

# A WORLD MADE NEW

*Eleanor Roosevelt  
and the Universal Declaration  
of Human Rights*



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FRONTISPIECE:

*Eleanor Roosevelt with E. Gross and P. C. Jessup  
at the UN conference in Paris, September 22, 1948  
(courtesy Franklin D. Roosevelt Library)*

## THE LONGING FOR FREEDOM

Politics, it has been said, is "the arena where conscience and power meet, and will be meeting until the end of time."<sup>1</sup> Conscience so often fares poorly in such encounters that we celebrate the occasions when Power gives her more than a tip of the hat. In April 1945, as delegates from fifty lands gathered in San Francisco for the United Nations founding conference, Power was much on display. Battleships leaving the Pacific harbor with men and matériel were a grim reminder that the war with Japan was still raging. The tides of war in Europe, however, had turned in favor of the Allies, and the "Big Three" (Britain, the Soviet Union, and the United States) had begun jockeying for the positions they would hold in the new world order. As part of their planning for the postwar era, the Allies invited to the San Francisco conclave all states that had declared war on Germany and Japan by March 1, 1945.

The Allied leaders had agreed in principle on the need for an international organization to prevent future aggression, assure the stability of frontiers, and provide a means for resolving disputes among nations, but the most vigorous supporter of the idea was Franklin Roosevelt. The American president was mindful that the failure of the first such organization, the League of Nations, was due in no small measure to President Woodrow Wilson's inability to convince the Senate to ratify the treaty establishing it. A driving force behind the League's formation after World

War I, Wilson had been bitterly disappointed. To prevent a repetition of that debacle, Roosevelt had begun speaking to the American people about his hopes for a new world organization during the war. "Nations will learn to work together," he insisted, "only by actually working together."<sup>2</sup> In a radio address on Christmas Eve 1943, he emphasized that the main purpose of such an organization would be to keep the peace. The United States had no interest, he said, in Allied domination over other nations: "The doctrine that the strong shall dominate the weak is the doctrine of our enemies—and we reject it."<sup>3</sup>

Now, with the confidence born of approaching victory, Roosevelt believed the time had come to make up for the mistakes of the last peace. Shortly after his inauguration in January 1945, he told Congress of his hopes to replace the old international system of "exclusive alliances and spheres of influence" with a "universal organization in which all peace-loving nations will finally have a chance to join."<sup>4</sup>

Eleanor Roosevelt had long shared those hopes. When her husband asked her to accompany him to the opening session of the UN founding conference in April, and on a trip to England and the continent in May, she was delighted—not least because his enthusiasm allayed her growing anxiety about his health. Labor Secretary Frances Perkins had objected that a trip to the war zone would be too dangerous, but the president replied that he expected the war to be over by then. He had long looked forward, he told Perkins, to a victory tour with the First Lady at his side: "Eleanor's visit [to England] in wartime was a great success. I mean a success for her and for me so that we understood more about their problems. . . . I told Eleanor to order her clothes and get some fine things so that she will make a really handsome appearance."<sup>5</sup>

With spring flowers in bloom and war's end at last in sight, an exuberant president began to prepare for the San Francisco conference.

The features of the future UN that were of most interest to the Great Powers had been settled already at two much more exclusive meetings. In the summer and fall of 1944, representatives of Britain, China, the United States, and the USSR had met at Dumbarton Oaks to do preparatory work on what would become the UN Charter. One month earlier, at Bretton Woods in New Hampshire, the Allies had established the main institutions of the postwar economic order—the International Monetary Fund and the International Bank for Reconstruction and Development (the World Bank).

Determined to avoid Wilson's main error, Roosevelt actively courted Republican support for the United Nations. When the time came to choose representatives for San Francisco, he made a point to include prominent GOP leaders: former Minnesota Governor Harold Stassen, future Secretary of State John Foster Dulles, and Senator Arthur Vandenberg, the ranking minority member of the Senate Foreign Relations Committee.

The Soviets went along with the project, but without much enthusiasm. Their chief concern for the immediate postwar period was to protect the frontiers of the motherland from renewed aggression. On the eve of the Normandy invasion, according to former Yugoslav Communist Party official Milovan Djilas, Stalin told Djilas: "Perhaps you think that just because we are the allies of the English we have forgotten who they are and who Churchill is. They find nothing sweeter than to trick their allies. . . . Churchill is the kind who, if you don't watch him, will slip a kopeck out of your pocket. . . . Roosevelt is not like that. He dips in his hand only for bigger coins."<sup>6</sup>

George F. Kennan, a shrewd observer then serving in the U.S. embassy in Moscow, sized up Russia's position this way: "Insofar as Stalin attached importance to the concept of a future international organization, he did so in the expectation that the organization would serve as the instrument for maintenance of a US-UK-Soviet hegemony in international affairs."<sup>7</sup> That arrangement could be satisfactory to the Soviets only if Britain and America accepted the sphere of influence the USSR was establishing in Central and Eastern Europe in the summer of 1944.

Churchill and the British Foreign Office were skeptical of the Soviet Union's value as a partner in promoting future peace and wary of Stalin's expansionist aims. Anthony Eden, Churchill's foreign minister, viewed Soviet policy as "amoral" and the American attitude as "exaggeratedly moral, at least where non-American interests are concerned."<sup>8</sup> Regarding the UN, Churchill's expectations were modest. "Jaw Jaw is better than War War," he conceded, but he was more interested in postwar cooperation among the Western European nations than in a worldwide organization. "I must admit," he told foreign affairs adviser Sir Alexander Cadogan, "that my thoughts rest primarily in Europe. . . . It would be a measureless disaster if Russian barbarianism overlaid the

culture and independence of the ancient States of Europe. Hard as it is to say, I trust the European family may act unitedly as one under the Council of Europe."<sup>9</sup>

Churchill and the Foreign Office, determined to resist any erosion of British imperial power, were not about to become champions of human rights. The issue of the future of colonial dependencies was, in fact, a major source of friction between Britain and the United States. Roosevelt favored the evolution of the British colonies into independent states and free trading partners, while the United Kingdom envisaged that they would become self-governing dominions in a special relationship, including trade relations, with one another and the mother country.<sup>10</sup> The British suspected, not without reason, that the United States' anticolonial policy was driven in part by its own economic and military aims.

When representatives of the Big Three met at Dumbarton Oaks, they were united by the desire to win the war, but each had different goals and concerns for the peace.<sup>11</sup> In the draft proposals for the UN Charter that issued from this meeting, human rights were mentioned only once, briefly, at the suggestion of the United States. Britain and the Soviet Union rejected the American delegation's proposal that promotion of human rights be listed among the UN's main purposes but agreed to its inclusion among the provisions dealing with economic and social questions.<sup>12</sup> Edward R. Stettinius, Jr., head of the American delegation, noted in his diary that Roosevelt "seemed gratified by these developments and felt the inclusion of the human rights sentence was extremely vital. He seems rather surprised that the Soviets had yielded on this point."<sup>13</sup>

The most divisive issue at Dumbarton Oaks was the structure and powers of the Security Council, the future UN's executive organ. Stettinius argued, with Eden's backing, that a state should not be allowed to exercise its veto power in a dispute to which it was a party. Stettinius had been put in charge of the U.S. Dumbarton Oaks team at the last minute, after the wartime secretary of state, Cordell Hull, fell seriously ill. He was a wunderkind of the business world who had resigned his chairmanship of the board of U.S. Steel at age forty to join Roosevelt's brain trust. But he was no match for the USSR's foreign minister, Vyacheslav Molotov, known as "Old Stone Ass" for his staying power in negotiations. Molotov would not budge from his position that there should be no exceptions to the veto

power. Unable to resolve the issue, the diplomats left it to be settled in person by Stalin, Churchill, and Roosevelt, who were soon to meet in Yalta to make concrete arrangements for the shape of the peace.

Eleanor Roosevelt was worried about the strain that the Yalta meeting would place on the president. "After the inauguration," she wrote in her memoirs, "it was clearer every day that Franklin was far from well."<sup>14</sup> But he seemed so energized when he spoke of his plans that she suppressed her concerns: "Franklin had high hopes that at this conference he could make real progress in strengthening the personal relationship between himself and Marshal Stalin. He talked a good deal about the importance of this [relationship] in the days of peace to come, since he realized that the problems which would arise then would be more difficult even than those of the war period."

In February 1945 the Big Three leaders and their advisers gathered at Yalta, a resort on the Black Sea. Once the site of an ancient Greek colony, Yalta was dotted with handsome villas that had belonged to the Russian nobility. Stalin was an expansive host. Churchill welcomed the "genial" Crimean climate, with its "warm and brilliant sunshine."<sup>15</sup> But the American president, though striking a jaunty pose in photographs from the conference, looks gaunt, frail, and ill.

The most controversial items on the Yalta agenda involved the Soviet Union's plans for the security of its frontiers. Stalin's main concern, he announced, was to reach a firm agreement with the United States and Britain to protect his country from any resurgence of German military ambitions. To this end he insisted that the postwar governments of the countries along the Soviet Union's western border had to be friendly to Russian interests. He had already taken steps toward that goal: Bulgaria and Romania, Germany's allies, were under Soviet control, and the Red Army had occupied Warsaw just two weeks before the conference. In January the USSR had recognized a committee of Polish Communists and sympathizers as the legitimate provisional government of Poland, over the protests of Britain and the United States, who had previously recognized a rival group.<sup>16</sup>

Churchill, hoping to dilute the Soviet Union's power on the European continent, proposed that France should have an active role in policing postwar Europe. He was ultimately successful in obtaining a seat for

France as the fifth permanent member (with Britain, China, the United States, and the USSR) of the United Nations Security Council. This seems not to have troubled Stalin, since the Soviet Union's position that there should be no exceptions to the veto power substantially prevailed.

Discussion on the status of Poland was protracted and acrimonious. Finally the three leaders reached an agreement, calling for the Communist-dominated provisional government to be "reorganized on a broader democratic basis with the inclusion of democratic leaders from Poland itself and from Poles abroad."<sup>17</sup> To Stalin, "democratic" meant anything that was not fascist. To Roosevelt, it meant free elections. "I want this election in Poland to be the first one beyond question," he told Stalin. "It should be like Caesar's wife . . . they say she was pure." Stalin's bantering reply was ominous: "They said that about her, but in fact she had her faults."<sup>18</sup>

The agreement on Poland was vague and toothless, but in view of Soviet military dominance in Eastern Europe, there was little more that Roosevelt and Churchill could gain by means of negotiation. "It was not a question of what Great Britain and the United States would permit Russia to do in Poland," Stettinius later wrote, "but what the two countries could persuade the Soviet Union to accept."<sup>19</sup>

To Eleanor Roosevelt, FDR seemed far from discouraged upon his return. Yalta was important to him, she wrote, but only as a step: "He knew there had to be more negotiation, other meetings. He hoped for an era of peace and understanding, but he knew well that peace was not won in a day—that days upon days and years upon years lay before us in which we must keep the peace by constant effort."<sup>20</sup>

Signs that the president's health was failing fast could no longer be ignored. On March 1, for the first time, he remained seated while addressing Congress. The famous voice was less distinct than on previous occasions. On April 12, a week before the opening of the San Francisco conference, news came from Warm Springs, Georgia, that Franklin Delano Roosevelt had succumbed to a cerebral hemorrhage. The president who had led America through the war would not be there to shape the peace.

The loss of its most powerful supporter was a severe blow to the future United Nations. Though Stalin did not view the new peace and security

organization as enough of a threat to his plans to stand in its way, his disdain for the vision of an inclusive "universal organization" had surfaced at Yalta. Many small nations, he remarked to dinner companions, had the absurd belief that the Great Powers had fought the war in order to liberate them.<sup>21</sup> Churchill, as prime minister of a country with a vast if crumbling colonial empire, was in no position to disagree. When Stettinius (who had been promoted to secretary of state in November 1944) broached the subject of establishing UN trusteeships in non-self-governing territories (a euphemism for colonies), Churchill became agitated, swearing that "not one scrap of British territory" would ever be included in such arrangements if he could prevent it.<sup>22</sup>

Though FDR had been the only Allied leader to push for a human rights reference in the Dumbarton Oaks proposals, the truth is that the promotion of fundamental rights and freedoms was far from central to the thinking of any of the Big Three as they debated the shape and purpose of the United Nations. This was not surprising: it was not self-evident that the proposed international organization ought to be concerned with such matters. For one thing, international lawyers regarded a state's treatment of its own citizens, with rare exceptions, as that nation's own business.

That began to change, however, in the waning days of the war, as appalling details of the Nazi reign of terror were coming to light and the Allies faced the question of how to deal with major war criminals. Both Roosevelt and Stalin had pushed for some kind of public international trial. Churchill, however, was strongly opposed, maintaining that the chief leaders should be summarily executed once they were properly identified.<sup>23</sup> He reluctantly capitulated only after the deaths of Mussolini, Hitler, and Goebbels in April and May 1945 had removed the most notorious offenders.

In August 1945, six months after Yalta, the Allies issued a charter setting forth the guidelines that came to be known as the Nuremberg Principles. Largely crafted in Washington, these principles stated that to wage a war of aggression was a crime against international society and that to persecute, oppress, or do violence to individuals or minorities on political, racial, or religious grounds in connection with such a war, or to exterminate, enslave, or deport civilian populations, was a crime against humanity.

But the Nuremberg Principles left the issue of *peacetime* violations of human dignity untouched. So had the founders of the League of Nations

after the First World War. The League's Covenant had contained no mention of human rights, and the same might well have been true of the UN Charter. On the eve of the San Francisco conference of 1945, one thing was clear: The Great Powers were not going to take the initiative in making human rights a centerpiece of their postwar arrangements. It was not in their interest to do so.

This had not gone unnoticed in the world at large, where the winds of change were gathering force. Men and women throughout the broken world were yearning not only for peace, but for a better and freer existence. By destroying lives, leveling cities, and displacing peoples, the two world wars had unsettled fixed, familiar patterns of living. Amid the ruins, something new was stirring. When the fighting that had drawn soldiers to battlegrounds in Europe, North Africa, and the Pacific Islands came to a close, victory bells had awakened pent-up longings in the hearts of women and men in every corner of the earth. Soldiers and civilians alike had become aware that the way things had been was not necessarily the way they had to be. In Southeast Asia and North Africa, anger was building against Britain, France, the Netherlands, and other powers loath to relinquish their overseas empires. Over 250 million people were still living under colonial rule, and millions more belonged to disadvantaged minorities in the United States, Latin America, and the Soviet Union. A new chapter in the history of human rights was about to unfold.

When delegates began to arrive in San Francisco from fifty far-flung lands in April 1945, they included a number of individuals who hoped that the new organization would concern itself with much more than collective security.<sup>24</sup> Many had been inspired by Allied descriptions of the war as a fight for freedom and democracy. They had read or listened eagerly to Franklin Roosevelt's 1941 "four freedoms" speech, which linked future peace and security to respect for freedom of speech and expression, freedom to worship God in one's own way, freedom from want, and freedom from fear.<sup>25</sup> Those sentiments were echoed in the Atlantic Charter, the press statement issued by Roosevelt and Churchill after their shipboard meeting prior to the U.S. entry into the war. At the beginning of 1942, the Allies, calling themselves the "united nations," issued a joint declaration that began by stating that victory was essential in order "to defend life, liberty, independence and religious freedom and to preserve

human rights and justice in their own lands as well as in other lands." These efforts to articulate the meaning of the struggle had sounded chords that would reverberate long after the war ended.

Among the delegates most determined to hold the Allies to their wartime rhetoric was Carlos Romulo of the Philippines. One of the more flamboyant characters in the UN's early history, Romulo had won a Pulitzer Prize in 1941 for a series of newspaper articles forecasting that the days of colonialism in East Asia were numbered. When Japan invaded the Philippine Commonwealth, he joined the U.S. Army, serving as an aide to General Douglas MacArthur at Bataan and Corregidor, where he earned a Silver Star and a Purple Heart with two oak leaf clusters. Some say it was Romulo who came up with MacArthur's famous words, "I shall return."<sup>26</sup> His political opponents often made disparaging remarks about his height, which he put at five feet four and they at five two. But cocky Romulo made up in ego for what he lacked in stature. In a *Reader's Digest* article titled "I'm Glad I'm a Little Guy," he compared himself to Francis of Assisi, Beethoven, Keats, and Napoleon, all "shorties" who, he said, had been spurred to strive for higher achievements.<sup>27</sup>

In the summer of 1944, as a member of the Philippine government-in-exile, Colonel (soon to be General) Romulo had attended the Bretton Woods economic conference. Romulo came away from that meeting indignant that the major powers "had already set themselves up to be the ones to decide what the economic pattern of the postwar world should be."<sup>28</sup> He told reporters that the economic arrangements made by the Allies would one day have to be reexamined in the light of the needs and ideals of developing nations. The Dumbarton Oaks conference, a month after Bretton Woods, did nothing to ease his concerns: it was closed to all except China, Great Britain, the Soviet Union, and the United States. (Most of the decisions made by Roosevelt, Churchill, and Stalin at Yalta were kept secret until the end of the war, and the full text of the Yalta agreements was not disclosed until 1947.)

In San Francisco, Romulo sensed that the movers and shakers were not listening to what he and other delegates from lesser powers had to say. Even the Russians, who talked a good game of liberation from oppression, behaved "towards all of us representatives of smaller countries as though we scarcely existed. They acted as if they owned the world, strut-

ting around like conquerors in their ill-cut suits with bell-bottom trousers.”<sup>29</sup> Great Britain’s Cadogan was better dressed and more polished, but his letters to his wife reveal that Romulo’s suspicions were far from fanciful. As the Big Four approached agreement on the powers of the Security Council, Cadogan wrote that he expected a final decision in a day or two, but “we shall have all the little fellows yapping at our heels, and it won’t be easy. Of course one could crack the whip at them and say that if they don’t like our proposals there just damned well won’t be any World Organization. But I don’t know that that would pay, and it would have to be put tactfully.”<sup>30</sup>

Romulo, who believed that the single most important issue in the post-war era would be colonialism, was not one to suffer in silence. Nor was the “third world soldier” (as he called himself) given to observing diplomatic niceties. When the question of the future status of “non-self-governing territories” came up, he became a thorn in the side of representatives from countries with large colonial possessions. Belgium, Britain, France, and the Netherlands attempted to finesse the issue of independence through a pledge to work for a gradual transition to “self-government,” but Romulo insisted that this did not get to the heart of the matter.

“Self-government,” Romulo claimed, was not the same as independence. Some colonies were already largely self-governing internally, but their inhabitants were aiming for nationhood, with full equality in the family of nations. “Mr. Chairman,” he said, “the peoples of the world are on the move. They have been given a new courage by the hope of freedom for which we fought in this war. Those of us who have come from the murk and mire of the battlefields know that we fought for freedom, not for one country, but for all peoples and for all the world.”<sup>31</sup> By his own account, Romulo became “a nuisance, a gadfly, a pest. I prowled corridors, buttonholed delegates, cornered unwilling victims in hotel lobbies and men’s rooms.”

His persistent efforts, supported by the Soviets, yielded significant, if not fully satisfying, results. The objective of promoting the “self-determination of peoples” was included among the purposes of the UN in the Charter’s Preamble. Romulo was disappointed, however, that the Charter provisions dealing with non-self-governing territories obligated the states responsible for those territories only to “develop self-government” with no mention of independence. He took some consola-

tion from the fact that the purposes of the UN trusteeship system included the promotion of their “development towards self-government or independence.” The trusteeship system was created to administer the overseas possessions stripped from the Axis powers and to replace the mandate system set up by the League of Nations after the First World War to administer former German and Turkish territories.

The following year, 1946, when the Philippines gained independence from the United States, Romulo elaborated on the position he had taken in San Francisco: “We of the Philippines know the aspirations and yearnings of the dependent people of the Far East because we are part of their world. We know how they hunger for freedom. We know, too, the fears and resentments they have long harbored in their hearts. We know that to these people self-government is a meaningless word, while independence stands for all their hopes and dreams. Although we had no authority to speak *for* these millions in the Far East who were not represented at the Conference, we could speak *of* them and plead their cause.”<sup>32</sup>

Romulo and several other delegates also pressed in San Francisco for a position on racial discrimination—much to the discomfort of the United States and some colonial powers. Reminding the assembly that many different races had fought together in the war, he and representatives from Brazil, Egypt, India, Panama, Uruguay, Mexico, the Dominican Republic, Cuba, and Venezuela agitated in favor of various antidiscrimination proposals.<sup>33</sup> Their combined efforts, supported by China, France, and the Soviet Union, produced the Charter’s radical challenge to the social status quo throughout the world: an emphatic statement that human rights belong to everyone “without distinction as to race, sex, language, or religion.”

Another spokesman for small nations at San Francisco was Australian Foreign Minister Herbert V. Evatt, who spearheaded a widely supported attempt to limit the requirement of unanimity among Britain, China, France, the United States, and the USSR, the five permanent members of the Security Council (that is, the veto power of each of them). As it happened, the frequent use of the veto power would soon dash hopes for the UN’s future as a cooperative peacekeeping body. The movement to curb it was, of course, doomed, but its energy so alarmed the United States that President Truman telephoned the Australian prime minister to request that Evatt be reined in. The insurgency was quelled only when the Big Three made it clear that the issue was non-negotiable. U.S. delegate Thomas



Connally, chairman of the Senate Foreign Relations Committee, dramatized the point by ripping a piece of paper to shreds as he warned that any change in the veto arrangements would be equivalent to tearing up the Charter.<sup>34</sup>

But Evatt scored an important victory in another area. Insisting that the key issues of the peacetime era would be economic, his Australian delegation argued that a permanent system of security could be effective only if it had a foundation in economic and social justice. Evatt especially stressed full employment. Referring to the role of the Great Depression in the rise of militaristic, totalitarian regimes in Germany, Japan, and Italy, he wrote: "The great threat to human freedom which we have been combating for five years arose out of and was made possible by an environment dominated by unemployment and lacking freedom from want."<sup>35</sup> Widespread support for the Australian position led to strengthening the Charter's provision for an Economic and Social Council (ECOSOC), making it a "principal organ" of the UN, alongside the Security Council.

One of the youngest delegates to the San Francisco conference was getting the sense, as Romulo and Evatt had done, that "the big 3 or 4 or 5 decide among themselves, and we cannot make much difference."<sup>36</sup> Charles Malik, thirty-nine, from the recently independent Lebanese Republic, sympathized with Romulo's general outlook but was appalled by his bombastic manner. Malik was a philosophy professor who had been recruited into diplomatic service only months before. "Many people talk rhetorically in order to produce an impression, e.g., this awful man General Romulo," he noted in his diary. "The mere thought that I might be doing that is enough to paralyze my powers of speech."

Malik used his own turn at the podium to criticize the conference agenda as too limited in scope. "We are dealing," he complained, with "mere framework and form."<sup>37</sup> He traced that problem to the Dumbarton Oaks proposals, which he described as disappointingly superficial envisaging "political, military, judicial, economic, and social measures for the maintenance of international peace and security," while failing to address the underlying causes of aggression and conflict. Certain outwardly peaceful and secure situations, Malik pointed out, "do not spring from genuine justice. . . . There is a peace that only cloaks terrible inner conflicts; and there is a security that is utterly insecure."

Sharing Romulo, Evatt, and Malik's desire to enlarge the aims of the new organization were the delegates from the Latin American states, the largest single bloc at the conference. Among them at that time were several that were struggling to establish constitutional democracies, and Mexico, which had adopted a socialist constitution in 1917.<sup>38</sup> Their focus was on the rights that they had recognized in their own twentieth-century constitutions and were then internationalizing in a draft document that would become the 1948 American Declaration of Rights and Duties.

That document was a tribute to the century-old Pan-American vision of Simón Bolívar. After leading independence wars in Venezuela, Colombia, Panama, Ecuador, Peru, and Bolivia, Bolívar had convened representatives of these new republics in 1826 to discuss a united South America. Early in the twentieth century the continent's pioneering internationalists formed an inter-American conference that met at regular intervals. In 1945, just before the San Francisco conference, representatives of twenty-one Latin American countries gathered in Mexico City and resolved to seek inclusion of a transnational declaration of rights in the UN Charter. In San Francisco, Panama submitted a draft proposal for such a bill and joined delegates from Cuba, Chile, and Mexico in pressing hard for movement on that front.

Also intent on promoting a broad spectrum of rights were representatives from more than forty nongovernmental organizations (mostly U.S. based) who had been invited as consultants and observers.<sup>39</sup> These NGOs, as they are now called, included Catholic, Jewish, and Protestant groups, legal associations, and labor and peace organizations. In the nineteenth century the habit of mobilizing for the redress of injustice and the relief of suffering worldwide had become part of the culture of many developed countries. Now, in the century of mass slaughters, the heirs of various movements for the abolition of slavery, workers' rights, universal suffrage, and other reformist causes joined forces in the struggle for human rights.

The role played at San Francisco by the "smaller nations," as Romulo and others called them, has often been overlooked. (The term *smaller* referred to their clout, not necessarily to their size.) Though the proceedings were dominated, and to a certain extent stage-managed, by the Big Three, with China and France admitted by courtesy to the inner circle, the voting power and influence of the other forty-five countries was far from negligible.

While the delegations from Latin America were especially active, those from war-torn Europe took few initiatives. Vera Dean, who attended the conference as an observer for the Foreign Policy Association, remarked that the Europeans appeared like "convalescents from a grave illness." The problem of Russia's future relations with its wartime allies, she added, dominated the San Francisco proceedings "as if it had been written in invisible ink throughout the otherwise scrupulously technical agenda."<sup>40</sup>

Conscience was thus present in numbers at the San Francisco meeting, but Power did not at first pay much attention. Even as the conference unfolded, the Soviet Union was tightening its control over Poland, reneging on its Yalta promise to admit democratic elements into the government, and sending its secret police to arrest Poland's non-Communist leaders.<sup>41</sup> The United States continued to support the reference to human rights in the UN's general statement of purposes, but it opposed proposals by Latin American delegates to include a bill of rights in the Charter and rejected their suggestion that the Charter should contain a commitment to set up special commissions for education, culture, and human rights.<sup>42</sup> Such commissions, the U.S. delegation said, could be established as and when needed by the future Economic and Social Council, as had been proposed at Dumbarton Oaks.

In May 1945, with the conference well under way, a number of developments at last helped to open a path for human rights advocates. After exchanging views inconclusively at Yalta on how to deal with war criminals (Churchill still wanted to shoot them), Churchill, Roosevelt, and Stalin had left the matter to be discussed by their foreign secretaries in San Francisco.<sup>43</sup> When Britain finally dropped its opposition to formal trials on May 3, the way was clear to begin establishing a tribunal. That evening Sir Alexander Cadogan wrote his wife, "The question of the major war criminals seems to be settling itself, as they seem to be getting bumped off satisfactorily in one way or another."<sup>44</sup> Anticipating the British decision, Harry Truman, who became president upon Roosevelt's death, had announced on May 2 that Supreme Court Justice Robert H. Jackson would represent the United States "in preparing and prosecuting charges of atrocities and war crimes against such of the leaders of the European Axis powers . . . as the United States may agree with any of the united nations

to bring to trial before an international military tribunal."<sup>45</sup> Jackson took a leave of absence from the bench to help develop the Nuremberg Principles and to act as the chief U.S. prosecutor at the trials held in 1945 and 1946.

That same week, representatives of several American NGOs secured a meeting with Edward Stettinius. The busy secretary of state accorded them all of twenty-five minutes, telling them at the outset that there was little hope of securing more recognition for human rights than had been granted at Dumbarton Oaks.<sup>46</sup> The group's spokesman, Frederick Nolde of the Joint Committee for Religious Liberty, led off with a high-minded exhortation, urging the United States, in keeping with its best traditions, to show leadership on the issue. He was followed by Judge Joseph Proskauer of the American Jewish Committee, who made a more political case, emphasizing the intensity and diversity of interest in human rights among the voting public. Reinforcing Proskauer's point, labor leader Philip Murray rose to affirm the "wholehearted" support of the Congress of Industrial Organizations (CIO). Then Walter White of the National Association for the Advancement of Colored People spoke of "the importance of including colonies and other dependent peoples within the concept of human rights." The last speaker, Clark Eichelberger of the American Association for the United Nations, had a specific request. It was especially important, he said, for the United Nations to set up a *commission* on human rights.

Stettinius's diary for that period shows him embroiled in tense negotiations with the Soviets and beset with divisions among his advisers on how best to deal with these allies who were already becoming enemies. Whether the secretary was moved by any of the arguments he had heard, or whether he was just throwing the NGOs what he thought was a crumb, the United States made a single exception to its opposition to the naming of special commissions in the Charter: It would agree to a Human Rights Commission.<sup>47</sup>

This marked a crucial turning point. It is unlikely that human rights would have figured prominently in the UN Charter without the support of the U.S. State Department. The Soviet Union entered no objection, secure in the knowledge that the Charter would protect purely domestic affairs from UN intervention.<sup>48</sup>

Meanwhile delegates from Brazil, Canada, Chile, Cuba, the Dominican Republic, Egypt, France, Haiti, India, Mexico, New Zealand,

Panama, and Uruguay kept up the pressure for giving human rights an even higher profile in the Charter. Support for these initiatives grew when the euphoria of V-E Day, May 8, was followed by the shocking first photographs from the concentration camps.

By the time the UN Charter was completed on June 26, principles of human rights were woven into its text at several points.<sup>49</sup> They were given pride of place in the Preamble, which begins with a ringing announcement of the member nations' determination:

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm our faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising under treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom . . .

The affirmation of equal rights in the Preamble, so far ahead of the realities of the time, was reinforced in Article 1 of the Charter, which recites the purposes of the United Nations. Prominent among the new organization's aims is respect for the "self-determination of peoples" and for "human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion." Self-determination of *peoples* and human rights for all *individuals* would prove difficult to harmonize, but the Charter established that both aims were fundamental. Then, in Article 56, the nations solemnly pledged themselves to promote those rights and freedoms. Among the tasks assigned to the Economic and Social Council was that of establishing "commissions in economic and social fields for the promotion of human rights."<sup>50</sup>

Harry Truman gave his first major speech as president at the San Francisco Opera House on the occasion of the signing of the UN Charter on June 26. "Experience has shown how deeply the seeds of war are planted

by economic rivalry and by social injustice," he said.<sup>51</sup> Economic and social cooperation are "part of the very heart of this compact." He was looking forward, he told the delegates, to the framing of an "International Bill of Rights."

Eleanor Roosevelt followed from a distance the proceedings she had hoped to attend with her husband. "One feels in the San Francisco conference," she wrote to her aunt Maude Gray, "that a strong hand is missing."<sup>52</sup> She was sad, she added, that FDR "could not see the end of his long work which he carried so magnificently." On the day the Charter was signed, she greeted the event with cautious optimism in her syndicated "My Day" column: "I don't believe that greed and selfishness have gone out of the human race. I am quite prepared to be considerably disappointed many times in the course of cooperation, . . . but I want to try for a peaceful world. The ratification of the Charter as soon as possible, in compliance with President Truman's wishes, will, I think, make easier every step we take in the future."

The following month, her late husband's wise bipartisan strategy paid off: the U.S. Senate approved the UN Charter by an overwhelming majority, 89-2.

The idea of universal human rights thus found a place in the UN Charter, but it was a glimmering thread in a web of power and interest. What might come of it was far from clear. The Charter did not say what those rights might be, and no one knew whether any rights really could be said to be universal, in the sense of being acceptable to all nations and peoples, including those not yet represented in the United Nations.

The Great Powers had gone along with the human rights language, but they made sure that the Charter protected their national sovereignty: "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."<sup>53</sup> Chapter VII's exception to that principle, limited to situations where the Security Council determines that international peace and security are threatened, could be controlled by any of the Big Five through their veto power.

Smaller nations, however, had more reason to be concerned. On the one hand, the addition of human rights references to the Charter might encourage stronger states to intervene in their affairs under pretext of championing the rights of their citizens, as Hitler had done in Czechoslovakia. On the other hand, many tyrants including Hitler had hidden behind the bulwark of national sovereignty, seemingly protected in the Charter as well. How can human rights be secured while discouraging bad-faith military adventures or economic sanctions in their name? When is intervention in a country's internal affairs legitimate, and when not? What is intervention? The vague domestic-jurisdiction language of the Charter shed little light on these problems. They would remain tough nuts to crack.

How Conscience would fare in the tug-of-war between human rights and national interests in the new international organization was anyone's guess. Much would depend on the new Human Rights Commission. A key figure on that Commission would be scholarly Charles Malik, who left the San Francisco meeting feeling like an alien. He wrote in his diary: "Intrigue, lobbying, secret arrangements, blocs, etc. It's terrible. Power politics and bargaining nauseate me. There is so much unreality and play and sham that I can't swing myself into this atmosphere and act."<sup>54</sup>

Charles Malik had yet to meet Eleanor Roosevelt.

## THE DECLARATION TODAY

The Universal Declaration charted a bold new course for human rights by presenting a vision of freedom as linked to social security, balanced by responsibilities, grounded in respect for equal human dignity, and guarded by the rule of law. That vision was meant to protect liberty from degenerating into license and to repel the excesses of individualism and collectivism alike. By affirming that all its rights belong to everyone, everywhere, it aimed to put an end to the idea that a nation's treatment of its own citizens or subjects was immune from outside scrutiny.

When the Declaration was adopted, friends of human rights were of different minds about its prospects. Many regarded it as a milestone in the history of freedom, but to others it seemed to be just a collection of pious phrases—meaningless without courts, policemen, and armies to back them up. The latter view was common among men impatient for action and progress, including the most famous international law scholar of the day, Hersch Lauterpacht, who commented disparagingly that “the Declaration is not in itself an achievement of magnitude.”<sup>1</sup> It possessed, he said, “no legal force and, probably only inconsiderable moral authority.”

Eleanor Roosevelt saw the matter differently. Her confidence was due in part to her lively sense of the Declaration of Independence as a bright thread running through American history. That document, too, had proclaimed certain truths as self-evident and declared certain rights to be un-

alienable. It too was nonbinding. Just before the Human Rights Commission held its last drafting session, the State Department explained the U.S. view of the Declaration's nature and purpose by referring to what Abraham Lincoln had said about the assertion of human equality in the Declaration of Independence:

They [the drafters] did not mean to assert the obvious untruth, that all were then actually enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the *right* so that the *enforcement* of it might follow as fast as circumstances should permit.

They meant to set up a standard maxim for free society which should be familiar to all: constantly looked to, constantly labored for, and thereby constantly spreading and deepening its influence and augmenting the happiness and value of life to all people, of all colors, everywhere.<sup>2</sup>

In the April 1948 *Foreign Affairs* Eleanor Roosevelt wrote in a similar vein of her own hopes for the Declaration then nearing completion: "In the first place, we have put into words some inherent rights. Beyond that, we have found that the conditions of our contemporary world require the enumeration of certain protections which the individual must have if he is to acquire a sense of security and dignity in his own person. The effect of this is frankly educational. Indeed, I like to think that the Declaration will help forward very largely the education of the people of the world."<sup>3</sup>

Was her confidence justified? After fifty years the answer is a qualified yes. The Declaration's moral authority has made itself felt in a variety of ways. The most impressive advances in human rights—the fall of apartheid in South Africa and the collapse of the Eastern European totalitarian regimes—owe more to the moral beacon of the Declaration than to the many covenants and treaties that are now in force. Its nonbinding principles, carried far and wide by activists and modern communications, have vaulted over the political and legal barriers that impede efforts to establish international enforcement mechanisms. Most, though not all, flagrant and repeated instances of rights abuse now are brought to light, and most governments now go to great lengths to avoid being blacklisted as notorious violators. Extreme suffering and deprivation—whether due to

human or natural causes—often, though not often enough, elicit practical responses.

By 1986 Charles Malik, who had been one of the staunchest supporters of human rights covenants, had come around to Roosevelt's view, admitting, "Whenever the question of human rights has arisen throughout the world, the appeal has been far more to the Declaration than to the covenants."<sup>4</sup> He now appreciated, he said, that "[i]n the long run, the morally disturbing or judging is far more important than the legally binding."

The Declaration's principles, moreover, have increasingly acquired legal force, mainly through their incorporation into national legal systems. It would be hard to overestimate the importance of that development. Though the Declaration is rightly hailed for establishing that nations are accountable to others for the way they treat their own people, the fact is that international institutions can never provide first-line protection for victims of rights violations. When protection at the national level is absent or breaks down, there are severe limitations to what international enforcement mechanisms can accomplish. The greatest success story—that of the European human rights system established by the 1950 European Convention on Human Rights—serves only to underline the point. The effectiveness of that system has been due largely to the willingness of the states involved to comply promptly and fully with the judgments of the European Court of Human Rights, adapting their laws to its rulings. In the Inter-American human rights system, where many of the cases that come before the regional court in Costa Rica have involved disappearances, torture, and deaths, securing compliance has been far more difficult. Unlike in Europe, a number of states-parties to the Inter-American Convention have not yet submitted themselves to the jurisdiction of the court in Costa Rica.

The difficulty with international legal remedies is that they work best where their legitimacy is widely acknowledged. They are apt to be least effective in the situations where the worst violations occur. It can be expected, therefore, that the strength of the European human rights system will be tested as it assimilates its new Eastern European members.

The most intractable problems arise where rogue nations are themselves the rights violators and in the increasing number of cases where anarchy prevails owing to civil war or other conflicts between groups. The

responses of the community of nations to the most appalling rights violations of the past half century have ranged from inaction, to diplomatic initiatives and censure, to economic incentives and sanctions, to arms embargoes, to military intervention, and, in the post-cold war years, to international criminal prosecutions.

Though the framers of the Declaration knew that military intervention was sometimes necessary, and some backed the establishment of a permanent international criminal court, those subjects figured very little in their deliberations about implementation of the Declaration. This was due in part to their understanding of the division of labor among the Human Rights Commission, the International Law Commission, the Nuremberg prosecutors, and the role of the Security Council. But it also reflected a certain philosophy—the conviction that culture is prior to law. Criminal prosecutions, they knew, have little effect on the basic causes of the conduct they aim to punish and deter. The same is true of military intervention, which often triggers fresh cycles of resentment and retaliation.

One of the most basic assumptions of the founders of the UN and the framers of the Declaration was that the root causes of atrocities and armed conflict are frequently to be found in poverty and discrimination. That is why Franklin Roosevelt included the “freedom from want” among his four freedoms, and that is why Harry Truman took the occasion of the signing of the UN Charter to warn, “Experience has shown how deeply the seeds of war are planted by economic rivalry and social injustice.” Those ideas found expression in the Declaration’s insistence on the link between freedom and social security and on the relation of both to peace. That aspect of the Declaration, unfortunately, is commonly ignored today—just at a time when the poorest people and countries, a quarter of the world’s population, are being increasingly marginalized in the global economic order. A pressing challenge for the future is to reunite the sundered halves of the Declaration—its commitment to individual liberty and its acknowledgment of a link between freedom and economic opportunity.

Like the American Declaration of Independence, the Universal Declaration was radically ahead of its time. After fifty years, its transformative potential has still barely begun to be realized. The further progress of its principles will be complicated, however, by globalization and the upsurge of regional and ethnic conflict. In a surprising development that none of the Declaration’s framers could have anticipated, national sovereignty—

which loomed so large in 1948—has begun to lose a great part of its meaning, challenged from without by economic forces that know no borders and from within by movements for regional and local self-determination. The world, and with it the human rights project, seems to have entered a new phase of upheaval.

The Declaration’s ability to weather the turbulence ahead has been compromised by the practice of reading its integrated articles as a string of essentially separate guarantees. Nations and interest groups continue to use selected provisions as weapons or shields, wrenching them out of context and ignoring the rest. Even persons and governments that are well disposed toward human rights often tend to think of rights violations only or mainly in terms of the most violent abuses—violations of five or six articles out of thirty. Forgetfulness, neglect, and opportunism have thus obscured the Declaration’s message that rights have conditions—that everyone’s rights are importantly dependent on respect for the rights of others, on the rule of law, and on a healthy civil society.

The principal framers, though they differed on many points, were as one in their belief in the priority of culture. René Cassin, though a strong backer of international criminal law, wrote, “In the eyes of the Declaration’s authors, effective respect for human rights depends primarily and above all on the mentalities of individuals and social groups.”<sup>5</sup> Malik, who labored long and hard on the Covenants, agreed. “Men, cultures and nations must first mature inwardly,” he wrote, “before there can be effective international machinery to adjudicate complaints about the violation of human rights.”<sup>6</sup> Chang, citing the Chinese proverb “Laws alone are not sufficient to bring about results by themselves,” said the Declaration’s main goal was “to build up better human beings, and not merely to punish those who violate human rights.”<sup>7</sup>

Eleanor Roosevelt was of the same mind. In 1940, with war on the horizon, she had written a pamphlet to emphasize that democracy rested on a moral basis. “Court decisions, and laws and government administration,” she said then, “are only the results of the way people progress inwardly.”<sup>8</sup> She returned to the point in one of her last speeches at the UN, emphasizing the importance of the small settings where people first learn of their rights and responsibilities:

Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any

maps of the world. Yet they *are* the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm or office where he works.<sup>9</sup>

Those convictions of the framers undergird one of the most remarkable features of the Declaration: its attention to the "small places" where people first learn about their rights and how to exercise them responsibly—families, schools, workplaces, and religious and other associations. These little seedbeds of character and competence, together with the rule of law, political freedoms, social security, and international cooperation, are all part of the Declaration's dynamic ecology of freedom.

The hopes and the fears of the men and women who framed the Declaration were grounded in their understanding of human nature. The events of their times had shown them human beings at their best and worst—with their potential for good and evil, reason and impulse, trust and betrayal, creativity and destruction, selfishness and cooperation. They had also seen governments at their best and worst—capable of atrocities at home and abroad, but also of restoring their former enemies to a dignified place in the community of nations. The framers took encouragement from the fact that human beings are capable not only of violating human rights, but also of imagining that there are rights to violate, of articulating those rights in declarations and constitutions, of orienting their conduct toward the norms they have recognized, and of feeling the need to make excuses when their conduct falls short.

There is a sculpture by Arnaldo Pomodoro on the plaza outside the UN building in New York that captures the spirit of Eleanor Roosevelt and her colleagues. A gift from the government of Italy, it consists of an enormous sphere of burnished bronze, suggesting a globe. The sphere is pleasing to behold, even though it startles with its imperfection. There are deep, jagged cracks in its golden-hued surface, cracks too large ever to be repaired. Perhaps it's cracked because it's defective (like the broken world), one thinks. Or maybe (like an egg) it has to break in order for something else to emerge. Perhaps both. Sure enough, when one peers into the gashes on its surface, there is another brightly shining sphere coming along inside. But that one is already cracked, too!

Whatever is going on inside those spheres, it does not seem to be all chance and accident. There is a tremendous sense of motion, of dy-

namism, of potency, of emergent probabilities. And so it has been with the human rights project. Yes, the enterprise is flawed. Yes, dreadful violations of human dignity still occur. But thanks in great measure to those who framed the Universal Declaration, growing numbers of women and men have been inspired to do something about them.

The journey of human rights thus far has been marked by impressive advances and heartbreaking setbacks. Force and happenstance have played their roles in its uneven progress. What is most encouraging, however, is the proof that men and women of goodwill can make a difference. The imaginations, actions, decisions, sacrifices, and personal examples of countless individuals have helped to bolster the chances of reason and conscience against power and interest.

Today's friends of human rights are in the process of building on the legacy of the Declaration's framers. Fifty years hence, others will form opinions regarding the present generation's stewardship. People not yet born will pass judgment one day on whether we enhanced or squandered the inheritance handed down to us by Eleanor Roosevelt, Charles Malik, John Humphrey, Peng-chun Chang, René Cassin, and other large-souled men and women who strove to bring a standard of right from the ashes of terrible wrongs. How we measure up will depend in part on today's leaders, especially those who chart the course of the world's one remaining superpower. But what will be decisive is whether or not sufficient numbers of men and women in "small places, close to home" can imagine, and then begin to live, the reality of freedom, solidarity, and peace.



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21. Diane S. Clemens, *Yalta* (New York: Oxford University Press, 1970), 129-30.
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