

# **New Paradigm of Sustainable Human Development A New Form of Global Dialogue**

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## **Human Rights and Responsibilities**

### **Introduction**

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For over 2000 years, the Western legal tradition has grappled with the notion of a higher law, sometimes described as the “ius naturale” and during a later period, under the influence of Catholic theologians, “natural law.” However, the content and procedures of natural law tended to be rather limited, often open-ended, and vague. Theorists tried to explain that natural law was a product of the faculty of human reason, which was a gift from God. In 1941, President Roosevelt presented to the Congress of the United States a document known as the Atlantic Charter. The Charter anticipated the US entry into the war, Roosevelt, being a practical idealist, considered that to send men and women into battle and to risk their lives required that they enter into this zone of human conflict with the understanding that their sacrifices were for something worthwhile. This element of the “worthwhile” was reflected in the four freedoms which he considered to be the purpose for which the war was to be fought. These four freedoms were the freedom from fear, the freedom of speech and expression, the freedom of conscience and belief, and the freedom from want. This latter dimension of freedom was one that he found to be a vital aspect of the experience of man in political society. As he put it, necessitous human beings are simply not free.

The four freedoms became the conceptual and the normative basis for the UN Charter. The UN Charter is commonly deemed to be our global constitution. In the preamble and the first chapter of the UN Charter, the concept of human rights is mentioned several times as one of the pillars upon which the Charter is founded. In short, the Charter makes the concept of

human rights a constitutional precept in the framework of global public order. We should be reminded that the foundations of the Charter are to be found in the four freedoms codifying the Atlantic Charter. There developed a consensus among the principle participators in the early UN process that there was a need to express more clearly and in greater detail what the constitutional concept of human rights actually encompassed. President Truman nominated Eleanor Roosevelt to serve on the drafting committee, which she chaired. In what can only be described as a miracle of draftsmanship, within a few years, the committee had presented its draft of an instrument, identified as the Universal Declaration of Human Rights. From the perspective of the framework of global values, the UDHR was an unprecedented instrument. In a historical flash, the concept of human rights was given both form and content. The document was impressive, both for its particularity and for its comprehensiveness. Doubtless, the speed of its production benefitted from the guidance of normative values of the four freedoms in the Atlantic Charter.

This single instrument generated a sea change in our thinking, realistically, about the proper identification of participators in the world social power and constitutional processes. The conventional wisdom of international law and international relations provided juridical and political space, largely to sovereign territorially organized bodies politic. The UDHR made a sweeping implicit claim that the most important unit in the global system of public order is the individual human being. Thus, the individual is not merely an object of international legal processes. By clothing the individual in a comprehensive framework of individual human rights, the individual is in effect being given the opportunity to be a subject of international law. As a subject of international law, the individual comes armed with a framework of internationally approved human rights.

From this perspective, the UDHR is a revolutionary contribution to both, international law and international relations. The instrument explains the concept behind the values of human rights and relates it to the concept of a rights based framework of entitlements. From time to time, questions have emerged concerning the nature of rights in human rights and the further concern that the rights based approach does not express with sufficient clarity what the appropriate or prudent limitations are with regard to these formulations of right.

First, we need to clarify an obvious ambiguity. The Declaration was adopted in the form of a resolution of the General Assembly. In general, such resolutions are not technically legally binding. In this sense, states voting for the resolution may have believed that they were supporting the adoption of a moral obligation and not a legally binding obligation. The ambiguity emerges when we consider that the human rights precept is explicitly included in the text of the UN Charter and therefore the principle of human rights has legally binding stature.

If this is correct, then the Declaration as a resolution is in reality the extrapolation of a preexisting constitutional obligation. This may be analogous to the role of the Supreme Court in extrapolating the meanings of say, the 14<sup>th</sup> Amendment to the US Constitution. Additionally, a General Assembly Declaration is meant to be somewhat more than a moral ethical expression of desire. In this sense, a declaration is somewhat more than the form of the resolution that is presented.

The salience of the universal declaration in identifying the centrality of the human person in the global social process is a recognition of the critical role of human capital, centered on the human person, in improving the human prospect. The central commitment of the declaration is the confidence it places in human capacity and potential. This means that human rights underscores the importance of unleashing human energy, curiosity, initiative, innovation and creativity as the most critical components of social development and an improvement of the human prospect. The example of the explicit public articulation of fundamental rights is no better illustrated than in the American Declaration of Independence. The power of such principles as “all human beings are created equal” generated for us personalities who significantly changed the world. Consider the contributions of Abraham Lincoln, Rosa Parks, Gandhi, Martin Luther King, and Nelson Mandela. These leaders were inspired along with countless generations of impoverished immigrants who came to the United States to improve their human prospects. They saw an opportunity to acquire property, valid political space, access to education, notable participation in civil society and join in the struggle to replace arbitrary government with governance based on justice and fairness. The central role that human rights symbolizes in human development should also be understood as providing an underlying justification for Franklin Roosevelt’s proposal to expand our fundamental concept of justice from the political to the economic sphere. This challenge is essentially one about the fundamental values of global salience that should guide a new paradigm of thinking and action.

When we examine the notion of universal human rights, we look back at the role of religious ideals relating to the human condition. For example in the Jewish tradition, the Ten Commandments essentially reflect ten important, religiously defined duties. Furthermore, the fundamental ethical principle that is to guide the Jewish spiritual ideal is the duty to cleave to God’s ways. For example: there is a duty to be merciful because God is merciful; there is a duty to be gracious because God is gracious. In this tradition, there is a duty to search for the truth. Since this search is a search for the seal of God, it would appear that the ideal life devotes itself to this search. In the Hindu culture, the individual comes to life with a framework of guidance known as dharma. Essentially, dharma consists in the duties that the individual life must embrace in order to fulfill the expectations of dharma. Dharma is largely duty conditioned. Islam is a religion in which in the Koran, also specifies that what is permissible and that what is

absolutely forbidden. In the system of jurisprudence developed in the Sharia, the law is specific about the duties that the individual must embrace to be a good Muslim. In the context of Buddhism, the Buddha provided a pathway to enlightenment in what he described as the middle way. This pathway is replete with notions of duty.

In the modern tradition, it has long been recognized that legal and moral rights come in the form of pairs of complimentary opposites. The great challenges in law require the working through of these paradoxes. To provide a simple illustration, in the law of treaties there is a legal principle, “pacta sunt servanda.” This principle stipulates that all pacts are binding. Also in the law of treaties, there is the principle “rebus sic stantibus.” This provision stipulates that one may avoid performing under the agreement under appropriate changed circumstances. In the ordinary law of contract, there are rules that tell you how to make a deal (offer, acceptance, intention to create legal relations, consideration) and rules that tell you how to break a deal (fraud, common mistake, duress, failure of consideration). It is therefore important that we should clarify the role of obligations and responsibilities that exist alongside the clarification of rights. In the Academy, one of our Fellows has emerged with a proposal for a declaration of human responsibilities.

*Proposed Declaration of Human Responsibilities*

*Prepared by Prof. Bohdan Hawrylyshyn with assistance of Alexandra Telychko, Junior Fellow of WAAS*

1. Speak the truth, be honest, act according to moral ethical standards.
2. Maintain your health in the best possible state in order not to burden the society with the cost of your healthcare.
3. Learn, develop your talents, capabilities, competence throughout your life to be a productive member of the society.
4. Be a free person, i.e. the ultimate judge of what is true and what is not, what is good and what is bad, yet keep testing your judgment to make sure that it is in line with moral, ethical principles.
5. Search for harmony between your private, professional, social lives, and that as part of the community.
6. While seeking to ascertain your rights, avoid constraining other members of the society to ascertain theirs.
7. Solve as many problems, issues as possible at individual, family, community levels to lighten the burden and cost of governance.

8. To family:
  - Cherish cultural heritage from your predecessors.
  - Treat parents with love and respect, help them if needed.
  - Deal with siblings as if they were your best friends.
9. To parents:
  - Love your children, inculcate in them ethical moral values.
  - Facilitate their education and development of their talents and personalities as free people.
10. To community:
  - Help the community to be effective in supplying all services, such as primary education, healthcare, social services.
  - Contribute to the well being of all members of the community.
  - While maintaining your identity, be consciously part of the whole world community.
11. To the environment:
  - Use all resources sparingly, avoid pollution of the biosphere. Help preserve the biological and zoological diversity.
12. To your country:
  - Obey the laws of the country.
  - Help your country in line with your ability/capacity to maintain the priority of the common good: full political freedoms, a certain level of economic well-being of the whole population, social justice, healthy environment.
13. To future generations:
  - Leave the physical environment in a better state than inherited: with enhanced cultural heritage, values, to enable future generations to be more effective in political, economic, social, cultural aspects of their societies.
14. To the world:
  - Protect and promote resilience, creativity and equal opportunities for all.
  - Relate to people and communities with respect and empathy.
  - Be tolerant and respectful of all races, ethnics, religions, languages, customs.
  - Learn some languages and at least basic things about other civilizations.
  - Promote the understanding of the diversity of civilizations, their values, thus peaceful cooperation and fair trade.

This draft of responsibilities has many virtues. First, it is short and the formulations relatively simple, so that a relevant target audience would find this easy to digest. Second, it is consistent with some recent and influential theories about the moral foundations of the human dignity precept. For example, the late professor Dworkin starts with the notion that every human being has an ethical obligation to ensure that his life is a successful experience and not a wasted opportunity. That is the ethical principle. If it is a principle that is ethically good for the self, then surely it is acceptable to all non-self others as well. In this sense, the ethical principle is transformed into a moral principle that can be objectively justified. We could read the above obligations as being somewhat more explicit about what the individual ethically is obligated to do to avoid his or her life being a wasted experience.

The second draft below is the one that I prepared. It does not have the virtue of simplicity and brevity, as the one above. However, what it does seek to do is to provide the obvious complementarities to the rights that are expressed in the Universal Declaration of Human Rights. I submit that this has value because it has a better fit with the preexisting and authoritative Universal Declaration. It is hoped that this introduction will prove to be a valuable stimulant to our presenters today.

*Proposed Declaration of Human Responsibilities*

*Prepared by Professor Winston P. Nagan, Chairman of the Board, WAAS*

Article 1

Every human being has a responsibility to respect the equal dignity and freedom of all other human beings in a spirit of human solidarity.

Article 2

Everyone has an obligation to respect the fundamental rights of fellow human beings, without any distinction, such as race, color, sex, language, religion, and individual opinion.

Article 3

Everyone has an obligation to respect the freedom, the security, and the life of all non-self others.

Article 4

Everyone has a responsibility to refrain from exploiting others in slave-like practices.

Article 5

Everyone has an obligation to resist the use of torture or other forms of cruel, inhuman, or degrading treatment to others.

Article 6

No one should conspire to deprive other human beings of their legal status as persons under law.

Article 7

Every person has an obligation and responsibility to treat others as equal before the law and to completely oppose unfair discrimination or incitement to unfair discrimination.

Article 8

Every person has an obligation to support all others in the defense of their fundamental rights under the law.

Article 9

All have a responsibility to oppose the use of arbitrary arrests, detention or exile.

Article 10

Everyone should promote the rights of others to fair treatment under the law.

Article 11

Everyone has an obligation to support the rights of others to a presumption of innocence before the law.

Article 12

There is a universal responsibility that every citizen, that every person, have an obligation to protect the privacy, home, and family life of others. This obligation extends to respecting truthfully the honor and reputation of other human beings.

Article 13

Everyone has an obligation to support the freedom of movement of all other persons.

Article 14

Everyone has an obligation to defend the rights of persons to seek asylum from persecution.

Article 15

Everyone has an obligation to promote and defend the rights to a nationality.

Article 16

Every person has an obligation to promote the freedom of human intimacy, and to marry and found a family.

Article 17

Everyone has an obligation to promote the freedom to marry

Article 18

Everyone has an obligation to respect, nurture and support the family.

Article 19

Everyone has an obligation to respect the property rights of others.

Article 20

Everyone has an obligation to respect the freedom of thought, conscience, and religion of others.

Article 21

Everyone has an obligation to respect the freedom of speech and expression.

Article 22

There is an obligation to respect and support the peaceful freedom of assembly and association.

Article 23

Everyone has a responsibility to take part in governance and to support the principle of governance by freely elected representatives.

Article 24

Every person has an obligation to respect the will of the people as the basis of authority in the state.

Article 25

Every society member has a responsibility to promote and defend the right to social security, and the freedom from want of fellow human beings.



Article 26

Everyone has an obligation to work and to support the free choice of others in employment and an obligation to support just and nono-exploitive conditions of work.

Article 27

Everyone has an obligation to support protection against unemployment.

Article 28

Everyone has an obligation to respect the right to rest and leisure.

Article 29

Everyone has an obligation to support a standard of living that meets the needs of the health and well-being of all.

Article 30

Everyone has an obligation to promote and support practices that respect motherhood and childhood and the requirements of special care and assistance.

Article 31

There is an obligation on the part of all to maximally use the right to education and to support education that is affordable for all.

Article 32

The obligation relating to education imposes an obligation that the person develop the human personality in ways that facilitate truth and honesty and prudence and that it strengthen the obligation to respect human rights and basic freedoms.

Article 33

Everyone has an obligation to participate creatively in the cultural, artistic and scientific advancement of society.

Article 34

Everyone has an obligation to promote and defend a universal political order, based on the dignity of every man, woman and child.

Article 35

Every person should recognize the responsibilities owed to the community within which the full development of the talents and capacity of the individual is made possible.

Article 36

Every person has an obligation to act with truth and honesty in accordance with the highest moral and ethical standards.

Article 37

Every person has an obligation to maintain the highest standards of hygiene, in order to promote health and lessen the cost of healthcare for fellow society members.

Article 38

The greatest individual obligation that a person faces is the challenge that life should be a successful, rather than a wasted opportunity.

Article 39

There is an obligation to recognize that within every individual is a residual capital of creativity and constructive capacity for the improvement of the human condition.