

ASSIGNMENT 2: HUMAN RIGHTS CHARTER

Assignment 2: Human Right Charter

Caryl Dolinko - # 332385

Royal Roads University

GBLD501: Global Leadership

Cheryl Heykoop

Sunday, March 20th, 2016

ASSIGNMENT 2: Human Rights Charter

The importance of human rights through the ages cannot be underestimated. Human Rights have been debated by Greek philosophers, recorded in the Laws of Burgos in the 1500's, and discussed at length during the European Age of Enlightenment. Many of these tenets were the basis for the articles eventually written into the United Nations Universal Declaration on Human Rights (UNUDHR).

The basis for the United Nations was formed during World War II by the allied forces. The allied States adopted a charter with shared goals for the war, which they called the Four Freedoms: freedom of speech, freedom of religion, freedom from fear, and freedom from want. In the aftermath of WWII, the atrocities committed by Nazi Germany became apparent and it was clear that the United Nations Human Rights Charter did not sufficiently define the rights to which it referred. This was a powerful impetus to create an agreement on the treatment of people, and human rights to be clearly defined and stated in a universal charter. This initial charter would commit all member states to promote “respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion” as stated in Article 55(c) and 56. From these guiding principles, the UNUDHR emerged as a pre-condition of a just society.

The UN was formed in 1945 and has been the centre of global governance ever since, with all countries in the world participating. According to Karns & Mingst (2010), the UN Human Rights Charter encompasses the hopes and aspirations of the UN's founder for a better world,. Within the United Nations, there are six governing bodies with specific purpose and goals. One of them, the General Assembly of the UN, occurs once a year when members debate, endorse and revise policies, treaties, laws and other core functions. It was here in 1946 that the Human Rights Declaration was first commissioned and a committee formed to draft the Human Rights Charter as an integral part of the UN Charter.

Eleanor Roosevelt, known for her human rights advocacy, played an instrumental role in the creation of the Charter as noted by Glendon (2002). She chaired the declaration's drafting committee in 1946, along with 18 other UN members from various nationalities, political backgrounds and disciplines. The committee

ASSIGNMENT 2: Human Rights Charter

members all possessed the most important of the intercultural skills as stated by Gudykunst (1994); mindfulness, cognitive and behavioural flexibility, tolerance of ambiguity, and cross-cultural empathy.

The core principles first set out in the UNUDHR, were universality, interdependence and indivisibility, equality and non-discrimination. There was a nearly unanimous view of the delegations involved in the drafting, that the Declaration had no legal recourse, yet this was later ratified in subsequent versions. Over the course of two years, the Commission on Human Rights drafted the Declaration, and steered it through many intergovernmental organizations (Karns, 2010) and multiple reiterations before final acceptance. The first version of Human Rights Declaration was passed by the General Assembly in 1948.

The Universal Declaration was adopted in 1948 by the General Assembly by a vote of 48 in favor, none against, and eight abstentions. These abstentions were important to note as the member states were clearly in violation of articles within the Declaration. For example, Saudi Arabia's abstention was prompted by Article 18, which states freedom to change religion or belief; and Article 16, on equal marriage rights. South Africa was actively practising apartheid which conflicted with Articles in the Declaration, and abstentions from communist nations demonstrated that the Declaration did not go far enough in condemning fascism.

Although there was a broad representation on the drafting committee, they drew upon a Western paradigm and a history of colonialism, with little consideration of religious and cultural incompatibilities. There were limitations in the Human Rights Declaration and as society changed, so did the Declaration. Perspective and bias always need to be considered as the Bill of Rights is amended over time.

In understanding the Declaration of Human Rights, one must understand that this was a charter, an agreement between UN member states and it did not impose legal obligations. The Human Rights Charter was a statement of basic principles of inalienable human rights, creating a global standard for all peoples and nations with guiding rules and regulations. It was not meant to be a legally binding international agreement, yet the declaration had considerable moral weight. Over the course of time, the thirty articles within the UNUDHR, have been modified, adapted and converted into law, in the forms of international treaties.

ASSIGNMENT 2: Human Rights Charter

International law determines the conduct, and legal obligations of States in regards to a wide range of issues of joint concern within the UN Charter, including human rights. The UN Security Council, under authority of the General Assembly, can take action against States that do not adhere to the UN Charter. In rare cases now, States and Global Leaders can be prosecuted in the International Criminal Court (ICC), if international crimes against humanity have been committed. Very few have ever been prosecuted.

One of the criticisms today of the UNUDHR is that it seems to be set up as more of a list of guidelines rather than a set of rules. In countries like China, Saudi Arabia and other major economic global drivers, their records on human rights is abysmal, yet, no international court has prosecuted and no consequences have been forthcoming. As noted in *International Organizations*, actions to promote or enforce human rights has been controversial as human rights can be seen as under domestic jurisdiction rather than international law (Karn, 2010, p.112). Although the UN played a major role in globalizing human rights, all states are responsible for protecting and upholding those standards domestically; many still do not.

The UNUDHR is still widely quoted and utilized by governments and many States and regions around the world, have actually based their own charters on the UNUDHR. For example, the Canadian Charter bears a number of similarities, as does the European Convention on Human Rights as well as the Bangkok Declaration, which expresses the perspective of Asian values. The distinction between the Declaration and other human rights charters, is that each article and right is interpreted expansively and translated in relation to domestic laws. Similar to the UNUDHR informing changes to State laws, codes and charters, State laws have also influenced amendments and clarifications to the UNUDHR.

This can be seen in the actions of Prime Minister Pierre Elliott Trudeau in 1967, when he proposed amendments to the Canadian Criminal Code which relaxed laws and decriminalized homosexuality in Canada. It is thought that this change may have influenced the subsequent changes in inclusion of sexual orientation and gender identification as implied in Article 2 the UNUDHR.

The organizational structure that has developed within the UN has created a bureaucratic nightmare with multiple layers of management, staff and committees, and antiquated systems and processes that slow

ASSIGNMENT 2: Human Rights Charter

down change. Yet, the creation of UNUDHR is one of the most profound contributions to our civilization as it legitimizes and protects our rights as individuals.

REFERENCES

- Glendon, MA. (2002). *A world made new: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York, NY: Random House.
- Gundykunst, W.B. (1994). *Bridging differences: effective intergroup communications* (2nd ed). London, UK: Sage.
- Karns, M. P., & Mingst, K. A. (2010). *International organizations: The politics and processes of global governance* (2nd ed.). London, UK: Lynne Rienner Publishers.
- Morsink, J (2000). *Pennsylvania Studies in Human Rights: Universal Declaration of Human Rights: Origins, drafting and intent*. Philadelphia, PA: University of Pennsylvania Press.
- Schabas, W. (1998). Canada and the adoption of Universal Declaration of Human Rights. *McGill Law Journal*, 43, 403.
- Seeger, M.W. (2006). Best practices in crisis communication: An expert panel process. *Journal of Applied Communication Research*, 34(3), 232-244.
- United Nations (1948). *Universal Declaration on Human Rights*. Retrieved from <http://www.un.org/en/universal-declaration-human-rights/index.html>