HUMAN RIGHTS:
A BACKGROUND SKETCH AND WHERE TO FIND MORE ON THE SUBJECT

LAWRENCE G. EGBERT*

Human rights have been proclaimed through the centuries by philosophers and by great social and religious leaders, by charters, acts, declarations and laws. In the thirteenth century the famous Magna Charta of 1215 restricted the power of the British kings and gave to individuals some redress for injuries. In the seventeenth century the Habeas Corpus Acts of 1640 and 1670 and subsequent laws authorizing *habeas corpus* relief have aimed to protect individuals against arbitrary imprisonment or detention. The English Bill of Rights of 1689 provided additional important rights for citizens. The first ten amendments of the United States Constitution of 1789 instituted a bill of rights for the people of America. The French *Declaration des Droits de l'Homme et du Citoyen* listed principles which the French Constituant Assembly of 1789 adopted as the necessary basis of human rights institutions. In the pre-World War II period of the twentieth century perhaps the most outstanding contribution to human rights was made by the International Labour Organization, which was the first institution to include the individual as a subject of rights.

The above pronouncements, declarations, acts, constitutions, and numerous other such enunciations, which have earned a lesser place in history, were limited, for the most part, to political rights in a very few countries. The hideous violations of the most elementary human rights that occurred during the Second World War, which are chronicled in detail in the proceedings and documents of the Nuremberg Trial,¹ shocked the conscience of man and led to the broadening and clarification of the rights which should be protected in a world of moral order. Even during World War II, President Roosevelt, in his message to

---

* Docteur en Droit, University of Paris; member of the Bar of the District of Columbia; Editor-in-Chief, Nuremberg Trial Record; Professor of Law, Baltimore University.

Congress of January 6, 1941, listed Four Freedoms\textsuperscript{2} which he considered basic to such a moral order: \emph{freedom of speech and expression, freedom of every person to worship God in his own way, freedom from want,} and \emph{freedom from fear.} However, it has remained for post-World War II efforts, especially under the leadership of the United Nations and its special agencies and committees, to work out worldwide norms governing human relations and to seek means and establish institutions to implement them.

I. HUMAN RIGHTS ACTIVITIES BY INTERNATIONAL ORGANIZATIONS

A. The United Nations

In preparing the UN Charter, representatives at the San Francisco Conference expressed the hope that the United Nations would produce an international bill of rights, the \textit{sina qua non} of a lasting peace. With so many objectives to cover it was of course impossible for these representatives to draft an acceptable bill of rights. However, the Charter does contain various provisions which laid the foundation for future action. The Preamble expresses various pre-conditions to the protection of human rights. Article 1 urges "respect for the principle of equal rights and self-determination of peoples." The General Assembly is required to "initiate studies and make recommendations for the purpose of . . . assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." \textsuperscript{3} The United Nations is required to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." \textsuperscript{4} All UN members pledged themselves "to take joint and separate action in cooperation with the Organization for the achievement of the purposes set out in Article 55."\textsuperscript{5} The General Assembly and its subordinate, the Economic and Social Council, are made responsible for discharging the functions involved in the above provisions.\textsuperscript{6} The Economic and Social Council may make arrangements with UN members and with UN specialized agencies "to obtain reports on the steps taken to give

\begin{footnotes}
2. 35 AM. J. INT'L L. 339 (1941).
5. Art. 56.
6. Art. 60.
\end{footnotes}
effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly." An especially important Charter provision required the Council to set up a commission for the promotion of human rights. The encouragement of respect for human rights and fundamental freedoms was made a basic objective of the trusteeship system.

B. The UN Commission on Human Rights

The Human Rights Commission was established by the Economic and Social Council in 1946, and is composed of thirty-two members who serve three year terms. The Commission holds sessions annually in Geneva for five or six weeks. At times representatives of UN members are invited to participate in its deliberations, and representatives of various inter-governmental and non-governmental organizations attend as observers. In addition to the preparation of a draft of a Universal Declaration of Human Rights, as mentioned above, the Commission submits proposals with regard to various human rights declarations and conventions which seek the protection of minorities and the prevention of discrimination in its many forms.

C. The Universal Declaration of Human Rights

The Commission on Human Rights drafted a Declaration of Human Rights which was adopted by the General Assembly on December 10, 1948, with eight abstentions (the Soviet bloc, Saudi Arabia and the Union of South Africa). The Declaration was an impressive statement of fundamental rights and freedoms which established a common standard of achievement for all nations. UN members approved a long list of human rights and pledged themselves to their “recognition and observance.” The Declaration proclaimed all human beings “free and equal in dignity and rights” and entitled to “all the rights and freedoms set forth in this Declaration, without distinction of any kind. . . .” The list of rights included political, religious, economic, social and cultural

7. Arts. 62 & 64.
8. Art. 68.
9. Art. 76.
rights and freedoms and thus clarified and made specific former generalities.

The influence of the Declaration has been very significant. It has greatly affected the substantive law of many countries. Its provisions have been incorporated in several constitutions and legal codes. In the United States most state codes have human rights provisions, often found under the headings of civil rights or discrimination, and some of these codes spell out rights in considerable detail. Several states have civil rights commissions, e.g., Connecticut, Michigan, and Ohio—Colorado has an Anti-Discrimination Commission; Illinois has a Human Relations Commission; Kentucky has a Commission on Human Rights; Massachusetts has a State Discrimination Commission, which grew out of a Fair Practices Commission; West Virginia has a Human Rights Commission; and, Wisconsin has a Governor's Commission on Human Rights. Most of these commissions deal especially with discrimination because of race, color, religion, national origin or ancestry. They also deal with problems involving fair housing, public accommodations, equal rights in the enjoyment of places of public amusements, avoidance of discrimination in admitting to hospitals the sick or indigent, and fair treatment in employment. The listed functions of these commissions include the conduct of research into the causes and cures of human rights violations, hearing complaints, encouragement of fair treatment for all persons, the creation of advisory agencies and cooperation with existing agencies seeking to protect human rights, the preparation of educational programs to inform people generally of their rights and of the remedies for the violations of these rights, and conciliation in matters of employment and problems involving places of accommodation in which discrimination is practiced.

D. Human Rights Covenants

At the request of the UN General Assembly the Human

Rights Commission drafted an International Covenant on Economic, Social, and Cultural Rights and an International Covenant on Civil and Political Rights. These two Covenants and an Optional Protocol to the Covenant on Civil and Political Rights were adopted by the United Nations on December 16, 1966. The Covenants aim to implement the provisions of the UN Charter and of the Universal Declaration of Human Rights. They are precise and universal, and although they have not yet been ratified by enough countries to bring them into force, they have a very important moral effect.

The International Covenant on Economic, Social and Cultural Rights includes the rights of: self-determination; just and favorable conditions of work; forming trade unions; striking; social security; an adequate standard of living; freedom from hunger; the enjoyment of the highest attainable standard of physical and mental health; education; enjoying the benefits of scientific progress and its applications; and, recognition that the widest possible protection and assistance should be accorded to the family. The Covenant indicates measures and steps to be taken to achieve the full realization of these rights.

The Covenant on Civil and Political Rights proclaims the right to self-determination. It declares that every human being has the inherent right to life, and imposes certain limitations on the death penalty. It prohibits slavery and the slave-trade in all their forms and declares that no one shall be held in servitude or be required to perform forced or compulsory labor. It establishes the right to liberty and security of the person and specifies the rights of persons arrested or detained. It requires that

22. Art. 1.
23. Art. 7.
25. Art. 8-1(d).
27. Art. 11-1.
31. Art. 15-1(b).
32. Art. 10.
33. Art. 1.
34. Art. 6.
35. Art. 8.
36. Art. 9.
persons deprived of their liberty shall be treated with humanity.\textsuperscript{37} It prohibits imprisonment merely on the ground of inability to fulfill a contractual obligation.\textsuperscript{38} It grants everyone the right to liberty of movement and freedom to choose a residence and to leave any country.\textsuperscript{39} It proclaims the equality of all persons before the courts. Persons subject to criminal charges are granted various guarantees to ensure a fair trial, and persons convicted of a crime are given the right to have their conviction and sentence reviewed by a higher tribunal. The Covenant further protects alleged offenders from double jeopardy.\textsuperscript{40} Everyone is granted the right to privacy,\textsuperscript{41} freedom of thought, conscience, religion,\textsuperscript{42} the right to freedom of expression,\textsuperscript{43} peaceful assembly,\textsuperscript{44} and association.\textsuperscript{45} It assures the family of protection by society and the State.\textsuperscript{46} It grants the right to vote and to take part in the conduct of public affairs.\textsuperscript{47} The Covenant also establishes a Human Rights Committee\textsuperscript{48} and an \textit{ad hoc} Conciliation Commission and indicates how and when they are to be composed and the functions they are to perform.\textsuperscript{49}

\textbf{E. International Conventions}

In addition to declarations and covenants formulating general principles and broad obligations, the United Nations has adopted numerous conventions requiring more detailed and specific obligations.\textsuperscript{50} Among these Conventions are: the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (April 30, 1957);\textsuperscript{51} the Abolition of Forced Labor (January 17, 1959);\textsuperscript{52} Discrimination in Respect of Employment
and Occupation (June 15, 1960);\textsuperscript{53} Equal Renumeration for Men and Woman Workers for Work of Equal Value (May 23, 1953);\textsuperscript{54} Freedom of Association and Protection of the Right to Organize (July 4, 1950);\textsuperscript{55} Discrimination in Education (May 22, 1962);\textsuperscript{56} Prevention and Punishment of the Crime of Genocide (January 12, 1951);\textsuperscript{57} Political Rights of Women (July 7, 1954);\textsuperscript{58} and an International Convention on the Elimination of all Forms of Racial Discrimination.\textsuperscript{59} There are many other conventions dealing with special human rights problems, many of which have been drafted under the auspices of the International Labour Organization.\textsuperscript{60}

\textbf{F. Contributions of United Nations Agencies to Human Rights}\textsuperscript{61}

The International Labour Organization formulates and implements international labor standards by recommendations and conventions and promotes human rights by research, educational activities, and technical international cooperation. The Food and Agriculture Organization carries on important programs and holds many conferences in an effort to assure man's freedom from hunger. The Educational, Scientific, and Cultural Organization promotes the rights to education, culture, and freedom of information in countries throughout the world and campaigns actively against discrimination in the field of education. The World Health Organization carries out numerous programs of health services, sanitation and health education. The Children's Fund, adopted by the United Nations on November 20, 1959, assists in the implementation of the Declaration of the Rights of the Child by programs of maternal and child health services and assistance in protecting children against diseases, such as leprosy and malaria. The Office of the United Nations High Commissioner and Refugees assists in the effort to make refugees self-supporting and to restore

\textsuperscript{53} 362 U.N.T.S. 31 (1960).
\textsuperscript{54} 165 U.N.T.S. 303 (1953).
\textsuperscript{55} 68 U.N.T.S. 17 (1950).
\textsuperscript{56} 429 U.N.T.S. 93 (1962).
\textsuperscript{57} 78 U.N.T.S. 277 (1951).
\textsuperscript{58} 193 U.N.T.S. 135 (1954).
\textsuperscript{60} 60 AM. J. INT'L L. 650 (1966).
\textsuperscript{61} UNITED NATIONS, HUMAN RIGHTS AND THE UNITED NATIONS FAMILY (n.d.).
their sense of dignity. The Relief and Works Agency for Palestine Refugees in the Near East has fed over a million refugees in dire need of assistance. The UN Development Program supports projects to help low-income countries to realize their productive potentials in manpower and resources. Each of the above mentioned agencies has made and is making vast contributions in the field of human rights.

G. The United Nations High Commissioner of Human Rights

The Human Rights Commission, in 1965, discussed a recommendation to establish a United Nations High Commissioner of Human Rights. Proponents saw the step as a useful means of implementing the UN Charter and human rights declarations, covenants, and conventions. It could assist in cases of human rights violations when requested. It could advise states seeking to develop human rights regulations and help them to develop public opinion in favor of their observance. The United Nations and its agencies could seek advice from it with regard to special needs in certain countries. Opponents of the recommendation feared that it might interfere with the efforts of established agencies in the field and might even impair sovereignty.

The recommendation declared that the High Commissioner maintain close relations with the General Assembly and the UN agencies and advise them when requested. He should assist member states of the United Nations and certain international organizations, when they request it. He should have access to communications on human rights and, when appropriate, call them to the attention of the states mentioned above. And, he should report to the General Assembly through the Economic and Social Council on human rights developments.

After careful study of the various relevant questions the Human Rights Commission recommended to the Economic and Social Council the establishment of a United Nations High Commissioner's Office for Human Rights. On June 6, 1967, the Council approved the recommendation and sent it to the General Assembly for action, but no action has yet been taken.

H. The International Year for Human Rights—1968

The United Nations, commemorating the twentieth anniversary of the Universal Declaration of Human Rights, proclaimed 1968 as Human Rights Year. Work on important conventions was intensified and states throughout the world were requested to recognize Human Rights Year with appropriate celebrations. States were urged to ratify human rights conventions and carry out extensive educational programs. A major international conference on human rights, held in Tehran from April 22 to May 13, reviewed progress in the field and discussed the effectiveness of methods used and how these methods could be improved. The Conference adopted numerous resolutions and a proclamation urging greater efforts to assure the freedom and dignity of men and women in all parts of the world. The UN Specialized Agencies, the Council of Europe and other inter-governmental bodies, non-governmental organizations, and many states participated actively in human rights celebrations, in which distinguished experts summarized achievements, problems, and goals.

II. REGIONAL HUMAN RIGHTS CONVENTIONS, COMMISSIONS, AND COURTS

A. The European Convention, Commission and Court of Human Rights

At a meeting in Rome of the Committee of Ministers of the Council of Europe on November 4, 1950, representatives of several European states signed the European Convention for the Protection of Human Rights and Fundamental Freedoms, and a Protocol which aimed to protect several additional rights. The provisions of the Convention follow closely the provisions of the Universal Declaration of Human Rights. They proclaim the right to life, liberty and personal security and guarantee various freedoms, including freedom from slavery or torture, arbitrary arrest or detention, and freedom of thought, conscience, religion, assembly

63. See the May issue of the U.N. Chronicle for the Message of the U.N. Secretary General for the International Year for Human Rights and for the text of the Proclamation of Tehran; see also, U.N. Office of Public Information, Newsletters, INT'L Y.B. OF HUMAN RIGHTS (1968).

64. Y.B. EUR. CONV. ON HUMAN RIGHTS, DOCUMENTS AND DECISIONS, (1955 to date); see also, Comte, The Application of the European Convention of Human Rights in Municipal Law, IV J. INT'L COMM'N JURISTS 94 (1962).
and association. Article 19 establishes a European Commission of Human Rights and a European Court of Human Rights. Complaints by individuals of human rights violations are first brought before national courts, thus satisfying the international law rule requiring the exhaustion of local remedies. After final judgment of a national court a claim may be brought before the Commission, which is composed of one representative of each party state to the Convention. If the Commission determines that the claim is within its competence, an effort is made to effect a settlement. If this is not possible a report, with recommendations, is submitted to the Committee of Ministers.

As a further protection to parties suffering from violations of human rights a European Court of Human Rights was established. The Court is composed of one judge from each member state of the Council of Europe. Every case brought before it is judged by a Chamber of seven judges. The Court's jurisdiction extends to cases referred to it by the contracting parties to the Convention concerning the interpretation and application of the European Convention of Human Rights. Cases may also be brought to the Court by the Commission or by a High Contracting Party whose national is alleged to be a victim, by a party which has referred the case to the Commission, or by a state against which a case has been brought. In practice the Commission has proven to be the principal agency for settling complaints. The Court has been used only as an institution of last resort.

B. Inter-American Declaration, Convention, Commission and Court of Human Rights

An American Declaration of the Rights and Duties of Man was adopted at a Conference at Bogotá in 1948. It emphasized the important inter-relation of social and political activities and of rights and duties. In addition to the familiar rights included in the United States Bill of Rights it proclaimed the right to education, work, fair compensation and social security. Among the duties listed were those of citizens to society, of parents to children, and the duty to vote, obey the law, work, and pay taxes.

The Third Special Inter-American Conference, held in Buenos Aires in 1967, resolved that an Inter-American Convention of Human Rights should determine the structure, jurisdiction and

procedure of the organs responsible for these matters. At the Inter-American Specialized Conference of Human Rights in November, 1969, twelve Latin-American states signed the American Convention on Human Rights. Although the Convention is not yet in force the norms and goals that the states proclaimed, and the machinery to enforce listed rights were presented. Chapter II of the Convention lists 23 rights, following very closely the Universal Declaration of Human Rights. Chapter III deals broadly with economic, social, and cultural rights. Chapter VII and VIII describe the organization, jurisdiction, procedure and functions of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.66

An American Commission of Human Rights was created in 1959. It is composed of seven members, chosen from panels of three nominees presented by the member states of the Organization of American States, and is permanently seated in Washington, D.C. The Commission holds one or two regular sessions each year and may hold special meetings. Members hold office for four years and elect a chairman and a vice-chairman. The Commission aims, inter alia, to develop an awareness of human rights among the people of America, to make recommendations to member states for the adoption of progressive measures in favor of human rights, to prepare studies and reports, and to urge member states to supply them with information about the human rights measures which they have adopted. In cases involving human rights violations, the Commission, after verifying the exhaustion of local remedies decides the admissibility of claims on the basis of information it has been able to obtain from the claimant and his government. If it considers the claim inadmissible, no action is taken. If the claim is held to be admissible, the Commission may ask for more information and request the government concerned to allow an investigation of facts in the country. If the Commission finds a violation of human rights it will request the government of the state concerned to adopt recommended measures. If that government fails to do so the Commission will report, as it seems advisable, to the General Assembly of the Organization of American States. If that body does not act, the Commission may publish a report.67

The creation of an Inter-American Court of Human Rights

HUMAN RIGHTS

was proposed by the Inter-American Convention of Human Rights but has not yet been established. Chapter VIII of the Convention describes the Court's organization, jurisdiction, and procedure. The Court shall be composed of seven judges, nationals of the member states, elected for a term of six years from a panel of jurists proposed by those states. The judges must possess the highest juridical and moral qualifications and must have recognized competence in the field of human rights. Ad hoc judges shall be appointed in various cases in which justice requires it. The Court shall establish its secretariat, draft its statute, and adopt rules of procedure. A case may be submitted to it only by party states and by the Commission. The Court's jurisdiction extends to all cases concerning the interpretation and application of the provisions of the Convention. The Court must give reasons for its judgments. Judges may give separate or dissenting opinions. The Court may grant to member states of the Organization of American States advisory opinions on the Convention or on other treaties concerning human rights in the American states.

III. INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS AND HUMAN RIGHTS

Numerous international non-governmental organizations have contributed richly to the human rights movement. Space will permit only a very brief mention of the contributions of two of these organizations: The World Peace Through Law Center, and The International Commission of Jurists.

The World Peace Through Law Center,68 created at a world conference in Athens in 1963, has held subsequent world conferences at Washington in 1965, at Geneva in 1967, and at Bangkok in 1969. At these conferences distinguished experts presented valuable papers covering many aspects of the human rights field. The concept of human rights was defined and its accomplishments, both in the world framework and regionally, were described. Basic prerequisites for the enjoyment of rights and freedoms, including adequate food, clothing, housing, health, education, and competent and dedicated officials, were emphasized. The importance of protecting human rights was pointed out. Goals were listed and important spheres of human rights protec-

68. For a complete list of the publications of the World Peace Through Law Center address: World Peace Through Law Center, 75 rue de Lyon, Geneva, Switzerland.
tion were sketched. Many suggestions for action were made including the development of a massive and worldwide public demand for the support of the dignity of man and the observance of the rule of law.

The International Commission of Jurists, a non-governmental organization created in 1952, has studied human rights developments, problems and violations in countries throughout the world. In a valuable journal which it has published since 1957 it has summarized current developments in these countries, published official human rights documentation, and listed selected bibliographical references. At several international conferences arranged by the Commission, experts discussed many aspects of the rule of law and made recommendations for action. Unfortunately this valuable Commission no longer continues to operate.

IV. THE INTERNATIONAL INSTITUTE OF HUMAN RIGHTS

In 1969, the International Institute of Human Rights was created in Strasbourg, seat of the Council of Europe. This significant Institute was made possible primarily as a result of the efforts and financial assistance of the distinguished Nobel Prize winner, René Cassin. The Institute aims to play the role in human rights that the Institut de Droit International plays in the field of international law. It is a center of coordination for human rights activities, contributing to the broad and intelligent increase in these activities by individuals, by universities, and by national and international organizations. It is useful as an advisory body to individuals and organizations working in the field. It seeks to stimulate research and to assist persons undertaking human rights projects. Although the organization is young its potential is great.

V. THE FUTURE

The above sketch of some of the more important activities and organizations in the human rights field is evidence of an increasing awareness of the importance of protecting the dignity of man. Much has been done to articulate and define specific rights and corresponding duties and some measures have been provided for giving practical redress to violations of rights. Untiring efforts

69. See J. INT'L COMM'N JURISTS; and THE PROCEEDINGS OF THE COMMISSION'S CONFERENCES ON THE RULE OF LAW.
by dedicated individuals and organizations have resulted in declarations, acts, charters, laws, conventions, speeches, learned articles and books. The persons involved in these activities are responsible for the progress that has been made and should be heartily congratulated and enthusiastically supported.

As in so many other fields, in spite of all the accomplishments to date, what remains to be done is indeed staggering. A brief glance at one country after another shows cruelty, oppression, discrimination, and violations of the long list of rights enumerated in international declarations and conventions. It is evident that the time has come to emphasize implementation of the conventions and other acts aiming to protect human rights. An intensive effort should be made to obtain the needed ratifications to bring these conventions into legal force. A thorough examination of specific human rights violations should be made by competent, independent experts and specific measures taken to give redress to complaints with valid causes. The recommendations of various committees, commissions and scholars in this field should be studied, and when appropriate, should be acted upon. Further use should be made of good offices and conciliation.

The protection of human rights throughout the world is essential to the establishment and maintenance of the rule of law. It is heartening to see lawyers of many countries take the leadership in this important field. May broader and more intensive efforts in the future bring the results that are essential to make this a world in which man can live in peace and well-being.

VI. WHERE TO FIND MORE CONCERNING HUMAN RIGHTS

Much that has been written in this article concerns the accomplishments of official inter-governmental organizations. For more information about their activities the best sources are the organizations themselves. The United Nations has published an extensive bibliography on human rights and useful pamphlets on the subject; its Yearbooks are also a valuable source. Through the UN Office of Public Information in New York and perhaps even through the most convenient local UN Information Office one can obtain a vast amount of information, including not only official documentation but also the status of ratifications of conventions and other specific substantive information. For very current or
technical information one can consult the UN Division of Human Rights in New York or the UN Commission on Human Rights in Geneva.

The various UN agencies will provide either general or specific information upon request. The same is true of the regional inter-governmental organizations. The Council of Europe, located in Strasbourg, has a Directorate of Human Rights which is fully acquainted with source material in the field, especially material on the European Commission and the European Court of Human Rights. The Inter-American Commission of Human Rights in the Organization of American States, located in Washington, D.C., has full documentation on the Commission and related material such as the Inter-American Court of Human Rights and human rights conventions.

Official texts of various conventions, charters and treaties on human rights will be found in the *American Journal of International Law* and in *International Legal Materials* published by the American Society of International Law, which has offices in Washington, D.C. *The UN Treaty Series*, is another valuable source, although it is often not as convenient to consult and not as current.


The International Institute of Human Rights is another valuable source of human rights documentation. From 1961 to date the Harvard Law School Library has published an Annual Legal Bibliography which lists many books and articles on human rights.