

William H. Fitzpatrick's Editorials on Human Rights (1949)

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The Universal Declaration of Human Rights How It Can Become Our Supreme Law

The General Assembly of the United Nations last December adopted a Universal Declaration of Human Rights.

The American people are not generally aware of this action or of what it may mean to us as a nation or as individuals.

The American delegation to the United Nations, composed of Mrs. Eleanor Roosevelt, John Foster Dulles, Philip C. Jessup, and Benjamin Cohen, voted for this declaration. America is on record as favoring its contents.

The declaration alone will have no legal effect upon the United States. But the vote of the American delegates for the proposal will be considered a moral obligation on the part of the United States by other nations to press for implementation of the declaration.

Such implementation will come in the form of a covenant which the United States will be asked to adopt as a treaty. If the supreme law of the land and will supersede all State laws and all county and parish and city ordinances.

This is so because the United States Constitution provides in article II, section 2, paragraph 2 that:

“He (the President) shall have power by and with the consent of the Senate to make treaties, provided two-thirds of the Senators present concur-“

And because Article VI, section 2, provide that:

“This constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding.”

If the Senate should adopt this covenant, it will lead to an International Court of Human Relations.

The Court of Human Relations will have jurisdiction over each and every one of us who will be answerable to it for alleged violations of the covenant.

Frank E. Holman, president of the American Bar Association, has written of this covenant:

“In order to enforce the provisions of a bill of rights, the United Nations will have to interfere continually and minutely in the internal affairs of member nations. It will have to establish standards, and determine when and where those standards have been violated, and to take steps to correct or punish such violations.”

This is among the studied conclusions of the president of an association of 40,000 lawyers in the United States.

Its Plan for World-Wide Socialism

The Universal Declaration of Human Rights, adopted last December 10 by the General Assembly of the United Nations, is a document pregnant with world-wide socialism and nullification of present American laws and customs.

If the United States Senate ratifies a proposed covenant, an International Bill of Rights will become the supreme law of the land and will be administered by an International Court of Human Rights.

Article 22 of the Declaration says:

“Everyone, as a member of society, has the right to social security and is entitled to the realization, through national effort and international cooperation and in accordance with the organization and resources of each state of the economic, social, and cultural rights indispensable for his dignity and the free development of his personality.”

The language is plain enough.

It can mean social security for all the world, with Uncle Sam – through international cooperation in accordance with our resources – footing most of the bill.

What sort of social security does the declaration contemplate?

This language is also plain.

Article 25 says:

“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 child-hood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”

These two articles are typical of much of the social and economic program to be imposed upon us on an international scale by the covenant if it is adopted by the Senate.

How revolutionary it is in concept was adequately expressed by John P. Humphrey, Director of the Division of Human Rights of the United Nations, who wrote in the January, 1948 issue of the Annals of the American Academy of Political and Social Science:

“What the United Nations is trying to do is revolutionary in character. Human rights are largely a matter of relationship between the states and individuals, and therefore a matter which has been traditionally regarded as being the domestic jurisdiction of states. What is now being proposed is, in effect, the creation of some kind of supernational supervision of this relationship between the state and its citizens.”

That means an International Court of Human Rights with power to enforce these regulations.

It means the nullification of many laws of the states and the institution of dangerous, far-reaching and revolutionary changes in the processes of constitutional government.

It means you.

Its Effect On Our Immigration Laws

Should the United States Senate ratify as a treaty the Covenant of the Universal Declaration of Human Rights, the Congress need no longer be concerned with legislation regulating admission of displaced persons.

All any will need is passage to America.

Our immigration laws will be negated, for under the United States Constitution a treaty becomes the supreme law of the land.

This will come about through article 14 of the declaration, which says:

“1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.”

Discussing this far-reaching program, Frank E. Holman, president of the American Bar Association, a close student of the declaration has this to say:

“This provision, if respected in the United States, would appear to nullify immigration laws and open the gates wide to anyone claiming persecution. Certainly the majority of Americans will not favor unrestricted asylum for the persecuted from all over the world.”

And should any immigration authority take issue with this interpretation of the declaration, he could be subpoenaed to appear before an international court of human rights, in whatever country it might be sitting, and explain why he did so.

The International Court will be final arbiter and interpreter of the entire declaration.

Consider article 13, which provides that:

“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 this country.”

Section 1 could be easily interpreted as meaning that anyone has the right to come into this country regardless of immigration or naturalization laws. “Everyone” is the broadest of possible terms. Had the drafters of this declaration meant only that each resident of a country had the right to freedom of movement within his country’s borders, why did they fail to use that language?

Section 2 would appear to be open to this interpretation: If a person has a right to leave his country and to return to it, it seems implicit that he has the right of entry into any other country.

In any event, all he would have to do would be to leave his native state and claim persecution in order to enter this or any other signatory to the covenant.

Its Effect on Laws, Customs, and Religion

The Universal Declaration of Human Rights is not only socialistic in its implications, but if implemented by adoption of its covenant by the United States Senate in treaty form, it would strike down laws of many States and social customs of wide acceptance among the people. And in respect to at least one religion, it would contravene church law.

Article 7 says:

“All are equal before the law and are entitled, with-out any discrimination, to equal protection of the laws. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.”

Article 16 reads:

“1. Men and women of full age, without any limitations due to race, nationality, or religion, have the right to marry and found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution.”

There are on the statute books of 29 States, laws forbidding miscegenation or marriage, between different races. In most other States which do not by law ban such unions, the social customs of the people forbid it.

The States prohibiting miscegenation are Alabama, Arizona, Arkansas, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kentucky, Louisiana, Mary-land, Mississippi, Missouri, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, West Virginia, and Wyoming.

Seventeen States and the District of Columbia have laws enforcing segregation in either education or public places or public conveyances, or all three. They are Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Mary-land, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

In addition, six States give discretionary powers to school boards to establish segregation. These are Arizona, Indiana, Kansas, New Mexico, New York, and Wyoming.

Article 16 of the declaration of human rights would obliterate such laws, for if the covenant is ratified by the Senate in treaty form the covenant would become the supreme law of the land under our Constitution.

Should any mother try to prevent the marriage of her child because of objections to a suitor on racial, national, or religious grounds, that parent would be answerable to an international court of human rights, wherever it might be sitting, for under article 7 she would be guilty of incitement to discrimination.

The threat to religion is also plain. An example: The Catholic Church forbids divorce to its members as part of the free exercise of its religious tenets under our Constitution. The Catholic Church forbids marriage between Catholics when one has been married by the church and subsequently divorced.

Article 7 of the declaration of human rights could hold any Catholic priest, any Protestant minister, or any Jewish rabbi in violation of the declaration for incitement to discrimination should he attempt to dissuade any persons from marriage for any religious reasons whatsoever.

Who Conceived It, How And Why

The Declaration of Human Rights, which the United States Senate will be asked to make the supreme law of the land by ratification of a covenant in treaty form, can properly be characterized as another attempt by pressure groups to change the social and economic structure of the Nation.

Its impact will be felt in every State, city, village, and hamlet in the land if it becomes law.

Every American will be at the beck of an international court of human rights, wherever it may be at the moment, to answer charges. The covenant will set up a worldwide socialistic program for all governments, and if adopted by us would radically change the customs and nullify many of the present laws of America.

The declaration is of a piece with President Truman's so-called civil-rights program. The Committee on Civil Rights, established by President Truman under Executive Order 9808, has been working hand in glove with the Human Rights Commission of the United Nations of which Mrs. Eleanor Roosevelt is chairman.

The report of the President's Committee on Civil Rights was published in 1947. In January 1948, President Truman, in a special message to the Congress demanded passage of his committee's recommendations in his force bills which so recently resulted in the Senate filibuster.

Many students of constitutional government believe his force bills to be unconstitutional. Apparently, his Committee on Civil Rights is also dubious of their legality. For, on page 110 of its report to him, it is suggested that under the Supreme Court ruling in the *Missouri v. Holland* case in 1920:

“That Congress may enact statutes to carry out treaty obligations even, where, in the absence of a treaty, it has no other power to pass such a statute. This doctrine has an obvious importance as a possible basis for civil-rights legislation.”

The committee further reported:

“The Human Rights Commission of the United Nations is at present working on a detailed international bill of rights designed to give more specific meaning to the general principle announced in article 55 of the Charter. If this document is accepted by the United States as a member state, an even stronger basis for congressional action under the treaty power may be established.”

The composition of the commission which drafted the universal declaration of human rights is worth noting.

Frank E. Holman, president of the American Bar Association, writes of it:

“Mrs. Eleanor Roosevelt is its chairman and the sole United States representative. She is not a person in any sense trained in legal draftsmanship. She is primarily a social reformer.

“Australia’s representative is Col. William Roy Hodgson, by training a military man, and from his biography a person whose experience has been largely confined to government service.

“The United Kingdom’s representative is Mr. Charles Dukes, a trade unionist by profession.

“These are the only Anglo-Americans or representatives of English-speaking peoples on the commission of 18 members.”

The other 15 members comprise 3 from the Soviets and 1 from Yugoslavia, and 1 each from Belgium, Chile, China, Egypt, France, India, Iran, Lebanon, Panama, Uruguay, and the Philippines.

This is the commission which has drafted a document that, in the words of Mr. Holman, “might be held to impair, or be a substitute for, our own cherished Bill of Rights, which protects the individual citizen.”

“Plot” is not too strong a word for this understanding of our American laws, customs, and rights.

The Plot Against The People

The pressure groups which so far have failed to accomplish congressional enactment of the force bills, including the so-called FEPC, are plotting to do it through the United Nations.

The United States Senate ratified as a treaty the United Nations Charter. Under the United States Constitution, the Charter of the United Nations takes precedence over our State and local laws, because section 2 of article VI provides that a treaty becomes the supreme law of the land.

The United States Senate ratified the Charter of the United Nations because this Nation wanted to become a party to an international pact the purpose of which is to insure peace in the world. The Senate did not intend the Charter to become a vehicle for socialization and law abrogation.

Article 55 of the Charter contains this language.

“With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among the nations based on respect for the principle of equal rights and self-determination of people the United Nations shall promote –

“(a) Higher standards of living, full employment, and conditions of economic and social progress and development;

“(b) Solutions of inter-national economic, social, health, and related problems, and international cultural and educational cooperation; and

“(c) Universal respect for, and observance of, human rights and fundamental freedoms for all, without distinction as to race, sex, language, or religion.”

Senate bill 984 the FEPC bill, introduced in the Eightieth Congress, has this language in section 2 (c):

“This act has also been enacted as a step toward fulfillment of the international treaty obligations imposed by the Charter of the United Nations upon the United States as a signatory thereof to promote ‘universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.’”

Note that article 55 says that these idealistic endeavors shall be promoted. There is nothing in the Charter which says any signatory shall force or demand that this millennium come about. The language is “shall promote.”

The United Nations is specifically forbidden by the Charter to interfere in domestic affairs of any signatory. Article 2, paragraph 7 of the Charter reads:

“Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall the domestic jurisdiction of any state or shall require the members to submit such matters require the members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under chapter VII.” Chapter VII provides for action with respect to threats to the peace, breaches, of the peace, and acts of aggression on an international scale.

The statement in Senate bill 984 that we are obligated to impose upon this country such force bills as the FEPC is therefore not only misleading, but actually untruthful. There is no obligation under the Charter to do any such thing. There is only an obligation owed by President Truman to pressure groups which supported him for reelection to do so.

The attack upon our laws, rights, and customs is a pincer movement.

Should the President's civil-rights program be refused by the Congress it may become in much more dangerous form the supreme law of the land simply by ratification of the covenant for the universal declaration of human rights.

That this plot has support in high places in our Government is apparent from the statement of President Truman in his Proclamation on National Freedom Day, published in the Federal Register January 27, 1949; Vol, 14, No. 17 page 361.

The President's proclamation stated, in part:

“Whereas the Government and the people of the United States wholeheartedly support the Universal Declaration of Human Rights approved by the General Assembly of the United Nations on December 10, 1948-“

Frank E. Holman, president of the American Bar Association, which is investigating the impact of this Declaration on this Nation has to say:

“When the Declaration was passed last December in Paris there was no copy of the final draft available in this country. I was advised that not even the State Department of our own Government had a final copy in this country of a document which as to our basic American rights is nebulous and ambiguous and the latter portion of which sets up a collectivist concept of government for all the peoples of the world, including ourselves.”

Are the American people aware that they “wholeheartedly support” this Declaration as President Truman says?

If this is adopted as a treaty to the Senate, this country may no longer be as we have known it. We will have instead a worldwide social and economic system with Uncle Sam paying the bills. We will have an International Court of Human Rights to which every one of us may be held responsible. Our immigration laws will become ineffective. Laws of many States will be thrown out. The customs of the people will be disregarded. It attacks the Institution of marriage by social recognition of illegitimacy just as Nazi Germany did and Communist Russia does. It invades the rights of people to choose their own intimates and fellow workers and it would strike a serious blow at religious beliefs and tenets.

It is a far-reaching, revolutionary document which could easily drive this country to the poor-house and its people to totalitarianism.

The Senate Should Refuse It.

The questions whether acceptance of the Covenant of the Universal Declaration of Human Rights in treaty form by the United States Senate would conflict with the United States Constitution is one which the American Bar Association, composed of 40,000 lawyers, is presently studying.

The covenant's authority over all State laws and county, parish, and city ordinances is unquestioned. A treaty made by the President and ratified by two-thirds of the Senate present when it is called to a vote, becomes the supreme law of the land, all State constitutions and laws to the contrary notwithstanding.

Proponents of the declaration and its revolutionary proposals point to the United State Supreme Court ruling in the *Missouri v. Holland* case in 1920 when the State of Missouri attacked a treaty signed by the United States and Canada protecting migratory birds.

The Supreme Court held then:

“Acts of Congress are the supreme law of the land only when made in pursuance of the Constitution, while treaties are declared to be so when made under the authority of the United States. It is open to question whether the authority of the United States means more than the formal acts prescribed to make the convention. We do not mean to imply that there are no qualifications to the treaty-making power; but they must be ascertained in a different way. ■ ■ ■ We may add that when we are dealing with words that are also a constituent act, like the Constitution of the United states, we must realize that they have called into life a being the development of which could not have been foreseen completely by the most gifted of its begetters. It was enough for them to realize or to hope that they had created an organism; it has taken a century and has cost their successors much sweat and blood to prove that they created a nation. The case before us must be considered in the light of our whole experience and not merely in that of what was said a hundred years ago. The treaty in question does not contravene any prohibitory words to be found in the Constitution.”

Those who would enact such civil-rights legislation as President Truman has called for have pointed to the *Missouri v. Holland* case as the basis for such laws under treaty powers.

Their plea will be that to foster peace and justice in the world such a document as the covenant should be considered in the light of our whole experience and not merely in that of what was said a hundred years ago.

Lawyers and students of constitutional government believe that such a covenant would conflict with our Constitution in a number of ways, but mainly in article 1 of the Bill of Rights:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peace-ably to assemble and to petition the Government for a redress of grievances.”

Article 30 of the Universal Declaration of Human Rights reads:

“Nothing in this declaration may be interpreted as implying for any States, groups or persons, any right to engage in any activity or to perform any act aimed at the destruct-ion of any of the rights and freedoms set forth herein.”

In other words if the Senate ratifies this treaty and the Supreme Court upholds it, this newspaper could no longer criticize it; you could not speak against it, and the people – among them you – could not assemble to petition our Government for a change in it.

And there is no provision in this declaration for its amendment in any way, ever.

The Supreme Court will have the final say on the constitutionality of such treaty, if the Senate ratifies it.

And it should be remembered that Charles Evans Hughes, a former Chief Justice of the highest court of the land, once said:

“The Constitution is what the judges make it.”

Economic philosophy and political ideology often seem as important in Supreme Court decisions as legal interpretation.

The people of this Nation, however, have it in their hands to relieve the Supreme Court of ever having to decide whether the covenant would or would not supersede our Constitution and Bill of Rights.

The people of this Nation have this power through their elected Senators. The President can only commit this Nation so such a program by ratification by the Senate.

Write your Senators, and all your friends all over this country to write theirs in opposition to this covenant for the universal declaration of human rights. Do this because it strikes at every fireside of the Nation.