

Global Focus on Knowledge at the University of Tokyo
Summer Session 2007 “Sustainability Observed From Society – Peace, Development,
Human Rights” 8 Lessons
“Subjects of International Human Rights Security”

Development of International Human Rights Security

Yuji Iwasawa

Law department in University of Tokyo

UN Human Rights Committee



UNPFII

UN headquarter, New York, 2007

International Law...

- ❑ Is intended to discipline relationship between nations
- ❑ Is designed to be built by a consensus of nations
- ❑ Was established in Europe in the 17th century
- ❑ After establishment, it came to prevail among nations

Prehistory of International Human Rights Security

- Human rights used to be considered an “internal problem” by international law
- The concept has existed since the 19th century--
diplomatic protection
statement of “intervention for Human Rights”
- It is hardly described as international security of human rights

Paris Peace Conference (1919)

- ❑ U.S. proposed “freedom of religions” provision
- ❑ Japan proposed “ racial equality” provision
- ❑ Eventually, the provisions of the League of Nations did not provide security for human rights



**The 1st Assembly of The League of Nations
Geneva 1920**

The League of Nations

- Declarations and treaties for protection of minorities
 - Poland etc.
 - They were put under the protection of The League of Nations
- Protection of Labor and establishment of an International Labor Organization



The 1st Assembly of the ILO

Geneva , 1921

Four Freedoms

President Franklin Delano Roosevelt (State of the Union Address, January of 1941)

- Freedom of Speech
- Freedom of worship
- Freedom from want
- Freedom from fear

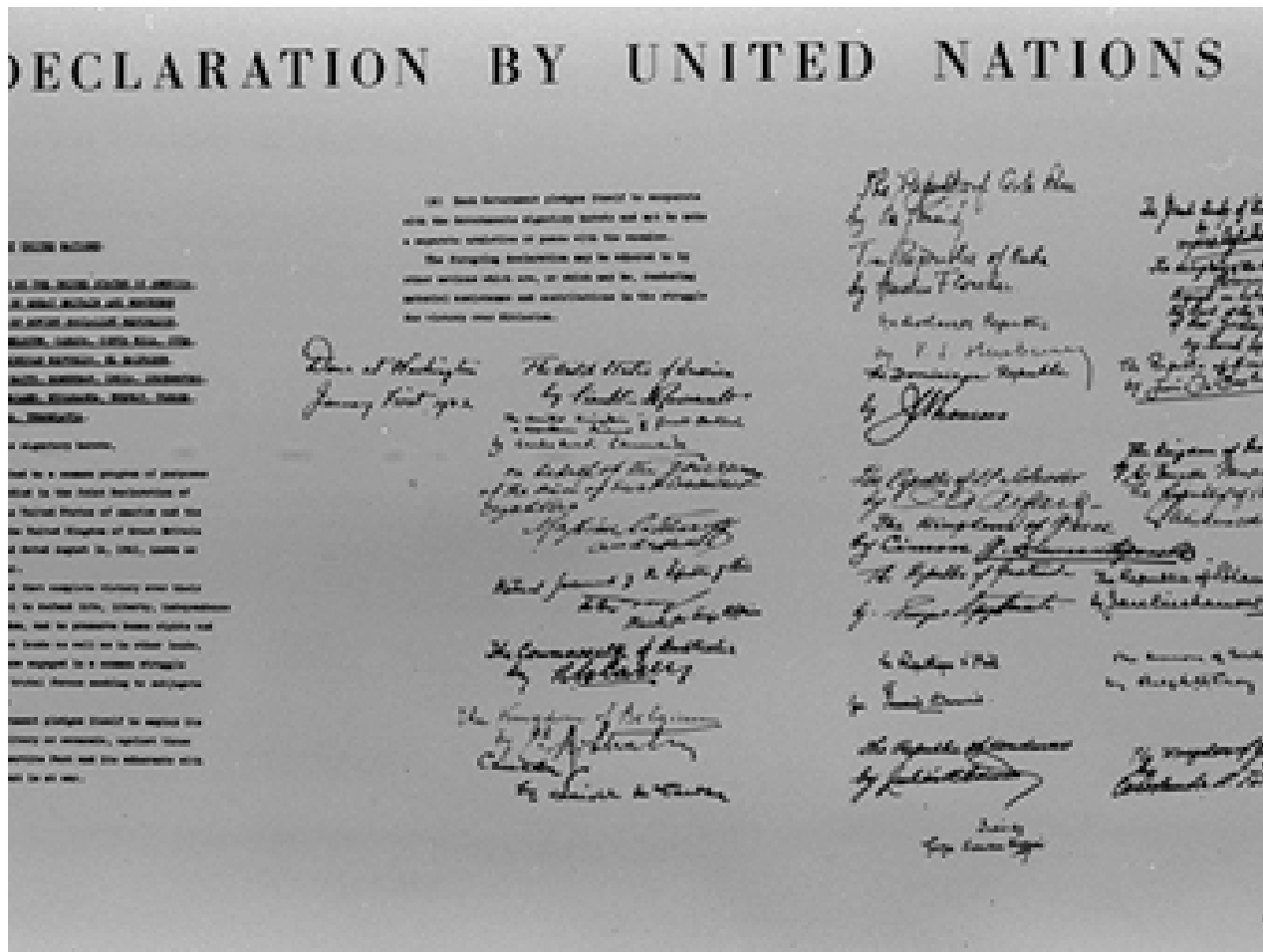


Atlantic Chapter

On Atlantic, August 1941

Atlantic Charter

Sixth, after the final destruction of the Nazi tyranny, they hoped to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all lands may live out their lives in freedom from fear and want;



Joint Declaration of the United Nations The Washington Declaration

Washington January, 1942

Joint Declaration of the United Nations

Having subscribed to.....the Atlantic Charter

Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world,



the United Nations Conference delegates unanimously adopt the United Nations Charter in San Francisco, California, June 26, 1945. *AP Photo*

Charter of the United Nations

Article 1 The Purposes of the United Nations are:

- 1 To maintain international peace and security
- 2 The principle of equal rights and self-determination of peoples
- 3 To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion

Charter of the United Nations

Article 55 the United Nations shall promote :

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

Article 56 All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

The Effect of the Provision of the UN Charter relating to Human Rights

- ❑ Academic theories and Nations which deny legal obligation to protect human rights
- ❑ UN continues to recognize it as a legal obligation

Charter of the United Nations

Article 2, 7

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 require the Members to submit such matters to settlement under the present Charter;

Human Rights Are Not Domestic Matters

UN sees successive form of serious violation of human rights such as racial discrimination policy as domestic jurisdiction matters

Article 55 the United Nations shall promote :

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

Article 56 All Members pledge themselves to take join and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.



**Drafting committee of
The international Bill of Human Rights
The United Nations Commission on Human Rights, 1947**

Form of “International Bill of Human Rights”

- Should be “declaration” (USA)
- Should be “treaty” (Britain)
- Both “declaration” and “treaty” were created

Universal Declaration of Human Rights

- ❑ Adapted in UN assembly on December 1948
- ❑ 30 articles
- ❑ Social Rights are stipulated from article 22 to article 27
- ❑ Not a treaty



Universal Declaration of Human Rights (1948)

Anna Eleanor Roosevelt

The Effect of the Universal Declaration of Human rights

- ❑ UN organizations supports it as demonstrating the content of the Bill's "Human Rights and Basic freedom"
- ❑ Many constitutions are influenced by this declaration
- ❑ Formally, it has no legal obligation

Universal Declaration of Human Rights and Customary International Law

- ❑ The Universal Declaration of Human Rights is overall “Customary International Law”
- ❑ Some elements of Human Rights embedded in Universal Declaration of Human Rights are “Customary International Law”
 - Prohibition of genocide
 - Prohibition of torture
 - Prohibition of arbitrary restriction
 - Institutional racial discrimination etc.

Process of Establishing International Covenant on Civil and Political Rights

- ❑ Works to make the Treaty based on Universal Declaration of Human Rights (1948-1966)
- ❑ Policy to divide first-generation civil and political rights from second-generation economic, social, and cultural rights
- ❑ Both covenants were adopted (1966)
- ❑ The first optional protocol was also created, which enables individuals to submit complains, known as communications to HRC
- ❑ The second optional protocol was added, which abolishes the death penalty (1989)

Convents of International Covenant on Civil and Political Rights

- ❑ Second Generation Human Rights are expanded over Universal Declaration of Human Rights
- ❑ Added rights cannot be seen in Universal Declaration of Human Rights, such as Self-determination (article 1), minority rights (article 27) etc
- ❑ This Treaty does not bind any nation that
- ❑ has not ratified it
 - First generation (China etc)
 - Second generation (USA)
- ❑ Included implementation

Second Generation and First Generation

- Second Generation Rights
 - stipulate nations' positive obligation
 - obligation of gradual implementation
- First Generation Rights
 - stipulate nations' negative obligation
 - obligation of instant implementation
- Critics to this dualistic interpretation

Major Treaties on Human Rights

(1)

1 International Covenant on Civil and Political Rights (1966)

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

First Optional Protocol to the International Covenant on Civil and Political Rights

Second Optional Protocol to the International Covenant on Civil and Political Rights (1989)

2 International Convention on the Elimination of All Forms of Racial Discrimination

3 Convention on the Elimination of all Forms of Discrimination against Women (1979)

- **Optional Protocol to the Convention on the Elimination of Discrimination against Women (1999)**

Major Treaties on Human Rights

(2)

- 4 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
 - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment(2002)
- 5 Convention on the Rights of the Child(1989)
 - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2000)
 - Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000)
- 6 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

Major Treaties on Human Rights

(3)

7 International Convention for the Protection of all
Persons from Enforced Disappearance
(2006)

8 Convention on the Rights of Persons with Disabilities

- Optional Protocol to the Convention on the Rights of
Persons with disabilities (2006)



Signature Ceremony of the Convention on
the Rights of Persons with Disabilities.
UN General Assembly, New York, March, 2007

Other Treaties on Human Rights

- ❑ Convention on the Prevention and Punishment of Crime of Genocide(1948)
- ❑ Convention Relating to the Status of Refugees (1951)
 - Protocol Relating to the Status of Refugees
- ❑ International Convention on the Suppression and Punishment of the Crime of Apartheid (1973)

Declarations and Resolutions Relating to Human Rights

- ❑ UN Standard Minimum Rules for the Treatment of Prisoners (1955)
- ❑ Draft Declaration on Territorial Asylum(1967)
- ❑ Declaration on the Human Rights of Individuals Who are not Nationals of the Country in Which They Live (1985)
- ❑ Declaration on the Right to Development (1986)
- ❑ Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) etc

Formally, they have no legal binding

Customary International Law?

Interpretational standard of treaties of Human Rights?

Implementation of Treaties on Human Rights

1. Communications from states
2. Individual Communications
3. National Communications

Global Focus on Knowledge at the University of Tokyo
Summer Session 2007 “Sustainability Observed From Society – Peace, Development,
Human Rights” 8 Lessons
“Subjects of International Human Rights Security”

The End

The 2nd lessons

June 5th, 2007 (Tue)

16:20~17:50