The three charters: making international law in the post-war crucible

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Universiteit Leiden

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Inaugural lecture by

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on the acceptance of his position of professor of
International Criminal Law and Human Rights
at the Universiteit Leiden
on Friday January 25, 2013.

Universiteit
Leiden

> The cataclysm through which we have just passed opens a *new era* in the history of civilization; it is of greater importance than all those that preceded it: more important than that of the Renaissance, than that of the French Revolution of 1789 or than that which followed the first World War; that is due to the profound changes which have taken place in every sphere of human activity, and above all in international affairs and in international law.
>
> Judge Alejandro Alvarez, individual opinion in the *Corfu Channel Case*, 9/4/49

Over a span of about three years, in the aftermath of the defeat of Nazi Germany, international law underwent a revolutionary transformation, developing instruments that continue to define the lives of both nations and individuals. Three charters lie at the heart of this development: the Charter of the United Nations, the Charter of the International Military Tribunal, and what I must call - in French - the *Charte internationale des droits de l'homme*, because its English title is the International Bill of Rights. My thesis today is that these three documents are profoundly related, and that this relationship should contribute to a contemporary understanding of the association between human rights, justice and peace.

The Charter of the United Nations was adopted in San Francisco in late June 1945 and entered into force on 24 October of that year following the deposit of instruments of ratification by the Soviet Union. Within days a Preparatory Commission was at work in London, organizing the first session of the General Assembly to be held in the British capital early the following year. The Charter of the United Nations provides the architecture for the international organization. But it also affirms a series of purposes and principles. Among the purposes of the organization listed in article 1 is promotion and encouragement of respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. One of the seven principles enumerated in article 2 should also retain our attention: that the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations', is prohibited.

The second of the three charters, the Charter of the International Military Tribunal, was adopted in London on 8 August 1945 and entered into force immediately with the signature of the four 'great powers' who had negotiated its terms. It too was institutional in nature, establishing the mechanism for the prosecution and punishment of what were labelled the 'major war criminals of the European axis'. Today, we generally call this institution the Nuremberg Tribunal, although the Charter says the seat of the court is in Berlin. With minor adaptations, the London Charter provided the model for the Charter of the International Military Tribunal for the Far East, known as the Tokyo Tribunal, where the great Dutch jurist Bernard Röling served as a judge.

Like the Charter of the United Nations, the Charter of the International Military Tribunal is also normative in nature. In a sense echoing the prohibition of force in article 2 of the Charter of the United Nations, it defines and condemns the crime against peace: the planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy to such an end. Almost in parallel, reflecting the commitment to the promotion and encouragement of human rights in article 1 of the Charter of the United Nations, the Nuremberg Charter also sets out a definition of crimes against humanity. These are described as murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, as well as persecutions on political, racial or religious grounds. This is the language of modern human rights law.

The third of the three charters is actually not a single document but rather an amalgam of at least four and perhaps six legal texts. In his speech at the closing session of the San Francisco Conference in June 1945, president Harry S. Truman pledged that the new organization would soon draft an 'international bill of rights'. This was unfinished business. There had been much tension during the negotiation of the Charter of the United Nations between many smaller states, who had felt strongly that it should contain a codification of fundamental rights, and the major powers, who were nervous about the consequences this might have on their global interests and ambitions as well as the treatment of minorities within their own borders.

The 'international bill of rights' figured on the lists of priorities established by the United Nations Preparatory Commission when it began work later in the year.[1] The initial session of the General Assembly rebuffed a proposal from Cuba to begin work immediately on the adoption of the bill of rights.[2] Instead, the Assembly decided to assign responsibility to the Commission on Human Rights. Some months later, it convened as a so-called 'nuclear commission', under the chairmanship of Eleanor Roosevelt. There were competing visions of the nature of this 'bill of rights'. The Commission opted to prepare three distinct documents, a declaration, a convention or covenant, and an instrument governing implementation. Work proceeded rapidly on the first of these texts, which was intended to be a succinct and inspiring manifesto. On 10 December 1948, the General Assembly adopted the Universal Declaration of Human Rights. Begging your indulgence with my poetic licence, the Universal Declaration is my third charter. The other components of the bill of rights would not be agreed for nearly two more decades.

Two of the three charters - the Charter of the United Nations and the Universal Declaration of Human Rights - are joined in an institutional sense. Indeed, in 1948 it was contended by some, including René Cassin, that the Universal Declaration of Human Rights should be understood as a detailed codification of the human rights clauses contained in the Charter of the United Nations. That is one view of the legal significance of the Declaration, and it is a compelling one that retains its vigour. The third instrument, the Charter of the International Military Tribunal, is somewhat distinct because it was adopted by the four so-called 'great powers' outside the framework of the United Nations. But the Charter they concluded was subsequently ratified by many other States, including The Netherlands. In the final judgment of the Tribunal, the bench pointed to this ratification by what it called 'Governments of the United Nations' as confirmation of the international legitimacy of the institution.[3]

The International Military Tribunal condemned the invasion of the Netherlands as a crime against peace.[4] It devoted considerable attention to the barbaric occupation policy in The Netherlands, noting the murder of hostages, pillage of property, and the deportation of labourers to Germany where they were worked as slaves. The Reich Commissioner for the Netherlands, Arthur Seyss-Inquart, was one of the twenty-four who were indicted. He knowingly participated in the deportation of 120,000 Dutch Jews to Auschwitz, but told the Tribunal he thought that Jews were relatively well off there and would be relocated after the war. Convicting him of crimes against humanity and war crimes, the Tribunal said it found his claim to be 'impossible to believe'.[5] Please permit me to pay tribute to the Canadian officer who formally arrested Seyss-Inquart after he had been taken into custody in the Netherlands in early May 1945. His name was Tom Fairley, and he was my uncle. Let me also remind everyone that on Sunday 27 January we mark International Holocaust Remembrance Day, so designated by resolution of the United Nations General Assembly seven years ago.[6]

This new professorship at Leiden University is branded 'international criminal law and human rights'. Its legal antecedents are the three charters that I am discussing today.

14 THE GLOBE AND MAIL, WEDNESDAY, MAY 9, 1945.

Racing Strips Set for Bell

New York, May 8 (AP).—Expecting the ban on racing in the United States to be lifted within a few days, track officials said today they are ready to resume the sport, on which more than $1,000,000,000 was wagered in 1944.

Racing strips, for the most part, are in good condition, since they have been in use for several weeks as horsemen kept their runners close to actual racing condition. The machinery behind the sport that yielded $55,971,232 in States' revenue last year also is all set to go.

The ban on the sport since Jan. 3 means that there will be curtailed seasons in New England, New York, Illinois, Maryland and Kentucky, since they normally open in April. Track officials met in New York and Illinois today to consider dates.

Here is how the situation shapes up in each section:

Maryland — Approximately 1,000 horses quartered at Pimlico and Laurel. Probably will be 10-day joint meeting at Pimlico, May 18-26, with a one-day meeting in June to permit running of the Preakness a week after the Kentucky Derby.

Kentucky — Keeneland plans to open its meeting at Churchill Downs May 19 to be followed by regular Downs session. Kentucky Derby nominations closed April 25 and expected to be announced soon as ban lifted. Derby may be run June 2 or 9.

New York—Will open within week or 10 days after lifting of restrictions with tracks sharing remaining dates.

Illinois—Sportsman Park said to be able to operate in three days. Washington and Arlington Parks going ahead with major stake program, including two $50,000 futurities, Classic, Arlington Handicap and American Derby. Racing season may be extended to mid-November.

New England—Track officials announced today that, if ban lifted by Saturday, Narragansett will open 25-day meeting Saturday and reopen Labor Day for 30 days; Suffolk Downs will hold 54-day meeting ending week of Aug. 1, and Rockingham will run 18 days in August and close season with 36-day meeting.

California—Santa Anita planning summer meeting, holding many of its rich stakes usually run during winter session.

Bay Meadows also ready to resume.

Lauries Edge Hayes Cagers

Arthur Seyss-Inquart, German commissioner in Holland, who has been arrested by the Canadians for trial as a war criminal.

Canadians Hold Seyss-Inquart

With the 1st Canadian Army, Holland, May 8 (CP).—Arthur Seyss-Inquart, German commissioner for the Netherlands, was placed under arrest today by the 1st Canadian Army. He faces war crimes charges.

Details of how Seyss-Inquart was first taken into custody are not yet known, but he arrived at an airfield near Canadian Army headquarters under military escort. When he stepped from the plane, he was taken into custody by Lt.-Col. G. W. Bell of Edmonton, deputy provost-marshal, who was accompanied by Capt. M. A. Fitz-Gibbon of Fort Erie, Ont.

Seyss-Inquart, wearing a Nazi uniform, was moved by staff car from the airfield to a tent in a barbed-wire enclosure at Canadian Army headquarters. A defense company whose soldiers belong to the Royal Montreal Regiment guarded him.

Toronto Man Effects Arrest

Capt. Tom Fairley, who today in Holland told Arthur Seyss-Inquart that he was under arrest by the 1st Canadian Army, is a 25-year-old Canadian newspaperman.

A native of Toronto, he joined the news staff of the Canadian Press there in 1938 following graduation from the University of Toronto, and worked on the Montreal and Quebec staffs of the CP from 1940 until he entered the army in 1942.

Fairley spent part of his youth in Europe and has a good knowledge of French and German, as well as his native English.

His parents, Mr. and Mrs. Barker Fairley, live in Toronto.

Until little more than a decade or so ago, the mere idea of a chair that linked international criminal law and human rights might have seemed far-fetched. Human rights as a significant focus for legal scholarship has been alive since the 1980s, perhaps even slightly before. International criminal law as a separate discipline may have still earlier origins, although what is generally meant is the cluster of issues that we tend today to call transnational criminal law. It is above all the idea of combining these two areas of academic research that is so innovative. Yet their roots are intertwined. Both germinated in the seminal law-making period of the post-Second World War period as the international order in which we now live was being constructed.

The relationship between international criminal law and human rights is not without some tension. Traditionally, human rights law tended to regard criminal justice with a degree of suspicion. Criminal justice was often viewed as a source of violations of human rights rather than as a means to implement and enforce human rights. In this paradigm, the 'victims' of human rights abuses were persons accused before the courts, or those detained in prison. Only fairly recently, and somewhat gradually, has human rights embraced criminal justice. International courts and tribunals like the European Court of Human Rights speak of the 'procedural obligation' associated with protection of the right to life and the prohibition of torture. International human rights NGOs campaign to strengthen international criminal justice institution as well as to insist that national courts assume their obligations.

Similarly, international criminal justice had its own problems about embracing human rights. Only the briefest references to human rights appear in the Rome Statute of the International Criminal Court: as a subsidiary authority for interpretation, as a qualification for certain judges, and in the formulation of the exclusionary rule for evidence. In 1998, when the Statute was being drafted, many diplomats wanted to distance the

International Criminal Court from any close association with human rights, terrified that it might discourage support in some quarters. If there was any doubt about the deep relationship between the two bodies, the judges of the International Criminal Court have certainly rectified the situation.

When we return to the 1940s, it becomes clear enough that international criminal justice and human rights share the same DNA. The principles were first expressed in a somewhat inchoate form by Franklin D. Roosevelt, in his famous Four Freedoms speech of January 1941. The first two, freedom of speech and freedom of religion, had already been entrenched in many national constitutions. The third was freedom from want, 'which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants - everywhere in the world'. The fourth, said Roosevelt, was 'freedom from fear - which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbour'.

The promise of a new world order where traditional sovereignty was subject to international norms of general application directed at the protection of individuals in peacetime as well as during war began to emerge. This took the form of proposals to include human rights language within the constitution of the new international organization, the United Nations. But when delegates to the United Nations War Crimes Commission in 1944 argued that Nazi atrocities perpetrated against German nationals should be addressed, powerful governments, including the United States and the United Kingdom, resisted the idea. It was a matter beyond the reach of international law, they told the Commission. As more news of the nature and scale of Nazi crimes emerged, such a position became increasingly untenable, and they ultimately adjusted their position and accepted a breach of sovereign prerogatives. The result can be seen in article VI(c) of the Charter of the International Military Tribunal, where a definition of crimes against humanity is set out. It was in some sense weak and conditional, rather like the fragile references to human rights in the Charter of the United Nations, and the restrained vision was sustained in the judgment of the International Military Tribunal as well as in the subsequent proceedings in the Nuremberg courthouse.

The next stage in this development was adoption of the Universal Declaration of Human Rights on 10 December 1948. Let me explain my focus on the Universal Declaration of Human Rights. My most recent major research project has been a review of the drafting history of the Declaration. All of the relevant documents within the United Nations system have been assembled. These materials - more than 3,000 pages in total - will be published by Cambridge University Press next month.[7] The collection begins with the work of the Nuclear Commission on Human Rights. It studied the mandate it had inherited from the San Francisco Conference, via the General Assembly and the Economic and Social Council. The form the bill of rights would take was uncertain. By 1947, the Commission was moving forward on three separate instruments, a manifesto, a convention and a text on implementation. Within a year, the first document - then designated the International Declaration of Human Rights - was ready for debate within the Third Committee of the General Assembly. There, it took its final form and, upon the suggestion of the eminent French jurist René Cassin, the name was changed to Universal Declaration of Human Rights.

There were only 58 members of the United Nations in 1948, and several of them did not participate very actively in the negotiation of the Declaration. Canada, where I first practised law and began my academic career, was one of the bystanders, hoping that the whole matter would be postponed and, to the astonishment of its allies, abstaining in the penultimate vote on the full draft Declaration in the Third Committee of

the General Assembly.[8] Ireland, where I held a professorship in human rights law for more than a decade, was absent altogether, excluded from membership in the United Nations by the Soviet veto until 1955. The Netherlands played what can fairly be described as a modest role. At times it made significant contributions to the process, including the preparation of a detailed analysis of an early draft that contained several suggestions for amendment. Referring to draft article 1, which was based on the French *Déclaration des droits de l'homme et du citoyen*, beginning with the words 'all men are born free and equal in dignity and in rights', the delegation of The Netherlands said: 'It seems superfluous to state explicitly that the word "men" implies both men and women'.[9] The delegation was uncomfortable about a reference to asylum questioning whether the issue even belonged within the Declaration.[10] When it came to equal rights of both spouses in marriage, the Netherlands wanted it to be understood that this would not exclude a requirement that married women require the authorization of their husbands to appear in court.[11] In the Third Committee of the General Assembly, the Netherlands proposed that the Declaration contain a reference to 'man's divine origin and immortal destiny'; its amendment was not taken up.[12] Probably its most significant contribution was a proposal recognizing parental rights in the choice of education.[13] A text along similar lines submitted by Lebanon was voted on first, and now constitutes article 26(3) of the Declaration.

Within the United Nations, the process of drafting the Universal Declaration of Human Rights provided a forum for the participation of non-governmental organizations. Their role had been officially recognized in the Charter of the United Nations. At the present day, such debate would be dominated by the major international human rights organizations, such as Amnesty International, Human Rights Watch and the *Fédération internationale des droits de l'homme*. But Amnesty and the Watch did not exist at the time, and the *Fédération* was nowhere to be seen. In the late 1940s, the prominent NGOs that engaged in the drafting process were religious in nature, principally Jewish and Catholic, or major trade union bodies. The Jewish and Catholic organisations soon lost their prominence; perhaps this is related to the admission of Israel as a Member State in 1949 and of the Holy See with observer status in the General Assembly in 1964. The trade union organizations also seem to have been much more robust and dynamic then than they are today.

But of the participants in the crafting of the Declaration, no constituency is more striking than that of women. Never before had women been so engaged in international law making in any meaningful way. Apparently there were some feminist organizations working the corridors at the Paris Peace Conference, in 1919, and four women were among the hundreds who signed the Charter of the United Nations at the conclusion of the San Francisco Conference in 1945. The Commission on Human Rights was the first important international body to have a woman - Eleanor Roosevelt - as its chair. She provided phenomenal and indeed decisive leadership, but she was certainly not alone. Several other dynamic women contributed in significant ways as members of the Commission on Human Rights - such as Hansa Mehta of India - or the companion Commission on the Status of Women - Bodil Betrup of Denmark, Hélène Lefaucheux of France, Jessie Street of Australia, Amalia Castillo Ledón of Mexico - and the General Assembly - Minerva Bernardino of the Dominican Republic.

They were concerned with several issues, including the terminology to be used. Eleanor Roosevelt was herself indifferent to the references to 'the rights of man', but her feminist colleagues were deeply concerned about sexist language in the Declaration. As a result of their efforts, article 1 of the Declaration begins with the words 'all human beings' instead of 'all men', which had been in the early draft. They insisted upon an explicit recognition of the principle of equal pay for equal work. They also obtained a modification to the

provision concerning the family so as to recognize the equal rights of women and men not only during marriage but also 'at its dissolution', a notion that some delegations found unacceptable because they were unwilling even to acknowledge divorce. Finally, they resisted incorporation of any language in the Declaration that might be implied as indicating a prohibition on abortion.

There were many references to the Nuremberg and Tokyo trials during the drafting of the Universal Declaration. At the time there was a widely-shared understanding of the close connection between human rights and international criminal justice. In one of the sessions of the Nuclear Commission on Human Rights, in May 1946, René Cassin stressed the importance of the international trials, explaining that 'the United Nations have created a precedent for putting on trial those who violate the rights of man'.[14] Following his suggestion, the Economic and Social Council requested the Secretariat of the Commission on Human Rights to prepare a special study on information on the Nuremberg and Tokyo trials that was of importance to the field of human rights.[15]

Attention necessarily focussed on the draft provision concerning the prohibition of retroactive criminal prosecution. The Belgian delegation proposed the following amendment: 'This provision shall not, however, preclude the trial and conviction of persons who have committed acts which, at the time of their commission, were regarded as criminal by virtue of the general principles of law recognized by civilized nations'.[16] Explaining the amendment, Fernand Dehousse said its purpose was 'to prevent the possibility of German historians, discussing the responsibility for the war, using the wording of the original text to try and prove the illegality of the War Crimes Trials, especially at Nuremberg'.[17] The idea was retained in article 11(2) of the Declaration and developed in more elaborate provisions in article 15 of the International Covenant on Civil and Political Rights and article 7 of the European Convention on Human Rights. Recently, the European Court of Human Rights dismissed a challenge to a conviction for war crimes perpetrated in 1944, in Latvia, relying upon the text of the European Convention that is derived from the Universal Declaration.[18]

When international human rights law is taught to university students, it is rather routine for the lecturer to insist upon the distinction between the Universal Declaration of Human Rights and the treaties that were subsequently adopted by noting that the former is 'not binding' whereas the latter are 'binding'. This is not a helpful formulation. It is far too dismissive of the significance of the Universal Declaration of Human Rights in the modern legal framework. Stating that the Universal Declaration is 'not binding' dramatically underestimates its legal significance, just as claiming that the treaties are 'binding' probably overstates their impact in most circumstances. The enforcement mechanisms of the treaties are quite intentionally rather weak, consisting of a fairly polite monitoring of reports by States and the adjudication of individual petitions that sometimes but by no means reliably delivers effective remedies to victims. The treaties also suffer from a very detailed wording that in some respects has become somewhat anachronistic. By comparison, the language of the Universal Declaration of Human Rights has retained its freshness. Moreover, the Declaration's major shortcoming, which is its lack of a monitoring or enforcement mechanism, was largely rectified recently when the United Nations Human Rights Council affirmed that the Universal Declaration of Human Rights would provide one of the normative bases for the Universal Periodic Review.[19]

In practice, when States report to the Human Rights Council they do not invoke the limits that are defined by their treaty obligations, including reservations and derogation. Rather, they behave as if there is a body of general human rights law common to all Member States of the United Nations. For example, when China reported to the Human Rights Council in 2009, it might have refused to speak to the issue of capital

punishment, given that it has yet to ratify the International Covenant on Civil and Political Rights, and as a result has not accepted any treaty obligations on the matter. But instead, it addressed the issue of the death penalty in its report, at its own initiative and without objection.[20] Similarly, the United States might have quarreled about the need to report on economic and social rights, as it has not ratified the International Covenant on Economic, Social and Cultural Rights. In fact, the report of the United States focused on health care, housing and education.[21] The legal foundation, in both cases, can only have been the Universal Declaration of Human Rights.

A pedant might object that whereas the presentation of reports under the human rights conventions is a legal obligation, this is not the case for the Universal Periodic Review, where the requirement is set out in a resolution of the Human Rights Council. But over the years 2008 to 2011, every Member State of the United Nations complied with the 'non-binding' terms of the Human Rights Council resolution and participated in the Universal Periodic Review process. This is more than can be said for the reporting obligations imposed by the treaties, which are frequently ignored, without apparent consequence other than some rather ephemeral and obscure public shame. The voluntary reporting to the Human Rights Council on compliance with the 'non-binding' standard of the Declaration looks in some ways to be more robust and effective than the so-called binding obligations imposed by human rights treaties

The debate about 'binding' and 'non-binding' also highlights the fact that the conventions and covenants are directed to States and to States alone. They can only be 'binding' upon those who ratify them. The Universal Declaration, on the other hand, has a much broader audience. It is addressed not only to States but also to individuals, to organizations, to entities and to corporations. As the preamble affirms, it is 'a common standard of achievement for all peoples and all nations' that speaks to 'every individual and every organ of society'. There is a useful although admittedly isolated reference in a Security Council resolution that highlights this point. In 1972, the Council referred to the Universal Declaration of Human Rights as a legal standard to be respected in the area of labour rights in Southwest Africa.[22] Acting pursuant to the Resolution, the United States reported to the Secretary-General that it had notified some forty American corporations with activities in Namibia, requesting that they observe the Universal Declaration in their activities.[23] Individuals and corporations may not be 'bound' by the Universal Declaration in the sense of treaties, but they - we - are obliged to employ it as a guide to our lives and our activities.

A few weeks ago, I attended a conference in The Hague on the relationship between international human rights law and the law of armed conflict. There was a debate about the extraterritorial application of human rights law. Some conservative governments and their supporters in the academic community seek to exclude the human rights treaties when armed forces operate outside the country's borders. This is a matter that has vexed the human rights treaty-based bodies, including the United Nations Human Rights Committee, as well as the European Court of Human Rights. The discussion is about deconstructing and interpreting jurisdictional clauses in the treaties. Once we shift the debate to the broad human rights provisions of the Universal Declaration of Human Rights, the conversation changes. The broad human rights obligations that result from the Declaration apply to the conduct of a State regardless of whether the matter falls within the precise terms of a treaty like the International Covenant.

Take, for example, the murder of Osama Bin Laden last year by American special forces in Pakistan. Reasonable people may disagree about whether the International Covenant on Civil and Political Rights can be applied, based upon a rigorous construction of article 2(1), but the same difficulty does not arise with respect to the Universal Declaration of Human Rights. Under the Declaration, the United States was required to respect Bin Laden's right to life, bearing in mind

the circumstances of course; what appears to have been his gratuitous and unnecessary murder was a violation of the right to life even if it is not a breach of the International Covenant, because of its jurisdictional limitations. After Bin Laden had been killed, the right to dignity in the disposition of his body remained, as well as the right of his family to know the truth, for much the same reason that the United States-based corporations active in Namibia were required to respect the human rights set out in the Universal Declaration.

Let me return to the three Charters, and conclude by considering one of the golden threads that run through each of them and that indeed binds them together. This is the importance of peace. In the case of the Charter of the United Nations, this should hardly need any demonstration, given the prohibition on the use of force found in article 2(4), not to mention many other relevant references in the text. Similarly, the Charter of the International Military Tribunal criminalizes the resort to aggressive war in article 6(1), where this is labeled 'crimes against peace'. Today, we speak of the crime of aggression, a concept whose place is increasingly validated within the body of international criminal law.

In the third charter, the Universal Declaration of Human Rights, the importance of peace is perhaps more obscure, or possible simply implicit. This may have contributed to a degree of indifference in some sectors of the human rights community to the codification of the crime of aggression in the Rome Statute. The initial draft preamble of the Universal Declaration of Human Rights began with the words 'there can be no peace unless human rights and freedoms are respected' and concluded with the words 'there can be no human dignity unless war and the threat of war is abolished'.[24] If the final text is not as explicit, that does not mean the idea was abandoned. For confirmation, we need go no further than the reference to the Four Freedoms in the second paragraph of the preamble of the Universal Declaration: 'Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,…' Franklin D. Roosevelt said the fourth freedom meant that 'no nation will be in a position to commit an act of physical aggression against any neighbour'. This view of the Universal Declaration is enhanced when its content is construed within the context of the adoption of the Three Charters.

With their close rapprochement in time, the Three Charters must be understood in a holistic way rather than in isolation, as separate and distinct texts. There may be many manifestations of such a vision. The emerging doctrine of the responsibility to protect, codified by the United Nations General Assembly on the sixtieth anniversary of the adoption of the Charter of the United Nations, draws strongly upon the other two Charters, using the language of international criminal law. As for human rights law, perhaps its imperatives help temper those enthusiasts of the responsibility to protect with militarist inclinations. The crime of aggression, whose place in the law of the International Criminal Court is increasingly secured, develops the prohibition of the resort to force in the Charter of the United Nations, but also the importance of peace for the implementation of the norms and standards set out in the Universal Declaration of Human Rights.

Vote of Thanks

Let me now pass to the final part of my lecture, which is the cherished tradition of a few words of thanks to people who have been important for me.

First of all I would like to pay special tribute to everyone at Leiden University who has made this new chair possible, especially those who have been responsible for my appointment. But may I first acknowledge my immense gratitude to two of the University's great professors *emeriti*,

Frits Kaltshoven and John Dugard, both of whom have honoured me by their presence here today. I must also thank the Board of the University, presided by our Rector Magnificus, the dean of the Faculty of Law, prof. Rick Lawson, the members of the Grotius Centre for International Legal Studies, especially prof. Nico Schrijver, prof. Larissa van den Herik, prof. Carsten Stahn and prof. Joe Powderly, and the Head of the Department of Criminal Law, prof. Tineke Cleiren. Without their warm welcome, their gratitude and support, this chair and today would not be possible.

I would like to thank especially Penelope Soteriou, who has shared her life with me for nearly forty years. She is also the mother of my two wonderful daughters, Marguerite and Louisa, and the grandmother of my four - soon to be five - marvelous grandsons, Thomas, George, Ezra and Peter.

And finally, I would like to say a word to my students, past and present, whose attendance today is greatly appreciated. I have been teaching long enough now to see students of mine develop impressive careers, as university lecturers, professionals in intergovernmental organizations, lawyers and activists - some of them are here with us today. The younger ones may look to them as role models. My colleagues here understand what I mean when I say how immensely fulfilling an academic career can be. And the best part of it is the engagement with students at the outset of their own careers and the opportunity to help them on their way.

Ik heb gezegd.

Notes

1 *Report by the Executive Committee to the Preparatory Commission of the United Nations*, PC/EX/113/Rev.1, para. 17(a); *Report of the Preparatory Commission of the United Nations*, PC/20, para. 16(a).
2 UN Doc. A/PV.7.
3 *France* et al. v. *Goering* et al., (1948) 22 IMT 411.
4 *Ibid.*, 450-452.
5 *Ibid.*, p. 576.
6 UN Doc. A/RES/60/7.
7 William A. Schabas, ed., *The Universal Declaration of Human Rights, The* travaux préparatoires, Cambridge: Cambridge University Press, 2013.
8 UN Doc. A/C.3/SR.178, pp. 879-880.
9 UN Doc. E/CN.4/82/Rev.1, p. 5.
10 *Ibid.*, p. 7.
11 *Ibid.*, p. 7.
12 UN Doc. A/C.3/219. See also: UN Doc. A/C.3/SR.99; UN Doc. E/SR.215, p. 644.
13 UN Doc. A/C.3/263; UN Doc. A/C.3/SR.146; UN Doc. A/C.3/SR.148.
14 UN Doc. E/HR/13.
15 UN Doc. E/RES/9(II). For the study: UN Doc. E/CN.4/W.20.
16 UN Doc. E/CN.4/58.
17 UN Doc. E/CN.4/SR.36, p. 13.
18 *Kononov v. Latvia* [GC], no. 36376/04, ECHR 2010-....
19 Institution-building of the United Nations Human Rights Council, UN Doc. HRC/RES/5/1, 5/1, Annex, I.A.1(b).
20 China, National Report to the Human Rights Council, Universal Periodic Review, UN Doc. A/HRC/WG.6/4/CHN/1.
21 United States of America, National Report to the Human Rights Council, Universal Periodic Review, UN Doc. A/HRC/WG.6/9/USA/1.
22 UN Doc. S/RES/310 (1972), OP4.
23 UN Doc. S/10752, Annex, p. 14. See also: Egon Schwelb, "An Instance of Enforcing the Universal Declaration of Human Rights: Action by the Security Council", (1973) 22 *International and Comparative Law Quarterly* 161, at p. 162.
24 For other references on the relationship between the Universal Declaration and peace, see: Robert Kolb, "The relationship between international humanitarian law and human rights law: A brief history of the 1948 Universal Declaration of Human Rights and the 1949 Geneva Conventions", (1998) 324 *International Review of the Red Cross* 409.

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2012	appointed professor of international criminal law and human rights at Leiden University.
2011	professor of international law, Middlesex University (London).
2011	gold medal for social sciences, Royal Irish Academy
2009-2011	chairman, Board of Trustees, United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights
2007	member of the Royal Irish Academy
2006	officer of the Order of Canada
2002-2004	commissioner, Sierra Leone Truth and Reconciliation Commission.
2000-2011	Director, Irish Centre for Human Rights and professor of human rights law, National University of Ireland Galway
1992	LLD, Université de Montréal
1991-2000	professor of law, Université du Québec à Montréal
1985	member of the Barreau du Québec

The historic links between public international law, international criminal law and international human rights are explained with a focus on the seminal law-making period that followed the Second World War. The inaugural lecture of William Schabas uses the 'three charters' as a theme to develop his argument. These are the Charter of the United Nations, the Charter of the International Military Tribunal and the Universal Declaration of Human Rights (which, in the French language, is a component of the Charte internationale des droits de l'homme). The three instruments circumscribe a body of international law principles that are as relevant today as at the time they were first proclaimed, at a time when much of Europe still lay in ruins. One of the main themes is the right to peace, which manifests itself in the United Nations Charter as the prohibition of the resort to force, in the Charter of the International Military Tribunal as the criminalization of aggression, and in the Universal Declaration of Human Rights as the protection of the right to life. Schabas explores some of the features of the formulation of these instruments, particularly the Universal Declaration. One notable aspect is the role that women played, something that had never before happened in the history of international law.

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