

India's Contribution to the Universal Declaration of Human Rights¹

Miloon Kothari*

“I do not want my house to be walled in on all sides and my windows to be stuffed. I want the culture of all lands to be blown about my house as freely as possible. But I refuse to be blown off my feet by any”

Mahatma Gandhi

“Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”

Preamble of the Universal Declaration of Human Rights

Abstract

India gained independence in 1947, after decades of our freedom struggle fought to a head a flurry of resistance at home and advocacy for freedom abroad. The United Nations was also born in 1945 after a remarkable series of global initiatives that began with the birth of the League of Nations in 1920. The culmination of these developments was the adoption (in 1948) of one of the world's greatest living documents – the Universal Declaration of Human Rights (UDHR).

*Shri Miloon Kothari is an Independent Expert on Human Rights and Social Policy, Senior Advisor, MIT Displacement Research Action Network (DRAN). Former Special Rapporteur on Adequate Housing, UN Human Rights Council.

¹ This article is a result of research using, to a large extent, primary sources. I would like to thank the very knowledgeable librarians at the United Nations library in Geneva for their assistance in tracking down the relevant documents. In particular, I would like to thank Rachel Forman.

It is not only the dates of the struggle for Indian independence and the institutional build-up towards a world organisation, the UN, that coincide. As this article argues, there is between the birth of India and the UN, a remarkable degree of affinity and purpose of ideas, concepts and fundamental principles used to buttress the global search of peace, self-determination and human rights, which, it was hoped, would govern the role, and behaviour of states.

This coalescing of ideas and visions between India, as a nation, and the UN, as a global entity, was not a coincidence but a well-planned strategy employed by Jawaharlal Nehru under the guidance of Mahatma Gandhi. The intention was clear – that the pulpit offered by the world organisation would be used to counter British rule and as a forum where the freedom of all oppressed people around the world could be articulated and actions determined.

This article seeks to contribute to, what is at this stage, a nascent scholarship that seeks to define the contours of this convergence. A great deal of scholarship exists about the content of the Universal Declaration of Human Rights (UDHR) but a biased² view prevails in literature on the UDHR as to who were the women and men whose ideas defined the content – and from where they came.

The article will highlight the role of key Indians in this quest and the role of key global conferences; and the seminal documents that contributed to the drafting of the UDHR and set the stage for the formation of an organisation that would represent nations across the world and attempt to give them a voice in the range of intergovernmental and independent bodies that continue to contribute towards a world in ‘Larger Freedom’.³

² Western scholars, legal scholars and historians alike, overemphasise the contribution of John Humphrey and Rene Cassin. The vast majority of books available on the UDHR overlook the significant contributions made by the representatives of countries like India, Lebanon (Charles Malik), China (P.C. Chang), Philippines (Carlos Romulo) Chile (Hernan Santa Cruz) and Mexico (Alphonso de Alba) among others. There are, of course, Western scholars who are exceptions to this rule. See References.

³ Phrase used in the UN Charter. This is also the title used by Kofi Annan in the seminal report that led to the creation of the highest human rights policy making body in the UN, the UN Human Rights Council.

The Aftermath of the First World War and the Wilsonian Moment

In the aftermath of the First World War several attempts were made by world leaders to ensure, through the establishment of standards and institutions, that the ‘sleepwalking’⁴ that led to a world war would not be repeated.

The United States led these efforts through the statements of President Woodrow Wilson, in particular his ‘Fourteen Points’ address that called for the self-determination of peoples and nations and suggested that “A general association of nations must be formed under specific covenants for the purpose of affording mutual guarantees of political independence and territorial integrity to great and small states alike.”⁵

President Wilson put forward his ‘fourteen points’ in the autumn of 1918. The time between the announcement of the ‘fourteen points; until the spring of 1919, is termed the ‘Wilsonian moment’.⁶ These months began what that Hedley Bull called ‘the expansion of international society’⁷. The moment, in the words of Manela “launched the transformation of the norms and standards of international relations that established the self-determining nation-state as the only legitimate political form throughout the globe, as colonized and marginalized peoples demanded and eventually attained recognition as sovereign, independent actors in international society”.⁸

This was followed by the Paris Peace Conference, which in 1920, led to the formation of the League of Nations through the adoption of the ‘Covenant of the League of Nations’.

⁴ For an insightful account of the blunders that led to World War 1 see: Christopher Clark (2013) ‘*The Sleepwalkers: How Europe Went to War in 1914*’, Harper (2013)

⁵ Point 14. For the text of the full speech see:
<https://www.ourdocuments.gov/doc.php?flash=false&doc=62&page=transcript>

⁶ This is a term coined by Erez Manela in his excellent book ‘*The Wilsonian Moment: Self-Determination and the International origins of Nationalism*’. See list of references

⁷ Quoted in Ibid. Manela.

⁸ Ibid. Manela, pp. 22

The League of Nations⁹ was formed, as a result of the initiative of President Wilson and other world leaders. Politics and self-interest of nations, and the emergence of leaders like Adolf Hitler led to the demise of the League of Nations.¹⁰ It is however, without doubt, that the United Nations was the fruition of the platform for global dialogue that the League established. The United Nations is a legacy of the ideas and methods of work that was established by the League of Nations.

In India, both Mahatma Gandhi and Jawaharlal Nehru regretted that the ‘Western powers’ had not seized on the ‘Wilsonian moment’ and that they had squandered the opportunity afforded by the League of Nations to create a global body that could work for the benefit of all, whether independent or oppressed, peoples across the world. At the time of these developments India was under British rule, which severely limited Mahatma Gandhi and Jawaharlal Nehru’s roles as leaders able to play a global role. Hence, the opportunity offered by the San Francisco Conference and then the drafting of the UDHR was, for Mahatma Gandhi and Nehru, not to be missed. They sought, in these global meetings, to link India’s struggle for freedom from the yoke of colonialism to the freedom of all oppressed people.

The San Francisco meeting and the UN Charter

In the years preceding the adoption of the UN Charter two important events contributed to the formulation of principles that could contribute to the creation of a new ‘international order’.

President Roosevelt in his state of the union address (1941) proposed ‘Four Freedoms’ (1941): freedom of speech and expression; freedom of every person to worship God in his own way; freedom from want and freedom from fear.¹¹ These principles were to play an important role in the

⁹ Space constraints prevent me from elaborating on the work of the League of Nations, including the contributions made by Indians who participated in the deliberations of the League. See ‘The Indian contribution to the League of Nations. Forthcoming from the Author.

¹⁰ For a remarkable overview of the beginning and end of the ‘League of Nations’ see: Susan Pedersen (2017) ‘*The Guardians: The League of Nations and the Crisis of Empire*’. See references.

¹¹ Excerpt from the ‘Four Freedoms’ speech. Full text available at: <http://voicesofdemocracy.umd.edu/fdr-the-four-freedoms-speech-text/>

conceptual development of the UDHR.¹²

On January 1, 1942, forty-seven countries (including India) signed the Declaration by the United Nations.¹³ This Declaration formed the basis of the discussions at the San Francisco meeting that resulted in the UN Charter.

In October 1945, fifty nations of the world adopted the UN Charter. India was a founding member of the United Nations. At the San Francisco conference on 26 June, 1945 the UN Charter was adopted. The Indian delegation¹⁴ led by Sir Arcot Ramasamy Mudaliar signed the United Nations Charter on behalf of India.

India was not yet independent but delegations from India (appointed by the British) were part of the deliberations that led to the UN Charter. Mahatma Gandhi and Vijay Lakshmi Pandit dismissed these delegations as being stooges of the British.

Mahatma Gandhi issued a press statement on April 17, 1945 directed at the participants of the San Francisco Conference. In his press statement he quoted at length from the All India Congress Committee (AICC) resolution of August 8, 1942:

‘While the A.I.C.C.¹⁵ must primarily be concerned with the independence and defence of India in this hour of danger, the Committee is of opinion that the future peace, security and ordered progress of the world demand a world federation of free nations, and on no other basis can the problems of the modern world be solved. Such a world federation would ensure the freedom of its constituent nations, the prevention of aggression and exploitation by one nation over another, the protection of national minorities, the advancement of all backward areas and peoples, and the pooling of the world’s

¹² Did the articulation of these ‘freedoms’ emanate from Roosevelt? See the discussion, in the section below on the UNESCO survey, on the contribution of S.V. Puntambaker.

¹³ For the content and the list of countries see: <http://www.un-documents.net/dec-un.htm>

¹⁴ The British Government nominated A. Ramswamy Mudaliar, Firoz Khan Noon and V.T. Krishnamachari to represent India at the Conference. See Collected Works of Mahatma Gandhi. Mr. Mudaliar had also been on the Indian delegation to the League of Nations in 1938.

¹⁵ The All India Congress Committee ‘Quit India’ Resolution. August 8, 1942.

resources for the common good of all..... An independent India would gladly join such a world federation and co-operate on an equal basis with other countries in the solution of international problems. **Thus the demand for Indian independence is in no way selfish. Its nationalism spells internationalism**'.¹⁶

The biggest impact at the San Francisco Conference which adopted the UN Charter, however, was not made by an 'official' Indian delegate but by Vijaya Lakshmi Pandit who was in the middle of a one-year tour of the United States.

In the months leading up to the San Francisco Conference, Pandit embarked on an extensive lecture tour of the United States. The views Pandit expressed at these events summarised the world views of Mahatma Gandhi and Jawaharlal Nehru: that the freedom of India was a precondition to the freedom of all of the world's oppressed and colonised people; that equality for all and a life free from all forms of discrimination was a prerequisite to a life to be lived with dignity and 'larger freedom'; that any global body that sought to represent the people of the world must treat all countries, large and small, at the same level.

Pandit's lectures¹⁷ drew large crowds and included civic leaders from across US society. Pandit's views resonated powerfully with the African-American leadership that was, some years later, to inspire Martin Luther King and his crusade for the emancipation of black people in the US. Pandit found powerful voices among groups that represented the struggle such as the NAACP, and their leaders, including W. Debois and Walter White, for India's demands of the withdrawal of the British from India.¹⁸

¹⁶ From the Bombay Chronicle 18-4-1945 in the Collected Works of Mahatma Gandhi, Volume 86. pp. 188-190. Emphasis added by the author. Also see the reflection about Mahatma Gandhi's inspiring balance between 'intense nationalism' and his 'world outlook' in Jawaharlal Nehru 'The Discovery of India', pp. 463-464.

¹⁷ For full transcripts of Pandit's lectures during her of the US See: Bimal Prasad (Ed) (2008) '*Towards Freedom: Documents on the Movement for Independence of India, 1945*,' Indian Council for Historical Research, Oxford University Press.

¹⁸ These organisations and their leaders, in their statements to the San Francisco Conference, supported India's freedom struggle. See Kenton J. Clymer (1995), '*The Quest for Freedom: The United States and India's Freedom*', Columbia University Press, New York.

In a memorandum submitted to the Conference, Pandit outlined the positions of Mahatma Gandhi and Jawaharlal Nehru, who both saw in the global conferences opportunities to not only expose the gross injustice of the British occupation of India but an opportunity to turn the nascent global organisation, the UN, into a force for the emancipation of all oppressed people across the world. Pandit submitted a statement to the San Francisco Conference.

‘As a member of the Indian National Congress Party in India and one who has been selected to be the spokesman for India on the occasion of the United Nations Conference for International Organisation in San Francisco by the India League of America (which is an organisation predominantly of American citizens devoted to the cause of Indian Freedom) and by the National Committee for India's Freedom (which represents a vast majority of Indian national residents in the United States) I desire respectfully to submit the following observations and representations with a request that you place them before the members of the delegations of the United nations now assembled in the Conference.’

Pandit expressed hope for a successful outcome to the Conference and drew attention ‘of the United Nations Conference to the problem of India which is at once the acid test of the principles on which the hopes of the Conference are postulated and a cancerous menace to the prospects of lasting concord and harmony among nations after the labours of this Conference, as we all hope, are fruitfully concluded.’

Pandit concludes her statement. ‘The voice of some 600 million enslaved people of Asia may not be officially heard at this conference and those who have usurped their birth right, freedom, may cynically claim to speak for them but there will be no real peace on this earth so long as they are denied justice. Recognition of India's independence now will be a proclamation and assurance to the whole world that the statesmen of the United Nations assembled at this solemn conclave at San Francisco

have in truth and honour heralded the dawn of a new era and better day for an all but crucified humanity.’

Towards the end of Pandit’s visit to the US she gave a press conference¹⁹ in San Francisco where she expressed grave reservations about the conclusions that were at that time being reached in the negotiations during the final stages of the drafting of the UN Charter.

‘The sum total of the San Francisco Conference will doubtless mark a historic step forward in international relations,’ she said. ‘Such improvements as have been effected in the original Dumbarton Oaks proposals go a considerable way towards strengthening the world organisation. Certain fundamental principles of international justice and human decency have been incorporated in the general purpose of the charter. The compromise that seems likely to be forced on the conference on the issue of independence is so disingenuous and the camouflage it embodies so patent that I fear the cause of future peace and concord among nations will not be advanced by it.’

Pandit’s remarkable performance during her one year stay in the US encapsulated the essence of the lessons learnt from India’s on-going freedom struggle. The alliances Pandit built during that trip with Eleanor Roosevelt, with the Black leaders, and with the public and media in the US created solid ground based on human rights and social justice, which India’s representatives to the deliberations that led to the UDHR, would build upon. Pandit did not succeed in her goal to have the UN Charter become the bold instrument that would completely break with the colonial, imperialist view of the world. She did, however, achieve solidarity and earned respect and admiration for India’s freedom struggle and the messages that the on-going struggle represented. All this hard work was to pay remarkable dividends, as we will see in the next sections, not only for India, but for the foundations on which the nascent United Nations was built.

¹⁹ Quoted in the Hindustan Times, 20 June, 1945. op.cit. 17 at pp. 254-55.

The UN Charter has its weaknesses but, largely as a result of pressure from the 'new' countries that participated in the discussions in San Francisco, contains several clauses on human rights.²⁰

The challenge for the Indian leadership in the period between the adoption of the UN Charter (1945) and the beginning of deliberations towards the UDHR (1947) was to ensure that the United Nations would, in fact, move away from the direction that a strict adherence to the UN Charter, and the continued suspect motives of the allied powers, would have directed – a compromised organisation where the 'big' powers continued to control the world with a lighter but firm version of colonialism – what the British termed, the role of 'non-self-governing territories' for its colonies.

India, on the other hand, wanted a global body where all countries of the world, including the ones that would gain independence in the decades following the adoption of the UDHR, were equal; an organisation that would strive for an end to discrimination worldwide; for women's equality; for an 'indivisibility' perspective to human rights where economic, social and cultural rights would be treated with the same level of importance as civil and political rights; where the instrument of decolonisation would be self-determination practised by the then colonised countries.

In fact, the same human rights as those that characterised the Indian freedom struggle, as brilliantly articulated in the Quit India resolutions and in the drafting process during the Constitutional Assemblies. So the messages that were carried by India's representatives Hansa Mehta, M.R. Masani and Lakshmi Menon, to the UDHR framing process, for the freedom of human kind from oppression of all kinds, was the same as the independence movement message.

The collective voice of the Indian delegates, therefore, called for an independent India and an independent global body – free from the interference of a colonised power for India and free of the duplicitous games that the Allied powers (the UK being common to both) for the United Nations.

²⁰ These clauses require the UN to promote human rights and request particular bodies of the UN to undertake action on human rights. For a detailed overview see: Zenon Stavrinides (1999) Human rights obligations under the United Nations Charter, *The International Journal of Human Rights*, 3:2. Also see: Sherwood, Marika (1996): 'India at the Founding of the United Nations, *International Studies*, JNU.

The worldview of Mahatma Gandhi and Jawaharlal Nehru honed through decades of the freedom struggle and the experience, and indeed the resonance that Pandit gained on her visit to the US, would all converge into the powerful messages the Indian delegates contributed to the various articles of the UDHR.

Contributions towards the drafting process for the UDHR

A number of contributions from professional associations and international agencies were made to assist the drafting process of the UDHR prior to the formal process. Of all of these, two contributions stand out both for their insightfulness and for the contributions made by Indians.

(a) UNESCO and the 1947-1948 Global Survey on the Theoretical Bases for the Rights of Man

As a possible contribution towards the drafting of the UDHR, the Director-General of the newly created United Nations Education, Science and Cultural Organisation (UNESCO), Dr. Julian Huxley, circulated a memorandum and questionnaire²¹ to 150 eminent thinkers across the world. The attempt was to solicit opinions on the utility of a universal instrument of human rights and whether different conceptions of human rights could be reconciled into a single ‘universal’ document.

In a letter addressed to Jawaharlal Nehru, Dr. Huxley stated: ‘...It is most important that we should obtain contributions from men like yourself, who have thought about these problems both theoretically and in relation to practical politics, and who are representative of another culture than that of Europe’ and ‘Might I also ask you very kindly to forward the enclosed letter to Mahatma Gandhi asking him for a contribution...’.²² Pandit Nehru replied to Dr. Huxley expressing regret that he could not respond to the request for contributions to the UNESCO symposium since ‘we have to face very difficult and intricate problems in India and I have the misfortune to be tied up with these problems. I cannot find the time for any quiet consideration or writing...’. In this letter Pandit Nehru promised,

²¹ Appendix 1 in UNESCO (Ed.) (1949) *Human Rights: Comments and Interpretations*, UNESCO, Wingate, London

²² Letter dated 2 April, 1947. Made available to the author through personal communication by Mark Goodale. For an excellent treatment of the UNESCO exercise to contribute to the UDHR see: *Letters to the Contrary: A Curated History of the UNESCO Human Rights Survey* (Mark Goodale, editor, Stanford University Press, 2018).

however, that he would bring the symposium to the notice of Mahatma Gandhi: 'Certainly I shall urge him to write something, for his approach to these problems is always novel and interesting'.²³ Given the fact that India was three months away from becoming independent it is remarkable that Pandit Nehru took the trouble to reply to Julian Huxley. This is surely an indication that the success of the United Nations and the framing of global standards was of great importance to Pandit Nehru.

In a related letter, Sarveppali Radhakrishnan thanked Julian Huxley for his letter stating that; 'I shall be very glad to assist you in furthering his most important and interesting project...'.²⁴ Dr Radhakrishnan suggested the names of five Indians: 'who are likely to offer useful suggestions': Professor K.T. Shah, Mrs. Hansa Mehta, Prof. Humayun Kabir, Prof. M. Habib and Prof. S.V. Puntambekar.

The UNESCO publication²⁵ on the results of the symposium contains the contributions of three Indians: Mahatma Gandhi, Humayun Kabir and S.V. Puntambekar.

The response from Mahatma Gandhi, written while travelling by train to Delhi, was in the form of a letter addressed to Dr Julian Huxley. The letter includes one substantive paragraph that encapsulates his thinking about human rights and its corresponding obligations:

'I learnt from my illiterate but wise mother that all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world. From this one fundamental statement, perhaps it is easy enough to define the duties of Man and Woman and correlate every right to some corresponding duty to be first performed.

²³ Ibid. Letter from Pandit Nehru to Julian Huxley dated 14 May, 1947

²⁴ Letter from S. Radhakrishnan to J. Huxley dated 12 April, 1947. UNESCO Archives, AG 8 Secretariat Records, Central Registry Collection, file Human Rights – Enquiry, Public Opinion 342.7 (100): 301.153 A 151.

²⁵ See op.cit. 21. UNESCO.

Every other right can be shown to be a usurpation hardly worth fighting for.’²⁶

The need to strike a balance between rights and responsibilities was also one of the issues raised by Prof. S.V. Puntambekar.²⁷ In his contribution he stated that: ‘Human freedoms require as counterparts human virtues or controls. To think in terms of freedoms without corresponding virtues would lead to a lopsided view of life and a stagnation or even a deterioration of personality, and also to chaos and conflicts in society.’ Puntambekar summarises in his response, the early thinking of Hinduism and of Buddha:

‘They have propounded a code, as it were, of ten essential human freedoms and controls or virtues necessary for good life. They are not only basic but more comprehensive in their scope than those mentioned by any other modern thinker. They emphasise five freedoms or social assurances and five individual possessions or virtues. The five social freedoms are (1) freedom from violence (*Ahimsa*), (2) Freedom from want (*Asteya*), (3) freedom from exploitation (*Aprigraha*), (4) freedom from violation or dishonour (*Avyabhichara*) and (5) freedom from early death and disease (*Armitatva* and *Aregya*). The five individual possessions or virtues are (1) absence of intolerance (*Akrodha*), (2) Compassion or fellow feeling (*Bhutadaya, Adreha*) (3) Knowledge (*Jnana, Vidya*), (4) freedom of thought and conscience (*Satya, Sunrta*) and (5) freedom from fear and frustration or despair (*Pravrtti, Abhaya, Dhrti*)’.

A different, but not incompatible perspective, was contributed by Humayun Kabir,²⁸ For H. Kabir, the ‘Western conception of human rights’ was flawed since it only applied to ‘Europeans and sometimes to only some among the Europeans’.

²⁶Letter from Mahatma Gandhi to Julian Huxley dated May 25th, 1947. op.cit. 21. UNESCO

²⁷Contribution from S.V. Puntambekar; ‘The Hindu Concept of Human Rights’. Prof. Puntambekar, political scientist, was Head of the Department of Political History and Science, Hindu University, Benaras. Op.cit. 21. UNESCO

²⁸Contribution from Humayun Kabir: ‘Human Rights: The Islamic Tradition and the Problems of the World Today’. Humayun Kabir, poet and philosopher, was with the Department of Education, Government of India. Op.cit. 21. UNESCO

He argued that such a conception of human rights had 'to a large extent receded from the theory and practice of democracy set up by early Islam, which succeeded in overcoming the distinction of race and colour to an extent experienced neither before nor since'.

Kabir fully supports the effort to create a world charter for human rights overseen by 'a world authority--democratically based on the will of all groups and individuals of the world, to ensure the achievement of the fundamental human rights.' For Kabir the 'problem of the 20th century is to reconcile the conflicting claims of liberty and security. A new charter of human rights must secure to each individual irrespective of race, creed, colour or sex, the minimum requirements for a bare human existence, viz:

- (a) food and clothing necessary for maintaining the individual in complete health and effectiveness;
- (b) housing necessary, not only from the perspective of protection against the weather, but also from that of allowing space for relaxation and enjoyment or leisure;
- (c) education necessary for developing latent faculties and enabling the individual to function as an effective member of society;
- (d) medical and sanitary services necessary for checking and curing disease and for ensuring the health of the individual and the community.'

Kabir stressed that 'These are four basic rights on the enjoyment of which all other rights depend.' A world charter 'should, therefore, confine itself to the definition of the content of the four fundamental human rights and the degree of control and interference permitted to the State for securing them.'

Literature on the origins of the UDHR is divided as to the extent that the remarkable exercise undertaken by UNESCO contributed to the content of the UDHR. What is not in doubt, however, is that the responses from diverse religious, cultural and philosophical traditions confirmed that, in spite

of their differences, there exist universally accepted principles and values that could be expressed in a global document.²⁹

(b) The American Law Institute and the ‘Essential elements of human rights’

In 1942 The American Law Institute appointed a Committee to discover ‘how far the people of the world would agree as to what rights were essential to make the freedom of the individual effective’.³⁰ Since this effort was to contribute to a global instrument, the composition of the Committee had to include eminent experts from different fields, representing ‘cultures around the world’. The intention of the Committee was to draft a document that would serve two purposes: (1) to feed into discussions on a peaceful resolution to the war that was raging at that time and (2) to contribute to the process that could lead to a ‘future declaration of rights – one that would be incorporated by the UN in its constitution’.

K.C. Mahindra³¹ from India was invited to be part of the Committee. Mr. Mahindra was at that time leading the ‘India Supplies Mission’³² and was based in Washington D.C. Mr. Mahindra attended the final conference and submitted a few written statements.³³

The work of the Committee was significant not only as an advance on how human rights should be crafted, for a world beyond the second world war, but also the influence they had on the text of the first draft of the UDHR. One of the departure points for the work of the Committee was the decision to include economic, social and cultural rights, as enforceable rights in the instrument that was being

²⁹ For a compelling rendering of this argument see introduction to the UNESCO volume by Jacques Maritain. Op. cit 12. UNESCO

³⁰ Appendix IV and V of the Lowenstein Papers cited in Van Dyke, Mary Samuel, "The United Nations Commission on Human Rights and the Relationship of the United States to It: 1945-1953" (1957). Dissertations. Paper 495, Loyola University Chicago

³¹ I would like to thank Prof. Asbjorn Eide, Emeritus Professor at the University of Oslo and Former member of the UN Sub-Commission on Human Rights (1981-2003) for bringing to my attention that an Indian was part of the Committee established by the American Law Institute.

³² The India Supplies Mission was an official body that issues tenders for steel imports against aid from the United States.

³³ I have not been able to find the summary records of these sessions. It is, therefore, not clear precisely what K.C. Mahindra added to the deliberations of the Committee.

drafted. The document that was published³⁴ by this Committee was called the 'Statement of Essential Human Rights'.

Mr K.C. Mahindra was an industrialist and did not have an activist background in the freedom struggle as had the other Indian's, Hansa Mehta and Vijay Lakshmi Pandit, who contributed to the UN instruments. It is also worth noting that even during his time as Head of the India Supplies Mission Mr Mahindra exhibited a 'political' mind set and attempted to use his visit to the US to influence the President of the US to put pressure on the British in favour of Indian independence.³⁵

His instincts and life's work were, nevertheless imbued with a strong sense of social justice. When he returned to India in 1946, Mr. Mahindra established Mahindra and Mohammed, an industrial house dealing in several sectors. His partnership with Mr Mohammed was an attempt to demonstrate Hindu-Muslim unity at a time when there was growing conflict between the two groups.³⁶

The UDHR

In, May 1946 the Economic and Social Council of the United Nations created a Commission on Human Rights composed of members from 18 countries. India was a member of the first Commission on Human Rights, which was charged with the task of drafting an 'international bill of rights'.

The UDHR was drafted in seven drafting stages³⁷ over a period stretching from January 1947 to 10 December 1948, the day it was adopted by the UN General Assembly.

³⁴ Americans United for World Organisation, 'Statement of Essential Human Rights: American Law Institute's Committee of Advisers on Essential Human Rights', 1945, New York. Available at UN Internet Archive: <https://archive.org/details/statementofessen00amer>

³⁵ See op.cit. 18. Kenton J. Clymer, '*The Quest for Freedom*'

³⁶ The company later changed its name to Mahindra and Mahindra after Mr. Mohammed chose to move to Pakistan Mr. K.C. Mahindra was also the founder of the Mahindra Trust, one of the few philanthropic trusts that supports work on social justice in India.

³⁷ For a comprehensive overview of the different drafting stages see: Johannes Morsink (1999), '*The Universal Declaration of Human Rights: origins, drafting and intent*', University of Pennsylvania Press, pp. 4-35.

Hansa Mehta represented India on the Commission and made a remarkable substantive contribution to many of the articles that made up the UDHR. Hansa Mehta was well placed to play an important role in this process. Mehta had already represented India at the Nuclear Sub-Committee on the Status of Women in 1946. Mehta was also a member of India's Constituent Assembly.³⁸ When the first draft of the UDHR, 'the Geneva draft', was ready in December 1947, the Assembly had already deliberated on the contents of the Indian Constitution, including the content of fundamental rights.

At the eighth meeting of the Commission, Mehta asked for consideration of the draft resolution³⁹ that had been submitted by India to the Commission. India's resolution contained the following human rights for incorporation into the UDHR:

"I. (a) Every human being is entitled to the right of liberty, including the right to personal freedom; freedom of worship; freedom of opinion; freedom of assembly and association; and the right to access to the United Nations, without risk of reprisal, whenever there is an actual or threatened infringement of human rights.

(b) Every human being has the right of equality, without distinction of race, sex, language, religion, nationality or political belief.

(c) Every human being has the right of security, including the right to work, the right to education, the right to health, the [2] right to participate in government and the right to property, subject only to the over-riding consideration of public weal when the State or its appropriate organs acquire it after paying equitable compensation."

³⁸ Mehta, to add to her formidable credentials, was a social activist, a Gandhian and had also been to prison for her strong views on a range of British policies that violated the human rights of Indians.

³⁹ E/CN.4/11 in Schabas. William A., 'THE UNIVERSAL DECLARATION ON HUMAN RIGHTS: The Travaux préparatoires'. Volumes I to III. Cambridge University Press, 2013. All UN document numbers in this article, unless otherwise mentioned, are from these volumes.

At the tenth meeting of the Commission it was decided by vote (with no objections) that the Indian resolution would form one of the documents on the basis of which drafting of the UDHR could begin.⁴⁰

Subsequent meetings of the Commission began to debate the contents of the UDHR. During the course of the two years that the Commission and its various Committees attempted this seemingly impossible task, a number of Indian's were members and made contributions towards the perspective, scope and content of what was to become the UDHR. Hansa Mehta was the longest standing member and made critical inputs. A number of other Indian's also represented India including: M.R. Masani and Laxshmi Menon.

The Indian contribution⁴¹ can be organised in the following themes:

(a) The importance of the 'secular' approach to human rights

The debates on the source of human rights are some of the most fascinating parts of the 'Travaux Preparatoires' of the UDHR.

The lineage of language from the American Declaration of Independence and the French Declaration is clear in the wording of Article 1 of the UDHR. What sets the UDHR apart, however, and this reformulation has been critical to the evolution of human rights since the UDHR, is the omission of God as the source from which human rights derive. The struggle in the deliberations was, therefore, of how to resolve the 'bargain about God and Nature'.⁴²

The Indian position had been made clear in the resolution (paraphrased above) it submitted, at the initial meeting of the CHR prior to the beginning of the drafting process. The preamble of India's resolution states that: 'Recognizing the fact that the United Nations has been established for the

⁴⁰ E/CN.4/SR.10. op. cit. Volume 1, pp. 180-182

⁴¹ It is, of course, not only India that contributed to the development of these themes. India opened up the discussions on some of the themes and was supported by the representatives of other countries, or the discussion on other themes was initiated by other countries and India supported these positions.

⁴² This is one of the sub-titles of Morsink op. cit. 36. chapter 8 on Article 1.

specific purpose of enthroneing the natural rights of man to freedom and equality before the law, and for upholding the worth and dignity of human personality.’

The debate on human rights being derived from God or to be seen as natural rights of as inherent in human beings continued for many days at various stages of the drafting process.⁴³The Indian delegates made it clear that the UDHR must be applicable to everyone in the world and that there were millions of people who did not believe in God.

In the process of the debate the word ‘God’ was removed from earlier drafts. CHR members instead agreed on the use of the phrase ‘by nature and conscience’. The CHR, when it presented the draft of Article 1 to the Third Committee the text read:

‘All human beings are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another in a spirit of brotherhood.’

In written comments to the CHR draft a number of countries presented amendments. Brazil insisted on the inclusion of the word ‘God’. Their amendment suggested the inclusion of the phrase ‘created in the image and likeness of God’ in the second sentence.

When the debate was taken up at the Third Committee⁴⁴ on the amendments Lakshmi Menon from India stated that:

‘Although different countries had different beliefs and political systems, they shared the same ideals of social justice and freedom. The purpose of the declaration was to set forth those ideals and to find a basis of agreement acceptable to all. As far as article 1 was concerned, there was general agreement that all men should live together in freedom and brotherhood. In that connexion lessons

⁴³ For an excellent overview of these debates see: op.cit. 36. Morsink. Also see, for a discussion on the tension between the ‘epistemic’ and ‘natural rights’ see: Johannes Morsink (2009), *Inherent human rights: philosophical roots of the universal declaration*, University of Pennsylvania Press.

⁴⁴ A/C.3/SR.99

could be learnt from the democracies of both the East and the West. As the amendment submitted by the Brazilian representative (A/C.3/215) contained a statement of belief which was not shared by all the representatives, she appealed to him to withdraw it for the sake of unanimity.'

Mrs. Menon's appeal was echoed by the delegate from France Mr Grumbach who in his reasoning cited the French Catholic philosopher Jacques Maritain who had stated that: 'stated in relation to that very question that the nations should try to reach agreement on a declaration of human rights, but that it was useless to try to reach agreement on the origin of those rights. It had been that agreement on practical fundamental rights which had kept the leaders of his country strong and united during the terrible years of the occupation'.⁴⁵

Although the Brazilian delegate had the support of a number of other Latin American countries, including Argentina and Venezuela, the strong appeal from Mrs Menon and Mr Grumbach to withdraw his amendment. The word 'nature' was also withdrawn during the debate.

The final text of Article 1:

'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'

(b) Women's Rights

The CHR met on 12 December 1947⁴⁶ to begin consideration of the articles of the UDHR prepared by its working group.⁴⁷ The text of Article 1 before the CHR read as follows:

'All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers.'

⁴⁵ Ibid.

⁴⁶ E/CN.4/SR.34

⁴⁷ E/CN.4/57

Mehta began the discussion by stating that ‘she did not like the wording ‘all men’ or ‘and should act towards one another like brothers’, she felt they might be interpreted to exclude women and were out of date.’

The CHR initially adopted the article without acknowledging the point made by Mehta. A debate on this point ensued. Eleanor Roosevelt ‘replied that the word ‘men’ used in this sense was generally accepted to include all human beings’. Lord Dukeson from the United Kingdom offered a compromise by proposing a note to be added to beginning of the Declaration to the ‘effect that the word ‘men’ as used herein, referred to all human beings. Mehta responded by stating that: ‘she had no objection to the United Kingdom suggestion, but Article 1 was the only place in the Declaration where the expression ‘men’ appeared. She wished to have this changed to ‘human beings’ or ‘persons’.

A vote then followed and the proposal from the UK representative was accepted by the CHR.

The insistence by Mehta for the recognition of women’s rights in Article 1 of the UDHR, was picked up in discussions within the UN Sub-Commission on the Status of Women⁴⁸ and supported by its Chairperson Bodil Begtrup, who also was an observer on behalf of her Commission, during the deliberations of the UDHR text at the CHR. Several delegations, including the Dominican Republic,⁴⁹ also proposed similar language when the CHR draft was reviewed by the Third Committee of the UN General Assembly. The Indian representative at the UNGA Third Committee, Lakshmi Menon, also supported the inclusion of language that included women in Article 1 of the UDHR.

The adopted final text of Article 1 of the UDHR reads:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

⁴⁸ Appointed by the UN Economic and Social Council to ‘submit proposals, recommendations and reports to the Commission on Human Rights’. See E/38/Rev.1/App.1/p.14

⁴⁹For more details on the role of delegations other than India see Adami, Rebecca (2015): ‘Counter Narratives as Political Contestation: Universality, Particularity and Uniqueness’, *The Equal Rights Review*

(c) Indivisibility of all human rights

The UDHR broke new ground in 1948 with the equal recognition of economic, social and cultural rights alongside civil and political rights. The delegations from the communist and socialist countries contributed to the inclusion of ESC rights in the UDHR. India too played an important role in this regard. Discussions at the CHR, on the right to health, the right to work and the rights of mothers and children, illustrates the type of role played by India's representatives.

In the resolution⁵⁰ submitted during the opening discussions of the UDHR by the CHR, India had introduced the 'right to health care' as a human right.⁵¹ This phrasing was in response to the initial list of rights prepared by the UN Division of Human Rights. In that list the phrasing was 'right to medical care'.

In a response to several contributions from NGO's to the draft International Bill of Rights prepared by the Division of Human Rights, Mehta responded:

' . . . with regard to the third group of rights, right to medical care is not enough. The real wording is right to health, because the individual expects not merely medical care from the State but also such preventive measures as would protect his health. Therefore, right to health is the recognized terminology and I would like you to substitute it for the right to medical care.'⁵²

After the presentation of the initial draft (Geneva draft) of the UDHR by the drafting committee of the CHR, India and the UK combined their efforts and proposed a revised text, combining several articles from the text prepared by the drafting committee:

'Everyone has the right to a standard of living adequate for health and wellbeing, including security in the event of unemployment, disability, old age or other lack of livelihood in circumstances beyond his control.'

⁵⁰ E/CN.4/11. See the text quoted above in section 6, See also Mehta's contribution in E/CN.4/SR.14.

⁵¹ A/CN.4/SR.14.

⁵² E/CN.4/AC.1/3/Add.1

During the discussion on the India-UK text, Mehta added one more phrase to the text: ‘Mothers and children shall be granted special care and assistance’ to which Mr Wilson (United Kingdom) said he was not opposed. He did not however wish to be committed to that exact wording.⁵³ Rene Cassin from France agreed to this formulation and added the phrase ‘the right of everyone to an adequate standard of living’.

During the discussions on the right to health in the Third Committee and in the General Assembly prior to the adoption of the UDHR, Mehta’s formulation of the right to health (later joined by the UK) and her addition of the rights of mothers and children were codified in the UDHR:

‘Article 25

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.’

Right to work

One of the human rights, contained in India’s resolution submitted prior to the discussions at the CHR, was the right to work. During the course of the deliberations, Mehta stressed not only the need to recognise the right to work but also the right to acceptable conditions at work. In the pursuance of this right, India and the UK joined hands and suggested an amendment to the draft (the Geneva draft) prepared by the Division of Human Rights. The Geneva draft merely recognised the ‘right to work’.

⁵³E/CN.4/SR.66, pp. 1824

The India/UK amendment enhanced the notion of work: Everyone has the right to work under just and favourable conditions.⁵⁴ Explaining this draft proposal Mehta stated that:

‘Thus amended, the text would take account of the concern of the representative of the American Federation of Labour, which was, if each individual had the right to work, it follows that someone had the obligation to guarantee work for each individual.

The statement concerning just and favourable working conditions covered the provision of article 24, relating to remuneration: unless the latter were satisfactory, working conditions would not be just or favourable.

The second article suggested by her delegation and that of the United Kingdom, replacing articles 24 and 26 similarly covered all the details of those articles while preserving their substance.⁵⁵

Following the discussion, Mehta was one of the delegates chosen to be part of a Sub-Committee to come up with a compromise text for Article 23 on the right to work. Several members of the Sub-Committee felt that the substance of paragraph 2 might be inserted in a general form in the preamble or in the text preceding the enumeration of economic and social rights.

The text of the Sub-Committee:⁵⁶

1. Everyone has the right to work and to just and favourable conditions of work and pay.
2. The enjoyment of these rights should be ensured by such measures (taken by the State or by society) as would create the widest possible opportunities for useful work and prevent unemployment.
3. Everyone is free to form or join trade unions (of his own choice) for the protection of his interests.
4. Women shall work with the same advantages as men and receive equal pay for equal work.

⁵⁴ E/CN.4/99

⁵⁵ E/CN.4/SR.64

⁵⁶ E/CN.4/114

The final wording in the adopted Article 23 of the UDHR:

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

(d) Non-Discrimination

Article 2 of the UDHR articulates a fundamental principle of human rights: that they should apply to all without discrimination. The CHR asked the Sub-Commission⁵⁷ on the Prevention of Discrimination and Protection of Minorities to assist in the definition of non-discrimination and equality. The text submitted to the Sub-Commission by the CHR read as follows: ‘Everyone is entitled to the rights and freedoms set forth in this Declaration without distinction as to race, sex, language, or religion’.⁵⁸

The Sub-Commission was specifically asked to elaborate on the criteria for non-discrimination including whether to include colour as one of the criteria. M.R. Masani⁵⁹ from India was one of the members of the Sub-Commission. Masani vigorously took up the issue of the inclusion of ‘colour’ in the criteria. At the first session⁶⁰ of the Sub-Commission Masani made the following two proposals and stated that he did not think it was clear from the text that the idea of colour was included in that of race. The American Federation of Labour had thought fit, in documents, to refer explicitly to colour

⁵⁷ The Sub-Commission was one of the two bodies established by ECOSOC in 1947. The other body was the Sub-Commission on Freedom of Information and of the Press.

⁵⁸ E/CN.4/21, Annex F.

⁵⁹ M.R. Masani was a member of the Swatantrata Party and participated in the freedom struggle.

⁶⁰ 26 November 1947. For the minutes of this session see: op.cit. 38. Shabbas Volume 1, pp. 1028

as well as race in connection with discrimination. He proposed therefore that the Sub-Commission while approving this article should make it more explicit by adding the word 'colour' after the word 'race'. Secondly, the lack of any mention of discrimination based on political opinions seemed to him an omission to be rectified. In his previous statements he had emphasized the importance of political minorities. He therefore proposed that the words 'or political opinion' should be added at the end of the article. Article 6 would then read:

'Everyone is entitled to the rights and freedoms set forth in this Declaration, without distinction as to race, colour, sex, language, religion, or political opinion.'

After discussion in the Sub-Commission the addition of Masani to include 'colour' was not included in the draft sent back to the CHR. Instead a note was included saying that: 'It being understood that the term 'race' includes colour'.

Masani's second proposal to include 'political opinion' was hotly debated by the Sub-Commission. During the debates Masani further clarified his rationale for the inclusion of 'political opinion'. He: 'emphasized that his intention in adding the words 'political opinion' had been to extend to political opinions the protection granted by the article to religious beliefs. The minorities that would need protection in the future would be more in the nature of political minorities than the traditional religious minorities, which were tending to disappear.'⁶¹

The Sub-Commission, in spite of strong objections of the delegate from the USSR, accepted the contribution on 'political opinion'.⁶²The draft text sent by the Sub-Commission to the CHR, thus, read as follows: 'Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction such as race, sex, language, religion, political or other opinion, property status, or national or social origin.' At the second session of the CHR, during the reading of the draft sent by the Sub-Commission, Mehta attempted to resurrect 'colour' as a basis of discrimination. During the discussion

⁶¹ Ibid. pp.1030 (check Sub.2/SR3/p.4)

⁶² See discussion in op.cit. 36. Morsink.

on the drafts before the Commission, Mehta stated that: ‘She had understood the term ‘race’ to include ‘colour’, but if there was any doubt on the subject, she thought the word ‘colour’ should be added to the Declaration’. During the same debate Mehta stated that ‘She wished to change her proposal to read ‘race including colour’ since colour was not mentioned in the United Nations Charter.’⁶³

Mehta’s proposal to include ‘colour’ was supported by the representatives of Lebanon Mr. Malik and the Philippine Republic, Carlos Romulo. Malik said that said that ‘the representative of India had raised an important point since race and colour did not mean the same thing, neither was the conception of colour included in the term race’.

Mehta’s proposal to include ‘colour’ was voted upon and unanimously accepted by the Commission.⁶⁴ A reading of Article 2 of the UDHR after its final adoption in 1948, demonstrates the significant contribution made by Mehta and Masani to the content of one of the central principles on which the edifice of human rights has been built:

‘Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.’

(e) Freedom of Movement The memorandum⁶⁵ submitted by the UN Division of Human Rights contained a list of human rights for consideration by the CHR. The list included the ‘right to freedom of movement (migration)’.

⁶³ E/CN.4/SR.35. op.cit. Volume 2, pp. 1258-1259

⁶⁴ Ibid

⁶⁵ E/CN.4/W.18

During the opening debates⁶⁶ on the various rights presented by the Division of Human Rights and the document presented by India, the Chair of the CHR, Mrs Roosevelt, stated that she; 'thought that freedom of movement, a right inherent in the human person, ought to be understood only as the ability to leave a country freely. This right would be limited by the immigration laws of the receiving country.'

Mehta, in her intervention was the first to raise the more expansive notion of 'freedom of movement'. Mehta 'drew the Commission's attention to the draft resolution she had submitted in which none of the rights granted released the individual from his obligations towards the State. By freedom of movement she understood not only the freedom to emigrate, but also the freedom to move from one place to another within the boundaries of the State, a right not at present respected in all countries of the world.'

Based on these discussions, the Division of Human Rights prepared a draft outline of the International Bill of Rights. This draft (in its Article 9) stated that: 'Subject to any general law adopted in the interest of national welfare or security, there shall be liberty of movement and free choice of residence within the borders of each State.'⁶⁷ Mehta's broad conception of freedom of movement was accepted in the first draft of the UDHR. During the debate on this draft Mehta, with a view to ensuring that her earlier suggestion would be retained in the draft of the UDHR once again stated that:

'With regard to the right of freedom of movement, there was another freedom that I wish to mention to you. It is not freedom of migration only, but freedom of movement within the State itself. There are laws today in many States which restrict individuals from one part of the country going into the other part of the country. Therefore, there must be freedom of movement within the State itself. That is very important.'⁶⁸

⁶⁶ E/CN.4/SR.14. Fourteenth Meeting of the CHR, 4 February 1947.

⁶⁷ E/CN.4/AC.1/3

⁶⁸ E/CN.4/AC.1/3/Add.1

A number of the members of the CHR were still of the view that the freedom of movement had to be more restrictive than what had been proposed by Mehta.

The Working Group on the Declaration of Human Rights, based on the deliberations at the CHR produced a draft Declaration.⁶⁹ In this draft the right to freedom of movement had been split into two separate articles (Article 10 and 13). Mehta felt that it was important for the right to freedom of movement to have its own article and:

‘pointed out that Article 10 of the Convention contained no provision for freedom of movement within a State. She therefore proposed that paragraph 1 of Article 13 of the Declaration should be inserted at the beginning of Article 10. She asked that the vote should be taken on the substance of the proposal; the wording could be modified later if necessary.’

The amendment was put to a vote and adopted.⁷⁰

During the debates at the Third Committee and in the final plenary of the General Assembly prior to the adoption of the final text of the UDHR, Mehta’s contribution was sustained. The UDHR Article 13:

- ‘(1) Everyone has the right to freedom of movement and residence within the borders of each State.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.’

(f) Multiculturalism, Cosmopolitanism and the Universality of Human Rights

Throughout the deliberations during the creation of the UDHR, the Indian delegation distinguished themselves by consistently stressing the principles of multiculturalism and cosmopolitanism. Mehta, Masani, Lakshmi Menon all stressed at different stages of the discussions

⁶⁹ E/CN.4/57

⁷⁰ E/CN.4/SR.37, pp. 1281

that the UDHR had to apply to everyone in the world, that the human rights in the UDHR were for people and communities and not for States.

Early in the deliberations Hansa Mehta, carrying forward one of the core messages of India's freedom struggle as articulated in words and actions by Mahatma Gandhi, stated that: 'Such a bill of human rights must be a simple, forthright document which is easily understood.'⁷¹

The concept of universality of human rights, however, needed some specificity and Masani and Mehta made major contributions towards that goal. Masani introduced the word 'colour' and 'political opinion' as additional criteria for non-discrimination.⁷² Mehta successfully defended the introduction of 'colour' in Article 2 of the UDHR.

The Indian delegation also took active part in the deliberations on the themes of self-determination; the need to strike a balance between individualism and collective rights; the necessary tension between sovereignty and international cooperation towards 'larger freedoms' for all and the right to petition.⁷³ The Indian delegation played an important role in not letting the deliberations get bogged down in discussions on the benefits of specific political systems and ideologies. Lakshmi Menon, during the final session at the General Assembly⁷⁴ recalled that her delegation had taken part, from the outset, in the work of the Commission on Human Rights. She supported the declaration that the Commission had drawn up. It provided a solid basis for the international cooperation referred to in Article 55 of the Charter; and it expressed the aspirations of peoples, who, though they had but recently attained political freedom, had always accepted and practised the noble ideals of religious tolerance and cultural freedom. Mrs. Menon stated that: 'The full significance of the Indian delegation's attitude in the Third Committee could only be understood when considered in relation to the decision taken by the Indian Constituent Assembly to include in the Constitution of that country the same rights and

⁷¹E/CN.4/AC.1/7. pp. 310 Schabbas

⁷² See discussion in section on 'non-discrimination' above.

⁷³ Space constraints do not allow a detailed overview of these discussions, see book length treatment on India's contribution to the UDHR. Forthcoming from the Author.

⁷⁴10 December 1948. Summary records contained in: A/PV.182.

freedoms as were proclaimed in the declaration. The universal declaration of human rights was born from the need to reaffirm those rights after their violation during the war. It was now more than ever necessary to reaffirm those rights. The remedies to be applied to humanity had to be adapted to the seriousness of the conditions in which it lived; and when conditions deteriorated the remedy had to be all the stronger and more drastic. That was one of the reasons why the present declaration was fuller and more detailed than all the other similar declarations. Earlier declarations had not mentioned rights such as the right to equal pay for equal work; the right of mothers and children to social protection, whether the children were born in or out of wedlock; the right to education; equality of rights for men and women. Those rights were the expression of a new social order, of true democracy based on social justice’.

Mrs Menon thought, however, that harmony of thought and purity of motive were much more important factors than mere beauty of words. The essential point was the contents of the declaration, and that ought not be sacrificed to considerations of style. Mrs Menon stated that: ‘The Indian delegation stood, as always, against all forms of discrimination’ and that the attitude of her delegation had been inspired by the feeling that it was the duty of India, as a country which had just won its own independence, to help other countries which had not yet reached that stage. Mrs Menon recalled how insistently the Indian delegation had stressed the importance of avoiding mention of any political doctrine either in the declaration or in the preamble. Mrs Menon stated that:

‘It would have been illogical to insist on political convictions which could not be shared by all, while at the same time proclaiming religious tolerance. The right to hold different opinions was a sacred right and the prerogative of every truly democratic people. The Indian delegation had therefore upheld that right, though perfectly aware of the dangers inherent in it. India, like other countries, would never agree to restricting political rights in order to realize social aims, however noble those aims might be.’

In conclusion, Mrs Menon expressed the hope that 'the declaration would pave the way to a new era of international solidarity, because the basis of rights was neither the State nor the individual, but the social human being, participating in social life, and striving for national and international co-operation.'

Conclusion

Vijaya Lakshmi Pandit, Hansa Mehta, M.R. Masani, Lakshmi Menon were all freedom fighters and, in its most radical sense, scholar/activists. What set them apart was their practical and moral approach towards the contents of the UDHR. The Indian delegates demonstrated a remarkable degree of magnanimity, forbearance, perseverance and foresight in their written and oral contributions towards the formation of the UDHR. They were able to translate into words and action lessons learnt from decades of the freedom struggle and to transpose the language learnt from the articulation of human rights and freedoms that was already expressed in the historic resolutions adopted at the Indian National Congress (INC) meetings in Karachi and Lahore; in the Quit India resolution and the drafting that already took place during the first year of the Constituent Assembly. They were able to convey the worldview and demands for the emancipation of all oppressed people's conveyed in the speeches and writings of Mahatma Gandhi and Jawaharlal Nehru and in their own lessons learnt from being active participants in India's freedom struggle.

In the decades following the adoption of the UDHR, Indian delegates continued their active contribution, through the UN, to create a global governance system that stood up for human rights and social justice; it was India that successfully tested the capacity of the UN when its delegates sought to expose apartheid in South Africa; India also joined other countries from the 'South' to insist on the recognition of economic, social and cultural rights; the recognition of self-determination in the two Covenants that were drafted in the 1960's.

The UDHR was embraced in India after 1948 – it contributed to the Constitution; it continues to consistently inform judgements of the Indian Supreme Court;⁷⁵ it has been translated into all of India’s official languages and has become a powerful pedagogical tool for human rights education and an inspiring document for social movements across India.

Major challenges, however, remain. Neither the UN nor India have lived up to the visionary potential that the founders of these two entities envisaged. The ideas, principles and foundational postulates are, however, there to be recast into policies. As briefly sketched in this article, however, if any country is destined to pick up the torch for human rights, social justice and peace, it is India; and as Indians we owe it to the great legacy of our freedom struggle and those great leaders, including Mahatma Gandhi and Jawaharlal Nehru, who led the movement of a United Nations for all.

The past, present and the future of India and the UN are intertwined in what should be a seamless thread. It is, however, an open question as to whether India has the vision and the leadership to pick up the mantle of a world governed in ‘Larger Freedom’ by a multi-lateral organisation.

The challenges the world faces today; racism and growing xenophobia, economic imperialism, narrow nationalism – are not too dissimilar to the devastation that the World Wars, colonialism and imperialism left for the world to deal with. We need once again to recast the country and the UN as harbingers of a more humane world – governed by respect for human rights and compliance with international human rights commitments. The contours of what may constitute such a world are there in the debates that led to the UDHR. The 70th anniversary of the UDHR compels us once again to revisit the incredible repository of knowledge and wisdom that is available in the debates that led to the UDHR.

⁷⁵See, for example, Jain, Tarun (2004): ‘Influence of Universal Declaration on the Judicial Interpretation of Fundamental Rights and Directive Principles in the Constitution of India’

References

Primary Sources

- Gandhi, Mahatma: *The Collected Works of Mahatma Gandhi*, Vol. 86: 4 March, 1945, Sevagram Ashram
- Goodale, Mark (ed.) (2018): *Letters to the Contrary: A Curated History of the UNESCO Human Rights Survey*, Stanford University Press.
- Prasad, Bimal (ed.) (2008) *Towards Freedom: Documents on the Movement for Independence of India, 1945*, Indian Council for Historical Research, Oxford University Press.
- Schabas. William A. (ed.) (2013): *THE UNIVERSAL DECLARATION ON HUMAN RIGHTS: The Travaux Preparatoires*, Volumes I to III. Cambridge University Press.
- UNESCO (ed.) (1949) *Human Rights: Comments and Interpretation's*, UNESCO, Wingate.

Articles

- Adami, Rebecca (2015): 'Counter Narratives as Political Contestation: Universality, Particularity and Uniqueness', *The Equal Rights Review*, Vol. Fifteen.
- Americans United for World Organisation (1945): 'Statement of Essential Human Rights: American Law Institute's Committee of Advisers on Essential Human Rights', New York. Available at UN Internet Archive: <https://archive.org/details/statementofessen00amer>
- Jain, Tarun (2004): 'Influence of Universal Declaration on the Judicial Interpretation of Fundamental Rights and Directive Principles in the Constitution of India' Available at SSRN: <https://ssrn.com/abstract=1087594> or <http://dx.doi.org/10.2139/ssrn.1087594>
- Sherwood, Marika (1996): 'India at the Founding of the United Nations', *International Studies*, Journal of the School of International Studies, Jawaharlal Nehru University, Vol. 33 Number 4.
- Stavrines, Zenon (1999) 'Human rights obligations under the United Nations Charter', *The International Journal of Human Rights*, 3:2, 38-48, DOI: 10.1080/13642989908406807

Van Dyke, Mary Samuel (1957): 'The United Nations Commission on Human Rights and the Relationship of the United States to It: 1945-1953', Loyola University, Chicago. *Dissertations*. Paper 495.
http://ecommons.luc.edu/luc_diss/495

Books

Burke, Roland. (2010): *Decolonization and the evolution of international human rights*, Penn U. Press

Christopher Clark (2013) '*The Sleepwalkers: How Europe Went to War in 1914*', Harper.

Glendon, Mary Ann. (2001): *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, Random House.

Glen Johnson, M. and Symonides, Janusz (1998): '*The Universal Declaration of Human Rights: A History of its Creation and Implementation (1948-1998)*', UNESCO Publishing.

Clymer, Kenton J. (1995): '*The Quest for Freedom: The United States and India's Freedom*', Columbia University Press, New York.

Jain, Devaki (2005): '*Women, Development and the UN: A Sixty-Year Quest for Equality and Justice*', Indiana University Press.

Manela, Erez (2007): '*The Wilsonian Moment: Self-Determination and the International origins of Nationalism*'. Oxford University Press.

Morsink, Johannes (1999): '*The Universal Declaration of Human Rights: origins, drafting and intent*', University of Pennsylvania Press.

Morsink, Johannes (2009): '*Inherent human rights: philosophical roots of the universal declaration*', University of Pennsylvania Press.

Nehru, Jawaharlal (2004): '*The Discovery of India*', Penguin Books.

Pedersen, Susan (2017) '*The Guardians: The League of Nations and the Crisis of Empire*', Oxford University Press.