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“Power carries its own conviction”

The early rise and fall of human rights, 1945–1960

“The chief novelty of the Declaration was its universality”

Rene Cassin, UN General Assembly, December 9, 1948

“Its moral force cannot rest on the fact of its universality – or practical
universality – as soon as it is realized that it has proved acceptable to all
for the reason that it imposes obligations upon none.”

Hersch Lauterpacht (1949), “The Universal Declaration
of Human Rights”

It is December 7, 1948. The “International Bill of Human Rights” is one
of many agenda items. It has been two years in the making. The delegates
are now reaching decision time on the future of human rights in the work
of this international organization. We are in Guadeloupe – the French
island territory in the Caribbean. The occasion is the third West Indian
Conference of the Caribbean Commission.

Half a world away the UN General Assembly is in session in Paris.
The Commission on Human Rights has presented the “Draft Interna-
tional Declaration on Human Rights” to the Assembly. After more than
two months of debate stretching over eighty-five meetings the Third Com-
mittee of the UN General Assembly votes to adopt the document that one
week earlier, upon the initiative of French delegate Rene Cassin, was
renamed the “Universal Declaration of Human Rights.” The debate in
the Third Committee ends on December 7, 1948.

Meanwhile back in Guadeloupe, the delegates prepare themselves for
the human rights debate. The item was placed on the agenda in 1946

1 Mr. Cassin (France), UN General Assembly, 3rd session, 180th meeting, December 9,
1948, p. 866.
when it was decided that the Caribbean Commission should consider developing a regional “Bill of Human Rights and Obligations.”

3 In a 1945 debate in the State Department, the distinguished African American diplomat Ralph Bunche, who served on the Caribbean Commission, recognized that the Caribbean was a testing ground for the Atlantic Powers’ “treatment of colonial peoples.”

4 The 1948 human rights debate proved a case in point. The colonial powers in the Caribbean, the United Kingdom, France and the Netherlands, view the agenda item with great concern. They have tried to end the debate before it began because they viewed it as being against their interests. They have lobbied their American ally for support to stultify the debate and the United States obliged. While the United States did not want to “muzzle” the delegates it would “stand firmly against any attempt to take positive action which might involve serious controversy with the other three national sections.”

5 Using the unfinished UN debate on the Universal Declaration of Human Rights as an alibi and as a claim to their goodwill, the aim of France, the United Kingdom, the Netherlands and the United States was to block the debate.

Back in Paris, the debate has moved to the Plenary after the Third Committee adopted the Universal Declaration. It is in this forum that formal endorsement by the United Nations has to take place. On December 10, 1948, The Universal Declaration of Human Rights is adopted with forty-eight states in favor and eight states abstaining. Eleanor Roosevelt predicts that the Declaration will be “the Magna Carta of all mankind.”

In Guadeloupe, the rhetoric is less magnanimous. In what must be one of the first statements on the relationship between human rights and international development aid, the Trinidadian delegate opened by stating “the Bill of Rights required for the West Indies was a ‘Dollar Bill’, as such idealistic objectives must necessarily depend upon the improvement

3 See Recommendation 8 from “Report by Secretary-General on the Action taken by the metropolitan and territorial Governments on the Recommendations of the previous session of the West Indies Conference and on the work of the Commission since the previous session.” U.S. National Archives, RG/59/150/70/28/16 – Box 40, File: Report by Secretary-General on Progress of West Indies Conference. The Commission was established in 1942 in response to the region’s increased strategic importance during the Second World War.


6 Mrs. Roosevelt (USA), UN General Assembly, 3rd session, 180th meeting, December 9, 1948, p. 362.
of economic circumstances.” The Trinidad delegate moves to close the debate on a regional adaptation of the UN Bill of Human Rights. The colonial masters could not have asked for more.

Other delegates express greater interest in the draft UN Declaration. The delegates from Guadeloupe and British Guyana are particularly impressed with the Article on the right to an adequate standard of living.\(^8\) The delegate from Puerto Rico calls for establishing a Committee that would “submit concrete proposals for practical implementation of the Declaration in the life of the Caribbean people.” The Caribbean Commission should not wait for further action from “the United Nations or the Metropolitan Governments.”\(^9\) The Puerto Rican delegate submits a resolution calling for concrete implementation as soon as the Declaration is approved by the UN. This is three days before the UN vote on December 10, adopting the Universal Declaration. The Puerto Rican resolution is adopted and is transferred to the conference Drafting Committee. Here the colonial powers manage to neutralize its recommendation on human rights.\(^10\) They were successful in ensuring that the debate had no real effect against the wishes of several of the Caribbean delegations. At the same time, they celebrate in Paris the adoption of the Universal Declaration as a great achievement.

Historians strongly disagree on how to understand the human rights legacy from the 1940s. The Universal Declaration has been described both as “a monumental achievement”\(^11\) and as a “funeral wreath laid on the grave of wartime hopes.”\(^12\) The human rights developments of the 1940s have been captured under headings such as “A New Deal for the World” and “A World Made New”\(^13\) as well as “Death by Birth” and as

\(^7\) U.S. National Archives, RG 59/150/70/UD 07 D 68 – Box 39 (Caribbean Commission series): Mr. Gomes (Trinidad), 3rd West Indian Conference, Daily Journal no. 6, December 7, 1948.
\(^12\) Samuel Moyn (2010), The Last Utopia. Human Rights in History. Cambridge, MA, p. 2.
a “stillborn” project.\textsuperscript{14} These directly opposed interpretations call for a balanced assessment of this period.

The story of the real-time events occurring in December 1948 in Guadeloupe and Paris, between colonial territory and metropole, illustrates an important point about the history of human rights. It is often a history of the simultaneous coexistence of proclamation and denial. As human rights started to emerge, new techniques of curtailment also developed. Part of the historian’s challenge is to uncover the existence of this proclamation–denial nexus and how it has been part of the dynamics that have driven change in international human rights politics. Sovereignty and domestic jurisdiction versus human rights constitutes one version of this nexus. Universality versus relativism is another. The combined process of proclamation and denial in the decade after 1945 merits the label an “early rise and fall of human rights.” It is not a traditional temporal narrative of “rise and fall” but rather a dual dynamic happening simultaneously as part of wider political battles. The 1940s remains a starting point for the contemporary human rights story. The question is: In what way?

“Searching for a new universalism”: the UN Charter and human rights

The outbreak of the Second World War spelled the end of interwar international organization. “The Wilsonian Moment” did not last long after the First World War. The United States abandoned the League of Nations from the outset and non-European actors rapidly became disillusioned when realizing that the principle of self-determination – a core principle of President Wilson’s plan – did not extend beyond the European continent.\textsuperscript{15} It was undone by the return of traditional European power politics. Despite important efforts in specific areas of its mandate the League suffered a protracted collapse after 1933 when the Nazis took power in Germany.\textsuperscript{16} By the outbreak of the war the League of Nations was a symbol of failure in most quarters.

In October 1940, a group of former League of Nations officials presenting themselves as the International Consultative Group of Geneva issued a report on the “Causes of the Peace Failure 1919–1939.” It was


an assessment of the political, economic and spiritual causes of why international organization had failed. The group identified among the political causes that the post–First World War settlement had required “a new political morality, the substitution of responsibility for power” that never materialized. The failure of collective security in Europe and the flawed relationship between the doctrine of sovereignty and international state obligations was highlighted. The most revealing part of the report was a discussion of the spiritual factors causing the crisis of democracy:

men everywhere are searching for a new universalism. It is rightly believed that international society has become so interdependent that it will only be able to live in a harmonious and orderly fashion if some fundamental common convictions concerning man and society are held by all nations, however different they may remain in all other respects.\(^\text{17}\)

The Group identified what they believed were the three existing conceptions of universalism: the communist, the humanistic and the Christian. Human rights were mentioned nowhere under these categories. Communist universalism was described as “impressive and real, but it arrives at universality through a process of destruction of all values (and those who hold them).” It was not a tempting proposition. Humanistic universalism was seen as based on a “faith in human reason” believing that by universalizing education in its values conflicts could be averted and a better world would develop. The Group believed that “the weakness of this type of universalism has been its facile optimism concerning the nature of men and the power of human reason.”\(^\text{18}\) It was naïve when facing the nature of power.

The Group found the third option the most appealing. It reflected the worldview of the group. Christian universalism was based on an understanding that only by this common faith could humans live together and overcome the conflicts that emerged. It was an understanding that saw “the growth of Christianity as the only world-wide religion and in the emergence of a new ecumenical consciousness the ground for hope that the Christian faith may once more become the integrating force in Western civilization.”\(^\text{19}\) It was a notion that installed a hierarchy elevating Western civilization and projecting Christian universalism upon the whole world. It bore the imprint of the colonial world order. It was a universalism of


\(^{18}\) Ibid., p. 368.

\(^{19}\) Ibid., p. 368.
the particular that was unable to imagine a world outside its own system of values and beliefs.

The report was published a few months after the Fall of France. If the Consultative Group’s analysis reflected mainstream political thinking about international organization in 1940, it is safe to say that human rights were not part hereof – not even when the focus was on developing “a new universalism.” By 1945, human rights had become a central element in the founding document for the new postwar international organization. What happened in between?

The Atlantic Charter, launched by President Roosevelt and the British Prime Minister Winston Churchill in August 1941, is often viewed as a starting point for the new thinking on human rights in international affairs despite the fact that it did not contain the actual words. The historian Elizabeth Borgwardt has argued that its statement about establishing a peace after the war where “all the men in all the lands may live out their lives in freedom from fear and want,” with its emphasis on individuals and not state interests was “positively revolutionary” and “marked a defining, inaugural moment for what we now know as the modern doctrine of human rights.”

The Charter did help define war aims and stimulated international interest beyond the allied nations who signed onto the Charter. It aroused interest in the colonies as it included a provision on self-determination. Its timing, coming after Roosevelt’s Four Freedoms speech to Congress earlier in 1941, may support Borgwardt’s view that it was a starting point for U.S. projection of a New Deal international order upon the world.

Churchill, however, had a very different ambition. He retreated from the universalistic interpretations of the Atlantic Charter. In his understanding it did not apply to colonial settings but merely to the occupied European countries. Politically, it was a tenuous position that revealed major tensions between a colonial order and the tendency toward universalistic war aims for this global conflict. Churchill’s alliance was tenuous because it consisted of European governments that had been forced into exile. By autumn 1940 European exile governments and exiled representatives from many other countries had settled in London making it the center of the war effort. Britain was leading this alliance that served as a symbol of European opposition to Nazi expansion on the continent.

A government-in-exile is an oxymoron because the term government normally implies a political entity that has control over its given

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territory – the state. Exile undermines this meaning. France, Belgium and the Netherlands had showed considerable military and political weaknesses when they were occupied by Germany. The fact that the European governments in exile in London had lost control over their territory and the ability to protect their citizens but still managed their colonial possessions – some of them providing invaluable natural and human resources to the war effort – was bound to challenge perceptions about the legitimacy of the existing colonial world order. It was little surprise if people outside Europe – for example in colonial settings – were inspired to think differently about the organization of international affairs. Exile was an experience of displacement that stimulated new political thinking and ideas about international organization, European integration and human rights. Rene Cassin, who was legal advisor to Charles de Gaulle’s Free French movement, was one of several exiles who would come to play an influential role in shaping the UN’s future human rights work.21

In the months after the Atlantic Charter human rights made a more direct imprint on the notion of international organization. With the Soviet Union joining the Allied war effort after the German invasion in the summer of 1941 and the United States joining in December 1941 after Pearl Harbor, Roosevelt and Churchill met again shortly after the attack. During the Christmas period they prepared what became the United Nations Declaration, which was issued for wider signatory support on January 1, 1942. It was based on the principles of the Atlantic Charter and contained a commitment “to preserve human rights and justice in their own lands as well as in other lands.” The Declaration was short, less than 200 words, but human rights were mentioned in this, the first document of the United Nations. The wording “as well as in other lands” recognized that human rights were an issue of international concern.

By January 1942, the Alliance against the Axis powers had been reconfigured. The war effort was now led by the United States, Great Britain and the Soviet Union replacing the more tentative alliance of Great Britain and its exiled partners. The latter were subsequently sidelined from much of the wartime decision-making much to their frustration and dismay. As Stalin, Churchill and Roosevelt were agreeing on how to divide up

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Europe, they also set out to detail the principles and structures of the future United Nations. In August 1944, diplomats from the three major powers gathered at Dumbarton Oaks in the United States. By October they had come up with a proposal for the organization of the United Nations. Both the Soviet Union and Great Britain had little interest in making human rights a central part of the United Nations and with only one reference to human rights the Dumbarton Oaks proposals reflected their views. The Chinese Government had been invited to join at the last stages but their request for a stronger role for human rights was ignored. The omission was widely criticized and the insertion of human rights into the UN Charter would be among the most significant changes made during the United Nations Conference in San Francisco that opened in April 1945.22

The criticism that was aired reflected a number of developments that had taken place between 1940 and 1945. During the war legal experts and some non-governmental organizations had started defining a set of international human rights standards.23 These efforts helped to ensure that human rights became part of the work of the United Nations. A first requirement for their consideration was that a more specific language for human rights was developed. One significant effort was the “model international bill of human rights” prepared by the transnational American Law Institute between 1941 and 1944. Their draft was promoted at San Francisco and would later be used by the UN Commission on Human Rights.

Norwegian historian Hanne Hagtvedt Vik has concluded that during the Second World War there existed “an ongoing transnational conversation on the rights of individuals.”24 It was this conversation that converged at the San Francisco conference and challenged the convictions held by the major powers. Another factor was the role of public opinion, which was particularly important in the United States. A large number of NGO representatives who represented many walks of American life was

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part of the U.S. delegation to the San Francisco conference.\(^{25}\) It served as an effective publicity exercise for the Americans who also had the recently deceased President Franklin D. Roosevelt’s legacy to consider. The NGOs lobbied to strengthen the human rights provisions. The British looked on with some alarm.\(^{26}\)

The Latin American countries were also effective advocates. The 1940s were a relatively liberal period in Latin America with emphasis on constitutional developments and with a twenty-nation contingent to the San Francisco conference they were able to influence the outcome.\(^{27}\) Other smaller states, for example, New Zealand, also supported a stronger role for human rights in the Charter. Their efforts and the fact that the United States became to a certain degree supportive of the positions held by the above-mentioned actors meant that the Charter differed from the Dumbarton Oaks draft and included human rights references throughout the document.

It is rare in international diplomacy to give prominence to a notion in which there is neither an actual definition nor even an agreed meaning. The human rights provisions in the UN Charter operated somewhere between an imaginary for a just international order and as rhetorical devices that provided idealistic gloss on the realpolitik of the era. Despite the very different motivations, the inclusion in the UN Charter was significant because it defined human rights as being part of the field of multilateral diplomacy. Without this inclusion the human rights story may have had a very different dynamic and historical trajectory in the postwar era.

At first reading, human rights feature prominently in the UN Charter with a total of seven references. They appear in the second paragraph of the preamble where “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women” is reaffirmed. They appear in Article 1 on the “Purposes of the United Nations” as a non-discrimination provision that focuses on respecting human rights “without distinction as to race, sex, language or religion.” Article 55 contains the first reference to the universality of human rights


\(^{26}\) Borgwardt (2005), *A New Deal for the World*, p. 189.

by the United Nations. Article 68 determines that a UN human rights commission will be established so that the organization can perform its functions. Human rights thereby appear in the UN Charter as a vision, a purpose, a goal for international cooperation with a specific institutional mechanism and with defined roles for the UN General Assembly (Article 13) and the Economic and Social Council (Article 62).

It is, however, equally appropriate to view the 1945 UN Charter as a barrier to an international legal order based on respect for human rights because it was designed also with this purpose. Article 2 gives privileged status to the principle of sovereignty and to domestic jurisdiction as it determines that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter.” The domestic jurisdiction provision protected state sovereignty. It became a central part of UN diplomacy and was a formidable barrier to overcome. It clashed with both the promotion of the human rights provisions and with Article 55 on the nature of international cooperation. In this light, it was no coincidence that the human rights language was couched in weak terms such as encouragement and respect instead of enforceability. It was proclamation and denial all in one.

The Charter also had colonial hypocrisy written into its human rights provisions. Human rights were not made part of Chapter 11 which contained a “Declaration regarding Non-Self-Governing Territories” dealing with the colonial territories of European Allied powers. The next Chapter, however, established an International Trusteeship System for the colonial possessions from the League of Nations Mandate system and any territory removed from “enemy states as a result of the Second World War” (Article 77). This mainly covered the German colonies taken after the First World War. In Chapter 12 human rights were deemed relevant as a basic objective of the Trusteeship System that included “to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion, and to encourage recognition of the interdependence of the peoples of the world” (Article 76 c).

It was a victor’s settlement mainly protecting British and French colonial interests. This arbitrary application of human rights meant a double

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28 The UN “shall promote . . . universal respect for, and observance of, human rights and for fundamental freedoms without distinction as to race, sex, language or religion.”
standard for colonial territories. Respect for human rights was to be encouraged in Tanganyika but not in neighboring Kenya, which was under British rule, and not in Angola, controlled by Portugal, but in neighboring South West Africa (today Namibia) because these territories had a different status at the United Nations. The latter, held as a League of Nations mandate by South Africa, who from 1948 were eager to extend apartheid rule in the territory, would be an especially tragic example of how the double standard was applied. This post–First World War invention of the League of Nations was held suspended in legal limbo throughout the Cold War with bloody consequences and with a lasting, negative effect on the international human rights system in operation today. The situation across Southern Africa would play a significant role in shaping human rights politics at the United Nations during the Cold War.

Mark Mazower has asked “What to make of the fact that Jan Smuts, the South African statesman, helped draft the UN’s stirring Preamble?” Mazower implies that because the Preamble of the Charter was primarily drafted by the South African leader Jan Smuts, it was tainted with the “moral mission of empire.” This agenda remained prevalent in the mid-1940s and in the decade that followed but it did not stand alone. A reason for this is that while one may influence language one cannot necessarily control meaning. Meanings are contested and change and meanings transcend state borders. The UN Charter, the Universal Declaration of Human Rights and the wider UN diplomacy carry these complexities and contradictions within their own historical trajectories. The UN Charter had a dual nature. This would be part of its legacy because to such a large extent it defined the legal and political field on which multilateral diplomacy unfolded and shaped the evolution of human rights.

The new vernacular: from Charter to Universal Declaration, 1945–1948

Where the UN Charter helped define the field of multilateral diplomacy, the Universal Declaration provided human rights with a language and specific content. It defined specific provisions and standards from which

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human rights debates could emerge. It was also a statement from which a number of concepts had been filtered away. Some of these were deemed inappropriate, some deemed more relevant for a convention due to their level of specificity while others were omitted since they could not obtain a majority during the UN negotiations. The latter could have added an interesting dimension to human rights thinking. One example was “the right to social justice” that was promoted by France, Lebanon and Belgium. Its meaning was both open-ended and politically significant and its inclusion could have had its own juridical–political dynamics in international diplomacy and jurisprudence. It did not obtain the necessary backing and instead the Third Committee settled for a “right to social security.” The example illustrates a larger point, namely that there was not a clear East–West divide on civil and political rights versus economic, social and cultural rights. There was general support for the inclusion of the whole range of rights.

Despite the absence of any implementation or accountability measures, the Universal Declaration offered greater specificity to the UN Charter provisions. The Declaration provided a specific vernacular for human rights that until then had been only loosely defined in various draft proposals developed during the 1940s and in some historical documents. Universality became the central notion around which many subsequent human rights debates evolved. The title of the document supported this but it was only ten days before its adoption, on November 30, 1948, that the title was changed from “International Declaration” to “Universal Declaration.” The change of this one word carried, quite literally, a world of meaning.

The Commission on Human Rights was established in 1946. The UN Economic and Social Council (ECOSOC) decided in June 1946 that the

first main task for the Commission was to prepare an international bill of human rights. ECOSOC also asked for a compilation of all existing human rights treaties and other relevant documentation to support the work. This task was assigned to the Canadian John Humphrey and led to a preliminary draft based on cross-examination of this information.\textsuperscript{33} The drafting of standards was not the only development in this field during this time. Human rights featured elsewhere in the emerging United Nations system. They became part of the mandate of new UN agencies such as the World Health Organization. The 1946 WHO Constitution described health as one of the fundamental rights and included a nondiscrimination provision focusing on “race, religion, political belief, economic or social condition.” Beginning in 1944, the International Labour Organization (ILO) also developed a strong human rights focus. It was important for the longer-term developments that human rights were inscribed in the mandates of the various UN agencies during the 1940s.\textsuperscript{34}

The task for the Commission on Human Rights was defined around three elements, namely drafting an international declaration, an international convention and implementation measures. The full Commission met for the first time in February 1947 and from here the drafting process took off. The Commission on Human Rights established a Drafting Committee for the international bill of human rights and work continued during several sessions in 1947 and 1948. This process saw particularly constructive contributions from the philosopher–diplomat Charles Malik from Lebanon, the Confucian Renaissance man Peng-Chun Chang from China, Law professor and social movement veteran René Cassin from France, the judge and educator Hernán Santa Cruz from Chile and Eleanor Roosevelt as a skillful chairwoman. In August 1948, ECOSOC transmitted the Commission’s draft Declaration to the General Assembly. The draft convention and draft measures of implementation were sidelined for the time being. The focus was on adopting a Declaration and the 1948 UN General Assembly witnessed the broadest and most comprehensive debate thus far.\textsuperscript{35}

\textsuperscript{33} Glendon (1999), A World Made New, pp. 32, 48.
\textsuperscript{35} For a comprehensive drafting history of the Universal Declaration, see Johannes Morsink (1999), The Universal Declaration of Human Rights: Origins, Drafting and Intent.
Critical voices had appeared during the process of preparing the Declaration. The American Bar Association passed a resolution in 1948 condemning the Universal Declaration partly on racial grounds. An intriguing and controversial statement came from the American Anthropological Association (AAA) in 1947. Always interpreted as a strongly cultural relativist statement defending the varied expressions of cultures, its more realist analysis of power and critical commentary has been overlooked. Its stated ambition was to explore whether the UN Declaration could “be applicable to all human beings, and not be a statement of rights conceived only in terms of the values prevalent in the countries of Western Europe and America.” This was similar to the task that the Commission on Human Rights was grappling with – a point that the AAA statement did not recognize.

The Statement rejected a biological frame of perceiving cultures and Man, thereby arguing an anti-racist position opposed to the American Bar Association. It criticized the impact of colonialism on non-Western cultures and essentially called for a more reflexive understanding of the legacy of colonialism on contemporary developments around the world. The promoters of an international human rights declaration could not ignore this dynamic between past and present. The AAA statement argued that the ideology of empire had legitimized its practice of power in such a way that “The hard core of similarities between cultures has consistently been overlooked.” The nature of these similarities was not explained, an obvious failure by the AAA given the nature of the topic, but this idea potentially had a universalistic bent. The analysis of power contained another interesting element as the Statement explained that:

Religious beliefs that for untold ages have carried conviction, and permitted adjustment to the Universe have been attacked as superstitious, immoral, untrue. And, since power carries its own conviction, this has furthered the process


Ibid., p. 540.
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of demoralization begun by economic exploitation and the loss of political autonomy.40

The belief that “power carries its own conviction” is a realist understanding of the practice of power with much broader applicability. Power was not just domination but brought its own system of values. The American Anthropological Association was basically arguing that if the Declaration project was to have any meaning then power had to civilize itself and its convictions. It was a shift from realist understanding to idealist prescription. The two world wars that had originated in Europe had led people in the colonies to question “the superior ways of their rulers” and the legitimacy of colonial rule:

The religious dogmas of those who profess equality and practice discrimination, who stress the virtue of humility and are themselves arrogant in insistence on their beliefs have little meaning for peoples whose devotion to other faiths makes these inconsistencies as clear as the desert landscape. Small wonder that these people, denied the right to live in terms of their own cultures, are discovering new values in old beliefs they had been led to question.41

The AAA statement has continued to vex the relativist versus universality debate. Its cultural relativism is certainly there on display but merely emphasizing this reduces its complexity since it was also outspoken on the relationship between human rights and self-determination. This played into what became an important United Nations debate over the next three decades. It was a debate that would come to reveal the problems of cultural relativism because it became closely connected to authoritarian rule.42 At the same time, the American Anthropological Association with its restrictive emphasis on culture was blind to the appeal that human rights actually had for anticolonial politics. This appeal led to a complex anticolonial grappling with human rights that gave them renewed international attention during the 1950s.

By the time the draft Declaration was placed before the UN General Assembly in 1948, there had been several human rights controversies at the UN. These issues loomed over the 1948 General Assembly negotiations. In 1946, India challenged South Africa over its discriminatory treatment of Indians. South Africa claimed this was an issue protected by domestic jurisdiction and not an issue for the United Nations; however,

40 Ibid., p. 541.
41 Ibid., p. 541.
India secured backing to keep it on the UN agenda. It was the first conflict over human rights to be brought before the United Nations but despite being on the agenda for three sessions, it did not lead to any action. It mainly proved how weak the authority of the UN could be.\(^43\)

In February 1947, the Soviet Union passed legislation banning their citizens from marrying foreign nationals. It soon became an international issue. In August 1948 ECOSOC passed a resolution referencing Charter provisions on human rights and fundamental freedoms that deplored “legislative or administrative provisions which deny women the right to leave her country of origin and reside with her husband in any other.”\(^44\)

This significant step demonstrated that before the Universal Declaration was proclaimed the Council had taken the position that the right to leave any country, including one’s own, and the right to marry without limitation due to nationality were part of the rights and freedoms that the Charter aimed to protect.\(^45\) It was a substantial recognition but with limited consequence. The debate over the Soviet wives followed what would become a familiar cold war pattern of tit-for-tat exchanges between East and West in the human rights debates. Freedom of information was also subject to special attention during the late 1940s and to a large extent it followed the same Cold War pattern. The normative work on freedom of information lingered for decades because of this.\(^46\)

A third significant controversy during this period also started in 1947. It concerned the former Axis states – Hungary, Bulgaria and Romania. Since they were on the losing side in the Second World War, they became party to peace treaties instructing them to uphold human rights and fundamental freedoms, including freedom of expression and association, freedom of the press and freedom of worship. Throughout 1948, the United States and British governments protested over the increasing “sovietization” of the three countries, which was incompatible with their human rights obligations. The process culminated in 1949 when Hungary and Bulgaria imposed long prison sentences on a Cardinal and a number of pastors for espionage and high treason.\(^47\) The controversy was an


\(^45\) Ibid., pp. 69–70.


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indication of how freedom of religion would become central to human rights developments during the Cold War.

It was also a central theme in the 1948 UN debate in the Third Committee. The relevant draft article focused on “freedom of thought, conscience and religion.” The Soviet Union felt that the article discriminated in favor of religious freedom and wanted this article to be reduced to “freedom of thought and freedom to perform religious services” with both made dependent on provisions of national law. The Soviet proposal, which omitted freedom of conscience and freedom of religion, was met with strong opposition. The Philippines called it “clearly reactionary in character.” There was wide support for the Commission’s draft article. A similar pattern followed in the next debate on freedom of opinion and freedom of expression which the Communist states sought to curtail. This also continued in the debate on freedom of movement, which the Soviets were accused, no doubt with the case of the Soviet wives in mind, of seeking to nullify.

There was also another attack on freedom of thought, conscience and religion, namely, from Saudi Arabia who opposed including the freedom to change religion or belief in the Universal Declaration. They wanted this to be deleted. The Saudi position was, however, opposed by a clear majority with Pakistan playing an important role by endorsing the freedom to change religion or belief. Cuba was a strong supporter of freedom of religion to the extent that they argued for a separation of the article into two parts: one on freedom of thought and conscience and one on freedom of religion to elevate the significance of the latter. The majority of states supported the unity of the freedoms expressed and wanted to maintain it. It was an important decision because this General Assembly debate created the precedents for the future international human rights language and here “freedom of thought, conscience and religion” were a unified

48 Mr. Aquino (the Philippines), UN General Assembly, 3rd session, Third Committee, 127th meeting, November 9, 1948, p. 396.
50 Mr. Santa Cruz (Chile), UN General Assembly, 3rd session, Third Committee, 120th meeting, November 2, 1948, p. 317.
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principle.\textsuperscript{52} This decision would have great significance especially after it had been confirmed as an international legal standard in the 1960s.

Cuba was part of the Latin American contingent that promoted a broad human rights agenda. They were among the most vocal supporters of the unity of civil, political, economic and social rights believing that with this unity “the twentieth century had witnessed the development of a new concept of liberty which it was important to clarify in the declaration.”\textsuperscript{53}

The Third Committee debate revealed that there was a broad consensus on this approach. There was debate on the specific wording of most articles but the overall concept that the Declaration should combine the broad range of rights was not questioned anymore. The British delegate even called the social rights at the end of the document “a climax.”\textsuperscript{54}

Where the Soviet Union had been challenged by the debate on freedom of religion, the Communist states went on the offensive in the matter of racial discrimination. They highlighted the United States “custom of lynching,” which President Harry S. Truman’s Commission on Civil Rights had acknowledged in their report from 1947, and the petition to the UN by the National Association for the Advancement of Colored People (NAACP) protesting the discrimination against African Americans in the United States. This pattern of attacks over race and religion were only at an early stage. The attacks were also directed at South Africa who in 1948 was in the process of introducing apartheid rule. The position of the South African government had hardened on the issues debated at the UN General Assembly. They defended not just a racial hierarchy but also a wider civilization hierarchy that was now being challenged. They were “pained” by the human rights debate that “was very different from that to which the League of Nations had happily been accustomed.”\textsuperscript{55}

The League of Nations had done more to support a South African view of “European civilization.” It was a view that extended its hierarchies beyond race to the inferiority of women as the South African delegate explained, “Men and women had and always would have

\textsuperscript{52} For an in-depth and insightful study of the drafting of the article on “freedom of thought, conscience and religion” in the Universal Declaration, see Linde Lindkvist (2014), \textit{Shrines and Souls. The Reinvention of Religious Liberty and the Genesis of the Universal Declaration of Human Rights}. PhD Dissertation, Lund University.

\textsuperscript{53} Mr. Perez Cisneros (Cuba), UN General Assembly, 3rd session, Third Committee, 104th meeting, October 16, 1948, p. 164.

\textsuperscript{54} Mr. Corbet (UK), UN General Assembly, 3rd session, Third Committee, 179th meeting, December 7, 1948, p. 885.

\textsuperscript{55} Mr. Te Water (South Africa), UN General Assembly, 3rd session, Third Committee, 112th meeting, October 25, 1948, p. 240.
different rights.”

This distanced them further from the principles of the United Nations since the UN Charter had explicitly recognized the equality of the sexes that had been, according to another delegate, “a triumph for the women of the world.”

It was two irreconcilable worldviews that were clashing since the work on the Declaration was attempting to establish universal standards while the South Africans made no effort to hide their fundamentally opposite position that “there could be no universality in the concept of equality.”

It was a very blunt and revealing statement that represented a worldview that would occupy the attention of the UN for decades to come.

The adoption of the Universal Declaration of Human Rights on December 10, 1948, did leave a question mark about its claim to universality. This influenced the reception outside the United Nations. Contemporary observers were divided on how to interpret the political significance of the Universal Declaration. While Eleanor Roosevelt evoked the Magna Carta and the delegate from Pakistan saw it as an “epoch-making event,” a leading legal expert, Hersch Lauterpacht, described the Universal Declaration in a distinctly less appreciative mode. Lauterpacht, who was professor of law at Cambridge, denounced the “fictitious authority” with which the Declaration’s proponents surrounded it. Lauterpacht delivered a damning critique because of the Declaration’s lack of legally binding force. It was a direct critique of Roosevelt herself who had argued the U.S. viewpoint that the document should have no legal force whatsoever.

Lauterpacht was particularly harsh in his critique of the self-perceived universality:

Its moral force cannot rest on the fact of its universality – or practical universality – as soon as it is realized that it has proved acceptable to all for the reason that it imposes obligations upon none . . .

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56 Mr. Te Water (South Africa), UN General Assembly, 3rd session, Third Committee, 95th meeting, October 6, 1948, p. 92.
57 Miss Bernardino (Dominican Republic), UN General Assembly, 3rd session, Third Committee, 98th meeting, October 9, 1948, p. 108.
58 Mr. Te Water (South Africa), UN General Assembly, 3rd session, Third Committee, 95th meeting, October 6, 1948, p. 92.
59 Mr. Zafrulla Khan (Pakistan), UN General Assembly, 3rd session, Third Committee, 182nd meeting, December 10, 1948, p. 890.
60 Lauterpacht quoted Eleanor Roosevelt for stating, “It is not a treaty; it is not an international agreement. It is not and does not purport to be a statement of law or of legal obligation.” Hersch Lauterpacht (1949), “The Universal Declaration of Human Rights,” The British Yearbook of International Law 1948. London, p. 358.
Lauterpacht continued:

There are no rights unless accompanied by remedies. That correlation is not only an inescapable principle of juridical logic. Its absence connotes a fundamental and decisive ethical flaw in the structure and conception of the Declaration.\textsuperscript{61}

It was a critique that the Director of the UN Human Rights Division, John Humphrey, described as “brilliant and devastating” as it came from a leading authority within the international legal community.\textsuperscript{62} Humphrey and others had faced the prospect of achieving no international document at all and they opted for the compromise that was possible. Decades later, Humphreys felt that time had vindicated this approach. From the perspective of the late 1940s it was a strategy with a great amount of uncertainty. Lauterpacht’s critique was certainly legitimate.


The Universal Declaration was, as argued by Jay Winter and Antoine Prost, the last major political and moral act on which the Great Powers of the wartime alliance agreed.\textsuperscript{63} The Cold War quickly affected the United Nations and the international human rights work that had to operate under this evolving political conflict. In 1949, Roger Baldwin, the founder of the American Civil Liberties Union, pointed out that “in the tortured development of an international morality through the United Nations, the years 1948 and 1949 mark the laying of cornerstones of universality in human rights.” During the 1950s Roger Baldwin would, through the International League for the Rights of Man, do more than almost anyone else to test the limits of the new international human rights diplomacy. The League was the leading international human rights NGO in the 1950s and had a strong focus on colonial rule with South West Africa featuring particularly prominently. The League assisted local African leaders in petitioning their case for protection and independence.

\textsuperscript{61} Ibid., pp. 372–373.


\textsuperscript{63} The Soviet Union actually abstained from the vote but Winter and Prost write “They were part of the alliance, however repugnant the regime. A United Nations without them, a Universal Declaration without at least their tacit approval, would make no sense at all.” Winter and Prost (2013), \textit{René Cassin and Human Rights}, p. 239.
before the UN Committees in New York. The League’s efforts were strongly opposed by the colonial powers.

In his 1949 article, Baldwin admitted he was guessing about the emergence of an international morality because with the world becoming torn between East and West, it was uncertain how progress would occur since “the warring conceptions of human rights are central to the aspirations of both sides.” This was an overly idealistic interpretation of the Cold War power struggle as the arms race, the competition for hegemonic control over states and outbreaks of violent conflict, for example, in Korea, rarely had human rights as a central consideration. Human rights would be instrumentalized for ideological purposes but power operated on its own terms. As a global conflict this instrumentalization was a proclamation that also exposed denial. The gaps between ideals and reality grew ever more apparent on issues like racial discrimination and the very different understandings of what democracy and freedom entailed.

The developments in Europe are a case in point. Winston Churchill had been wary of human rights language and its universalistic aims in a global setting but he was an active proponent of human rights regionally. In Europe, human rights could play directly into the East–West confrontation and could help consolidate democracy and the rule of law in Western Europe. Churchill was a driving force behind the creation of the Council of Europe and supported the drafting of the European Convention on Human Rights.

The European Convention offered a strong legal and political statement against Soviet hegemony in Eastern Europe. It contained implementation measures that – although optional – potentially gave the Convention a binding status. The Convention, with an accompanying Court, is today regarded as the strongest regional human rights system and as an expression of European values. This is the result of much later developments. Its foundation was weak in the early phases. The European


system developed very little jurisprudence in the first two decades. An institutional legal culture was nurtured inside the organization itself but it only started playing a wider legal–political role in Europe after 1968. The European standards were also an iterative process with, for example, freedom of movement, important to the Helsinki Process in the 1970s, only becoming a human right in the European system through a 1963 Protocol to the Convention. This was after the UN had negotiated language on such a provision. In addition, Great Britain and France, in part worried by the applicability in colonial territories, only signed onto the implementation measures in 1966 and 1974, respectively, after the human rights breakthrough inside the United Nations. Similar to the United Nations, the smaller states were quicker at endorsing the human rights framework as part of their political agenda.

Furthermore, the European Convention was almost abandoned before it was developed. The Committee of Ministers under the new Council of Europe was at its first meeting in August 1949 deciding on the agenda for the Parliamentary Assembly. The French foreign minister Schumann and his British counterpart Ernest Bevin wanted the European Convention struck off the agenda, which would have blocked its actual development. The Danish Foreign Minister Gustav Rasmussen and his Irish counterpart Sean MacBride opposed this citing the great public interest that human rights had aroused among their respective publics. They wanted to keep it on the agenda of the Assembly. It ended with a vote and a minority of four secured that the majority of seven did not have the two-thirds majority to remove it from the agenda.\(^\text{66}\) It was a close call but it allowed the Parliamentary Assembly to act and they moved quickly. The European Convention was approved in 1950. It is possible that the Convention project could have survived a lost vote but it would have followed an unknown political trajectory as the main priorities of early European integration lay elsewhere. It illustrates the less than solid foundations that the project was built on.\(^\text{67}\)

After the UN had adopted the Universal Declaration in December 1948, the Commission on Human Rights worked in the following years on defining the standards for a broad range of legally binding rights as well as implementation measures. The Commission argued over whether

\(^{66}\) See *Council of Europe: Papers of the First Session of the Committee of Ministers, August 8–13, 1949*. Council of Europe Archives.

there should be one or two Covenants. In 1950, the General Assembly decided that one Covenant should be the way forward. The argument in favor of one Covenant was based on the indivisibility of civil, political, economic, social and cultural rights, on avoiding a hierarchy between the rights and to avoid delays in ratification and implementation of economic and social rights.  

The argument against a single Covenant was that the implementation processes of the various rights were different in nature and that one single Covenant would be a convoluted and confused document. The latter point was illustrated by a draft of the Covenant from April 1951. It contained seventy-three articles and it was unclear whether the implementation measures applied to all of the substantive articles on civil and political rights and on economic, social and cultural rights. The issues moved back and forth between the Commission and the General Assembly in the early 1950s. It was decided in 1952 to have two separate Covenants and progress could now be made in finalizing the provisions although the Soviet Union tried to have this decision reversed in 1953 and again in 1954. In 1954, the Commission on Human Rights finalized the Covenants and transferred them to the General Assembly. It was not a straightforward process as a major political change had occurred that once again seriously questioned the validity of the whole human rights project.

In 1953, immediately after Dwight D. Eisenhower became President of the United States, the Americans told the Commission on Human Rights that given the international political climate, the United States could not support the Covenants, did not believe that they would be widely ratified and were themselves unlikely to ever ratify them. It reflected increasing domestic opposition to American engagement in human rights issues and a struggle for control of U.S. foreign policy. The Eisenhower administration was reacting to a move from the U.S. Congress where the so-called Bricker Amendment, aiming to limit the President’s ability to negotiate international agreements, was gaining wide support. It was a political move attacking both the United Nations and intended to counter the possible impact that international human rights developments might have on racial segregation in the American South. The Presidential administration obliged in order to block the Amendment from being passed by

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68 Whelan (2010), Indivisible Human Rights, p. 117.

Congress, thus preventing the Executive Branch’s ability to act independently on foreign affairs from being severely restricted. The statement to the UN, however, cited the current international political climate, for example, reflected in the Korean War, as the reason behind the American withdrawal.

The announcement met with great disappointment among many member states as it questioned the Commission’s future. The Philippines was particularly vocal believing that progress had previously been made in bleak times. It was “true that totalitarian states would probably find it impossible to ratify instruments which set out to protect fundamental human rights, since their whole system was based on a denial of these rights,” but the Philippines delegate continued “the adoption of the covenants would serve as a beacon to the oppressed peoples of totalitarian states.”

René Cassin noted that U.S. pessimism was disquieting as it was not without its supporters but he urged that an effort to push ahead with the Covenants should be made as the “political circumstances, which were unfavourable at the moment, might change.” The drafting process continued but was effectively blocked from making real progress given the political and ideological conditions under which it was being developed. The Covenants would have a long and arduous journey before them after their transfer in 1954 from the Commission to the General Assembly. The hopes of the mid-1940s appeared a distant memory.

Stalemate and new explorations, 1955–1960

By the mid-1950s the human rights project appeared stymied. The UN Secretary-General Dag Hammarskjöld allegedly gave the Director of the UN Human Rights Division, John Humphrey, the following instruction on how to manage the UN human rights work: “There is a flying speed below which an airplane will not remain in the air. I want you to keep the program at that speed and no greater.” This appears to have been the level of ambition for human rights at the United Nations in 1955. It

70 Mr. Ingles (the Philippines), Commission on Human Rights, 9th session, 340th meeting, April 8, 1953.
71 Mr. Cassin (France), Commission on Human Rights, 9th session, 341st meeting, April 9, 1953.
would not stay that way but whether and when progress would happen lay in an unknown future. In hindsight 1955 was by no means an uninteresting year for what came to pass with human rights. While there appeared to have been a stalemate – and powerful actors certainly preferred this situation – there were new signs of the times where the meaning and relevance of human rights was the subject of exploration. In October 1955 a young British lawyer representing the “English Human Rights movement” meet with a member of the Strasbourg-based Council of Europe secretariat. The lawyer explained that representatives from the group, including several members of Parliament had met with the British Government to promote their cause. In a June 1955 meeting the Lord Chancellor had explained the government’s position and informed them that regarding the group’s human rights work there would be “no official support as their programme depended on full application in all British dependent territories.” This meant that the self-proclaimed movement was “comparatively dormant” but as the young lawyer explained “they were still watching for any legal case where a question of human rights arises and where the movement could consequently take a stand with proper publicity.”\textsuperscript{73}

In 1960, the young British lawyer, also known as Peter Benenson, would finally find a cause that offered the necessary political traction to establish a human rights movement. According to legend, Benenson read a story in the newspaper one morning in autumn 1960 about two Portuguese students who in a bar had given a toast for freedom and subsequently been arrested by the dictatorship for this act. In reading this article, Peter Benenson was allegedly moved to make the plight of political prisoners his cause. It became a founding moment for Amnesty International that Benenson went on to establish in 1961.\textsuperscript{74}

The story of the October 1955 meeting is telling as it sheds light on the prehistory of Amnesty International. It illustrates that the creation of Amnesty was not merely a spur of the moment thing as legend has it. It was a result of a six-year strategic exploration by Benenson for a cause that would give human rights traction by capturing the imagination of

\textsuperscript{73} Council of Europe Archive, Strasbourg, Central Archives, Box 1847, file 12128: “The Human Rights Movement in the United Kingdom,” Confidential meeting note, October 6, 1955 (Mr. A McNulty and Mr. P. Benenson).

\textsuperscript{74} Tom Buchanan (2002), “The Truth Will Set You Free: The Making of Amnesty International,” Journal of Contemporary History, vol. 37, no. 4, pp. 575–597. Peter Benenson was for a while in the intervening period involved with the organization Justice, which became the British section of the International Commission of Jurists.
a critical mass of people that would spur action. The story of the moral
revulsion that Benenson had felt in late 1960 should be balanced with the
story of a political process where a key element was the gradual realization
that a human rights movement was built not by seeking government
permission but instead by distancing itself and basing it on its own terms
in civil society. Timing was also a factor. From its early beginning in
1961, Amnesty International’s evolution happened in a decade where
human rights were gaining more traction than they had in the 1950s.

Another reason that 1955 was an interesting year was due to the
Bandung Conference that took place in April, hosted by the Indonesian
government, with representatives from twenty-nine Afro-Asian states,
including many representatives from territories that were not yet inde-
pendent. This high-profiled event was notable for the significant atten-
tion that human rights received. It is widely regarded as a landmark
event in the emergence of the Third World and the Non-Aligned Move-
ment but as Roland Burke has argued it also “marked out many of
the basic contours that came to define key human rights battles, such
as that on self-determination.”

It is striking to notice how clearly a
Third World commitment to human rights was expressed at Bandung,
including specific endorsements of the Universal Declaration of Human
Rights and the Draft Covenants on Human Rights. It acknowledged a
broad range of human rights issues, including questions of individual
freedom, religious liberty and democratic governance and these debates
consumed more of the conference “than the often mythologized question
of non-alignment.”

There was little doubt that the question of self-
determination consumed the attention of the participating states. The
echoes from Bandung were loud and clear at the 1955 session of the UN
Commission on Human Rights, which was meeting in Geneva in parallel
with the Bandung Conference and had the right to self-determination as
one of its major agenda items.

Both draft Covenants had as Article 1 the right to self-determination –
a right that did not feature in the Universal Declaration. Despite hav-
ing passed on the draft Covenants in 1954 for completion by the Gen-
eral Assembly the debate still lingered on in the Commission on Human
Rights. The right to self-determination was introduced into the Covenant

75 Burke (2010), Decolonization and the Evolution of International Human Rights, p. 13;
See also Roland Burke (2006), “‘The Compelling Dialogue of Freedom,’ Human Rights
76 Burke (2010), Decolonization and the Evolution of International Human Rights, p. 33.
negotiations in 1950. It was a controversial anticolonial move but also connected with the wider set of international norms established by the UN Charter in which self-determination had been included. Western states criticized the Article for being either a territorial or a group right or for being a principle and not a right and therefore not appropriate for legal documents on individual human rights. Nevertheless, the right to self-determination became part of the 1950s UN human rights diplomacy and added further controversy and complexity to its East–West and North–South intersections. It initiated a complex Western engagement with this issue that would move from criticism of the notion of self-determination as a human right throughout the 1950s and 1960s, where in 1966 it was adopted as the opening article in both Covenants, to an embrace in the 1970s when Western countries applied the principle as part of the Helsinki negotiations directed at Soviet control in Eastern Europe. This points, however, to longer-term developments.

The 1955 Commission on Human Rights revealed many of the tensions at stake. The Western states did not have a unified position and the British were concerned with what positions the United States would take. The United States was cautious but had to acknowledge that self-determination had been an important factor in its own founding. The Soviet Union was very supportive due to its anticolonialist relevance but was at the same time exposed to criticisms about the lack of self-determination in Eastern Europe. Afro-Asian states were, however, the ones driving the debate forward. Their delegates had the added bonus of being able to refer to the speeches, which their heads of state were delivering at Bandung almost simultaneously. It was India, the Philippines, Pakistan and Egypt who were infusing the debate with the political realities that the world was facing. In contrast, the United States was suggesting that the question could be referred to a Committee for study of what self-determination meant and how it should be defined. This did not sit well with the “Bandung Countries.” The Indian delegate asked, referring to states that had recently achieved independence, “Did the Commission think that the peoples of India, Pakistan, Burma and Ceylon would have awaited with resignation the deliberations of professors and jurists?” He then went on to outline the glaring contradictions of the global situation that served as a backdrop to the Commission debate:

There was a curious phenomenon in the field of the right to self-determination to which he must draw attention. It was a fact that the territories of the vanquished Powers of the second world were already free or were in the process of
liberation – for instance, Libya and Somaliland. The dependent territories of those Powers that had been vanquished in the first world war were the responsibility of the United Nations under the Trusteeship System; but what was the position of these dependent territories that were under the control of those Powers that had emerged victorious from both world wars? Was the lesson which the peoples of those territories had to draw that their best hope for freedom lay in their being on the defeated side in a world war?  

This patchwork approach to either independence or continued colonial rule was one of the historical ironies and inconsistencies that was becoming a pressing issue for the international community to address. The European imperial powers, however, were trying to hold off on this and carefully guarded the debates at the United Nations – especially in the context of human rights. It was a pattern that would continue for the rest of the decade. Despite a more organized Afro-Asian grouping who were elaborating their human rights stance, for example, at several conferences for African states in the late 1950s, human rights at the UN remained in a stalemate. By the end of 1960, the General Assembly’s Third Committee had adopted less than a third of the articles of the Covenants. It was a slow process that like Peter Benenson’s human rights project was searching for political traction to take it forward.

In the latter half of the 1950s, France, Britain and the other colonial rulers were increasingly being challenged on both power and principles. Decolonization was starting to take off but policies changed slowly. The conservatism of the British Colonial Office was felt on its foreign policy and this would continue for several years despite the existence of some alternative voices. In one instance, a Foreign Office official argued for a very different approach to self-determination. In opening an internal Foreign Office debate the official pointed out:

Self-determination would appear to be an ideal subject for a resolution which would show up Soviet policy for what it is. Unfortunately, the legalistic attitude we have adopted on this question has limited our freedom of action for we have taken the line in the discussions on the Human Rights Covenants that self-determination is not a right but a principle and abstained on Article 1 of the Draft Covenants... As a result of this unforthcoming attitude we have in fact

77 Mr. Dayal (India), Commission on Human Rights, 11th session, 505th meeting, April 25, 1955, p. 18.
78 By the end of 1960, the Third Committee had adopted the Preambles and twenty-six articles of the draft Covenants. At this point, there were fifty-seven articles still to be considered, as well as a number of new articles that had been proposed. British National Archives (Kew), FO 371/161043, U.K. Initiatives at the UN, folder “P.Q. Parliamentary Question, Mr. Lipton, January 30, 1961.”
put ourselves in the position of appearing to be opponents of a concept which has always been a cardinal feature of the evolution of the Commonwealth and which is consistently denied by the Soviet Government to the peoples under their domination.\footnote{British National Archives (Kew), FO 371/161043, “Possibility of an initiative in the United Nations in the field of human rights,” Foreign Office Circular/memo from August 16, 1961 (Entry by E. E. Key).}

This dissenting viewpoint was articulated three days after the building of the Berlin Wall which marked a new stage in the Cold War and highlighted the realities of Soviet domination in Eastern Europe. This had always been part of the context of the UN debates on self-determination but the cost of exploiting this had been viewed as too high by the European imperial powers. The Berlin Wall could have been a valid reason to bring human rights issues to the forefront of global politics but the debate that followed inside the British Foreign Office showed that even in 1961 such a move was not to Western liking.

The human rights project of the 1940s was not stillborn but it arrived on the international scene without any privileged birthright. It had to make its own way through the world. One must therefore be careful when presenting the 1940s as a natural starting point for the emergence of human rights because an historical account must better reflect the lack of continuity in their evolution. The 1940s was not the breakthrough era for human rights but the fact that human rights featured so prominently in the Charter, however, is important because it invariably brings us back to the earliest phases of UN history when trying to explain the genesis of international human rights. At a minimum, the UN Charter defined human rights as part of the field of multilateral diplomacy. The drafting of the 1948 Universal Declaration remains an impressive piece of intellectual and normative work by any standard but the wider context in which the document emerged calls for a more moderate and less triumphant narrative to describe the human rights developments in this period.

It is also necessary to give due attention to the UN Charter as an enabler of these developments. The UN Charter was sufficiently rich in meaning to become the source for reinterpreting the nature and purpose of the United Nations. These various interpretations reflected the tides of international politics and changed the norms guiding the international state system. It is in these processes that one can capture the making of human rights and better understand its 1940s’ beginnings. Human rights were interacting with the global forces of change. Against the backdrop
of a colonial order, human rights had little hope of becoming a global phenomenon. It was only with the decline of colonialism that human rights could more fully emerge. This fact places human rights closer to the center of 1960s’ international politics, more precisely as part of the world that decolonization made.