

The Evolution of International Human Rights: Visions Seen. By Paul Gordon Lauren. Philadelphia, Pa.: University of Pennsylvania Press, 1998. Pp. 366. \$29.95, paper.

Reviewed by David Tan*

The Universal Declaration of Human Rights is the product of the untiring efforts and resolute will of men and women from all parts of the world. Today, the principles enshrined in the Declaration are the yardstick by which we measure human progress . . . Human rights are foreign to no culture and intrinsic to all nations. They belong not to a chosen few, but to all people. It is this universality that endows human rights with the power to cross any border and defy any force.¹

The Universal Declaration of Human Rights² differs from all other international human rights instruments primarily in one respect: its influence was not intended to remain confined within one particular culture or one civilization, but rather it was envisaged as a universal set of principles and values to guide and govern all human coexistence. *The Evolution of International Human Rights: Visions Seen* was written specifically for the landmark occasion of the fiftieth anniversary of the Universal Declaration of Human Rights, and focuses on one of the most significant issues of our time—international human rights. Since its adoption in 1948, the Universal Declaration has assumed a preeminent status among human rights advocates, acquiring significant moral and political force, inspiring a plethora of academic literature and philosophical musings, influencing important international legal instruments³ and governmental actions, and contributing to

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1. Kofi A. Annan, *Foreword*, in *THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: FIFTY YEARS AND BEYOND* v (Yael Danieli, Elsa Stamatopoulou and Clarence J. Dias eds., 1999).

2. Adopted by the General Assembly at the 183d plenary meeting in Paris (Palais de Chaillot), on December 10, 1948, G.A. Res. 217 A(III), U.N. Doc. A/810 at 71 (1948) [hereinafter Universal Declaration]. The Universal Declaration was passed by the United Nations General Assembly by 48 votes in favor, none opposed and 8 abstentions. The abstentions came from Byelorussia, Czechoslovakia, Poland, Saudi Arabia, Ukraine, Soviet Union, South Africa, and Yugoslavia.

3. These are myriad, and include, e.g., International Covenant on Civil and Political Rights ('ICCPR'), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976; International Covenant on Economic, Social and Cultural Rights ('ICESCR'), G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976; Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 3452 (XXX), annex, 30 U.N. GAOR Supp. (No. 34) at 91, U.N. Doc. A/10034 (1975); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June

customary international law.⁴ It has become one of the best known and most often cited documents in history. Today, however, a gaping chasm remains between the laudable rhetoric of the Universal Declaration and the reality of human rights action as nations appear to have lost sight of this historic vision in their political stratagems.

In *Visions Seen*, Paul Gordon Lauren optimistically celebrates a worldwide human rights movement as a result of international developments seeking to implement the Universal Declaration, and takes on a proselytizing fervor. While proclaiming triumphantly that "the world has witnessed a veritable revolution in transforming visions of international human rights into reality," he reminds us that "the revolution remains unfinished."⁵ In Lauren's view, the international human rights movement is inspired by "visions of what it means to be truly human and a sense of responsibility to other members of the same human family."⁶

Lauren begins with an exegesis of the thoughtful and insightful visions of prophets, philosophers, and religious and political leaders. He is of the view that despite their differences in origins and interpretations, all these visions of human rights raised profoundly disturbing issues about what it means to be human. Every vision, he argues, presented difficult philosophical questions about how individuals relate to society, whether people have responsibilities to others, and the role that ethical values should play in human behavior. In this comprehensive treatise on the evolution of the human rights movement, Lauren guides the reader through a remarkable history of the struggle for freedom and dignity brought about by visionaries who caused us to reexamine our assumptions and raised acutely disconcerting questions about our values.

26, 1987; Convention on Prevention and Punishment of the Crime of Genocide, G.A. Res. 260A (III), 78 U.N.T.S. 277, entered into force January 12, 1951; Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, G.A. Res. 2391 (XXIII), annex, 23 U.N. GAOR Supp. (No. 18) at 40, U.N. Doc. A/7218 (1968); American Convention on Human Rights, O.A.S. Treaty Series No. 36, 1144 U.N.T.S. 123 entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992); European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force September 3, 1953, amended by Protocols Nos. 3, 5, and 8, entered into force Sept. 21, 1970, Dec. 20, 1971 and Jan. 1, 1990 respectively; African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, reprinted in 21 I.L.M. 58 (1982), entered into force October 21, 1986.

4. See, e.g., MYRES S. MCDUGAL, HAROLD D. LASSWELL, & LUNG-CHU CHEN, HUMAN RIGHTS AND WORLD PUBLIC ORDER 272-74 (1980); THEODOR MERON, HUMAN RIGHTS AND HUMANITARIAN NORMS AS CUSTOMARY LAW 82-114 (1989); Thomas M. Franck, *Some Observations on the ICJ's Procedural and Substantive Innovations*, 81 AM. J. INT'L L. 116, 119 (1987); Theodor Meron, *On A Hierarchy of International Human Rights*, 80 AM. J. INT'L L. 1 (1986); Oscar Schachter, *International Law Implications of U.S. Human Rights Policies*, 24 N.Y.L. SCH. L. REV. 63, 68 (1978); Louis B. Sohn, *The New International Law: Protection of the Rights of Individuals Rather than States*, 32 AM. U. L. REV. 1, 17 (1982); Prosper Weil, *Towards Relative Normativity in International Law?*, 77 AM. J. INT'L L. 413, 432-38 (1983).

5. PAUL G. LAUREN, THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN 280 (1998)

6. *Id.*

Lauren appears to be a visionary himself, when he waxes lyrical about the persistence of idealism: “[a]ll the visionaries imagined a world in which human rights would be respected more than they had ever been in the past, and they all believed that they could make a difference.”⁷ His account of religious visions include Buddhism, Christianity, Confucianism, Hinduism, Islam, and Judaism. He argues that these visions all express ideals of the best human relationships rather than reality and appear to establish a common sense of responsibility toward all of humankind. The philosophical and moral visions are more fragmented. While they all have a nexus to human nature, natural law and natural rights, it is more difficult to discern a universal theme between them, beyond the expression of an ideal of the best of human nature. Here Lauren’s historical account is excellent and allows the reader who is unfamiliar with the birth of the concept of human rights to gain important insights into its genesis in different cultures. An examination of the history of the world through the last two centuries reveals that most people experienced not human rights, but human *wrongs*. Up to the end of the nineteenth century, almost all who lived and died found themselves confronting various forms of prejudice, discrimination and, in some cases, persecution based on race, gender, caste, class, belief, ethnicity or place of origin.

The reaction against the tyranny of power evolved slowly in the midst of this hostile historical environment. The creation of the League of Nations with responsibilities for the world as a whole prompted the proliferation of expressions⁸ like “a new world order,” “internationalism” and “universalism.” At the same time, a global movement for “rights” started in conjunction with decolonization. Lauren’s historical account of the League of Nations and the insidious threats posed to it by fascism, militarism and Nazism makes compelling reading. While the League of Nations attempted to address a cacophonous panoply of rights—including the rights of labor, the rights of ethnic and religious minorities, the rights of indigenous people in colonial territories, the rights of women and children and the rights of refugees—its institutional structure and its uneasy compromise of politics and diplomacy created irreconcilable conflicts and tensions between the Great Powers and all other states. As Lauren points out, the development of the idea of world peace with a respect for rights owed much to the traumatic experiences associated with Hitler, the Third Reich and World War II. Many of those who survived the Holocaust believed that they could learn lessons from history and, thus, led a crusade to forge a peace that was based on avoiding the mistakes of the past. High on the agenda was ensuring that

7. *Id.* at 3.

8. See generally THE NEW WORLD ORDER: SOVEREIGNTY, HUMAN RIGHTS, AND THE SELF-DETERMINATION OF PEOPLES (Mortimer Sellers ed., 1996); Douglas Lee Donoho, *Relativism Versus Universalism in Human Rights: The Search for Meaningful Standards*, 27 STAN. J. INT’L L. 345 (1991); Dianne Otto, *Rethinking the “Universality” of Human Rights Law*, 29 COLUM. HUM. RTS. L. REV. 1 (1997).

the heinous crimes of torture and genocide would never be committed again. At the same time, "peace" was defined as entailing the protection of civil and political rights.

While one may feel a sense of post-war exhilaration at the inclusion of references to "fundamental human rights" in the Charter of the United Nations,⁹ the Charter fails to define precisely what is meant by the expression "human rights." This vagueness, although arguably a necessary part of the negotiation process, proved problematic in the years to come. The deepening polarization and increasing tension between the democratic and capitalist Western nations and the communist East was fleetingly suspended at the San Francisco Conference, but just long enough to create a Charter that was generous in appearance but vague in substance. The absence of any discussion of details of civil and political rights or social and economic rights was striking; in fact, Article 2(7) seemed to have been included as a defiant gesture by the Great Powers to exclude any intervention in their domestic affairs by the international community. Convened by UNESCO to assist in the drafting of the proposed Declaration on Fundamental Human Rights and Freedoms, the special Committee on the Philosophic Principles of the Rights of Man determined in early 1947 that their aim was not to achieve doctrinal consensus among all divergent ideologies, but rather to develop a formulation of what common grounds for agreement might be discovered to draft an international bill of human rights. The Committee concluded: "Human rights have become, and must remain universal. All the rights which we have come slowly and laboriously to recognize belong to all men everywhere without discrimination of race, sex, language or religion. They are universal."¹⁰

But philosophy ultimately must bow to politics. The dramatic political battle waged behind the scenes reflected a hypocrisy on the part of the governments, as they resorted to the shield of Article 2(7) when confronted with petitions to the United Nations by individuals or minority groups who suffered prejudice, persecution or discrimination.

In order to accommodate the plurality of views and to anticipate any potential charges of cultural imperialism, the recommended draft Declaration trod a cautious line that bridged East and West, Communist and non-Communist, industrialized and developing nations. Lauren argues that the text of this Declaration was "designed to create and then proclaim a vision,"¹¹ and would "serve as an inspiration for subsequent action."¹² Accordingly, when the UN General Assembly adopted the Universal Declaration on December 10, 1948, critics reacted quickly to discredit the Declaration as a mere statement of principle with no legally binding authority and

9. June 26, 1945, 59 Stat. 1031, T.S. 993, 3 Bevans 1153, *entered into force* Oct. 25, 1945.

10. LAUREN, *supra* note 5, at 224.

11. LAUREN, *supra* note 5, at 234.

12. *Id.* at 235.

pointed out its vagueness and deficiencies. Nevertheless, the Universal Declaration continues to inspire individuals, organized groups and governments to international, regional and national actions on behalf of human rights.¹³

While visions may inspire and spur some to action, Lauren's constant reminder of their significance in the evolution of human rights, in particular its incipience in the UN Charter, begins to grate on the reader about half-way through the book. Lauren's concluding chapter is a clarion call to action, invoking all from Mo Zi to Mandela, from Mohandas Gandhi to Martin Luther King, Jr. While Lauren intended his accounts of the inspiring and courageous acts of these "visionaries" to represent a universal respect for human rights, one cannot help but wonder whether the proselytizing fetishism of visions in the quest for global peace and respect for human rights has undermined the diversity of cultures. The heart of a culture involves language, religion, values, traditions and customs.¹⁴ Therefore, while modern societies may possess much in common, they do not necessarily merge into homogeneity. While one may recognize that the guiding principles in the Universal Declaration are "universal," one must remember that there are no universal models for implementing human rights standards.¹⁵ Progress on the international human rights movement can only be achieved by a genuine dialogue based on mutual respect and a willingness to listen and understand, across national borders and differences in cultures.

13. For an updated account of the myriad activities in the international human rights arena, see HUMAN RIGHTS WATCH WORLD REPORT 1999: EVENTS OF 1998 (1998) (forthcoming at the time of this writing) or visit the Human Rights Watch website at <<http://www.hrw.org>>. See also generally PATRICK JAMES FLOOD, THE EFFECTIVENESS OF UN HUMAN RIGHTS INSTITUTIONS (1998).

14. Samuel Huntington, *The West Unique, Not Universal*, FOREIGN AFFAIRS, Nov.-Dec. 1996, at 28, 28. For another approach to defining cultures, especially with respect to nationalism, and on the importance of developing a humanistic understanding of cultural interdependence, see EDWARD W. SAID, CULTURE AND IMPERIALISM xii-xxii and generally (1993).

15. See Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights ('Bangkok Declaration'), A/CONF.157/ASRM/8, A/CONF.157/PC/59 (7 April 1993); Bilahari Kausikan, *Asia's Different Standard*, 92 FOREIGN POLICY 24, 32 (Fall 1993); William Theodore de Bary, *Confucianism and Human Rights in China*, in DEMOCRACY IN EAST ASIA 42-54 (Larry Diamond & Marc F. Plattner eds., 1998); Mary Robinson, *Epilogue: Addressing the Gap Between Rhetoric and Reality*, *supra* note 1, at 427. But see an excellent defense of human rights as universal moral rights and an attack on claims of cultural relativism in JACK DONNELLY, UNIVERSAL HUMAN RIGHTS IN THEORY AND PRACTICE (1989). See generally BENG-HUAT CHUA, COMMUNITARIAN IDEOLOGY AND DEMOCRACY IN SINGAPORE (1995); SAMUEL P. HUNTINGTON, THE CLASH OF CIVILIZATIONS AND THE REMAKING OF WORLD ORDER (1996); ROSS MALICK, DEVELOPMENT, ETHNICITY AND HUMAN RIGHTS IN SOUTH ASIA (1998); Abdulahi An-Na'im, *Islam, Islamic Law and the Dilemma of Cultural Legitimacy for Universal Human Rights*, in ASIAN PERSPECTIVES ON HUMAN RIGHTS 31 (Claude E. Welch, Jr. & Virginia A. Leary eds., 1990); Michael C. Davis, *Constitutionalism and Political Culture: The Debate over Human Rights and Asian Values*, 11 HARV. HUM. RTS. J. 109 (1998); Fernando B. Teson, *International Human Rights and Cultural Relativism*, 25 VA. J. INT'L L. 869 (1985).

