

Celebration of the 60th Anniversary of the adoption of the Universal Declaration of Human Rights

Successes and failure of the UDHR

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Introduction

Thanks to Donald Prentice and IR/PCS for inviting me to speak today on a important timely topic on 'Celebration of the 60th Anniversary of the adoption of the Universal Declaration of Human Rights'

I am going to map 60 years journey of human rights, what it has achieved, what are the future challenges and conclude with an upbeat note. It is a privilege to speak at the prestigious and world renowned, University of St Andrews - a centre of learning for hundreds of years.

The Universal Declaration of Human Rights (UDHR) is the foundation of international human rights law, the first universal statement on the basic principles of inalienable human rights, and a common standard of achievement for all peoples and all nations. As the UDHR approaches its 60th birthday, it is timely to emphasize the living document's enduring relevance, its universality, and that it has everything to do with all of us. Today, the UDHR is more relevant than ever.

The UDHR reminds us that in a world still reeling from the horrors of the Second World War, the Declaration was the first global statement of what we now take for granted - the inherent dignity and equality of all human beings.

The extraordinary vision and determination of the drafters produced a document that for the first time set out universal human rights for all people in an individual context. Now available in more than 360 languages, the Declaration is the most translated document in the world - a testament to its universal nature and reach. It has inspired the constitutions of many newly independent states and many new democracies. It has become a yardstick by which we measure respect for what we know, or should know, as right and wrong.

While in Scotland, it is fitting to say something about an obscure Celtic saint, St Adomnan of Iona, best known as biographer of Saint Columba and the creator of his *Cain Adomnain*, Law of the Innocents.

His story begins in 7th century Ireland, a patriarchal society of constantly warring tribes. Violence and brutality were endemic. Women were subject to horrific oppression and exploitation. The Celtic church and its clerics were also vulnerable. In this situation, what authority could challenge the bloody killing fields, what could offer an alternative to the dominant warrior ethos, what hope was there for protection and justice?

Adomnan, successor to Columba as Abbot of Iona, was a key player in the ecclesiastical and secular politics of late 7th century Ireland. His *Cain Adomnain*, Law of the Innocents, was proclaimed and formally promulgated at the Synod of Birr in Munster in 697. It was a significant piece of legislation in many respects. It was formal not just customary; its authority extended throughout the whole of Ireland, and into those parts of Britain under the influence of Columban monasticism; **and it declared clearly that clerics, women and 'innocent youths' were to be exempt from any duty of military engagement.** But the main concern of the law was 'the freeing of women from encounter and encampment, from expedition and hosting, from wounding, from slaughter, and from the slavery of the cauldron.'

The text of the Law is preceded by an introduction which tells a gruesome story of cruelty, hardship and bargaining. We learn that the real instigator of this Law was Ronnat, the mother of Adomnan, who used some extreme western world.' A vivid picture is drawn of the hideous double burden - domestic servility and suffering in battle - which was imposed on women as 'slaveys'cumalach or bondmaids. The Cain tells us that 'Cumalach was a name for women till Adamnan come to free them'

Ronnat first draws her son's attention to the horrors suffered by women in war, by jumping on his back, and refusing to get off until he had been forced to see the horrors endured by women on the battlefield. Then, armed only with his 'wee truejudging bell', Adomnan threatens dire consequences for the kings and their progeny. They recant, and the Law itself lists 91 powerful guarantors from throughout Ireland, who swore to ensure that the Law would be enforced. It imposed sanctions for killing, injury, rape and sexual harassment – not just in battle, but in the context of women's daily life and work.

Described as 'the first law in heaven and earth for the protection of women', Adamnan's Law extended to children and clergy, and is an early attempt to protect noncombatants. And even-handedly, it also forbade killing by women of other women or of men. As such, it is a precursor of the Geneva Conventions and the United Nations Declaration of Human Rights. Thirteen hundred years on, it is a document which challenges us to discern whether, and in what ways, we can engage constructively with a Celtic legacy which represents spiritual rather than physical force to confront, even to curse, the power of the dominant elite.

The 60 year journey of Human Rights

The Universal Declaration on Human Rights was signed on 10th December 1948. Together with the Genocide Convention and the Geneva Convention on Prisoners of War, it made up a triptych of international laws which introduced a new approach to international relations. Historically, the American and French revolutions had not included universal human rights as understood today. In the US, slavery was considered to be quite normal. Marx dismissed what he called "bourgeois rights". The League of Nations had no notion of human rights. It was only in the late 1930s that emphasis started to be put on "human dignity" by H G Wells, Barbara Wootton, George Bernard Shaw, A A Milne and Lord Sankey. A Penguin Special by Wells, "Rights of Man" was translated into 30 languages. During the war the Foreign Office arranged for a German translation to be dropped over Germany.

Roosevelt proclaimed his four freedoms - Freedom of Speech; Freedom of Religion; Freedom from Want; Freedom from Fear - as war aims. This was to be a universal declaration of principles. After his death his widow Eleanor became the main driving force in promoting these ideas leading to the three conventions. Post-war, the Nuremberg trials established new principles. Previously political and military leaders, such as the Kaiser in 1919, had been immune. Now top Nazis were to be tried. Churchill had been opposed to this: he wanted 75 top Nazis to be shot within six hours of their arrest! He was overruled by Truman, who said it would not sit easily on American conscience. The deadlock was broken by Stalin, who loved show trials. So Nuremberg became the progenitor of the human rights triptych.

However, there was no enforcement mechanism, and the history of the next 50 Cold War years contained many failures and many millions of deaths. The US would not ratify the conventions and make them into a binding Treaty until Reagan visited a cemetery at Bitberg, Germany, where Nazis were buried. The reaction to that led to Reagan subsequently ratifying the Genocide Convention. But it did not prevent the slaughter in Rwanda, where the Security Council turned a blind eye, and Major and Clinton pretended that genocide was not occurring.

Since the end of the Cold War some progress has been made. The failure of the UN in former Yugoslavia and Rwanda created pressure to do better. The International Tribunal for Former Yugoslavia was set up. The International Criminal court was established in 1999, with 129 countries signing it in Rome, and it came into force in 2002 when it received 60 ratifications. The US is not among those ratifying but it is still constrained to some extent by its provisions.

The Pinochet case represented a breakthrough. From having tea with Thatcher to house arrest and ultimately to indictment in Chile was significant progress, although he died before actually facing trial. It showed that the torture convention means what it says. This did not prevent George W Bush from incarcerating thousands in Guantanamo, and subjecting them to abuse despite the US Supreme Court ruling that the conventions were part of US law. He claimed that Guantanamo was outside the Geneva Convention.

Nevertheless, we are finally getting to deliver on the Nuremberg triptych. After 60 years it is more, not less, relevant. 9/11 changed the way we looked at civil liberties: physical rights such as life itself and freedom; psychological rights – privacy, etc; second generation rights relating to work, conditions of work and children. We must do something about genocide; it is not very effective yet. Darfur is ongoing, with China supporting the Sudan government, and only very low level people on trial. There is great difficulty in getting evidence. Owing to the structure of the UN, it is difficult to enforce human rights. The question of sovereignty remains. The US threatens the veto whenever action against Israel is proposed while China does the same over Darfur. The structure of the UN needs to be reformed for enforcing human rights.

What has been achieved in last 60 years and how

We can outline achievements in five areas which are as follows:

- Rights proclaimed in UDHR have become law which binds all governments.
- These rights are universal - protect everyone without discrimination on race, religion, sex, age. Children, women, refugees, migrants.
- Extreme violations of human rights are also crimes under international law –genocide, torture, crimes against humanity. They should be prosecuted and should be prosecuted in national courts, or – now – by the International Criminal Court.
- When states act outside the country, they may also be bound by human rights law – British soldiers violated HRs of Iraqi (Baha Mousa) held in military detention centre.
- Governments are equally bound to protect economic, social and cultural rights, as well as civil and political rights.

The journey was made through the institutions of the UN which are High Commissioner, Treaty monitoring bodies and Special rapporteurs & experts. We can take two examples: protection from torture and protection of human rights defenders.

Protection from Torture

A history lesson, tracing the journey from the abstraction of Article 5 UDHR (No-one shall be subjected to torture, or to cruel or inhuman and degrading treatment and punishment.) to General Pinochet's dramatic arrest in London ten years ago.

When Amnesty International started its campaign against torture 35 years ago it found that torture was a violation of UDHR, but there was no international law to back it up and torture was often not an offence in national law. Torture also was found in democratic societies, not only dictatorships.

Civil society 's campaign to make international law effective to protect against torture had some success where governments worked within the UN. The 1984 Convention Against Torture (CAT): made torture a criminal offence; where state doesn't prosecute, others should; train police, doctors, prison officers, etc; don't send anyone to a country where s/he faces torture. UN Human rights Commission: Special Rapporteur – acts on individual complaints, visit countries, report on where torture was happening.

In 1998, when Pinochet was arrested under Convention Against Torture, it was a historic moment

when international human rights law came of age. In Chile - The unthinkable: European Convention for the Prevention of Torture, and now Operational Protocol for the Convention Against Torture – visits/unannounced visits to torture centres. Message – shows effectiveness of civil society, research, monitoring, law and its enforcement. But since 2001, the protection from torture remains under challenge, in name of war on terror like the images of Abu Ghraib.

The prisoner abuse at Guantanamo Bay, Bagram Air base in Afghanistan and of Rendition to countries notorious for practicing torture, including the horrific images from Abu Ghraib where gross violation of human rights activity have taken place. The only solution to this grave problem is closing all the detention sites, launching a comprehensive inquiry into how authorised torture took place, and giving a fair trial and hearing to the prisoners who have been victims of torture, beatings, rape and subject to gruesome acts performed in the name of gathering information.

Human Rights Defenders

The importance of civil society shown by steps take by governments to silence activists like as in China. We need to protect those who promote human rights – to protect the protectors.

Governments took 20 years to negotiate and agree a declaration setting out rights of human rights defenders. These includes the right of everyone:

- to promote and protect human rights.
- Meet, complain about official acts, observe trials.
- Be protected against violence, threats, retaliation.
- Problem area – right to develop new human rights ideas. Fear of some states – this language would allow new rights to come in by back door.
- HR Council – Expert who takes up cases, visits countries, reports violations.
 - Cases are a role call of individual courage.

Responsibility to Protect

New doctrine, based on human rights, World Summit 2000. Developed in light of situations, where states fail – are unable/unwilling - to protect human life and integrity where genocide, crimes against humanity, ethnic cleansing take place. The state's responsibility then shifts to other states – UN members/the international community. As in Kosovo.

But this doctrine has been misused to justify humanitarian intervention for political ends – eg by President Bush - to justify the Iraq war. So it is seen by northern states as means of protecting human rights, but distrusted by southern states as a political weapon, which justifies intervention for political reasons.

This distrust is a reason why the Human Right Council gave such lukewarm support to a report on Darfur entitled 'the Duty to Protect'. The title of the report suggested to some African states that it using human rights violations as a rationale for invasion.

What are the future challenges?

- Security: How can we prevent security measures undermining human rights – erosion of civil liberties under war on terror, reduced protection against torture; targeting some ethnic communities ? Diplomatic assurances.
- How to ensure the development of the technological means of control/surveillance does not violate human rights safeguards.
- How to ensure that populations in situations like Darfur are protected, but that the decisions are taken to protect human rights and not advance the political interests of some states.
- How can we create just and inclusive societies for refugees – and migrants – who move because of human rights problems at home?

- A major challenge is to see that trafficking, sexual exploitation and violence against children and women does not remain a major violation of human rights.
- To protect vulnerable countries, cities and populations from climate change
- To claim peace and security as a human right
- To ensure that health and human rights violations do not continue.
- To protect science, bio ethics, nanotechnology and stem cells and not used as human rights violations
- To ensure the rights of vulnerable groups, those of a different sexual orientation, rights against discrimination and persons with disabilities
- To rectify human rights abuses by UN peacekeepers and officials
- Ensure people have the right to food, water, shelter and a job as a basic human right

Conclusion

The state of human rights under the UN system is not something which anyone who cares about these matters can currently regard with any degree of satisfaction. The new Human Rights Council, established with such difficulty as one of the main outcomes of Kofi Annan's reform campaign, is arousing considerable concerns in its initial, so far fairly brief, period of operation. Some problems are not of its own making. It is no fault of the Council that the Universal Declaration of 1948 remains, as it has always been, without effective enforcement provisions. Nor is that likely to be easily or rapidly remedied. But it is the Council's responsibility to ensure that it does not simply become a forum for diplomatic manoeuvre and for the continuation of political debates by another means, and that it really does address the specifics of human rights abuses wherever and whenever they occur; that, to put it simply, it does not go the way of its discredited predecessor, the Human Rights Commission.

It is far too soon to be giving up on the Council, as many of its more radical critics are already doing. But it is not too soon to be looking at the way ahead. The first priority is to make a reality of the review of every single UN member's human rights record which is now under way. Then, the advent of a new US administration, committed to removing some of the worst mistakes of its predecessor in this field – Guantanamo and extraordinary rendition for example – is surely the moment for the United States to resume its full participation in the UN's human rights machinery, whatever its reservations about the way things are going just now. The sooner the new US administration is elected to the Human Rights Council the better. Absence is a recipe for lack of influence. Beyond that lies the scope for reviewing the Council's machinery after an initial period of operation, will give rise to justified demands for tougher action to defend human rights, and to resistance from what can only be called 'the usual suspects'. We must not flinch from that difficult debate nor conclude that the pursuit of better observed human rights for all is just too difficult to achieve.

Challenges still lie ahead, despite many accomplishments in the field of human rights. Many in the international community understand that human rights, democracy and development are intertwined. Unless human rights are respected, the maintenance of international peace and security and the promotion of economic and social development cannot be achieved. The world is still plagued with incidents of ethnic hatred and acts of genocide. People are still victims of xenophobic attitudes, are subjected to discrimination because of religion or gender and suffer from exclusion. Around the world, millions of people are still denied food, shelter, access to medical care, education and work, and too many live in extreme poverty. Their inherent humanity and dignity are not recognised.

Personally dedicated to the task of preparing the UDHR, Mrs. Eleanor Roosevelt, who chaired the Human Rights Commission in its first years, asked, "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 neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

The future of human rights lies in our hands. We must all act when human rights are violated. States as well as the individual must take responsibility for the realisation and effective protection of human rights. It is generally recognised that number one enemy against all reforms and progress in human rights is indifference.

In the words of the UN Secretary-General, Ban Ki Moon, the Declaration of UDHR remains as relevant today as it did on the day it was adopted. But the fundamental freedoms enshrined in it are still not a reality for everyone. Too often, governments lack the political will to implement international norms they have willingly accepted.

This 60th anniversary year is an occasion to build up that will. It is a chance to ensure that these rights are a living reality - that they are known, understood and enjoyed by everyone, everywhere, especially those who most need their human rights protected.

Thank you for listening.

Notes

The following publications were consulted and excerpts have been taken from them during the writing of this article:

- 1) The universal declaration of human rights: A living document
<http://www.un.org/events/humanrights/udhr60/declaration.shtml>
- 2) The Universal Declaration of Human Rights: A Magna Carta for all humanity
<http://www.unhchr.ch/udhr/miscinfo/carta.htm>
- 3) The UN Secretary-General's (Ban Ki Moon) message on Human Rights Day 2007
www.un.org
- 4) Talk given by Geoffrey Robertson, QC, to the AGM of Action for UN Renewal, 23rd Feb 2008 HUMAN RIGHTS 1948-2008 - PROMOTION AND PROTECTION
www.action-for-un-renewal.org.uk
- 5) Speech by Stefanie Grant, 9th Feb 2008
Human Rights 1948 - 2008: Promotion and Protection
www.networkforpeace.org.uk
- 6) Talk by Vijay Mehta at House of Lords, 19th June 2006
'Peace belongs to us all! Establishing peace through teaching peace'
www.vmpeace.org
- 7) Speech by Lord Hannay of Chiswick, Friends House Euston, London 9th September 2008

'Who rules the world? Global challenges and the role of the UN in peacekeeping, human rights and international law

8) 2008 Annual Remembrance Day Lecture, Kathy Galloway, 'Hope in the time of war: A religious perspective on peacemaking.' 9 November 2008

The full version of this speech can be downloaded from:

- VM Centre for Peace www.vmpeace.org
- Action for UN Renewal www.action-for-un-renewal.org.uk

Vijay Mehta is president of VM Centre for Peace, Founding Trustee of Fortune Forum Charity, Chair of Action for UN Renewal, and co-Chair of World Disarmament Campaign. He is an author and global activist for peace, development, human rights and the environment. Some of his notable books are The Fortune Forum Summit: For a Sustainable Future, Arms No More, and The United Nations and Its Future in the 21st Century.

He along with his daughter Renu Mehta founder of Fortune Forum charity (www.fortuneforum.org) held two summits in London in 2006 and 2007. The summits raised over a million pounds for charity and attracted a worldwide audience of 1.3 billion people (one fifth of humanity) including print and media coverage. The keynote speakers for the first and second summit were Bill Clinton, former US President and Al Gore, former US vice-President, and recipient of the Nobel Peace Prize 2007.

Vijay Mehta has appeared in various TV programmes including BBC World, Press TV, Aftak-24 hour Indian news channel, and Think Peace documentary, Canada, among others. The Independent, Observer and Guardian newspapers, among other journals have written about him. His life is devoted to the service of peace, humanity and our planet.

He has written a book called 'Climate Change 365,' which will be soon available to download free of charge in electronic form from the website www.climatechange365.eu.