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Forty Years Later: the Challenge of Human Rights

The United Nations will be celebrating on the 10th December 1988 the fortieth anniversary of the Universal Declaration of Human Rights. It has already begun to organise a series of activities to remember that historic occasion.

I must confess that on a personal level, I only became fully aware of the existence of a Universal Declaration on Human Rights when I began working on the question in Argentina at the beginning of the seventies. I can safely say that my case is no exception and unfortunately this document is little known outside specialist circles. Yet with its thirty short paragraphs spelling out the basic rights which every person should enjoy as a human being, it has become the foundation-stone on which all developments in the area of human rights are based. The importance therefore of the Universal Declaration cannot be underscored and its relevance to present-day life in Latin America and indeed Europe has converted it into a source of inspiration and guidance for many.

It was a sad reflection on humanity that we had to suffer the horrors of so many wars including the holocaust, before heads of state were convinced that the world needed an organised international community to guarantee peace and protect human dignity. Out of that conviction, the United Nations was born and it was decided as a matter of the utmost importance that a document was needed which could be endorsed by all countries detailing the basic and universally accepted rights inherent to human dignity which all governments must promote and defend as a matter of principle.

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the notion of natural law as a feudal left-over from the Dark Middle Ages. It was affirmed that it was humanity itself that created law in a positive manner so that nothing could be considered innate or mandatory by nature of our human condition. The horrors of war and the concentration camps put a final end to such extreme legal positivism. The Statute for the International War Tribunals at Nuremberg and Tokio introduced the concept of crime against humanity in order to secure the condemnation of Fascist leaders who were arguing that their actions were perfectly legal.

The Universal Declaration as well as the Convention against Genocide draws on that experience so it tries to be the explicitation of what our human condition represents in terms of fundamental rights over and against the state and society in general.

However in many of its articles it reaches back much further to previous advances in civilization which must be mentioned for their importance.

One of the earliest legal document about human rights is the Magna Carta or Great Charter published by King John of England in 1215 which established certain rights of feudal lords and barons. The so-called divine right of kings of early mediaeval times gave way to the principle that the monarch must govern according to law. If he transgressed it, he could be held accountable by his subjects.

Even more important, the Charter fully established the right of 'Habeus Corpus' which means that no-one will be deprived of their liberty outside of the legal framework. That principle is at the very basis of all legal systems in modern society yet it is grossly violated in all countries where the practice of illegal arrest or enforced disappearances is a common occurrence.



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The Universal Declaration dedicates several articles to establish general criteria by which people should be arrested, tried and imprisoned which have been constructed on the recognition of 'Habeus Corpus'.

In the later Middle Ages , religious wars and disputes came to dominate history so there was a considerable development in the area of freedom of conscience and religious tolerance as the response to the turmoil of those years.

However full expression of citizens' rights had to wait until the late eighteenth century with the advent of republicanism and liberalism. We have the Bill of Rights of the State of Virginia in 1776 which makes a catalogue of them and in 1789 with the French Revolution the Declaration of the Rights of Man was proclaimed by the National Assembly in Paris with much emphasis on equality and freedom.

We all know the far-reaching consequences of these documents right up to our own day as they became the guiding light for many national constitutions with the division of the state into the judicial, legislative and executive branches. Democratic government represented a major advance in history as at long last the individual citizen began to take his/her rightful place in the state. However the focus was very much on individual civil rights and even the right to life was scarcely considered as we can see from the long queues leading up to the guillotine. Death sentences were meted out very easily.