure, national and international, to secure their universal and effective recognition and observance...”

The adoption of the UDHR should therefore be seen as the start of what I call the human rights project of the United Nations – while considering the rights to be inherent for every human being, it was recognised that they were not everywhere respected nor recognised or observed. *The project was therefore to make human rights universal*

Two options must therefore have appeared to the authors of the Declaration: either to encourage and push every state to develop a comprehensive human rights system internally to the state, or to develop a global commitment to help and assist those states who would be unable by themselves to secure some or all of these rights.

A combination of both avenues must have been in their minds. This is reflected in Art. 28 of the UDHR which states that *‘Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.* Hence, both the internal social order and the international order would have to be transformed in ways which made the enjoyment of human rights for all possible.

### **2.3 *From the Declaration to Legally Binding Conventions: the Emergence and Clarification of State Obligations and the Nature of Economic, Social and Cultural Rights***

The initial mandate given to the Commission on Human Rights in 1947, in line with recommendations made during the founding conference of the United Nations in San Francisco in 1945, was to prepare an international bill of human rights. It was agreed to first to prepare a declaration that should be short, simple, easy to understand and expressive, to be followed by one or more conventions. Within one and a half year the UDHR was adopted, quicker by far than the time it has taken in recent time to negotiate and adopt much less important documents. As noted above, the list of rights in the Declaration corresponded to what had over the three preceding centuries been among the initial ‘rights of man’ supplemented by the broadening set of the rights of citizens in the territorial states of the West. It was new, however, to define these as human rights. What was even more new was the far-reaching requirement that all rights in the declaration should be enjoyed without distinction of any kind such as race, colour, sex, political or other opinion, national or social origin, property, birth or other status.

The then Socialist countries of Central and Eastern Europe had misgivings and abstained on the adoption of the UDHR in 1948. All Western countries voted in favour. So did all other states then members of the United Nation apart from the abstentions by South Africa and Saudi Arabia. In South Africa apartheid was formally proclaimed a few months earlier, which was a direct challenge to the non-discrimination principle in Article 2. Saudi Arabia did not accept the freedom set out in Article 18 to change one's religion.

But the UDHR contained no guidance on how the rights should be ensured in practice, and the Declaration was in itself not legally binding on states. It was therefore clear from the beginning that the Declaration had to be followed up by conventions that would become legally binding on states upon ratification in order to complete the International Bill of Human Rights. The process of adopting conventions started slowly but intensified in the 1960 and has since been extensive. It will not be examined in detail here. Most important was the adoption in 1966 of the two main covenants, one on civil and political rights, the other on economic, social and cultural rights, adopted in 1966. Together, these two covenants embody nearly all the rights set out in the UDHR and spell out the corresponding state obligations. They thereby completed the International Bill of Human Rights as initially envisaged.

And yet that turned out to be only the beginning. On the platform of the International Bill of Human Rights, a wide range of other human rights instruments (conventions and declarations) have since been adopted, many at the regional level and others at the global level. The corpus of international human rights law is by now wide-ranging and detailed. Most of the instruments are elaborations in various ways of the four core pillars which together uphold the edifice of substantive human rights – civil, political, economic and social, and cultural rights. Some of the specific conventions deal with the prevention and eradication of discrimination, others deal with the protection of particular groups, and yet others seek to ensure effective action against particularly serious violations such as torture or disappearances.

Under a human rights convention State parties undertake obligations under international law to implement the rights contained in it for all within their territory and in regard to everyone under their jurisdiction. Whether they have obligations beyond their territory is a matter of some debate to which we return later.

During the process of preparing conventions and thereby establishing state obligations, divisions emerged concerning the place of economic and social rights in the normative system of human rights. The divisions became more manifest during the intensification of the Cold War and the change in leadership in the United States from the Democrats under Harry S. Truman to the Republicans under Dwight D. Eisenhower. The human rights discourse became deeply affected by the ideological rhetoric during the Cold War. Put simply, two conflicting conceptions of the functions of human rights emerged, which in turn were related to the conception of the role of the state and government in society: one, most strongly articulated in US policies, that the role of human rights was to ensure freedom from the state; the other, articulated by the Socialist countries then in the Soviet bloc, was that conditions for freedom should be established by

the state, which should take active measures to ensure basic security and satisfaction for all of basic needs.

In the polarized and often shallow debate resulting from ideological rhetoric, the notion gained some currency for some time that civil – and to some extent political – rights were fundamentally different from economic and social rights. It was widely argued that civil rights imposed only duties of abstention by the state from interference in the fundamental freedoms of the individual (often called ‘passive duties’) while economic and social rights were considered mainly to consist in duties for the state to use its power and resources to provide for the needs of people.

Labouring under this conception, it was understandable that the liberal mind in many Western circles were hesitant or outright negative to economic and social rights, while the conception of rights as given by the state fitted well with the dominant thinking in the Socialist countries of Eastern Europe and the Soviet Union.

This somewhat simplistic conception contributed to the decision to separate the human rights listed in the Universal Declaration in two separate covenants, one on civil and political rights and another on economic, social and cultural rights, which were adopted in 1966. For nearly two decades thereafter, the United States gave almost exclusive attention or priority to civil rights while Socialist countries tended to emphasise the superior importance of economic and social rights. Most European and Latin American countries took a position somewhere between the two.

The present author entered into this debate in 1976-1977, when requested to prepare a background report on international human rights protection for an impending debate in the Norwegian Parliament on human rights in future Norwegian foreign policy. As part of my analysis of the rights contained in the two main Covenants I became increasingly convinced that both sides were wrong in their conceptions of state obligations, and this misconception applied to both sets of rights.

Through my analysis of the terms of the relevant provisions I concluded that all human rights start from the premise of the freedom of the individual. One major function of all human rights, both the economic, social and cultural as well as the civil and political, is to ensure or enhance freedom from the state, as had been traditionally held in Western liberal thinking. I referred here to the obligation of the state to *respect* the freedoms and choices of the individual or groups of individuals, including minority groups.

But freedom from the state is not enough and would not fulfill the requirement of human rights standards, since it would leave open the insecurity and fear arising from violence, exploitation, corruption and fraud by private parties against other private parties. The liberal states had indeed emerged exactly because of the felt need to have a degree of protection by the power of the state against such harmful acts by private parties. It was therefore quite clear that one type of obligation of the state under human rights was to *protect* the freedom or the choices or assets of the individual or groups.

But even this could not solve all the needs widely felt in modern societies. The state had to *fulfil* the rights that individuals could manage to realize on their own efforts. Provision of education for all, at least primary school education,

was obviously something that required positive state action; access to health services was another. The complex industrial and post-industrial societies had also made it necessary to provide social security or at least a social safety net for all. The right to an adequate standard of living and the right to work would in part have to be implemented by ensuring that there were no barriers of discrimination against the efforts by individuals to solve their own problems, but it would often also be necessary that the state took measures which would facilitate the opportunities of individuals to enjoy these rights.

I concluded, therefore, that state obligations under the adopted human rights conventions would fall into three categories: The duty to respect, the duty to protect, and the duty to fulfill the right. In further elaboration, it was found useful under the heading of the duty to fulfill to divide it in two: The duty to facilitate (e.g. to facilitate access to work through the provision of vocational training) and the duty to provide (e.g. food aid in an emergency where food would otherwise not be accessible)

Against that background I therefore argued that, rather than a simple division between ‘passive’ duties associated with civil and political rights and ‘active’ duties associated with economic, social and cultural rights, it was much more appropriate to refer to these three different types of obligations which to varying degrees could be applicable to both categories of rights. The differences between civil and political rights on one side and economic, social and cultural rights on the other are therefore more a question of degree rather than any fundamental divide. When in 1981 I was elected a member of what was then called the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, I was asked to prepare a study on one of the economic and social rights – the right to adequate food – as a human right.

In it I made use of the analytical framework I had earlier developed, including the three types of obligations. This approach was subsequently endorsed by a group of experts in a document called the Maastricht Guidelines<sup>16</sup> and from 1999 it has also been taken up and made regular use of later by the United Nations Committee on Economic, Social and Cultural Rights in its General Comments. It has since then been picked up and made use of in an increasingly broad range of academic works<sup>17</sup>.

It is fair to say that by now it is generally agreed that a simple distinction between ‘negative’ and ‘positive’ obligations regarding human rights is insufficient and cannot be used as a distinguishing measure separating civil and political rights from economic, social and cultural rights. Nor can it be argued that civil and political rights are always cost-free, precise and capable of immediate implementation while economic and social rights are held to be vague, costly and can only be progressively implemented.

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16 *The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, prepared by a group of experts meeting in Maastricht, the Netherlands, January 1997. Published in *Human Rights Quarterly* vol. 20 (1998) pp. 691-705.

17 A comparable categorisation of state, focussing less on the international instruments than on U.S. foreign policy, was developed in a seminal work first published in 1980 by the American philosopher Henry Shue in his book *Basic Rights: Subsistence, Affluence and U.S. Foreign Policy*, 2nd edition (Princeton: Princeton University Press, 1996) First edition 1980.

But are economic and social rights law?

It is necessary, first, to point out that when states ratify an international convention they are obliged to implement it in good faith, but are they binding under national law? This is the question of domestic applicability of human rights conventions. The CESCR Committee has pointed to the principle reflected in Article 27 of the Vienna Convention on the Law of Treaties of 1969 that ‘ [A] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty’’. In other words, States should modify the domestic legal order as necessary in order to give effect to their treaty obligations. This can be done in various ways, either by a constitutional recognition of international law or more specifically international human rights as directly applicable under domestic law, or through an incorporation of the relevant convention in domestic law, or specific national legislation which implements parts of the conventions in national law.

In Norway, the Covenant on Economic, Social and Cultural Rights has together with several other conventions with their full texts been incorporated as Norwegian law through the Human Rights Act (Law of 1999-05-21 No. 30), which means that the courts are required to use it as a source for their decisions, and this law and thereby the conventions there included have in case of conflict priority over other Norwegian law.

The situation differs substantially around the world, but there is a growing tendency to consider economic and social rights as justifiable<sup>18</sup>

#### **2.4 On International Institutions and Procedures**

The process of making human rights universal is intimately dependent on the active role of international institutions. This is readily understandable when taking into account that the international law of human rights is a very particular branch of international law, quite different the more traditional parts of international law which regulate relations between states.

While ‘classic’ international law could best be described as a law regulating the coexistence between states, much of the content of international law built on the charter of the United Nations has often been described as a law of cooperation – much of it aims at solving common problems facing the international community in regard to economic, environmental, cultural, humanitarian affairs and more and more also cooperation in peacekeeping and peace enforcement.

But international human rights law goes one step further – while it depends for its full effect on international cooperation in the promotion and realisation of human rights, its main function is to regulate the relations between states and their own inhabitants, and thereby directly intended to regulate matters that traditionally were held to be the internal affairs of state. The Inter-American Court of Human Rights has expressed it as follows:

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18 A relatively recent survey of developments throughout the world, together with an incisive discussion of the concept and application of the concept of justiciability, can be found in Malcom Langford (ed.): *Social Rights Jurisprudence. Emerging trends in International and Comparative Law*. Cambridge University Press, Cambridge/ New York 2008.

“... ..modern human rights treaties .... are not multilateral treaties of the traditional type concluded to accomplish the reciprocal exchange of rights for the mutual benefit of the contracting States. Their object and purpose is the protection of the basic rights of individual human beings irrespective of their nationality, both against the State of their nationality and all other contracting States. In concluding these human rights treaties, the States can be deemed to submit themselves to a legal order within which they, for the common good, assume various obligations, not in relation to other States, but towards all individuals within their jurisdiction”<sup>19</sup>

While this gives international human rights an objective nature, it also causes them to suffer from a serious weakness in terms of enforcement. Non-compliance by one state of its human rights obligations towards its own inhabitants does not necessarily affect the interests of other states. The application of countermeasures in case of non-compliance based on the principle of reciprocity, which is a major factor in ensuring compliance regarding most traditional international law agreements, has very little role to play in international human rights law.

Because human rights law could not rely on the reciprocity principle it needs action by the international community as such through bodies set up for that purpose. The most widespread form is that of monitoring by expert committees elected in their individual capacity (not composed of state representatives)

International human rights law serves two functions: first, it contains directive principles. Second, under some conditions, it provides subjective rights that are amenable to adjudication by courts.

The notion of directive principles is well known from constitutional law. In India, for example, directive principles of state policy are contained in the constitution as guidelines to the central and state governments, to be considered when framing laws and policies. These provisions are not directly enforceable by any court, but they are considered to be fundamental principles of governance that must be applied by state authorities. Similar principles are also found in other constitutions such as that of Ireland, which focus on social justice and economic welfare. Such directive principles play an important role in the political process, but there are normally no national monitoring authorities supervising their implementation. In addition, they are often general and vague in their wording and therefore leave a wide margin for political disagreement concerning their implementation.

This is where international human rights law, and in particular guarantees of economic, social and cultural rights, have an important additional value. International monitoring bodies can pursue a dialogue with each state on the optimal implementation of the directive principles and can elaborate and clarify the content of state obligations under international human rights standards. This is what the CESCR has done by issuing its General Comments, several of which have concerned the right to an adequate standard of living.

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19 Inter-American Court on Human Rights, *The Effect of Reservations on the Entry Into Force of the American Convention on Human Rights (Arts. 74 and 75)*, Advisory Opinion OC-2/82, September 24, 1982, Inter-Am. Ct. H.R. (Ser. A) No. 2 (1982), at para. 29.

This monitoring through state reports will soon be supplemented by a procedure by which individuals who claim that their economic, social and cultural rights are violated can bring their complaint to the CESCR after having exhausted available domestic remedies. The Optional Protocol to the ICESCR was adopted in December 2008 and will come into force upon the tenth ratification. It will undoubtedly add to the impact of economic, social and cultural rights. However, it will not reduce the importance of the monitoring process, which in some respects can produce more comprehensive effects than complaint procedures.<sup>20</sup>

### 3 The Initial UN Vision of Cooperative Globalization

The proclamation of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948 was part of the globalizing vision underlying the United Nations Charter. Not only the UDHR but the UN Charter itself derived much of its inspiration from the “Four Freedoms Speech” and the efforts pursued from 1941 to 1945 to establish the new world organization. It represented a vision of future global multilateral cooperation for common security and common wealth, intended to replace unilateral self-assertion and power games. Among the purposes set out in the UN Charter Article 1 was promotion of international co-operation in solving 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 (Article 1.3). The UDHR proclaimed in its Article 25 that everyone has a right to a standard of living “adequate for himself and his family”, and Article 28 declared that everyone has a right to a social and international order in which the rights listed in the UDHR can be realized. A shared responsibility by all states and the international community to cooperate in creating the conditions which makes this possible was set out in UN Charter Article 55 and 56. A process of cooperative development was envisaged through interlinking national and international efforts

The world as it stood in 1945 was of course very far from that vision. It was marked by considerable inequalities, both politically (a large part of the world was still under imperial rule) and structurally (the global division of labour was strongly in favour of the early industrialized countries). The industrialized countries were divided in two blocks, one based on market economy with varying degrees of public regulation (‘the West’) and another based on a version of Marxist thinking which had evolved into a state-directed command economy (‘Easten Europe’). With the fall of the Berlin wall and the end of the Cold War, the market economy became dominant world wide.

The other was the North-South conflict, caused by the legacy of colonialism and the impact of global structural inequality. From the late 1950s, governments

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<sup>20</sup> The Nordic Journal of Human Rights, vol.27 nr. 1, 2009, is in its entirety devoted to the presentation and discussion of the new Protocol.

of the South demanded profound changes in global economic relations. Referring to the UN Charter's principle of sovereign equality and the UN's proclaimed purpose of international cooperation for the solution of common economic, social and humanitarian problems, they called from the late 1950s and through the 1960s for a "New International Economic Order" (NIEO), intended to be made more egalitarian in nature than the one prevailing. They seemed for some time to have some success: in 1974 the UN General Assembly adopted the Declaration and Program of Action of the New International Economic Order<sup>21</sup>, followed in December 1974 by General Assembly approval of the Charter of Economic Rights and Duties of States.<sup>22</sup> The NIEO Declaration envisaged substantial changes in the international system, allowing developing countries significant opportunities to improve their economy to escape out of poverty<sup>23</sup>.

But the success never translated itself into real action. In the late 1970s the effort was broken by the emergence of neoliberal trends in the most powerful countries, in particular the United States under Ronald Reagan and Britain under Margaret Thatcher, and by increasing differences of interest between countries of the South.

#### **4 1980-2008: One-dimensional Corporate-driven Economic Globalisation**

The re-emergence around 1980 of 'laissez-faire ideologies' after decades of socially conscious policies had their own internal reasons in the USA and UK, but became 'global' because they coincided with the debt crisis which effectively paralyzed the movement for a new international economic order and marginalized its theoreticians. This gave the Bretton Woods institutions a different role than originally envisaged, with an unprecedented power to prescribe and to implement economic and monetarist policies for developing countries as a condition for investment which they strongly required. The World Bank and even more the IMF sought to constrain Third World public spending on education, social security and health. The links between the US Treasury and the international financial institutions during the Reagan/Thatcher era led to the emergence of the "Washington Consensus"<sup>24</sup>, requiring developing countries under the heading of 'structural adjustment' to privatize public enterprises, deregulate the economy, liberalize trade and industry, avoid or reduce taxation of corporations, adopt monetarist measures to keep inflation in check, maintain

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21 UN General Assembly Resolution 3201 (S-VI) (1974) "[daccessdds.un.org/doc/RESOLUTION/GEN/NR0/071/94/IMG/NR007194.pdf?OpenElement](http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/071/94/IMG/NR007194.pdf?OpenElement)".

22 UN General Assembly Resolution 3281 (XXIX) (December 12, 1974), "[www.un.org/documents/ga/res/30/ares30.htm](http://www.un.org/documents/ga/res/30/ares30.htm)".

23 Richard Jolly, Louis Emmerij, Dharam Ghai and Frédéric Lapeyre, *UN Contributions to Development Thinking and Practice*, United Nations Intellectual History Project (Bloomington and Indianapolis: Indiana University Press, 2004), pp. 120-4.

24 Regarding Washington Consensus, see "[www.cid.harvard.edu/cidtrade/issues/washington.html](http://www.cid.harvard.edu/cidtrade/issues/washington.html)".

strict control of labor, reduce public expenditures (particularly social spending), downsize government activities, open up for unregulated international trade, and remove controls on global financial flows<sup>25</sup>.

These structural requirements served mainly to pressure or encourage developing states to adapt to the expanding global market for direct private investments and unregulated ('free') trade. The role of large corporations and foreign investors increased dramatically.

The harmful effects on the economic and social rights of poor people have been extensively documented. Raising fees for social programs in areas such as health, education, income support and housing is one illustration. Pressure to keep workers' wages low is another, water privatization and full-cost water pricing is a third.<sup>26</sup>

The transition from GATT to the WTO in the 1990s further strengthened the space of action for large corporations and reduced the space of developing states to protect economic and social rights. Many groups inside developing countries, particularly in the rural areas, were hard hit by trade expansion while others amassed wealth. This was aggravated by the insistence of the Bretton Woods institutions that developing states should not burden their public budget with social assistance to those who were negatively affected by liberalized trade.

This one-dimensional<sup>27</sup> process of economic globalization has caused growing global and national inequality including massive hunger and malnutrition in various forms, contributing to child and other premature deaths and acute or chronic and disabling diseases which seriously affect human and social development. More than a billion people in the world do not have enough to eat<sup>28</sup>, many have little or no access to primary health care and often live under dangerous unsanitary conditions, all contributing to manifest hunger, malnutrition and ill-health.

## 5 Towards Human Rights-based Development?

Efforts to return to the original UN vision of a cooperative process of development started in the early 1990s. It has since gained momentum as a consequence of the financial crisis and the revulsion against the unregulated speculations that caused it.

The United Nations Development Program (UNDP) introduced already in 1990 the annual report on 'Human Development,' and from 2000 linked it to a human rights-based development, in part inspired and later elaborated by

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25 Manfred Steger, *Globalization. A Very Short Introduction* (Oxford: Oxford University Press, 2003), p. 41.

26 M. Rodwan Abouharb and David Cingranelli, *Human Rights and Structural Adjustment* (Cambridge/New York/Melbourne/Madrid/Cape Town/Singapore/São Paulo/Delhi: Cambridge University Press, 2007).

27 It is one-dimensional in that it focuses only on market operations without addressing the social consequences.

28 The State of Food Insecurity in the World 2009 (Rome: FAO, 2009).

Amartya Sen's focus on "Development as Freedom"<sup>29</sup>. This and many other factors, not least the considerable growth and strength of nongovernmental organizations devoted to or including the concern for economic and social rights, has helped to turn the tide toward a human rights-based development.

Most states are now parties to the main human rights conventions and have thereby undertaken legal obligations to implement them.

International monitoring bodies — the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Racial Discrimination; the Committee on the Elimination of Discrimination against Women; the Committee on the Rights of the Child — are now effectively formulating requests for states to better implement their economic and social as well as their other obligations. The international human rights system has now been comprehensively developed; the standard-setting is fairly complete and substantial practice already exists, including detailed guidelines by the international treaty bodies to states on how they shall conduct their human rights-based development.

Non-governmental human rights organizations have become increasingly influential, playing an important role in pushing the UN to develop its human rights machinery. They also have a growing presence and role within states, promoting awareness of human rights and helping victims and neglected groups to bring their claims forward. Within the international civil society, human rights organizations and development organizations play a growing role, and are increasingly interacting and cooperating with each other.

In 1986 the General Assembly adopted the Declaration on the Right to Development, which builds on UDHR Article 28 and on the obligations of States under the UN Charter to engage in international cooperation as set out in the UN Charter Articles 55 and 56. The essence of human rights-based development is set out in the Declaration on the Right to Development, Article 1:

The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

Its foundational values therefore are the following:

(a) the aim of economic, social, cultural and political development is to achieve an outcome where all human rights and freedoms can be fully realized. It is therefore a direct application of the Universal Declaration, Article 28.

(b) the process of development has to include every person and all peoples. Everyone is entitled to participate in, contribute to and benefit from that development.

To make this even clearer, Article 1 of the Declaration on the Right to Development provides that

"The human person is the central subject of development and should be the active participant and beneficiary of the right to development."

Human rights-based development is different from other conceptions of

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<sup>29</sup> Amartya Sen, *Development as Freedom* (Oxford: Oxford University Press, 1999).

development in that it requires identification of the desired outcome and the participation by those affected in the process by which to reach that outcome. It differs fundamentally from the needs-based approach which tend to focus on aid to marginalized groups without empowering them to move out of that marginalization. Such needs-based delivery is often justified as charity by the powerful in society. The rights-based approach, in distinction, calls for ensuring effective entitlements to all as a right, for which no person need feel any shame, but can effectively demand.

Within the human rights agencies of the United Nations, considerable work has been carried out to promote the right of everyone to get out of poverty and to enjoy an adequate standard of living. It would go far beyond this paper to describe these many efforts. Some of the main activities will be listed below.

The international committees of experts set up to monitor the compliance of states with their obligations under the relevant conventions have, in addition to their examination of state reports, adopted a set of so-called 'General comments' which serve to elucidate the interpretation of the various rights and the corresponding obligations of states and the international community. Most of them spell out the measures that states should take in order better to implement the rights, including measures that should be taken by the international community through its functional organizations and in other ways in order to assist states in implementing their human rights obligations.

This constitutes by now a very rich and enlightening body of quasi-jurisprudential sources to draw from. General comments (GC) have been adopted by the UN Committee on Economic, Social and Cultural Rights on the right to housing (GC 4 and GC 7), on the right to food (GC 12), the right to the highest attainable standard of health (GC 14), the right to water (GC 15) and the right to social security (GC 19). These general comments can be found on the website of UN High Commissioner for Human Rights<sup>30</sup>

The UN Commission on Human Rights and its successor, the UN Human Rights Council, have established a range of thematic rapporteurs and independent expert studies, many of which deal with issues related to the realization of the right to an adequate standard of living. There is a special rapporteur on human rights and extreme poverty, another one on the right to housing, one on the right to education, one on the right to the highest attainable standard of health, one on the right to food, one on human rights and transnational and other business enterprises, one on the right to safe drinking water and sanitation. There are others dealing with the rights of indigenous peoples, of minorities, and of migrants, and on internally displaced persons. The mandates, their annual reports and other documents of the rapporteurs can be found on the website of the UN High Commissioner for Human Rights<sup>31</sup>

While the primary responsibility for the realization of each of these rights remain with the state towards its own inhabitants, it is obvious that they have to be assisted by outside states, in particular by the countries with a high gross

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30 "[www2.ohchr.org/english/](http://www2.ohchr.org/english/)" , under 'treaty bodies'/ Committee on Economic, Social and Cultural Rights/ General comments.

31 "[www2.ohchr.org/english/](http://www2.ohchr.org/english/)", under 'Special procedures'.

domestic product per capita. The awareness of global responsibility for human rights is increasing but very slowly.<sup>32</sup>

## 6 Conclusions

The right of everyone, everywhere in the world, to be free from need was one of the main concerns underlying not only the Universal Declaration of Human Rights but also the Charter of the United Nations. It was not the product of the demands by the Socialist countries of the time, but initiated by the then President of the United States and drafted in committees where leading American and other Western experts played a major role. It corresponded to developments of citizenship rights that had already taken place in some Western countries.

It was a big jump, however, to proclaim this as universal human rights. For that to become a reality it would have required an extensive global cooperation where the realization of this and other human rights were the main considerations governing the content of the cooperation. This was also envisaged to be done at that time; this is reflected both in Article 28 of the UDHR and in the purposes set for the UN in its Charter, particularly in its Article 1.3 and its Articles 55 and 56.

To achieve such cooperation turned out to be very difficult, however, given the divide between East and West, and between North and South. The East-West division came to an end in 1989-1990, which facilitated more cooperation among the industrialized countries. With regard to the North-South division, the efforts to create a more egalitarian global structure through the projected New International Economic Order came to nothing when the debt crisis erupted, combined with the introduction of rigid neoliberal economic policies in the dominant countries of the world from around 1980.

The process of economic globalization since 1980 has intensified the inequality in the global system. The divisions now go within states, not only between states. There are significant groups in countries such as India and China that have benefitted greatly from the process of globalization, while their majorities remain very poor. In many African countries the poverty is even more generalized.

It is obvious that the right of everyone to an adequate standard of living is far from realized. More than one billion people suffer from hunger and malnutrition and the number is growing. Possibly two billion, out of the total of at least 6.7 billion now living on earth, have substandard housing or no housing at all. There are enormous gaps between the standards set by international human rights law and the reality that many people face. On the other hand, we have to recognise that the world population has increased from probably around 2.2 billion when

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32 The growing but incomplete recognition of global responsibility has been described and analyzed by Margot E. Salomon: *Global Responsibility for Human Rights. World Poverty and the Development of International Law*. Oxford University Press, Oxford/New York 2007.

Roosevelt held his address, and 2.5 billion when the Declaration was adopted, thus adding around 4 billion since then. The results are therefore not necessarily dismal, but could have been much better.

Some may consider that human rights that are not fully applied in practice do not deserve the name 'rights'. There is, in particular, in many quarters scepticism towards economic and social rights such as the right to an adequate standard of living. It is very much to be hoped that this scepticism is replaced by constructive efforts to assist in its better implementation.

It has to be borne in mind that economic and social rights were adopted as 'standards of achievement', which were to be achieved through progressive measures, both at the national and international level. Article 2 ICESCR envisages a progressive realization of the Covenant rights and acknowledges the constraints due to the limits of available resources. However, it also imposes obligations which are of immediate effect. In particular, states parties must guarantee that the rights will be exercised without discrimination of any kind and must take immediate and progressive steps towards full realization of the relevant rights by all appropriate means, including particularly the adoption of legislative measures.

More than sixty years have passed since the Declaration was proclaimed by the UN General Assembly and more than forty years since the main covenants were adopted. The results can be seen as disappointing, but they remain the main hopes for many non-governmental organisations and human rights bodies that are continuously struggling to make them more widely recognised and particularly to make them more effectively applied, both domestically and through international cooperation.

One of the factors that will determine the further progress of the realisation of these rights is whether legal and other scholarship will engage in the efforts called for by the General Assembly in 1948 when in the preamble of the Declaration it stated that the Declaration was proclaimed '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'.

The mandate of the Norwegian Centre for Human Rights at the University of Oslo where I work is exactly that: to strive by teaching and education to promote respect for these rights and freedoms. We also seek to encourage the adoption of progressive measures, national and international, to secure their universal and effective recognition and observance. There are now many similar institutions around the world, and many individual scholars, educators and actors within nongovernmental, governmental and intergovernmental institutions devoted to the same task. There is room for many more; the task is huge but not impossible.