

THE SECURITY OF HUMAN RIGHTS: A THIRD PHASE IN THE GLOBAL SYSTEM?

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In 1989, when history blew out the candles on the 200th anniversary of the French Revolution and a draft Bill of Rights for the United States, the winds of change swept over Eastern Europe. It was a particularly significant arena for a living tribute to the two events in 1789 that had forged the modern link between human rights and national security. Just as the world was never the same after 1789, so the dramatic triumph of human rights aspirations in 1989 confirms a trend that may profoundly shape the international regime of global security into one of multilateralism and reliance on the promotion and protection of human rights.

The international foundation for Eastern Europe's spectacular commemoration of the link between security and human rights was largely in place by the beginning of 1989. By then, a relaxation of East-West tensions, broader consensus on the essence of global human rights, and a much stronger role for United Nations peace-making and peacekeeping instilled greater confidence among the Powers in a future of diversity, democracy and dialogue. Symbolically, the fortieth anniversary in 1988 of both the Organization of American States and the Universal Declaration of Human Rights, and the thirtieth anniversary of the Inter-American Human Rights Commission highlighted the relationship between international security and human rights. The East-West agreement reached in 1989 at the Vienna meeting of the Conference on Security and Co-operation in Europe¹ acknowledges the same relationship by blending them within the framework of the Helsinki Accords.² If the recent past is prologue, there is every reason to expect that these kinds of links between international security and human rights will become an inseparable part of the chain of future events.

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1. Concluding Document of the Vienna Meeting 1986 [-89] of Representatives of the Participating States of the Conference on Security and Co-operation in Europe, Held on the Basis of the Provisions of the Final Act Relating to the Follow-up to the Conference, 28 INT'L LEGAL MATERIALS 531 (1989).

2. Conference on Security and Cooperation in Europe (CSCE): Final Act, Aug. 1, 1975, *reprinted in* 73 DEP'T ST. BULL. 323 (1975).

Indeed, the protection of human rights would seem to offer the best long-range assurance of regional and global security. Over a hundred years ago the Mexican statesman, Benito Juarez, was clear about the relationship between security and human rights: "El respeto al derecho ajeno es la paz."³ Recently another eminent Mexican, Octavio Paz, emphasized the close link between security and democracy.⁴ In more specific terms James Billington, the Librarian of Congress, has written that "out of the large literature on how wars start in the modern world, there emerges one heartening fact: democracies do not fight one another."⁵

I. RECENT DEVELOPMENTS IN GLOBAL SECURITY

The events of 1989 accelerated a trend toward an international legal regime based on an acknowledged relationship between international security and human rights. The world appears to be entering a new, third phase in the global system of security within the United Nations framework. To preface discussion about this trend, it will be instructive to look briefly at recent developments in global security. Clearly, we are living in a significant period. Although there are clouds on the horizon and "peace in our time" still seems quixotic, "peace," in the words of Colin Powell, Chairman of the Joint Chiefs of Staff, "is on the march around the world."⁶

Consider what happened in the realm of peacekeeping as the 1980s ended. Under a United Nations-arranged agreement, which was a kind of Christmas present at the end of 1988, South Africa agreed to independence for Namibia in return for withdrawal of Cuban troops from neighboring Angola.⁷ The Geneva Accords re-

3. Quoted in, e.g., J. MCHENRY, *A SHORT HISTORY OF MEXICO* 202 (1970). As the product of Juarez's liberal-reformist thinking, this aphorism has been widely quoted to justify both individual ("human") rights in national society and sovereign rights in international relations. It has therefore served as a basis in Mexico both for civil rights and liberties and for principles of self-determination and non-intervention. Left uncertain is its message whenever the use of force may be necessary to vindicate human rights. It appears, however, that domestically, at least, Juarez was prepared to use force to establish his reforms ("La Reforma") on behalf of human rights.

4. "It is logical and political error, as well as a moral failing, to dissociate peace and democracy . . . in its simplest and most essential expression, democracy is dialogue, and dialogue paves the way for peace. . . . By fighting for democracy, dissidents are fighting for peace—fighting for all of us." O. PAZ, *ONE EARTH, FOUR OR FIVE WORLDS* 212 (1985).

5. Billington, *Realism and Vision in American Foreign Policy*, 65 *FOR. AFF.* 630, 652 (1986).

6. Interdependent, Dec. - Jan. 1988-89, at 1, col. 1.

7. Freeman, *The Anglo/Namibia Accords*, 68 *FOR. AFF.* 126 (1989); Smith, *A Diplomatic Success in Africa*, *Christ. Sci. Monitor*, Dec. 19, 1988, at 12, col. 1.

sulted in the withdrawal of Soviet troops from Afghanistan.⁸ Iraq and Iran were slowly, if somewhat precariously, implementing a ceasefire in their ten-year war.⁹ Morocco and the Polisario guerrillas accepted a United Nations plan to bring peace to the Western Sahara and to conduct a referendum on self-determination there.¹⁰ On August 7, 1989 the Tela Conference of Central American leaders approved plans for a three-part United Nations peacemaking-peacekeeping operation in Central America.¹¹ The same month Libya and Chad signed an accord ending fifteen years of conflict.¹² Although Cambodian peace negotiations have progressed slowly, the end of 1989 and the beginning of 1990 witnessed the installation of a process for peace that is supported in principle by such adversaries as China, which has usually been skeptical about U.N. peacekeeping, and Vietnam, which seems to prefer a U.N. settlement in Cambodia to a return to domination by the Khmer Rouge.¹³ Finally, South Korean President Roh suggested that the United Nations use its good offices to convene a six-nation conference for opening up dialogue between the two Koreas.¹⁴

In view of these developments, it is not surprising that support for the United Nations is once again substantial, according to public opinion polls in the United States.¹⁵ The U.N.'s peacekeeping operations help explain its current popularity. The award of the 1988 Nobel Peace Prize to those forces reminded the world not only of the Nobel Committee's wisdom, but the key role that military troops continue to play in security. It is, however, remarkable that the military peacekeepers conduct their operations based on a minimal use of force, always with the consent of the parties concerned, and firing their arms only in self-defense. In the words of Secretary General Pérez de Cuéllar, "[n]ever before in history have military forces been employed internationally *not* to wage war, *not* to establish domination, and *not* to serve the interests of any Power or group of Powers, but rather to prevent conflict between peo-

8. See Morello, *The UN reopens with a little more peace, a little more money*, Christ. Sci. Monitor, Sept. 20, 1988, at 9, col. 1.

9. *Id.*; see also Kemp, *Middle East Opportunities*, 68 FOR. AFF. 139, 144 (1989).

10. Christ. Sci. Monitor, Sept. 21, 1988, at 2, col. 3.

11. Marcello, *Path Cleared for UN Peacekeepers in Central America*, Christ. Sci. Monitor, Aug. 15, 1989, at 3, col. 1.

12. Christ. Sci. Monitor, Sept. 1, 1989, at 3, col. 1. The parties agreed to submit a territorial dispute to international arbitration.

13. See Porter, *Cambodia: Sihanouk's Initiative*, 66 FOR. AFF. 809, 817-18 (1988); La Franchi, *A UN Role for Cambodia*, Christ. Sci. Monitor, Jan. 18, 1990, at 3, col. 1.

14. Chase, *Inescapable Entanglements* 67 FOR. AFF., Winter 1988/89, at 26, 28.

15. See, e.g., *Interdependent*, Spring 1989, at 3, col. 1.

ples.”¹⁶ But is this the last word in global security?

A. A Brief History of Global Security Efforts Within the United Nations

Chapter VII of the United Nations Charter¹⁷ was to have been the cornerstone of an ambitious new system of collective security (the “first phase”), based on the organization of a permanent military force to deter or respond to threats to the peace, breaches of the peace, and acts of aggression. The short career of this system of collective security began and ended with the Korean War, and then only as a result of two unchartered developments: the Uniting for Peace Resolution of the General Assembly¹⁸ and domination by the armed forces of one Member, the United States. The fragility of regional arrangements under Chapter VIII of the United Nations Charter,¹⁹ as well as the failure of the five Permanent Members of the Security Council to agree on the composition, command structure, territorial facilities and conditions for action of a permanent force, led to the present, so-called “second phase” of post-War security. Instead of the prescribed system of collective security, a stronger role for the Secretary General and a more active General Assembly have combined to cast the U.N. in the role of a watchdog over international disputes, a peacemaker and peacekeeper after the event of conflict, and a facilitator of disarmament and peaceful dispute resolution under Article 2²⁰ and Chapter VI²¹ of the Charter.

16. U.N. Chron., Mar. 1989, at 30 (emphasis added).

17. U.N. CHARTER ch. VII (“Action with respect to threats to the peace, breaches of the peace, and acts of aggression.”)

18. 5 U.N. GAOR Supp. (No. 20) at 10, U.N. Doc. A/1775 (1950);

that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations.

19. U.N. CHARTER ch. VIII arts. 52-54 provide for “Regional arrangements” and their relationship with United Nations action.

20. U.N. CHARTER art. 2, paras 3-5 provide as follows:

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in

To date, the United Nations has been involved in one campaign of collective security, seventeen peacekeeping operations and military observer missions (the latter are unarmed), and two cases of collective sanctions, against Southern Rhodesia and South Africa.²² About 500,000 troops and other personnel from 58 nations have been involved. Today, the U.N. maintains ten active peacekeeping and military observer missions involving about 20,000 persons. Until 1988 all of these missions were located within a crescent, perhaps more accurately described as a scimitar, which extends between Cyprus and India. On the western end of the crescent is the UN Peacekeeping Force in Cyprus (UNFICYP), whose more than 2,000 troops and civilian police provide a buffer between Greek and Turkish-speaking sectors of that island. To the east, the United Nations Truce Supervision Organization (UNTSO), with 300 observers, reports from Jerusalem on hostilities there, in Israel and four Arab states. The UN Interim Force in Lebanon (UNIFIL), whose 5,850 troops constitute the U.N.'s second largest mission, patrols south Lebanon. The U.N. Disengagement Observer Force (UNDOF), with 1,350 troops and observers, implements the cease-fire between Israel and Syria.

The baby of the Middle Eastern family, still getting used to the hot bathwater of the Persian Gulf, is the U.N. Iran-Iraq Military Observer Group (UNIIMOG), whose 350 observers and 480 support troops seek to establish and maintain a ceasefire line. Still farther to the east, another toddler, the U.N. Good Offices Mission in Afghanistan (UNGOMAP), with 50 observers, implements the Geneva accords in Afghanistan and Pakistan. On the easternmost flank, the U.N. Military Observer Group in India and Pakistan (UNMOGIP), which is the oldest mission, helps keep the peace between those two countries by patrolling the rugged western Himalayas with a staff of just 38.

Outside the crescent between Cyprus and India are the eighth,

any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventative or enforcement action.

21. U.N. CHARTER ch. VI ("Peaceful settlement of disputes").

22. On the details that follow, see the concise summary and map of the first seven peacekeeping groups, in Morello, *U.N. tallies the costs of peace*, *Christ. Sci. Monitor*, Aug. 22, 1988, at 7, col. 1; see also Piasecki, *What price peace?* *Interdependent*, Dec. - Jan. 1988-89, at 1, col. 2.

ninth and tenth U.N. operations or missions.²³ These include two in Africa: the United Nations Angola Verification Mission (UNAVEM), a fledgling group of about 70 observers in Angola which is supervising the withdrawal of Cuban troops, and a 4,500-person “decolonization” force called the United Nations Transition Advisory Group (UNTAG). The latter has gradually been deployed in Namibia to supervise elections there and the transition to independence. This force, which is the largest United Nations peacekeeping force since the U.N.’s Congo operation of the early 1960s, will participate in all aspects of Namibia’s path to independence, from monitoring elections to helping the former colony draft a constitution. Although the first U.N. troops deployed in Namibia came under serious military attack, the overall mission has been successful.

The tenth and last force, resulting from the Tela Agreement, is the UN Observer Group in Central America (ONUCA). It is being deployed throughout five of the seven countries of Central America to ensure compliance with two provisions of the Agreement: the end of military assistance to guerilla groups and the prohibition on allowing state territory to be used for launching attacks on neighboring states.²⁴ Another international body, the UN Mission for Verification of the Electoral Process in Nicaragua (ONUVEN) was established to accomplish that purpose with a minimum of personnel. The United Nations also stands ready to offer peacekeeping assistance and to supervise referenda, plebiscites or elections, in such troubled and war-weary battlegrounds as the Western Sahara or Cambodia.²⁵

These operations are, of course, expensive. Peace has its price. For example, by the time Namibia achieves full independence, the peacekeeping force there is expected to cost over \$500 million (after being stripped down to essentials) and the new Iran-Iraq Military Observer Group costs nearly \$120 million a year.²⁶ Secretary General Pérez de Cuéllar estimates that missions in Western Sahara, Cambodia, Central America and Southwest Africa could cost

23. Schwartz, *Namibia: Birth of a nation*, Interdependent, Winter 1989, at 1, col. 2.

24. Morello, *supra* note 11. The ONUCA package includes a military contingent, the International Commission of Support and Verification (CIAV), to oversee demobilization, disarmament and repatriation or resettlement of Contras in Honduras, the latter activity under the auspices of the Office of the UN High Commissioner for Refugees in Geneva.

25. Piasecki, *supra* note 22.

26. Schwartz, *supra* note 23.

up to \$1.5 billion a year,²⁷ which is more than twice the regular annual United Nations budget. That is one of the serious problems in the current, second phase of U.N. efforts on behalf of global security. The United States, for example, has been over \$65 million in arrears in paying just its peacekeeping assessment, and nearly \$600 million overall. Fortunately, however, it is beginning to pay its full current assessments and arrearages over a period of five or six years.²⁸

III. UNITED NATIONS PEACEMAKING, ARMS CONTROL AND PEACEFUL SETTLEMENT OF DISPUTES

As the United States once again gives the U.N. its dues, it would seem appropriate to give it our due. The United Nations has, after all, accomplished a great deal in encouraging and maintaining global peace. Its efforts have extended to *peacemaking* as well as *peacekeeping*. The United Nations has been especially involved in arms control and peaceful settlement of disputes. Its efforts to facilitate arms control are rooted in the Atlantic Charter,²⁹ concluded between Roosevelt and Churchill in 1941. The eighth clause of that document emphasizes the need for disarmament, "pending the establishment of a wider and permanent system of general security."³⁰ History has shown that the U.N.'s role in the process of controlling arms is that of a catalyst, equipped with principles, procedures and numerous venues for helping to turn swords into plowshares.

The United Nations also helps make peace by encouraging the peaceful settlement of disputes. In an era when national legal systems are rediscovering the merits of resolving disputes in imaginative, more collaborative ways inside and outside the courtroom, the

27. Interdependent, Winter 1989, at 1, col. 1.

28. See Pickering, *The U.S. and UN: The Decade Ahead*, in United States Dep't of State, Bureau of Public Affairs, Current Policy No. 1232, Dec. 1989, at 2; see also Christ. Sci. Monitor, Dec. 8, 1989, at 20, col. 1 (summary of the U.N. debt crisis as it pertains to the U.S.); Saikowski, *Washington debates when and how to pay its overdue UN bills*, Christ. Sci. Monitor, Aug. 3, 1988, at 3, col. 3.

29. Joint Declaration, known as the Atlantic Charter, by the President of the United States and the Prime Minister of the United Kingdom, August 14, 1941, 55 Stat. 1600, E.A.S. 236; reproduced in H.S. COMMAGER, II DOCUMENTS OF AMERICAN HISTORY 631 (6th ed. 1958). See Laing, *The Contribution of the Atlantic Charter to Human Rights Law and Humanitarian Universalism*, 26 WILLAMETTE L. REV. 113 (1989).

30. *Id.*

United Nations deserves credit for its ingenuity in fashioning techniques for resolving disputes and preventing them from festering into armed conflicts. Efforts to develop skilled mediation panels to deter armed conflict and bring peace, such as the Organization of African Unity arranged between Libya and Chad, are one example. The World Court's advisory opinion on the *Applicability of the Obligation to Arbitrate*³¹ (otherwise known as the *P.L.O. Mission Case*) makes an important contribution to the avoidance of conflict by liberally defining the term "dispute" as a precondition for the Court to swing into action. The Court's decision on jurisdiction and admissibility in the case of Nicaragua against Honduras,³² which was subsequently withdrawn under the Tela Agreement, also furthers the cause of peaceful dispute resolution. After the questionable process in Nicaragua's case against the United States,³³ where the two parties to the dispute and the World Court seem to have conspired to undermine the Rule of Law, the court has returned in the two more recent cases to a modest but constructive role on behalf of global peace and security by strengthening the jurisprudential foundations and scaffolding for the peaceful settlement of disputes.

What do these and similar efforts within the United Nations system add up to besides a gargantuan cost? Clearly, the global community has the means and some momentum to keep hundreds of lids on around the world, but with no assurance that the pots won't boil over if we leave the room for even a moment. It is an ad hoc approach. By contrast, "true security" Dostoevsky wrote, "is to be found, in social solidarity rather than in isolated individual effort."³⁴ What kind of social solidarity would be feasible on a global scale? What is the trend? As Eastern Europe's remarkable experience teaches, human rights is perhaps the most powerful form of solidarity and, in the long run, our greatest hope for true global security.

31. Application of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947, 1988 I.C.J. 12 (Advisory Opinion of April 26).

32. Case Concerning Border and Transborder Armed Actions (Nicar. v. Hond.), 1988 I.C.J. 69 (Judgment on jurisdiction of the Court and admissibility of the application of Dec. 20).

33. Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicar. v. U.S.), 1986 I.C.J. 14 (Judgment of June 27).

34. F. DOSTOEVSKY, *THE BROTHERS KARAMAZOV*, pt. II, bk. VI, ch. 2 (C. Garnett trans. 1982).

IV. INTERNATIONAL SOLIDARITY THROUGH HUMAN RIGHTS INSTITUTIONS

The protection of human rights strengthens both domestic and international solidarity. The first article of the United Nations Charter, no less, infuses the U.N.'s central purpose of maintaining peace and security with a recognition of the importance of promoting and encouraging respect for human rights.³⁵ Because a government's treatment of people in its territory is of concern to us all, the United Nations can supervise the implementation of human rights in Member States even though Article 2(7) of the Charter³⁶ ordinarily prohibits the organization from intervening in their domestic jurisdiction.

Thus, for example, the United Nations Commission on Human Rights³⁷ undertakes investigation of widespread abuses. The 45-year-old Commission showed new boldness in 1989 by condemning China for its suppression of the Tiananmen Square rally, the first time it had ever taken such action against a permanent member of the Security Council.

The European Court of Human Rights³⁸ addresses such fundamental issues as arbitrary detention, torture, due process, and freedom of the press. It found, for example, that the British government violated the freedom of the press by attempting to enjoin the *Sunday Times* from printing an investigative story about the pharmaceutical industry. These decisions are taken seriously by governments because the European Court has the power to order reparations for persons injured by governmental deprivation of human rights. Closer to home, the Inter-American Court of Human Rights ordered the Honduran government to compensate the families of individuals who had "disappeared" under circumstances implicat-

35. U.N. CHARTER art. I paras. 1-4. For a good introduction to the international protection of human rights, see Sohn, *The New International Law: Protection of the Rights of Individuals Rather than States*, 32 AM. U. L. REV. 1 (1982).

36.

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; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

U.N. CHARTER art. 2, para. 7.

37. See H. TOLLEY, JR., *THE U.N. COMMISSION ON HUMAN RIGHTS* (1987).

38. For a concise description of the European Court of Human Rights and its jurisprudence, see L. HENKIN, R. PUGH, O. SCHACHTER & H. SMIT, *INTERNATIONAL LAW: CASES AND MATERIALS* 1026 (2d ed. 1987).

ing the government,³⁹ and the Inter-American Commission on Human Rights decided that the United States had violated the American Declaration of the Rights and Duties of Man by allowing South Carolina and Texas to put two minors on death row.⁴⁰

V. THE RELATIONSHIP BETWEEN HUMAN RIGHTS AND SECURITY

Human rights institutions can be viewed more broadly as part of global peacekeeping. Conversely, deprivations of human rights endanger the peace, both because the effects of suffering and resulting tensions may spill over national boundaries, and because internal suppression and external aggression seem to go hand in bloody hand. Autocratic governments, free of democratic constraints, often seek to marshal domestic loyalty by encouraging a herd instinct directed against a common enemy, as Immanuel Kant, among others, observed 200 years ago. The relationship between security and human rights is thus reciprocal. Less money for guns generally means more money for butter. Disarmament releases money for development.

A particularly intractable issue is how the global community should respond effectively to gross violations of human rights in the absence of external aggression. To what extent should the human rights movement literally come out fighting? Is military intervention on behalf of human rights, the idea of humanitarian intervention, legitimate?⁴¹ Were unilateral U.S. interventions in Grenada and Panama legitimate? Would any form of military intervention in South Africa be legitimate? Ideally, only collective intervention authorized by the Security Council should be acceptable, but in the absence of a realistic mechanism of collective security, the principle

39. INTER-AM. COURT H.R. *Godínez Cruz Cases*, Judgment of Jan. 20, 1989, Series C. No. 5; INTER-AM. COURT H.R., *Velásquez Rodríguez Case*, Judgment of July 29, 1988, Series C. No. 4.

40. INTER-AM. COMM. H.R., Res. 3/87, Case No. 9647, OAS/Ser. L/VII. 71, Doc. 9 (1987). See Fox, *Inter-American Commission on Human Rights Finds United States in Violation*, 82 AM. J. INT'L L. 601 (1988).

41. F. TÉSON, HUMANITARIAN INTERVENTION: AN INQUIRY INTO LAW AND MORALITY 5 (1988). Other writings on humanitarian intervention include N. RONZITTI, RESCUING NATIONALS ABROAD AND INTERVENTION ON GROUNDS OF HUMANITY (1985); Cf. Brownlie, *Humanitarian Intervention* with Lillich, *Humanitarian Intervention: A Reply to Ian Brownlie and a Plea for Constructive Alternatives*, LAW AND THE CIVIL WAR IN THE MODERN WORLD 217, 229 (J. Moore ed. 1974); Clark, *Humanitarian Intervention: Help Your Friends and State Practice*, 13 GA. J. INT'L L. 211 (1983); Reisman, *Coercion and Self-Determination: Construing Charter Article 2(4)*, 78 AM. J. INT'L L. 642 (1984); Schachter, *The Legality of Pro-Democratic Invasion*, 78 AM. J. INT'L L. 645 (1984).

of self-help on behalf of human rights, vulnerable as it is to unilateral abuse, may have merit. The world would be happier, of course, if the protection of human rights did not have to rely sometimes on military intervention. Eventually, global consensus on human rights may help obviate the need for military intervention on their behalf.

Significantly, new expressions of multilateralism and the secure feeling of *glasnost* and *perestroika* have helped, in a rather short period of time, to bridge the ideological gap between the communitarian, Eastern emphasis on economic, social and cultural rights of peoples and the individualistic, Western emphasis on the civil and political rights of individuals. It is about time. For too long, a chicken-and-egg question has inhibited global implementation of human rights, namely, which came first or should come first, the individual or the community? In the West we have usually replied, "the individual." The legal historian, Harold Berman, has challenged the conventional wisdom of an individualistic nativity by observing that in the early development of the Western legal systems, the community came first.⁴² On the other hand, the growing acknowledgment by some socialist states of individual political and civil rights forms the other end of the bridge.

Whichever came first, both individual and community rights are important, for true security requires an assurance not only of individual freedoms of a political and civil character but more communitarian freedoms of a typically economic, social and cultural character—both freedoms "of" and freedoms "from." Just as military security can be collective or individual, so can human rights. Indeed, Western industrial societies must adjust themselves to a world in which human rights are often viewed by other cultures as belonging not to individuals but to entire tribes, nations and other groups. There is thus a "moral need to strike the right balance between individualism and communitarianism"⁴³ in global efforts, under Articles 55 and 56 of the U.N. Charter,⁴⁴ to promote and

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The 'discovery of the individual' (as it has been called) in the late eleventh and twelfth centuries, and the appearance at that time of the concept of individual rights and liberties, were rooted in the coexistence and competition of a single corporate church and diverse secular communities with overlapping political and legal jurisdictions. The social contract securing individual rights originated at the same time as a political reality, and only centuries later was transformed by political philosophers into a theoretical construct.

Berman, *Individualistic and Communitarian Theories of Justice: An Historical Approach*, 21 U.C. DAVIS L. REV. 549, 555 (1988).

43. *Id.* at 555.

44. Under Article 55 the United Nations must promote human rights, and under Arti-

protect human rights.

In helping strike this balance, several institutions have assumed greater responsibilities. The U.N. Commission on Human Rights is still the global umbrella, but the European and Inter-American Commissions and Courts of Human Rights are particularly promising. A two-year-old U.N. Committee on Economic, Social and Cultural Rights has taken its place alongside its ten-year-old sister, the Human Rights Committee, which was established to implement the Covenant on Civil and Political Rights.⁴⁵ Within both Committees there is a clear trend toward tackling shared problems rather than casting aspersions. The new Committee has reached the point of considering how to apply the Covenant's provisions by means of "general comments," review and questioning of periodic reports submitted by member states, and individual complaints filed under the Optional Protocol to the Covenant.⁴⁶

VI. TOWARD A THIRD, HUMAN RIGHTS-ORIENTED PHASE OF GLOBAL SECURITY

Clearly, human rights law and enforcement is maturing. It is time, therefore, to think and plan in terms of a new third phase of post-war security that combines the second phase of peacemaking and peacekeeping initiatives by the Secretary-General and General Assembly, on the one hand, with the security of human rights on the other. At this stage in history, that combination would seem to be the best and most acceptable approach to collective security.⁴⁷ After all, global security is not the handmaiden of sovereignty, but of human dignity.

The fortieth anniversary of the Organization of American States and Universal Declaration of Human Rights coincided with the seventieth anniversary of Woodrow Wilson's Fourteen Points,⁴⁸ which led to the creation of the League of Nations and served later as an inspiration for the United Nations. In struggling to implement human rights as our best long-range hope for true global se-

cle 56 "[a]ll Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55." U.N. CHARTER arts. 55, 56.

45. International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), 21 GAOR Supp. (No. 16) 52, U.N. Doc. A/6316 (1966), entered into force Mar. 23, 1976.

46. Alston & Simma, *Second Session of the U.N. Committee on Economic, Social and Cultural Rights*, 82 AM. J. INT'L L. 603 (1988).

47. Bilder, *Rethinking International Human Rights: Some Basic Questions*, 1969 WIS. L. REV. 171, 187.

48. See H.S. COMMAGER, *supra* note 29, at 317.

curity, it is well to recall the durability of the Wilsonian idea. The United States jurist Oliver Wendell Holmes observed just one hundred years ago that, “[t]o be seventy years young is sometimes far more cheerful and hopeful than to be forty years old.”⁴⁹ A third, human rights-oriented phase of global security will further invigorate the ideal of peace within an increasingly mature institutional framework.

49. O.W. HOLMES, ON THE SEVENTIETH BIRTHDAY OF JULIA WARD HOWE, May 27, 1889.

