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The Universal Declaration of Human Rights— A Challenge to America

BY SAMUEL D. MENIN
of the Denver Bar

INTRODUCTION BY THE EDITOR

The ABA Journal quite rightfully has given a great amount of space to merits and demerits of the Universal Declaration of Human Rights, both before and after its adoption by the General Assembly of the United Nations on December 10, 1948. Because ABA President Holman and the Journal, editorially, have opposed the Declaration, your Editor hoped to find some local lawyer who would explain this historic document in a more favorable light.

Mr. Samuel D. Menin, famed for his courageous defense of minority groups, was asked to give his views, and they are reprinted herewith. Not too surprisingly, Mr. Menin sees the Declaration as a challenge to America in her cavalier treatment of minorities.

With all due respect to Mr. Menin, however, and not denying for a moment that the treatment of Negroes is a shameful page in American history, your Editor believes, none the less, that Mr. Menin's remarks lend no assistance to the argument that a covenant embodying these principles of human rights should be entered into by the United States. On the contrary, one might cite the situation so fearlessly spelled out by Mr. Menin as a convincing argument why this nation, if incapable of policing itself, should not enter into any binding compacts with other nations regarding human rights.

For a discussion of the Declaration, with particular reference to the dilatory tactics of the Soviet Union in attempting to obstruct its passage, see the article of James Simsarian of the State Department in 35 ABAJ 205, March, 1949. The full text was printed in 35 ABAJ 32, January, 1949, and the April issue of the Journal contains a defense of the Declaration in reply to President Holman, 35 ABAJ 283.

On December 10, 1948, the United Nations General Assembly approved and promulgated for the Nations of the world and their people, a Universal Declaration of Human Rights. While this Declaration does not impose the obligations of a treaty, it nevertheless is a challenge to the world to promote respect for human dignity and the basic freedoms of the people.

"The United Nations, on the initiative of the government of the United States, will press vigorously in 1949 for the formulation and submission of a Covenant which will give contractual and treaty form to such 'rights' as are stated in it; also, measures for implementation, to 'put teeth into the Covenant' and assure international powers and means of enforcing it against states, groups and individuals."¹

The Declaration takes cognizance of the fact that "disregard and contempt for human rights" has international repercussions and if man is not to take "recourse . . . to rebellion against tyranny and oppression . . . human rights should be protected by the rule of law."

Secretary of State George C. Marshall, in urging approval by the nations of "a new declaration of human rights for free men in a free world" further said:

"Systematic and deliberate denials of basic human rights lie at the

¹ American Bar Assn. Journal, Jan., 1949, Page 32.

root of most of our trouble and threatens the work of the United Nations. It is not only fundamentally wrong that millions of men and women live in daily terror of secret police, subject to seizure, imprisonment, or forced labor without just cause and without fair trial, but these wrongs have repercussions in the community of nations. Governments which systematically disregard the rights of their own people are not likely to respect the rights of other nations and other people and are likely to seek their objectives by coercion and force in the international field."

It could hardly be said that the reference by Secretary Marshall to "Governments which systematically disregard the rights of their own people" was a reference to the United States. Yet in the light of current American history, we would have to assume an ostrich-like attitude to say that in this nation there is not a disregard of the basic human rights of a large segment of the American people.

In the founding document which gave birth to this Nation, certain truths were held to be self-evident: "That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness." Likewise, in the Bill of Rights of the Federal Constitution, and in the Thirteenth, Fourteenth and Fifteenth Amendments thereto, did we set out certain human and civil rights all of which are repeated in greater detail in the Universal Declaration of Human Rights. In addition, the Declaration goes into the field of domestic social policy. Our government now seeks by its active support in the United Nations to assure by means of a Covenant the enforcement of the Universal Declaration of Human Rights against states, groups and individuals.

The record of our government in the treatment of minorities, especially Negroes, is definitely not in keeping with the commitments we made in the Charter of the United Nations. The Universal Declaration of Human Rights has its genesis in Articles 55 and 56 of the United Nations Charter which provides among other things for:

"universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race . . ."

That our relations with the world are affected by the treatment accorded racial minorities is acknowledged by the President's Committee on Civil Rights in its report to the President of the United States issued in 1947. The Committee states that "our civil rights record has growing international implications. These cannot safely be disregarded by the government at the national level which is responsible for our relations with the world, and left entirely to government at the local level for proper recognition and action. Many of man's problems, we have been learning, are capable of ultimate solution only through international cooperation and action. The subject of

human rights, itself, has been made a major concern of the United Nations. It would indeed be ironical if in our own country the argument should prevail that safeguarding the rights of the individual is the exclusive, or even the primary concern of local government."²

It is most ironical indeed, that the United States whose representatives in the United Nations Assembly are now ardently seeking by means of a Covenant to assure the enforcement of the Universal Declaration of Human Rights, should themselves be confronted by an appeal for redress made to the United Nations by the Negro people of the United States for wrongs perpetrated against them.³

The Negro people, despite Constitutional guarantees and the international agreements to which we are signatory, do not enjoy political, economic or social equality. The poll-tax and various other devices used in the several states below the "Smith and Wesson" line have effectively denied Negroes voting rights on a par with white Americans.

Negroes are subjected to the most degrading discrimination in housing, and they are not free to live where they please. In every large city in the United States, the Negro has been relegated to the slums and tenements. Recently the United States Supreme Court ruled that restrictive covenants could not be enforced.⁴ Yet the court refused to declare invalid such covenants by saying "that the restrictive agreements . . . cannot be regarded as a violation of any rights guaranteed . . . by the Fourteenth Amendment. So long as the purposes of those agreements are effectuated by voluntary adherence to their terms, it would appear clear that there has been no action by the State and the provisions of the Amendment have not been violated."

Negroes are subjected to degrading discrimination in education. In the case of *Sipuel vs. Board of Regents*,⁵ the petitioner sought admission to the Law School of the University of Oklahoma. She was denied admission because she was colored. The Supreme Court in reversing the State Courts ruled that the State must provide petitioner with the means of obtaining legal education "as soon as it does for applicants of any other group." It will be noted that the language of the Court does not indicate that the petitioner was entitled to enter the regular law school, but merely that the State must provide petitioner with the means of obtaining a legal education as soon as it provides such means to others. The decision thus far has resulted in the creation of a separate law school, which by its very nature cannot result in equal education. The tradition and reputation of a law school of long standing cannot be equaled by the designation of a few instructors in a room or two set up for a single student.

² To Secure These Rights, Page 100.

³ An Appeal to the World . . . Issued by the National Association for the Advancement of Colored People.

⁴ *Shelly et Ux. vs. Kraemer et Ux.* 68 Sup. Ct. 836.

⁵ 68 Sup. Ct. 299, 332 U. S. 631.

The doctrine of separate but equal has never been demonstrated to be more than a mere phrase which means segregation, and segregation means discrimination. The President's Committee has in its report amply demonstrated such to be the case and as to such educational facilities indicated that:

“... the separate but equal rule has not been obeyed in practice. There is a marked difference in quality between the educational opportunities offered white children and Negro children in separate schools.”⁶

Supreme Court Justice Harlan, years ago, in one of the most vigorous and forthright dissenting opinions said:⁷

“Our Constitution is color blind, and neither knows nor tolerates classes among citizens... We boast of the freedom enjoyed by our people above all other peoples. But it is difficult to reconcile that boast with a state of law which, practically, puts the brand of servitude and degradation upon a large class of our fellow citizens, our equals before the law. The thin disguise of ‘equal’ accommodations... will not mislead anyone or atone for the wrong this day done.”

The Negro is discriminated against in the armed forces. President Truman made what sounded like a clear statement that he had ordered the earliest possible ending of segregation in the armed forces. Secretary of the Army Royall refused to comply and stated before a congressional committee that he didn't believe that was what the President meant. Army Chief of Staff General Omar Bradley stated there was no plan whatever to alter the system of segregation in the armed forces. “The Army,” he said, “will keep racial segregation as long as the nation does.”

Negroes do not have equal opportunities in the professions. It is common knowledge that except for some very few hospitals, Negro physicians are barred, while Negro lawyers are not accepted for membership in the American Bar Association. In employment, Negroes are forced into accepting the most menial and undesirable employment. In the few instances where Negroes obtain employment comparable to work offered whites, they are often compelled to work for less. Article 23 of the Universal Declaration says, “Everyone, without any discrimination, has the right to equal pay for equal work.”

The life of the American Negro in the South is stalked by the dread of lynch terror. When Negroes are lynched, little or no effort is made by local authorities to punish the offenders. There is complete indifference on the part of law enforcement officers in their investigation. The Universal Declaration of Human Rights provides that “All are equal before the law and are

⁶ To Secure These Rights, Page 63.

⁷ *Plessy vs. Ferguson*, 163 U. S. 537.

entitled without any discrimination to equal protection of the laws."⁸ Numerous illustrations of the denial of equal protection of the law could be indicated.

"Every person has the right to life, liberty and the security of person."⁹ Isaac Woodard, a Negro war veteran didn't receive that security when on February 12, 1946, as he was returning home after serving his country against the Nazi ideology of racial superiority, he was beaten by a South Carolina police chief so severely that he was blinded.

This government which pleads for "a new declaration of human rights for free men in a free world," permits and sanctions in the City of Washington, the refusal of hotels to rent rooms to Negroes, the denial by restaurants to serve Negroes, and theaters to refuse admittance to Negroes. The Federal Government cannot escape responsibility for such conditions; the practice is too wide-spread and open. On March 2, 1949, the House of Representatives voted down a proposal to end segregation in the City of Washington.

The foregoing demonstrates that the Universal Declaration of Human Rights in so far as it applies to Negroes has been violated, and in most instances not without the knowledge and sanction of the Federal Government. An immediate cessation of discrimination and segregation of the Negro becomes one of the first duties of our government if we are to adhere to the Universal Declaration of Human Rights, and most certainly if we are to assume the leadership of putting "teeth into the Covenant." Our government must affirmatively and effectively guarantee equality by outlawing and punishing segregation and discrimination practices by our citizens. This cannot be done by such action as was taken by the House of Representatives March 2, 1949, nor by the Senate filibuster against Civil Rights legislation.

The United States, moreover, must secure legislation and take action not only to eliminate discrimination which is the result of prejudice, but prejudice itself. The Government must take action for the development of a *democratic attitude*. For this reason it is important that the language of Article One of the Declaration of Human Rights that all human beings "should act towards one another in the spirit of brotherhood" be interpreted in the full meaning of its import.

The peoples of the world do not understand America's protestations of democracy while the Negro people here suffer continuous deprivation of human rights and liberties. Before America can assume her rightful place in the world as its moral and spiritual leader, she cannot escape meeting the challenge which the Universal Declaration of Human Rights presents to her. May she meet it with courage and dignity to the end that all the principles set forth therein become part of the common practice of our people and our government.

⁸ Article 7.

⁹ Article 3.

It is no justification to say that other nations violate the rights of racial minorities. The writer is not unaware that such is the situation in other countries. But our government has taken the initiative in having had approved the Universal Declaration of Human Rights. And our government has declared its intention to press for an International Covenant of Human Rights which could be enforced against all nations within the fold of the United Nations. Therefore, we must, as a very minimum, practice the principles we advocate, lest we find ourselves confronted by the United Nations attempting to enforce against us the International Covenant of Human Rights.

Gray Grieves at Grievous Grievances

Gray Secor of Longmont writes that "a woman living near here recently wrote a letter to a local hay buyer demanding payment for some hay he had purchased, in which letter she stated that the 'grievous committee of the Bar Association' would take care of people like him.

"From some experiences we have had with certain hay buyers, maybe they should be included in the same category with lawyers, and subject to visitation by the 'grievous committee of the Bar Association'."

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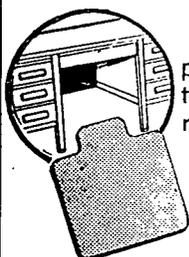
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