

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND MULTINATIONAL CORPORATIONS IN THE THIRD WORLD

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The *United Nations Universal Declaration of Human Rights*¹ is a complex document. It does not simply enumerate a set of specific rights, such as the right to marry and the right to work. The document says, in Article 28:

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.²

However, section (3) of Article 29 says:

These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.³

The “purposes and principles” are not further defined or specified, and one might wonder whether the expression is to be understood in terms of the declared purposes and principles of the United Nations, or in terms of the actual purposes and principles, if these are different. In either case, the purposes and principles are various and subject to change, and, more importantly, mention of them formally limits all of the rights and freedoms set out in the other Articles, including the right with which Article 28 deals.

It is as if a church were to say “You have the right to life; but this right cannot be exercised contrary to the purposes and principles of the church”. Most moral rights are indeed only *prima facie* rights, because it is true of almost every right that there are circumstances under which exercising the right would conflict with other more important rights. For example, a person intent on murder might lose the right to be told the truth about the location of his or her gun, and the right to ownership of the gun. However this would be because the loss of rights was required by morality, and it would be unsatisfactory to attempt to justify the deprivation of rights by claiming that it was required by the purposes and principles of an organisation. The UDHR thus has to be criticized for not respecting the autonomy of morality, and for failing to state an ultimate moral principle, on the basis of which specific rights could be limited in a morally appropriate way. At the same time that ultimate moral principle should, of course, be the foundation for the derivation of specific rights.

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¹UNGA Res. 217(III), UN GAOR, 3rd Sess., Supp. No. 13 at 71 (hereinafter “UDHR”).

²*Ibid.*

³*Ibid.*

To a large extent, the agenda of the UDHR incorporates the agenda of liberalism, which has its own formula for limiting the human rights and freedoms which it enumerates. In the tenth paragraph of *On Liberty*, J.S. Mill wrote as follows:

Despotism is a legitimate mode of government in dealing with barbarians, provided that the end be their improvement, and the means justified by actually effecting that end. Liberty, as a principle, has no application to any state of things anterior to the time when mankind have become capable of being improved by free and equal discussion.⁴

Mill prescribed liberal rights and freedoms for “the stage of progress into which the more civilised portions of the species have now entered”,⁵ to quote from the first paragraph of *On Liberty*. Mill’s formula was reflected in the division of the world into industrialised countries and their colonies, and later into the First and Third Worlds.

Did passage of the UDHR reflect an intention, in the West, to end that division of the world? Subject to the limitation in section (3) of Article 29, the Universal Declaration of Human Rights prescribes the following rights and freedoms, among others, for “everyone” in every “country and territory” (Article 2): “freedom of thought” (Article 18), “freedom of opinion and expression” (Article 19), “freedom of peaceful assembly and association” (Article 20), and “the right to take part in the government of his country, directly or through freely chosen representatives” (Article 21). Section (3) of Article 21 reads as follows:

The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.⁶

It is not specifically stated that everyone, or virtually everyone, has the right to run for office, but Articles 18-21 do come within a hair’s breadth of setting out the standard liberal political model as a model for the entire world.

When the standard liberal political model is implemented in Western countries which are already capitalist, people generally vote into office governments which will maintain capitalism. However, Mill did not think this arrangement could be transplanted to the colonies. Indeed, the arrangement broke down in some European countries during the Great Depression. This suggests that affluence is one key to enabling capitalism and the liberal political model to co-exist. There is another key which is hidden below the surface of the words “freedom of expression”. In practice these words do not imply that everyone should have an equal right to communicate to the nation through schoolrooms and the media. Those who command capital have every opportunity to form people’s minds, so that, as Mill states in the fourth paragraph of *On Liberty*:

⁴J.S. Mill, *On Liberty*, (London: J.M. Sent and Sons Limited, 1910) at 74.

⁵*Ibid.* at 65.

⁶*Supra* note 1.

The will of the people, moreover, practically means the will of the most numerous or the most active *part* of the people; the majority, or those who succeed in making themselves accepted as the majority;⁷

Article 19 of the UDHR does say that the right to freedom of opinion and expression includes freedom to “impart information and ideas through any media”, but it is clear that this is not intended to accord to every person the right to research and communication facilities which are at the command of capital. It would also not be practical to have everyone in communication with each other except in the very smallest of societies. Therefore, the significant alternative to “freedom of expression”, as understood by liberals, is freedom to generate and acquire comprehensive, authoritative knowledge about all matters of vital human concern, not just in the few fields – such as physics and mathematics – in which comprehensive, authoritative knowledge is currently available. This would create one of the preconditions for organisation of society based on *knowledge* of what would be in the general interest, as opposed to government chosen on the basis of a possibly misinformed or manipulated will.

What is the stance of the UDHR on the issue of affluence, and on economic issues generally? Subject to section (3) of Article 29, slavery is prohibited (Article 4), and employment is set up as a norm (Article 23). Article 23 reads as follows:

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.⁸

This Article points in the direction of affluence, full employment and good working conditions for the world as a whole. This is in keeping with the mood at the end of the Second World War, when Western leaders looked back in horror at the warfare, the depressions, and the anti-capitalist upheavals which decades of *laissez-faire* capitalism had caused. The Preamble to the Universal Declaration of Human Rights says that “it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law”. The Preamble also says that the peoples of the United Nations “have determined to promote social progress and better standards of life in larger freedom”.

⁷*Supra* note 4 at 67.

⁸*Supra* note 1.

In addition to affluence and full employment, the UDHR sets out other lofty goals. Specific Articles refer to social security, rest and leisure, education, health care and family services.⁹ So to the idea of the affluent employee are added the notions of the socially secure employee, the employee who has some leisure, the educated employee, the employee who has access to health services, and the employee whose family is taken care of.

It is notable that some of these provisions have not been implemented even in most Western countries. Consider, for example, the provisions on equal pay for equal work, on the right to work, and on the right to a standard of living adequate for the health and well-being of oneself and one's family. According such rights to every member of society would go beyond the bare minimum needed for the co-existence of capitalism and the political system which liberalism prescribes for "developed" countries.

Indeed, the set of rights enumerated in the UDHR suggests something like a global Switzerland, as it existed for several decades following the Great Depression, when a paternalistic form of capitalism was adopted. Paternalistic capitalism sees general well-being as conducive, rather than antagonistic, to maximization of profit. Will education promote profitable creativity, or will it prevent exploitation of cheap labour? Will full employment boost profits by making everyone productive, or will it cause insubordination, laziness and inflation? Does war offer opportunities for profit, or does it destroy assets? Will high wage levels increase marketing opportunities, or will they reduce profits? Will a happy, healthy workforce be more creative and productive, or will it be an expensive luxury? Out of political necessity, Switzerland found a way of combining paternalism with profitability. The potential which full employment holds for unleashing inflation was dealt with by means of a 'social contract'. Good living and working conditions reduce the likelihood that good education will breed anti-capitalist aspirations. In the decades which followed the Second World War, Switzerland was not only more stable than the Third World, it was more stable than other Western countries which retained a more laissez-faire type of capitalism.

⁹From UDHR, *supra* note 1, Article 22 mentions the right to social security. Article 24 mentions "the right to rest and leisure", "reasonable limitation of working hours" and "periodic holidays with pay". 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 childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26 mentions free and compulsory elementary education, says that "technical and professional education shall be made generally available", and also says that "higher education should be equally accessible to all on the basis of merit"

However, although Article 28 of the UDHR talks of “a social and international order in which the rights and freedoms of this Declaration can be fully realized”,¹⁰ there was no widespread commitment to applying the Swiss formula to the world as a whole, nor is any other formula even hinted at. Economic and political power remained largely in the hands of people who were committed to the policies which gave rise to the problems with which the UDHR proposes to deal. In particular, there was no commitment to achieving a worldwide balance of capital investment, incomes and prices, which could guarantee worldwide full employment, affluence and the other elements of relative well-being that are listed in the Declaration.

It is not that laissez-faire capitalists are opposed to government actions as such. They welcome very elaborate government activity which appears to suit their purposes, for example in the fields of education and foreign policy, as long as the government action does not interfere with their ability to run their businesses as they see fit and, in particular, their power to set the wages of their employees and the prices of the goods or services which they sell. Laissez-faire capitalists tend to oppose the limiting of capitalist behavior which has a negative impact on other capitalists. They reject the idea of a harmonious co-ordination of policy-making, to achieve a maximisation of wealth by involving virtually everyone as creatively as possible in development and production.

It should be noted that such co-ordination would not even require government as such. The International Labour Organisation, which is supposed to jointly represent the interests of employees, employers and governments, could be developed into an organisation for achieving a global “social partnership”, fostering voluntary agreements among employees and employers on wages, prices, working conditions and other related issues.¹¹

¹⁰*Supra* note 1.

¹¹The International Labour Organization arose after the First World War on the basis of sentiments which were very similar to the sentiments giving rise to the Universal Declaration of Human Rights after the Second World War. Some quotations from the Preamble to the Constitution of the International Labour Organisation (www.ilo.org/public/english/overview/iloconst.htm) will make this apparent:

universal and lasting peace can be established only if it is based upon social justice ...

conditions of labour exist involving such injustice hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required; as, for example, by the regulation of the hours of work including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of equal remuneration for work of equal value, recognition of the principle of freedom of association, the organization of vocational and technical education and other measures ... The failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which

In today's world, one can see the potential for boosting profits by applying the UDHR to an impoverished region of the Third World by promoting creativity, reducing oppression, overcoming hunger, providing education, expanding the size of the market, reducing the likelihood of revolution, and so on. However, what of those who are making huge profits by employing very cheap labour? They may well wish to perpetuate the *status quo*, and will certainly wish to do so if no arrangements are made to ensure that their power and wealth are somehow maintained despite the restructuring. It then becomes a question of who has the upper hand in setting policy.

Before this issue is pursued further, the remaining provisions of the UDHR will be scrutinized. Considering that it was adopted by the General Assembly of the United Nations without dissent in 1948, the UDHR reflects to a very high degree the thinking of Western leaders. Article 17 says that "everyone has the right to own property alone as well as in association with others", and that "no one shall be arbitrarily deprived of his property".¹² While it falls short of being a ringing endorsement of capitalism, the Article clearly reflects pressure to protect and encourage private property.

The thinking of Western leaders is also reflected in the UDHR's approach to gender equality. There is an endorsement of "equal rights of men and women" in the Preamble to the Declaration. While J.S. Mill had already endorsed the full equality of men and women in the nineteenth century,¹³ progress on this issue was notably slow, until governments began to press the issue in the last few decades. This illustrates the distinction between the paternalistic and *laissez-faire* perspectives. As long as employers were left to their own devices, they often refused to recruit people in certain categories, because of prejudice. A company which preferred less talented men to more talented women might well be hurting the interests of others as well as themselves. For example, other firms might receive less competent service. Breaking the *laissez-faire* taboo against interference provokes a great deal of resentment, irrespective of the impact on profits. *Laissez-faire* capitalism is not simply capitalism. The *laissez-faire* portion may be just as important to people as the capitalism. Thus, the prospects for implementation of the UDHR are bound up not only with the profit calculations of different groups of capitalists, but also with the preference for a *laissez-faire* approach. It is one thing to have the government impose on others policies which one deems to be in one's interest, but it is quite another thing to submit to external influence on one's own operations, even if this is consistent with maximizing profit.

desire to improve the conditions in their own countries ...

This reformist zeal, insofar as it existed to begin with, soon faded, and old impulses reasserted themselves in familiar ways, leading the world to the Great Depression and the Second World War.

¹²*Supra* note 1.

¹³For example in his book *The Subjection of Women*, (London: Longmans, Green, 1911).

The UDHR contains several Articles on the law which could embarrass many of the countries which endorsed the Declaration, and which could not be extended to the Third World without transforming it in other ways as well. For example, there are provisions which call for the rejection of cruel inhuman punishment, and which prohibit arbitrary arrest or detention.¹⁴

However, the UDHR does not only protect such rights as enumerated above. Article 12 urges legal protection against interference with "privacy, home, family or correspondence", and it also opposes attacks on people's honour and reputation. Article 13 provides for "freedom of movement and residence within the borders of each State". The Article also pointedly says that "everyone has the right to leave any country, including his own, and to return to his country". Article 14 says that "everyone has the right to seek and to enjoy in other countries asylum from persecution", though not "in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations". Article 15 says that "everyone has the right to a nationality", and that "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality". Other typically Western preoccupations which find expression in the Universal Declaration of Human Rights are as follows. Article 16 deals with the right to marry and found a family, the equality of husband and wife, and the voluntariness of marriage. The same article also says that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State".¹⁵ Article 18 deals with freedom of thought, conscience and religion.

Even with all of the above, the UDHR still falls short of the ideal. There is no statement to the effect that people are entitled to realise all of their innate or ultimate desires to the greatest extent possible. While Article 18 does say that everyone is entitled to the means for "the free development of his personality", and Article 27 talks of participation in "the cultural life of the community",¹⁶ this still falls far short of anchoring human rights in the full breadth of human nature. The Preamble to the Declaration claims that "a world in which freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people". A great deal of J.S. Mill's *On Liberty* is devoted to the topics of freedom of speech and belief. However, ordinary people are generally aware of a greater breadth

¹⁴From *supra* note 1, Article 5 rejects "cruel, inhuman or degrading treatment or punishment". Article 6 says that "everyone has the right to recognition everywhere as a person before the law". Article 7 provides for equality before the law. Article 8 says that there should be effective remedies for violations of the law. Article 9 prohibits "arbitrary arrest, detention or exile". Article 10 says that "everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charges against him". Article 11 affirms the principle of presuming innocence until guilt is proved, and it also rejects penalizing people through retroactive legislation.

¹⁵*Supra* note 1.

¹⁶*Supra* note 1.

of aspirations. Freedom from fear and want are certainly ardently desired, but they do not qualify for the title of "highest aspiration". The failure to recognize the full breadth of ultimate human aspirations, and the full breadth of intrinsic values, goes hand in hand with the failure to proclaim commitment to a supreme moral principle, and with the setting of "the principles and purposes of the United Nations" as the ultimate basis for determining human rights.

All in all, then, the UDHR tentatively sets for the world the goal of a Switzerland writ large, the impetus being recent traumatic events. However, this was done in the absence of any real consensus as to how the goal will be reached, and without any real commitment on the part of the powerful to see that it is reached.

To illustrate this, the International Labour Organisation described one of its recent reports in the following words:

Nearly one billion people around the world, approximately 30% of the entire global work force, are unemployed or under-employed in industrialized and developing countries alike, says a new report by the International Labour Office (ILO). In its report, World Employment 1996/97, the ILO calls the global employment situation "grim." The ILO warns that the growing numbers of "working poor" risk aggravating the social and economic ills caused by high jobless rates.

In the world's wealthiest nations, members of the Organization of Economic Cooperation and Development, at least 34 million people are unemployed. In the European Union, unemployment increased last year to an average of 11.3 per cent of the workforce, with France, Germany, Italy and Sweden registering significant increases. In the United States, on the other hand, job creation has intensified and unemployment has dipped below 5 per cent. Unemployment rates have also declined in the United Kingdom. In both countries, however, income disparities have tended to widen.

In the transition economies of Eastern and Central Europe, unemployment rates declined slightly but remained at double-digit levels. In Russia and some other countries of the former Soviet Union, unemployment continued to increase.

Among Latin American countries, Colombia posted a rise in unemployment from 8 to over 10 per cent. Unemployment increased in urban areas in Argentina, Bolivia, Ecuador, Jamaica, Mexico, Uruguay and Venezuela. In sub-Saharan Africa and many parts of Asia, data on direct unemployment hardly exists, but problems of massive underemployment and poverty persist in these low-income regions.¹⁷

In response to the situation that it describes, the International Labour Organisation says this:

¹⁷ News Release of 26 November 1996 (ILO/96/40).

The ILO believes that nothing short of a renewed international commitment to full employment is required to reverse the poverty, unemployment and underemployment now prevailing in so many parts of the globe.¹⁸

However, this is to confuse declarations in favour of full employment with commitment to the kinds of policies which are necessary to achieve full employment. Thanks to the International Labour Organisation, declarations have abounded, but solid commitment has been confined to the leaders of a few countries, and those countries have come under increasing pressure to abandon their commitment in recent years. In the context of "globalization", more employers than ever think in terms of a role for very cheap labour in their operations. No one seems eager to take responsibility for maximising demand by paying high wages, which indeed is hardly possible on a *laissez-faire* basis, and *laissez-faire* capitalism is precisely what is currently in vogue.

It is instructive to consider the behaviour of such corporations as Nike and Reebok, which have come under a great deal of critical scrutiny in recent years, as a result of their activities in the Third World.¹⁹ Christian Aid, an organisation founded by forty British and Irish churches, has published a survey²⁰ which makes the following points among others:

The production of the average sports shoe may involve more than 200 different processes, and is highly labour-intensive. For almost 20 years, leading sports shoe manufacturers have hopped through Asia, contracting out production to factories in countries where labour costs are cheapest. Raw materials and factory sites are often comparatively cheap in these countries, and the higher cost of shipping and transport is offset by low production costs. In the 1970s Nike started producing sports shoes in Taiwan and South Korea. It was soon joined by other leading companies such as Adidas, Reebok and LA Gear, making the South Korean city of Pusan 'the sneaker capital of the world'. By the mid-1980s, 85 per cent of Reebok's sourcing took place in South Korea. The area was attractive to major companies for a number of reasons - labour costs were low, there were good international transport links and labour organisations were suppressed. By the late 1980s labour unrest, industrialisation, the resultant increase in wages and a loss of workplace control by Korea's authoritarian government had prompted the main sports shoe manufacturers to start looking at cheaper production sites (especially China, Indonesia and Thailand) and shutting down production in Taiwan and South Korea. One third of South Korean production disappeared in less than three years. Reebok now gets only nine per cent of its sports shoes from South Korea, and stopped producing in Taiwan last year. The rest of its shoes are produced in Indonesia (28%), China (29%), Thailand (14%), the Philippines (10%), Vietnam and India. And still the companies move, seeking out sources of cheap labour and potential new markets. Nike

¹⁸*Ibid.*

¹⁹See, for example, a commentary by Bob Herbert published in *The New York Times* on 14 July 1990.

²⁰B. Brookes and P. Madden, *The Globe-Trotting Sport Shoe*, (1995). Published report at: http://www.oneworld.org/christian_aid/global_shoe.html.

and Reebok are now looking at Vietnam and India, and Nike is also exploring possibilities in North Korea and Cambodia.

Taking this account in conjunction with the description of the depressed world economy provided by the International Labour Organisation, one can readily appreciate how *laissez-faire* competition is leading to a worldwide situation in which incomes are far from adequate to sustain full production and are often far below the levels envisaged in the UDHR. Wealth is accumulated by individuals who see themselves as having an interest in the repression required to keep wages extremely low. Rather than reacting against the depression of the world economy, the loss of potential markets, and so on, most capitalists prefer to join in the process, carrying governments with them.

Guatemala: A Case Study

In the period immediately following the UN's adoption of the UDHR, events in Guatemala provided another significant test of the prospects for the Declaration. Guatemala was dominated by the United Fruit Company of the United States. As Thomas McCann, who worked for the company for twenty years, put it: "Guatemala was chosen as the site for the company's earliest development because . . . at the time we entered Central America, Guatemala's government was the region's weakest, most corrupt and most pliable".²¹ Conditions were such that by 1944 popular dissent had become acute. The government of General Jorge Ubico responded with force:

In the pattern of his predecessors, he routinely used his army to intimidate poor Guatemalans and solidify his power. He massacred rebellious Indians, killed labor leaders and intellectuals and enriched his friends. One contemporary commentator suggested that the tradition of despotism in the long-suffering country reached a 'savage climax under the megalomaniac General Jorge Ubico'.²²

However instability grew, and eventually there was an election, in which Juan Jose Arevalo became president. In the spirit of the New Deal, Arevalo endorsed liberal capitalism and at the same time condemned social injustice. Arevalo's constitution included the following articles:

Article 91: The State recognizes the existence of private property and guarantees it in its social function without more limitation than those determined by law, by reason of necessity, public utility or national interest.

Article 92: Private property can be expropriated with prior indemnity to satisfy a public necessity, utility or social interest which has been legally verified.²³

²¹ S. Schlesinger and S. Kinder, *Bitter Fruit*, (Garden City, New York: Anchor Books, 1983) at 68.

²² T. Melville, *Guatemala - Another Viet Nam?*, (Harmondsworth, England: Penguin Books, 1971) at 28.

²³ Quoted from T. Melville, *Guatemala: the Politics of Land Ownership* (New York: Free Press, 1971) at 30.

Despite the fact that it had the legal right to do so, the Arevalo government did not use its powers to expropriate the land of the United Fruit Company. In 1949 a Law of Forced Rental was enacted, to force unproductive land into use — any peasant owning less than 2.47 acres of land could apply to rent unused land from plantation owners.²⁴ Significantly, this measure had been recommended by the United Nations.²⁵ The United Fruit Company used only a fraction of its land for production and the law therefore applied to it. Clearly, then, political events in Guatemala had begun to unfold along lines suggested by the New Deal, and by the postwar climate which had prompted adoption of the UN's Universal Declaration of Human Rights.

The 1947 Labour Code was based on the Wagner Act of the United States. This code guaranteed workers' rights to organize, bargain collectively and strike. A minimum wage was established and labour was regulated. Introduction of this code resulted in a "series of strikes, including almost continuous actions against the United Fruit Company between June 1948 and March 1949"²⁶. Nevertheless the overall impact of the Arevalo government was actually quite limited:

Most of the reform measures promulgated during the 1940's were only partially carried out, and no drastic redistribution of income occurred. Their most important result was simply to accustom ordinary Guatemalans to the fact that the institutions of government did indeed have the ability to function on their behalf.²⁷

The United Fruit Company immediately protested against the Labour Code to the Guatemalan government. When this protest failed the company began lobbying in Washington to urge the United States government to act on its behalf. It was not difficult for the company to exert influence, for many politicians were stockholders in the Company. One of these stockholders was Senator Henry Cabot Lodge, who claimed that the Labour Code discriminated against the United Fruit Company to such an extent that it was forcing it into "serious economic breakdown."²⁸ When the Guatemalan government refused to withdraw its legislation, the United States implemented an arms embargo, ceasing to supply Guatemala's army and police force.²⁹

Jacobo Arbenz, also a liberal reformer of capitalism, became president of Guatemala in 1951. He introduced the Agrarian Reform Act which was adopted on

²⁴*Supra* note 22 at 41.

²⁵G.T. Garrido, Introduction to *Guatemala in Rebellion*, ed. J.L. Fried, M.E. Gettleman, D.T. Levenson, N. Peckenham, (New York: Grove Press, 1983) at xiv.

²⁶*Ibid.*, at 42.

²⁷*Ibid.*, at 41-42.

²⁸*Supra* note 22 at 83.

²⁹*Supra* note 26 at 67.

June 27, 1952.³⁰ In 1952, 72% of the farm land in Guatemala was owned by 2% of the population, and 42% was owned by the United Fruit Company³¹. Unutilized land was expropriated from anyone owning 250 acres or more, to be redistributed mainly to families. Compensation was offered, and was based on previous declarations of the land's value for taxation purposes. Based on these declarations, the United Fruit Company was offered three dollars per acre. The company now claimed that the land was actually worth 75 dollars an acre.³²

The United Fruit Company took full advantage of the atmosphere of anti-Communist paranoia which existed at the time, hiring lobby groups and using its influence in the media to convince people that Arbenz was a puppet of the Soviet Union and a threat to national security. In fact Arbenz did not allow Communists in the police or in the foreign ministry, did not exchange diplomatic representatives with the Soviet Union, and consistently supported the United States in the United Nations. His land reform policies were designed to create a nation of individual land owners.³³ Despite all the evidence to the contrary, Arbenz was labelled a Communist and a plan to remove him, known as Operation Success, was carried out in 1954. With the installation of Castillo Armas (who had been hand picked by the CIA and the United Fruit Company) Guatemala was returned to the path of severe oppression.³⁴ By 1984, the estimated number of political deaths was 100,000.³⁵

In this sequence of events one can see how capitalists preoccupied with maintaining very low costs of production will favour oppression and use the apparatus of the state, free of charge, to suppress rights used to ameliorate the bad conditions which go hand in hand with very low costs of production. Support for New Deal policies evaporated once the crisis which gave rise to the New Deal was overcome. Support for systematic elimination of the root causes of war and revolution faded as memories of the war faded and as the revolutions faltered. The paternalistic perspective did not eclipse the *laissez-faire* perspective. Since the United Nations is simply an organisation of states, it cannot be counted on to implement Article 28 of its Declaration, except inasmuch as it is qualified by clause (3) of Article 29.

When progress on human rights occurs, it is often through a combination of social pressure and theorising about how to deal with the pressure. Thus arose paternalistic capitalism in Switzerland, and affirmative action in the United States. Thinkers have a special obligation to advance the most morally enlightened approaches to issues that

³⁰*Ibid.*, at 52.

³¹*ibid.*, at 52.

³²S.G. Rabe, *Eisenhower and Latin America*, (Chapel Hill: University of North Carolina Press, 1988) at 46.

³³*Ibid.*, at 45-47.

³⁴*Supra* note 22 at 97.

³⁵*Supra* note 33 at 61.

they can devise. Events in Guatemala, and elsewhere, show that the New Dealers were not sufficiently realistic in their thinking, and that they had failed to develop their theorising far enough to make possible the implementation of an unqualified Article 28. In particular, they had neither accommodated nor neutralised very powerful people who stood in their way. By contrast, those who devised affirmative action, for example, were able to combine idealism and realism quite successfully, so that moral progress was actually achieved. It is by no means unrealistic to hope for similar progress on other fronts, as new opportunities to influence policy-making emerge.