Civil Society and International Human Rights: The Commission to Study the Organization of Peace and the Origins of the UN Human Rights Regime

Glenn Tatsuya Mitoma

Human Rights Quarterly, Volume 30, Number 3, August 2008, pp. 607-630 (Article)

Published by Johns Hopkins University Press
DOI: *https://doi.org/10.1353/hrq.0.0015*

HUMAN RIGHTS QUARTERLY

Civil Society and International Human Rights: The Commission to Study the Organization of Peace and the Origins of the UN Human Rights Regime

*Glenn Tatsuya Mitoma**

ABSTRACT

This article examines the role of the Commission to Study the Organization of Peace (CSOP) as the essential intellectual and political force behind the identification of the Allied cause with the cause of human rights. Well before the Atlantic Charter and President Roosevelt's Four Freedoms, the CSOP called for a new international order rooted in universal respect for human rights. This vision was carried to both policymakers and the American public, resulting in Article 68 of the UN Charter. This Article required the international organization to create a human rights commission, whose first task would be the drafting of an international bill of rights.

I. INTRODUCTION

Among the most dramatic developments in international life over the past few decades has been the emergence of a vocal, committed, and influential network of transnational nongovernmental organizations (NGOs) dedicated to the development, diffusion, and realization of universal human rights

* *Glenn Tatsuya Mitoma* is an Adjunct Professor in Cultural Studies at Claremont Graduate University and Lecturer in American Studies at California State University Fullerton. He is the author of "Human Rights and Cultural Studies: A Case for Centrality," forthcoming in online journal *Cultural Critique* (Claremont, CA). He recently completed his dissertation, "Globalizing Rights: Defining, Declaring, and Denying Rights in the Age of American Hegemony, 1939–1955," and is revising it for publication. Mitoma was awarded his Ph.D. in Cultural Studies from Claremont Graduate University in May 2007.

Human Rights Quarterly 30 (2008) 607–630

standards around the globe. On an unprecedented scale, these organizations have sought to build global consciousness and conscience, while also working to transform local conditions and conduct. Human rights NGOs are based in locations such as New York, Geneva, London, Gujarat, Guatemala City, and Gaborone. Their efforts range from massive information gathering, analysis, and publicity operations, such as Human Rights Watch in New York City, to small local educational and community service organizations, such as Ditshwanelo in Botswana. Whatever their economic, geographic, or political profile, these groups orient themselves by a set of universal normative standards and avail themselves of a growing global storehouse of practices and expertise. Welcomed both in the conference rooms of the United Nations and in the dirt-floor rooms of Basarwa villagers, the men and women who staff these organizations have become indispensable to the entire process of propagating human rights at all levels of governance.

Unsurprisingly, in recent years, NGOs have become the focus of intense interest of human rights scholars from a broad range of academic disciplines. Political scientists, philosophers, economists, historians, area and cultural studies scholars, jurists, and sociologists have emphasized the pivotal influence of NGOs and their effectiveness. They not only have shed light on abuses by states but also have provided thoughtful counsel and vast amounts of data for crafting new norms and mechanisms. One example, Ann Marie Clark's case study, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*, demonstrates the degree to which NGOs are uniquely positioned as disinterested yet unflinching third parties, making them particularly effective as both trusted expert advisors and impartial judges. Clark is typical of her colleagues when she credits Amnesty International and other "principled NGOs" with achieving unprecedented advances in adherence to human rights norms through concrete legal reforms and by raising the global public consciousness regarding human rights abuses.[1]

With a few exceptions, most studies of human rights NGOs focus on the period beginning in the late 1970s when international attention turned in a concerted way to human rights, and organizations like Amnesty International and Human Rights Watch (then Geneva Watch) gained widespread notoriety. No doubt, the last three decades have witnessed a blossoming of human rights NGOs at all levels, but this rich harvest needs to be understood in the context of the seeds sown during the Second World War. This article locates the very origins of the world commitment to international human rights—usually credited to Franklin Roosevelt and his Four Freedoms'

1. *See* Ann Marie Clark, Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms (2001). Other important studies include Margaret E. Keck & Kathryn Sikkink, Activists Beyond Borders: Advocacy Networks in International Politics (1998); NGOs and Human Rights: Promise and Performance (Claude E. Welch, Jr. ed., 2001).

speech—in a long forgotten (and awkwardly named) NGO: the Commission to Study the Organization of Peace (CSOP). From the outbreak of war in Europe in 1939 through the San Francisco Conference in 1945, no group did more to ensure that both the Allies' war objectives and the postwar international organization embraced human rights as a core value. Through lobbying the US government and cultivating public support, the CSOP placed human rights on the international agenda and demonstrated that NGOs have occupied a central place in the development of international human rights from the very beginning.[2]

Although hardly alone in its efforts, the CSOP exemplified and led some of the most important interventions by civil society institutions in international affairs. The singularity of the CSOP's contributions lay with their innovation and influence. As the League of Nations began to crumble in 1939, the League of Nations Association (LNA) set up the CSOP. The CSOP was established primarily as a research organization, and it produced a series of reports over the course of the Second World War outlining various proposals that it believed essential to the establishment of a more effective and enduring peace. This pioneering intellectual work not only called for a general international organization but also articulated human rights into the coming postwar order. The CSOP established a discourse of rights that included ideas for an international bill of rights, a human rights commission, and the need to pursue world justice as a component of world peace. Two strains of activism supplemented this intellectual work. First, members of the CSOP, many of whom were respected foreign policy experts, actively pushed their ideas in the Roosevelt administration by lobbying both at the State Department and the White House. While technically outside the government, these members had an inside track to policymakers, including the President himself, and continuously pressed for US leadership in creating a new, more robust general international organization. Second, the CSOP executed a brilliant public relations strategy, seizing upon the issue of international human rights as an essential tool for enlisting the support of the America public for an expanded US role in the world. Recognizing that the idea of universal human rights resonated not only with average Americans but with many people throughout the world, the CSOP made the promo-

2. In their recent studies, both Carol Anderson and Rowland Brucken note the important influence of the National Association for the Advancement of Colored People on the one hand, and the American Bar Association on the other, in the formation of post-war US human rights policy. *See* Carol Anderson, Eyes Off the Prize: The United Nations and the African American Struggle for Human Rights, 1944–1955 (2003); Rowland M. Brucken, A Most Uncertain Crusade: The United States, Human Rights and The United Nations, 1941–1954 (1999) (unpublished Ph.D. dissertation, The Ohio State University), *available at* http://proquest.umi.com/pqdweb?did=733092931&sid=2&Fmt=2&clientId=5468&RQT=309&VName=PQD.

tion of human rights a cornerstone of its propaganda efforts in the run-up to the United Nations Conference on International Organization (UNCIO). Members of the CSOP reasoned that human rights not only gave individuals unprecedented standing in the realm of international law but also made international law a matter of individual concern.

II. ORIGINS OF THE CSOP

Even before the official declaration of war in Europe on 1 September 1939, Clark M. Eichelberger was convinced that the deepening crises in Europe and Asia would lead to a radical revision of the international order. National Director of the LNA, Eichelberger was a veteran of the First World War and the effort to draw the United States out of its isolationist shell. After attending the disastrous 1938 League of Nations Assembly and watching at close range the official and unopposed dismemberment of Czechoslovakia, Eichelberger returned to the United States despairing of the state of the League and its ability to, at the very least, condemn aggression. He and the other members of the LNA were, of course, firm supporters of the League, and they worked furiously in the late 1930s to salvage much of its machinery in social and economic fields. However, the impotence of the Geneva-based organization in the face of Hitler's machinations, along with the stigma it carried in the minds of many within the American public, led Eichelberger to a conclusion by the end of 1938: if anything like the rule of law was to pertain in the realm of international relations, the League system needed a massive overhaul.[3]

At Eichelberger's initiative, in April 1939 the board of the LNA approved the creation of an "Unofficial Enquiry" consciously modeled on Woodrow Wilson's (official) Enquiry, which the President had set up in 1917 to examine and make recommendations regarding peace settlements. This Unofficial Enquiry would proceed without government sponsorship and be dedicated not only to the study of "the bases of a lasting peace and the organization of international society,"[4] but also to public education and advocacy on the principles of internationalism. Distinct from both the state and the economy, the LNA's Unofficial Enquiry was a part of what Italian theorist Antonio Gramsci described as that "ensemble of organisms commonly called 'private,'"[5] but more broadly known as civil society. From this

3. *See* Clark M. Eichelberger, Organizing for Peace: A Personal History of the Founding of the United Nations (1977); *Munich Concession Termed Betrayal*, N.Y. Times, 14 Oct. 1938, at 17.
4. *See* Eichelberger, *supra* note 3, at 114.
5. Antonio Gramsci, Selections from the Prison Notebooks of Antonio Gramsci 12 (Quintin Hoare & Geoffrey Nowell-Smith trans., eds., 1971).

position, between the government and the public at large, Eichelberger's new organization would develop a rationale for international human rights and press for its institutionalization.[6]

At the first meeting on 5 November 1939, the Unofficial Enquiry re-christened itself the "Committee for the Study of the Organization of Peace," later changed to the "Commission to Study the Organization of Peace," and elected James T. Shotwell as chairman. Shotwell was Professor of History and International Relations at Columbia University and one of the most prominent public intellectuals on the subject of international affairs. Born and raised in rural Strathroy, Ontario, Shotwell's family had settled in the Great Lakes region of North America with what he proudly regarded as a studious disregard for national borders and nationalist sentiments. Although a medievalist by training, Shotwell dedicated his academic career to demonstrating the progressive impact of rational, scientific thought on Western civilization. By the First World War, Shotwell argued for the extension of the principles of rational organization to the international sphere, the one area of modern life in which, he believed, an archaic anarchy persisted unabated. Shotwell, in fact, had been a member of Wilson's original Enquiry, along with Walter Lippmann and Col. Edward M. House, and accompanied the US delegation to the Paris Peace Conference as an advisor. Although chastened by President Wilson's doomed attempt to achieve Congressional ratification of the Treaty of Versailles, Shotwell was a consistent voice for an internationalist US foreign policy during the interwar period and continued to advocate entry of the United States into the League of Nations long after it had become politically anathema.[7]

Shotwell served in an official government capacity from time to time throughout his career, but his most dramatic impact on US foreign policy came from his efforts as a private citizen. In 1927, while working in Paris with the Carnegie Endowment for International Peace, Shotwell met with France's Foreign Minister Aristide Briand and suggested that he might seek a treaty between the United States and France that would foreclose the possibility of war between the two nations. For Shotwell, this appeared an excellent way to leverage what he saw as one ascendant strain of US opinion—pacifism—against another—isolationism. However, perhaps Briand had less interest in securing a perpetual peace than in solidifying US support for French continental predominance. Less than a month later, he proposed just such a treaty to his US counterpart, Secretary of State Frank B. Kellogg. Neither government could control the public enthusiasm ignited by the idea

---

6. *See* Eichelberger, *supra* note 3; Harold Josephson, James T. Shotwell and the Rise of Internationalism in America (1975); Gramsci, *supra* note 5.
7. *See* Eichelberger, *supra* note 3; Josephson, *supra* note 6; Charles DeBenedetti, *James T. Shotwell and the Science of International Politics*, 89 Pol. Science Q. 379 (1974).

of "outlawing" war. Also known as the Pact of Paris, the Kellogg-Briand Pact was opened for signature on 27 August 1928 to *all* nations interested in renouncing war. Its eventual shape owed more to this international public outcry than to the geopolitical machinations of either Kellogg or Briand. Shotwell was a critical figure in what he characterized as a "quasi-evangelical crusade" to enlist public support for the pact. Although he was ultimately ambivalent about the treaty's final form, he nonetheless learned the lessons of the potential effects of unofficial diplomacy and the role of public opinion in the development of foreign policy.[8]

As chairman, Shotwell brought his commitment to systematic inquiry, his political connections, and his awareness of the importance of cultivating and channeling public opinion to the work of the CSOP. Eichelberger served as director of the CSOP and, though lacking the prestige and academic credentials of Shotwell, provided the administrative backbone of the CSOP that sustained the organization. The official membership of the CSOP was intended to demonstrate a wide spectrum of opinion on international affairs and, thus, included such ideologically diverse members as Charles P. Taft, scion of the great Republican dynasty, and Max Lerner, Marxian liberal columnist and scholar. While many of the "commissioners" would contribute little to the research or lobbying work of the CSOP, Eichelberger intended to establish a prominent, public alliance of internationalists capable of countering the voices of isolationist nationalism who had coalesced around famed aviator Charles Lindbergh and fascist sympathizer Father Charles Coughlin. Despite the wide range of perspectives of the seventy official commissioners, the leadership of the CSOP was ideologically homogeneous, committed to a basic liberal internationalism that sought the rational and controlled evolution of the existing global order toward some form of world government.[9]

The CSOP's first report was published in November 1940 and, although it was still "preliminary" with regard to ongoing studies, it outlined the basic principles that the group considered "fundamental to the organization of peace." That peace, the CSOP contended, must be understood not simply as a static renunciation of war in the mode of the Kellogg-Briand Pact, but rather as "a dynamic and continuous process for the achievement of freedom, justice, progress, and security on a world-wide scale."[10] This sort of peace required the deliberate planning for and creation of a new

---

8. James T. Shotwell, The Autobiography of James T. Shotwell (1961). *See* DeBenedetti, *supra* note 7, at 390, 393; Josephson, *supra* note 6. For a less than sympathetic, but still valuable treatment of the subject, see Robert H. Ferrell, Peace in Their time: The Origins of the Kellogg-Briand Pact (1952).
9. *See* Eichelberger, *supra* note 3.
10. Commission to Study the Organization of Peace, *Preliminary Report, in* 1 Building Peace: Reports of the Commission to Study the Organization of Peace, 1939–1972, at 4 (1973) [hereinafter CSOP].

postwar organization to replace the failed League of Nations. In particular, the CSOP called for the establishment of a more robust "federation" of nations capable of curtailing what it referred to as "exaggerated developments of the idea of sovereignty."[11] Toward this end, the report cited five areas in which sovereignty of the nation-state must be limited to make a progressive and dynamic peace possible. The first four limitations were the submission of disputes to international arbitration, the renunciation of force, the control of armaments, and the coordination of economic activity. Noting that the "destruction of civil liberties anywhere creates danger of war,"[12] the CSOP's report listed the final point: "Nations must accept certain human and cultural rights in their constitutions and in international covenants."[13] The full report and the press release issued by the CSOP on 12 November 1940 included these five points. The CSOP was among the first to make the protection of individual human rights a top priority in the organization of an effective postwar peace initiative. This was, of course, over nine months before the Atlantic Charter startled the world with its eight principles and a full two months before President Roosevelt proclaimed his Four Freedoms for the world.[14]

III. QUINCY WRIGHT AND A THEORY OF INTERNATIONAL HUMAN RIGHTS

Commissioner Quincy Wright contributed greatly to the prominence of human rights in the CSOP's first report. Along with Eichelberger and Shotwell, Wright was one of the original organizers of the CSOP. From a prominent academic family with a penchant for social reform, Wright earned his doctorate at the University of Illinois where he studied with James W. Garner, a leading early twentieth-century scholar of international law. By the time of his appointment as a full professor at the University of Chicago in 1923, the thirty-two-year-old Wright had already gained a reputation as one of the sharpest minds in the field. Departing from a strictly legalistic approach to international relations, Wright pioneered the interdisciplinary study of the problems of war and peace and is regarded by many in political science as the father of peace studies. Between 1927 and 1941, Wright applied this approach in his monumental *A Study of War*, published in 1942. More than a compendium of the strategic deployment of organized force, *A Study of*

---

11. *Id.* at 6.
12. *Id.* at 7.
13. *Id.*
14. CSOP, *Preliminary Report, supra* note 10. *See* Press Release, CSOP, For Release Tuesday A.M. (12 Nov. 1940), *in* Clark M. Eichelberger Papers, 1920–1991 [hereinafter Eichelberger Papers] (available in the New York Public Library).

War examines war as an institution in world history and, ironically perhaps, outlines the conditions for peace. Indeed, *A Study of War* is, as one former student put it, a testimony to Wright's "faith in mankind's capacity to cope with its most terrible affliction."[15] Wright was in the final stages of completing this ambitious project just as the CSOP was beginning its work. Thus, he was well positioned to provide the intellectual framework for much of the CSOP's research during the war.[16]

As chief of the CSOP's research committee, Wright was involved with all of the CSOP's sundry reports on world peace and international organization. He insisted that the League needed more than a mere reorganization; it was his concept of a dynamic, progressive peace that formed the core of the CSOP's work. As such, the international lawyer also took special interest in the question of human rights. At a June 1940 gathering of the executive committee, Wright presented the idea that protecting human rights should be a key function of the future world organization and specifically suggested that it draft an "international bill of rights," which all member nations would pledge to honor. Wright would expand on where he thought human rights fit in the international order in a later report (see below), but in early 1940, he was already convinced that the individual, not just states, needed to become a subject of international law and that the notion of universally recognized human rights provided the proper mechanism. These ideas made their way into the CSOP's first press release, issued later that summer, and eventually into the November report.[17]

In 1943, the CSOP published *Human Rights and the World Order*, a more complete account of Wright's thinking on the subject. Wright's study was typically assiduous and insightful, if atypically concise. The brief, thirty-two page pamphlet sketched the history of international efforts to preserve the rights of individuals, as well as the prospects and perils for a future global human rights regime. By compiling an impressive series of quotations from US and British officials, including President Roosevelt, Vice President Wallace, and Ambassador Halifax, Wright argued that the apparent rhetorical

---

15. William T. R. Fox, *"The Truth Shall Make You Free": One Student's Appreciation of Quincy Wright*, 14 J. Conf. Res. 449, 450 (1970).
16. The fourth key organizer of the CSOP was Clyde Eagleton, NYU Professor of International Law and Executive Committee Member of the LNA. *See* Robert Hillmann, *Quincy Wright and the Commission to Study the Organization of Peace*, *in* 4 Global Governance 485 (1998); Fox, *supra* note 15; William B. Ballis, *Quincy Wright: An Appreciation*, 14 J. Conf. Res. 453 (1970). Although James Shotwell was a considerable intellectual presence on the CSOP, the younger and more energetic Wright was far more deeply involved with nearly all aspects of its work.
17. Draft Statement (11 July 1940), *in* Eichelberger Papers, *supra* note 14; CSOP, Draft Statement (19 July 1940), *in* Eichelberger Papers, *supra* note 14; Steven J. Bucklin, The Wilsonian Legacy in Political Science: Denna F. Fleming, Frederick L. Schuman, and Quincy Wright (1993) (unpublished Ph.D. dissertation, The University of Iowa), *available at* http://proquest.umi.com/pqdweb?did=744473091&sid=1&Fmt=2&clientId=5468&RQT=309&VName=PQD.

commitment to the internationalization of human rights needed to be given concrete form in the future world organization. Wright then presented a number of arguments for international enforcement of human rights, the most interesting of which involved the need to foster global solidarity in order to stifle the rise of what he called "fanatical nationalism." Noting that one of the first steps of a potential tyrant is to abolish civil rights in order to "isolate the public from outside influences,"[18] Wright contended that such isolation led to a "vicious circle" of growing national neurosis. Eventually resulting in a form of social insanity, the abrogation of individual human rights produces a national public that virtually demands internal persecutions as well as external aggression. "A government which isolates its public from external influences in order to augment national solidarity," Wright warned, "finds itself compelled to embark upon dangerous policies in response to the desire of a public uninhibited by the chastening criticism of foreign and world opinion."[19] Wright envisioned that a global public sphere would sustain internationally guaranteed human rights.[20]

The promulgation of an international bill of rights and the development of international mechanisms for its enforcement, in Wright's view, would act as a prophylactic against this sort of collective madness. Such mechanisms, which Wright suggested might include an international technical commission, an international legal council, or an international court, were preferable to leaving enforcement of human rights to the workings of "traditional" international diplomacy. This preference existed because the interventions of single states in the affairs of another, even for expressly "humanitarian" purposes, carried the danger of imperialism. Anticipating Isaiah Berlin, Wright parsed the various human rights into "negative" and "positive" freedoms, each requiring a different type of enforcement machinery. In the former category, Wright placed civil and economic rights, which for him implied a prohibition of encroachment by both public authorities and private individuals in the fundamental liberties of individuals. In the latter category, Wright listed political and social rights, which he characterized as implying, on the one hand, "constitutional procedures whereby the individual may influence public policy," and on the other, "administrative organizations contributing to the individual's psychic and economic security."[21] Wright's taxonomy differed in significant ways from the one that the Human Rights Commission would impose, under considerable US pressure, in the development of the human rights covenants. This later bifurcation of the International Bill of Rights

---

18. Quincy Wright, Human Rights And The World Order 18 (1942).
19. *Id.*
20. Quincy Wright, Suggested Outline of Topics for the Third Phase of the Studies of the Commission to Study the Organization of Peace (27 Mar. 1942), *in* Eichelberger Papers, *supra* note 14; *see* Wright, *supra* note 18.
21. *See* Wright, *supra* note 18, at 14; Isaiah Berlin, *Two Concepts of Liberty*, *in* Four Essays on Liberty 118 (1969).

derived more from the imperatives of the Cold War than from functional distinctions. Nevertheless, *Human Rights and the World Order* proved both perceptive and prescient, and served as an essential piece of intellectual groundwork for the coming Age of Rights.[22]

IV. ENGAGING THE STATE

The leaders of the CSOP maintained ongoing personal and professional relationships with members of Franklin Roosevelt's administration. Shotwell, Eichelberger, and Wright received appointments at one point or another as official advisors to the State Department. Quincy Wright corresponded with Secretary of State Cordell Hull throughout the war on matters of international law, and Clark Eichelberger enjoyed no fewer than eight private meetings with the President between 1936 and 1944, the bulk of which were dedicated to discussions of the CSOP's work. In late December 1939, nearly two months after the official establishment of the CSOP, Secretary of State Hull created the Department's first postwar planning unit, the Committee on Problems of Peace and Reconstruction. This committee produced little more than a bureaucratic framework before its dissolution six months later, but it suggested an increased interest, at least in some corners of Washington, in issues of international organization. By the summer of 1940, dire developments in Europe caused official planning for the postwar period to take a backseat to more pressing diplomatic concerns and plans for possible US entry into the war. Under the circumstances, both Hull and Undersecretary of State Sumner Welles happily encouraged the CSOP to continue its efforts, effectively outsourcing postwar planning for the next two years.[23]

Although officials put consideration of the postwar order on the back burner in June 1940, the discourse of universal freedom and human rights increasingly permeated the rhetoric of the Roosevelt administration. The most dramatic instance came in January 1941 at the end of the President's annual message to Congress, wherein he proclaimed "four essential human freedoms"—freedom of thought and expression, freedom of religion, freedom from fear, and freedom from want—that the United States would seek not just at home but "everywhere in the world." Roosevelt concluded, "Freedom means the supremacy of human rights everywhere. Our support goes to those who struggle to gain those rights or keep them. Our strength is our unity of purpose. To that high concept there can be no end save victory."[24]

---

22. *See* Wright, *supra* note 18.
23. Clark M. Eichelberger, Confidential Notes on Interview with the President (7 Sept. 1939), *in* Eichelberger Papers, *supra* note 14; Brucken, *supra* note 2; Shotwell, The Autobiography, *supra* note 8.
24. Franklin Delano Roosevelt, *The Annual Message to the Congress (16 Jan. 1941), in* 9 The Public Papers and Addresses of Franklin D. Roosevelt 672 (Samuel I. Rosenman ed.,

These principles gained further international legitimacy a few months later when British Prime Minister Winston Churchill inserted two of Roosevelt's four freedoms into the Atlantic Charter. In this 14 August 1941 statement, the two leaders pledged themselves—audaciously—to a peace "which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want."[25]

Although the phrase "human rights" had been left out of the Atlantic Charter, the Declaration by United Nations introduced it into the official lexicon of the war. Just days after the infamous Pearl Harbor attacks of 7 December 1941, Secretary Hull recommended that the President call for a new statement of unity by all the Allied states, one that amplified and extended the program outlined in the Atlantic Charter. Drafted during Churchill's first wartime visit to Washington, the short, one-page statement enshrined the Atlantic Charter as the official "common program" of the nations at war with the Axis powers. More significantly, adoption of the appellation "United Nations" came in conjunction with the explicit and official characterization of the war as one fought "to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands."[26] Even more than the Atlantic Charter, the Declaration by United Nations cast the war against Hitler in stridently moral terms, of which "human rights" would prove the most fecund.[27]

The historical record is not clear on exactly how the phrase "human rights" made its way into the Declaration by United Nations. The earliest draft, which was written at the State Department, mentions "human freedom and justice" but not human rights. Paul Gordon Lauren has found that the phrase was written into the Declaration by Roosevelt himself.[28] Ruth Russell suggests that the inclusion of these broader sentiments came in response to criticisms of the Atlantic Charter for failing to encompass all four of

---

1941). Although most of the speech was drafted by aides, the Four Freedoms formulation had been devised by the President. As early as July 1940, he spoke of "five freedoms" (freedom of information being separated from freedom of expression) essential to the re-establishment of world peace. *See Roosevelt Names 5 Basic Freedoms of Any Just Peace*, N.Y. Times, 6 Jul. 1940, at 1; Elizabeth Kopelman Borgwardt, An Intellectual History of the Atlantic Charter: Ideas, Institutions, and Human Rights in American Diplomacy, 1941–1946 (2002) (unpublished Ph.D. dissertation, Stanford University), *available at* http://proquest.umi.com/pqdweb?did=764939051&sid=5&Fmt=2&clientId=5468&RQT=309&VName=PQD.

25. *Joint Statement by President Roosevelt and Prime Minister Churchill (14 Aug. 1941), in* U.S. Dep't of State, 1 Foreign Relations of the United States: 1941, at 368 (1958).
26. *Draft Declaration of Allied Unity, Declaration of United Nations, in* U.S. Dep't of State, Foreign Relations of the United States: The Conferences at Washington, 1941–1942 and Casablanca, 1943, at 376–77 (1968).
27. Churchill credits Roosevelt with inventing the term "United Nations" at the last minute, a name that became the most common wartime designation for the anti-Axis alliance. Winston S. Churchill, The Grand Alliance 683–84 (1950).
28. Paul Gordon Lauren, The Evolution of International Human Rights: Visions Seen 145, 327 (1998).

Roosevelt's Four Freedoms.[29] The return to the language of rights also may have been instigated by fortuitous coincidence. As drafts of the Declaration by United Nations passed between the White House and the State Department, the United States celebrated the 150th anniversary of the Bill of Rights on 15 December 1942. In a national radio address that evening, Roosevelt recalled how "a new Nation, through an elected Congress, adopted a declaration of human rights which has influenced the thinking of all mankind from one end of the world to the other."[30] Referring to "the American bill of human rights," the President warned that the "political and moral tigers" of Germany, Italy, and Japan would return the world to the darkness of "absolute authority and despotic rule"[31] if the principles embodied in the Bill of Rights were not unrelentingly defended. Less than two weeks later, the President returned the draft declaration to Secretary Hull with "human freedoms" replaced by "human rights."[32]

Again the state was following a path blazed by civil society, for these same themes had informed another radio address given two days before the President's anniversary speech. Speaking on the CBS network, Shotwell went further than Roosevelt was willing to go, placing not just the principles of the Bill of Rights at the moral center of the Allied war effort, but the very idea of a Bill of Rights at the center of an ongoing system of organized world peace. "Our Bill of Rights, which we will celebrate next Monday, should be made the basis of an International Bill of Rights safeguarding not only personal liberty but freedom of thought, of religion, and of expression."[33] Although the details of such a document, covering a diverse range of nations and peoples, would no doubt require careful and deliberate study, such an effort was necessary. Shotwell warned, "Here then is one of our chief war aims which must be clarified by the work of jurists and historians, so that in the peace settlement it will not prove a source of disillusionment."[34] No doubt thinking of the ongoing work of the CSOP, Shotwell concluded, "Fortunately, the specialists are already hard at work, and a good beginning has been made."[35]

---

29. Ruth B. Russell, A History of the United Nations Charter: The Role of the United States, 1940–1945, at 41–42 (1958).
30. *President's Bill of Rights Speech,* N.Y. Times, 16 Dec. 1941, at 30.
31. *Id.*
32. Cordell Hull, *Secretary of State to President Roosevelt (19 Dec. 1941), in* U.S. Dep't of State, 1 Foreign Relations of the United States: 1942, General, the British Commonwealth, the Far East 4 (1960); Franklin Roosevelt, *President Roosevelt to the Secretary of State (27 Dec. 1941), in* U.S. Dep't of State, Foreign Relations of the United States: 1942, General; the British Commonwealth; the Far East, at 14 (1960).
33. James T. Shotwell, America After the War, Address Delivered Over the Columbia Broadcasting System (13 Dec. 1941), *in* Eichelberger Papers, *supra* note 14 (transcript available at Container 152, Folder CSOP–1941–42).
34. *Id.*
35. *Id.*

After the promulgation of the Declaration by United Nations, the Roosevelt administration more directly tapped the expertise of the CSOP. Organizing the second State Department effort at postwar planning in 1942, Undersecretary Welles had his esteemed associate, Dr. Leo Pasvolsky, extend invitations to Eichelberger and Shotwell to participate. When the new Advisory Committee on Postwar Foreign Policy (Advisory Committee) finally began working on a possible permanent international organization, it took as its working draft a plan presented by Shotwell that had been developed by the CSOP. Indeed, the State Department's first "Draft Constitution of the International Organization" took its preamble, including a dedication to "a common program of human rights," directly from the Shotwell proposal. Both Shotwell and Eichelberger were among the best-informed members of the Advisory Committee and their contributions belied their status as outside "advisors."[36]

During 1942 and the first half of 1943, State Department planning efforts included work on the role of human rights in the new international order. Inspired as much by pressure from groups like the CSOP as by the inclusion of human rights in the Declaration by United Nations, the Advisory Committee appointed a legal subcommittee to draft a possible international bill of rights. Once again Shotwell, who (as noted above) had called for just such a document in December 1941, joined State Department officials Hackworth Greene, Adolf Berle, Durward Sandifer, and Benjamin V. Cohen, all of whom would continue to influence US human rights policy over the next decade, in pursuing this agenda item. The result was the first State Department draft of an international bill of rights, completed on 10 December 1942, which contained some sixteen articles guaranteeing such things as freedom of speech and religion and providing for due process and equality before the law. Rowland Brucken has examined the State Department's human rights planning during the war in detail and notes how officials, as opposed to outside advisors, sought from the very beginning to limit international human rights to those rights that they felt already were embodied in US rights tradition and practice. The 1942 Draft International Bill of Rights certainly leaves this impression because it excludes enforceable economic and social rights, which might have been implied in the idea of "freedom from want," and studiously avoids any mention of racial discrimination.[37]

Regardless, members of the CSOP were pleased that postwar planning seemed to enjoy such a high profile within the State Department. Eichelberger,

---

36. Leo Pasvolsky to Clark M. Eichelberger (8 July 1942), *in* Eichelberger Papers, *supra* note 14; Clark M. Eichelberger, No Title, Personal Meeting Minutes (30 Oct. 1942), *in* Eichelberger Papers, *supra* note 14; U.S. Dep't of State, Draft Constitution of the International Organization, (n.d. [1942]), *in* Eichelberger Papers, *supra* note 14; Eichelberger, *supra* note 3; Russell, *supra* note 29; Brucken, *supra* note 2.
37. *See* Brucken, *supra* note 2; Russell, *supra* note 29.

Shotwell, and Wright were particularly gratified that, through their contacts with Roosevelt, Hull, and Welles, the ideas and agenda of the CSOP were heard at the highest levels of government. Yet, while they certainly believed that US leadership was essential to the success of any postwar organization, they were not interested in the establishment of a *Pax Americana* in the wake of the Second World War. The CSOP published its Third Report in February 1943, just as the idea of a permanent international organization was gaining favor within the State Department generally. The Third Report called for the establishment of "a continuing Conference of the United Nations" with the aim of laying plans for the postwar order on a multilateral basis. Such a conference would include all twenty-two signatories to the Declaration by United Nations and deliberately seek contributions from the "small states." It was not just that the smaller countries had something to offer or that including them in the process was diplomatically expedient. Rather, from the CSOP's point of view, a broad UN planning conference was essential to fostering a spirit of internationalism among all the Allies, a spirit that might otherwise dissipate after the war. Drawing on Wright's work, the Third Report also highlighted the importance of human rights, maintaining that the protection of individual rights constituted perhaps the most significant—and revolutionary—aspect of the stated aims of the United Nations. Calling again for the promulgation of a "Bill of Human Rights," the report argued for a new, international legal order, in which the protection of individual human rights provided the fulcrum on which to balance both peace and change. With the Third Report, human rights emerged as the keystone of the CSOP's postwar vision.[38]

In fact, in late 1943, the Roosevelt administration's postwar planning work was becoming more international, though not quite in the same way or to the same effect as the CSOP had hoped. In October of that year, British Foreign Minister Anthony Eden and US Secretary Hull traveled to Moscow to meet with their Soviet counterpart, Vyacheslav Molotov. Their discussion covered a wide range of war issues, including the timing of the Anglo-American invasion of France, but largely focused on drafting a statement on a potential postwar organization. The result was the so-called "Moscow Declaration," in which, for the first time, all four major powers—Britain, the United States, the Soviet Union, and China—agreed to "the necessity of establishing at the earliest practicable date a general international organization."[39] The Moscow meeting was followed by the summits between Roosevelt, Churchill, and

38. Eichelberger, *supra* note 3; Shotwell, The Autobiography, *supra* note 8; Quincy Wright, Draft of The United Nations and The Organization of Peace (11 Nov. 1942), *in* Eichelberger Papers, *supra* note 14; CSOP, *Third Report*, *in* 1 Building Peace: The United Nations and the Organization of Peace, 1939–1972, at 32 (1943).
39. *See* Russell, *supra* note 29, at 134.

Chiang in Cairo; and Roosevelt, Churchill, and Stalin in Teheran, where the four leaders further cemented their commitment to establishing a future international organization and set the stage for convening a conference specifically devoted to elaborating a four-power plan.[40]

Ironically, as the possibility of realizing a new, more effective international organization increased during the crucial months of late 1943 and early 1944, the possibility of a more open, democratic postwar international system seemed to decline in direct proportion. While the administration was busy securing agreement among Washington, London, and Moscow, Secretary Hull effectively ended participation by outside groups and congressional representatives in the postwar planning process and, with it, the development of a specific human rights policy. With factional State Department infighting, the war heating up, and various political, strategic, and personal interests coming to the fore, the CSOP and those sympathetic to its perspective found their views increasingly overridden or ignored. The signing of the Atlantic Charter back in the summer of 1941 had evidenced, as Lloyd C. Gardner puts it, that the powers had "more confidence in their ideals than in their arms."[41] In this new context, they showed an increased confidence in their arms and their ability to secure both wartime victory and postwar peace. Reflecting on the experience many years later, Eichelberger recalled how "remarkable" it was that much of the early planning had been done in conjunction with "private citizens." Beginning in the fall of 1943, Secretary Hull maintained tighter control over the process, which from then on would take place without "the systematic infusion of ideas from the public."[42] Human rights would be just one of the "more liberal ideas" of importance given short shrift by US policymakers.[43]

V. ENGAGING THE PUBLIC

By the summer of 1944, many observers had grown increasingly skeptical that the resulting plan would live up to the high principles of the Atlantic Charter and the Declaration by United Nations. Their fears appeared justified when, after a series of meetings between the US, Soviet, Chinese, and British government officials, the major powers issued the Dumbarton Oaks Proposals for the Establishment of a General International Organization, known simply as the Dumbarton Oaks Proposals (Proposals). Far from an-

40. *Id.*
41. Lloyd C. Gardner, *The Atlantic Charter: Idea and Reality, 1942–1944*, *in* The Atlantic Charter 45, 46 (Douglas Brinkley and David R. Facey-Crowther eds., 1994).
42. Eichelberger, *supra* note 3, at 208.
43. Brucken, *supra* note 2; Russell, *supra* note 29; Gardner, *supra* note 41; Eichelberger, *supra* note 3.

nouncing the advent of a new international order, many thought that the plan that emerged from the four-way talks looked like a betrayal of the idealism of the Atlantic Charter and Declaration by United Nations and a return to the Machiavellian power politics of the pre-war era. Those who had high hopes for the reorganization of the global order in the wake of the Second World War would have agreed with New Zealand's Ambassador to the United States, Carl Berendsen, who said simply of the Proposals, "It aims too low."[44] Particularly disappointing was the paucity of human rights principles contained in the Proposals. As published, they invoked human rights only once. Some eight pages into the ten-page document, in Chapter IX: Arrangements for International Economic and Social Cooperation, the General Assembly was charged with helping the organization "promote respect for human rights and fundamental freedoms."[45] To many, the single mention of human rights so deeply buried in the document seemed to be an affront to the high-minded rhetoric of the Atlantic Charter and the Declaration by United Nations. Even Manley O. Hudson, Harvard professor, Judge to the Permanent Court of International Justice, and a hardheaded internationalist, described the single, marginal mention of human rights in the Proposals as "a slighting of the subject."[46]

The reaction was so strong to the disproportionate emphasis on security and the corresponding lack of a more explicit commitment to human rights in the Proposals that the US State Department turned again to the CSOP, this time to help rally public support. Although they had been stung by their marginalization before the Dumbarton Oaks conference, Eichelberger, Shotwell, and the other commissioners nevertheless recognized that outright opposition to the Proposals might well lead to a tragic replay of the United States' rejection of the League of Nations, but with more dire consequences. Thus, in the intervening months between the release of the Proposals and the convening of the San Francisco Conference, the CSOP, with the support of other US NGOs, embarked on a two-pronged strategy. The first prong involved rallying public opinion in the United States in support of the four-power plan as a draft outline for a permanent international organization. The second prong involved lobbying for the inclusion of more progressive provisions in the final UN Charter, particularly in the area of human rights.[47]

---

44. Lauren, *supra* note 28, at 174.
45. *See Dumbarton Oaks: Washington Conversations on International Peace and Security Organization, 7 Oct. 1944, in* Pillars of Peace 45 (Army Information School, 1946), *available at* http://www.ibiblio.org/pha/policy/1944/441007a.html.
46. Lauren, *supra* note 28; Manley O. Hudson, Weight of Meetings of 29 Oct., 12 Nov., and 25–26 Nov. 1944 (9 Dec. 1944), *in* Eichelberger Papers, *supra* note 14.
47. *See* Eichelberger, *supra* note 3. For an account of this remarkable public relations effort on the part of the CSOP and others, see Dorothy B. Robins, Experiment in Democracy: The Story of U.S. Citizen Organizations in Forging the Charter of the United Nations (1971).

At this point, the members of the CSOP focused on the creation of a human rights commission as the critical amendment to the Proposals. Shortly after the release of its Third Report in early 1943, which (as noted above) called on the United Nations to organize themselves into "a continuing Conference" in order to "prepare programs for the future" world organization, the CSOP began developing proposals for that same organization. In a confidential outline prepared in October 1943, Eichelberger suggested that the CSOP recommend that the United Nations create a "permanent international commission . . . consisting of jurists and experienced students of public affairs" dedicated specifically to protecting "the basic rights of the individual."[48] This suggestion was carried out in the CSOP's Fourth Report, the final section of which was released 25 May 1944. Entitled "International Safeguards of Human Rights," this section called for the Allies to convene "an immediate United Nations Conference on Human Rights" in order to "promulgate an international bill of rights and establish a permanent United Nations Commission, vested with powers of investigation and advice and charged with the function of further developing standards of human rights and methods for their protection."[49] Of course, the summer brought with it the conversation at Dumbarton Oaks and the relative disappointment of the resulting Proposals. Regrouping in the fall, the CSOP sent a delegation to the State Department to press for its recommendations. The leader of the delegation, William Neilson, reported to Eichelberger on the October meeting, noting that while the Roosevelt administration appeared unwilling to pursue a general conference on human rights or to draft an international bill of rights, it exhibited a willingness to consider establishing "an organization dealing with Human Rights"[50] under the UN Economic and Social Council.

In the weeks after this meeting, the CSOP developed a strategy to put public pressure on the Roosevelt administration to formally propose a human rights commission at the upcoming UNCIO. Working in conjunction with John W. Davis, former US Ambassador to London, Eichelberger drafted a short, two-page statement that outlined the ways in which the Four Powers had committed to the proposed international organization to defend human rights and called on the press and public to ensure that these promises were kept. Davis was perhaps an odd choice given his relatively conservative views and the fact that he had been an outspoken critic of Roosevelt's New Deal. Right or left, however, Davis was a staunch internationalist, and Eichelberger was convinced that the broadest possible support was necessary to achieve

48. Clark M. Eichelberger, Fundamentals of a Continuing Organization of the United Nations (12 Oct. 1943), *in* Eichelberger Papers, *supra* note 14.
49. CSOP, *Part III: International Safeguard of Human Rights, in* Fourth Report 24 (1944).
50. William A. Neilson to Clark M. Eichelberger (20 Oct. 1944), *in* Eichelberger Papers, *supra* note 14.

not just a human rights commission, but also an international organization in general. Eichelberger contrived to have some 150 "prominent persons from all walks of life"[51] endorse the statement, which Davis read over the CBS radio network on 5 February 1945. "To this end," the Ambassador concluded, "we urge the United Nations to create in the coming World Organization a Commission on Human Rights and Fundamental Freedoms."[52] Referred to by Ruth Russell as the first public mention of the Human Rights Commission, Davis' broadcast was a critical pre-conference intervention in the debate over the place of human rights in the coming world organization.

Between the broadcast of this well-received statement on human rights and the San Francisco conference, the CSOP embarked on a vast program of publicity in favor of creating an international organization. Coordinating the efforts of some forty-two civic organizations, the CSOP worked feverishly to educate the public about the importance of a general international organization. They produced a regular radio broadcast on CBS, wrote opinion columns in major newspapers across the country, and even published a comic book in conjunction with *True Comics Magazine* to outline the perils of global disorganization. Regardless of the limitations of the Proposals, the CSOP and allied groups recognized the need to support them in order to build a truly effective world organization. Working with its partner organizations, the CSOP sent a telegram on 20 February to the forty-eight state governors asking them to declare 16–22 April "Dumbarton Oaks Week" and urging them to promote "the greatest number of public discussions" around the issues of world organization and peace. Official proclamations were less important, however, than the work of the sundry organizations that had co-sponsored the call. The success of Dumbarton Oaks Week lay in the public readings, radio specials, school programs, and dedicated Sunday sermons that focused attention on the impending San Francisco gathering.[53]

Despite the plethora of special events surrounding Dumbarton Oaks Week, the programs were overshadowed by the tremendous shock of President Roosevelt's death on the morning of 12 April 1945. In one of his last acts before moving to Warm Springs, Georgia in an attempt to relieve the persistent fatigue that had plagued him in recent weeks, President Roosevelt had approved a plan to designate a number of organizations as "consultants" to the US delegation. Conferring official recognition and unprecedented status to private organizations at an intergovernmental conference, the consultant arrangement was designed to secure public support for whatever type of

---

51. Quincy Wright to Clark M. Eichelberger (15 Feb. 1945), *in* Eichelberger Papers, *supra* note 14.
52. John W. Davis, Statement on CBS (5 Feb. 1945), *in* Eichelberger Papers, *supra* note 14.
53. *A Third World War Can Be Prevented Now!*, True Comics Magazine, 1945, *available in* Eichelberger Papers, *supra* note 14; Robins, *supra* note 47.

organization emerged from the San Francisco gathering. Ever mindful of the fate of President Woodrow Wilson, whose doomed attempt to secure domestic support for the League of Nations proved to be both his political and personal undoing, Roosevelt designed much of the US strategy for the UNCIO—and indeed for the entire postwar system—around the lessons of his predecessor. Although a calculated ploy to ensure broad public support for the UN project, Roosevelt's authorization of the consultant plan also opened the door to further direct involvement by these NGOs in the deliberations at San Francisco.[54]

VI. CONSULTANTS AT THE UNCIO

Ironically, as a subsidiary of the LNA, the CSOP was not listed among the forty-two official consultant groups. The absence of the CSOP from the roster, however, belies the utter ubiquity of the CSOP in San Francisco. Both Eichelberger and Shotwell were consultants, the former as a representative of the LNA (to be rechristened after the conference as the "United Nations Association") and the latter representing the Carnegie Endowment. Others attending the conference included legendary Dean of Barnard College Virginia Gildersleeve, a CSOP member since 1942, who served as one of the seven US delegates, and no less than nine other CSOP members among the advisors, including John Foster Dulles, Benjamin Gerig, Phillip C. Jessup, Walter Kotschnig, and Clyde Eagleton. Members of the CSOP were also prominent among the Conference Secretariat, with Malcolm W. Davis, Eugene Stanley, and Huntington Gilchrist serving in various capacities. In total, Eichelberger counted some forty-three CSOP members at San Francisco, either among the government delegation, the Conference Secretariat, the consultants, the press, or as private observers. This presence was a remarkable achievement for an organization whose membership during the war never exceeded 120 people. Thus, as delegations from the fifty United Nations began to arrive in the City by the Bay, the CSOP and its allies were well positioned to influence the outcome of the proceedings.[55]

Eichelberger and Shotwell were joined by other capable consultants including O. Frederick Nolde of the Federal Council of Churches, Joseph Proskauer of the American Jewish Committee, and three representatives from the National Association for the Advancement of Colored People: Mary McLeod Bethune, Walter White, and Dr. W.E.B. DuBois. Meeting with mem-

---

54. Stephen C. Schlesinger, Act of Creation: The Founding of the United Nations 125 (2003); *see* Robins, *supra* note 47.
55. *See* Schlesinger, *supra* note 54, at 122; Clark M. Eichelberger, Members of the Commission at the United Nations Conference (1945), *in* Eichelberger Papers, *supra* note 14.

bers of the US delegation for the first time on 1 May 1945, the assembled consultant group was given a sobering appraisal of the US aspirations for the conference. As presented by Commander Harold Stassen and Dean Gildersleeve, the United States was interested in drawing up a set of broad principles and a basic framework for the international organization, leaving the detailed mechanisms and specific issues to be worked out later. The US delegation planned to propose the inclusion of a section outlining general principles on human rights, but was not interested in pressing for any specific machinery or elaboration of an international bill of rights. Somewhat taken aback by the one-way nature of this first "consultation," Walter White complained that it appeared that any advice the consultants were to offer at San Francisco would be received *ex post facto*. Both Dr. Nolde and Judge Proskauer lamented the US delegation's unwillingness to champion human rights in a more vigorous and concrete way at the conference, and perhaps were not persuaded by advisor Walter Kotschnig, who assured the gathering that "a human rights commission can and will be worked out later."[56]

Disappointed by the didacticism of their first meeting with the official delegation, the consultants regrouped and decided that if they were going to be more than public relations window dressing for the US administration, they would need to choose their battles and work in concert. After fighting off an attempt to divide them into four separate subcommittees, the consultant group agreed to push the United States to propose or, at a minimum, support the inclusion of more references to human rights in the Charter—most importantly, the establishment of a human rights commission to coordinate UN activity in the field. Eichelberger, Proskauer, Nolde, and others caucused the next day and drew up a joint statement on behalf of the consultants. The resulting letter listed four specific amendments to the Dumbarton Oaks Proposals, which the consultants asked the US delegation to sponsor. The first was the addition of a new purpose in Chapter I: "To promote respect for human rights and fundamental freedoms."[57] In Chapter II, the consultants inserted a new general principle, openly acknowledging that human rights were "a matter of international concern."[58] Also, because there seemed to be no chance of negotiating a full international bill of rights at San Francisco, the consultants' amendment to Chapter II contained

---

56. Letter from Walter White to W.E.B. DuBois and Mary McLeod Bethune (5 May 1945), *in* Papers of the National Association for the Advancement of Colored People (available in the Library of Congress, Washington, D.C.) (on file with author); Robins, *supra* note 47; Edward R. Stettinius, Stettinius Diary, Dec. 1944 to 3 July 1945 (11–17 Mar. 1945), *in* Records of Harley A. Notter [hereinafter Notter Records] (available in General Records of the Department of State, National Archives, College Park, MD).
57. Henry A. Atkinson to Edward R. Stettinius (2 May 1945), *in* Notter Records, *supra* note 56.
58. *Id.*

a sort of "mini-bill." It listed the freedoms of speech, assembly, religion, and communication, along with the right "to a fair trial under just laws"[59] and a non-discrimination clause, as some of the fundamental rights that all members of the United Nations would secure. The third proposed amendment added "developing and safeguarding human rights and fundamental freedoms"[60] to the list of obligations of the UN General Assembly in Chapter V. The fourth and final proposed amendment added a specific mandate for a human rights commission to the list of rights and duties of the UN Economic and Social Council.[61]

Under the pressure of the consultants' united front, the US delegation revised its position and presented the consultants' proposals, except for the insertion of a new principle in Chapter II dealing with human rights, to the Chinese, British, and Soviet delegations, all of which had agreed to discuss the proposals among themselves before submitting them to the wider UNCIO. While all four accepted the addition of a new purpose and the expansion of the UN General Assembly's authority, both the British and Soviet delegates balked at the specific call for a human rights commission. That provision was saved only by an impassioned, last-minute speech from US advisor and President of John Hopkins University, Isaiah Bowman at a 4 May meeting of the so-called "Big Four" delegations that seemed to sway the reticent British and Soviet representatives.[62]

Also key to the British and Soviet acquiescence was the work of another US advisor, John Foster Dulles. As a member of a Big Four subcommittee dealing with the question of a so-called "domestic jurisdiction" clause, Dulles reported at the same 4 May meeting that a decision had been reached to propose a new principle in Chapter II. Instead of recommending the promotion of human rights as a fundamental principle guiding the policies of Member States, as the consultants had wanted, the Big Four instead chose to submit the following amendment: "Nothing contained in this Charter shall authorize the organization to intervene in matters which are essentially within the domestic jurisdiction of the state concerned or shall require the members to submit such matters to settlement under this Charter."[63] As part of the CSOP and another group called the Commission to Study the Bases

---

59. *Id.*
60. *Id.*
61. Clark M. Eichelberger to Members of the CSOP (5 May 1945), *in* Eichelberger Papers, *supra* note 14; Eichelberger, *supra* note 3; White, *supra* note 56, at Group IV; Robins, *supra* note 47; Shotwell, The Autobiography, *supra* note 8; Anderson, *supra* note 2, at 46.
62. Edward R. Stettinius, 1 Stettinius Diary (2 May 1945)—San Francisco Conference: 23 Apr. Midnight to 31 May 1945, *in* Notter Records, *supra* note 56; White, *supra* note 56, at Group IV; Robins, *supra* note 47; Brucken, *supra* note 2; Shotwell, The Autobiography, *supra* note 8; Anderson, *supra* note 2.
63. UNCIO Minutes, CONS Four Min 4, 4 May 1945, 12:15 p.m. (4 May 1945), *in* Papers of Leo Pasvolsky (manuscript available in the Library of Congress, Washington, D.C.).

of a Just and Durable Peace, Dulles had been an advocate for a broader commitment to human rights. As an agent of the government, he became an able defender of state interests, coupling the inclusion of a commitment to the promotion of human rights with the entrenchment of the seemingly contradictory principle of absolute national sovereignty.[64]

Upon reaching agreement with the other sponsoring governments, the task of the US delegation switched from stumping for support of expanded human rights provisions to preventing what Pasvolsky called a "stampede" of "little countries" attempting to add further commitments. Indeed, the idea of human rights retained broad support among the smaller powers at the UNCIO, and many arrived with amendments of their own. Among those seeking an elevation of human rights were Colombia and South Africa, both of whom submitted draft preambles declaring that the desire to promote rights was one of the key catalysts for establishing an international organization. Mexico, Brazil, and the Dominican Republic submitted a joint proposal—the first to be made public—that made the guarantee of human rights one of the core purposes of the organization. Beyond these references, two delegations came forward with specific lists of rights. The delegation from Panama submitted a "Declaration of Essential Human Rights" with eighteen articles protecting the freedoms of religion, speech, and assembly, as well as the right to a fair trial and equal protection under the law. Also included in the Panamanian draft were articles guaranteeing the rights to work, adequate food and housing, and social security. Representatives from Cuba also drafted a bill of rights. Their "Declaration of the International Rights and Duties of the Individual," though less concise than the Panamanian draft, recognized a similar range of rights. The Cuban proposal distinguished between two categories of rights, civil and social, though no distinction was made as to implementation (as would happen during the drafting of the human rights covenants).[65]

These proposed amendments were testaments to the explosion of human rights language throughout the world during the war. PEN International, the (pan)American Law Institute, and the International Labor Organization each had drafted its own declaration of rights prior to the San Francisco conference. Among the Latin American republics in particular, human rights were adopted as a means of balancing the inequities of the international order and were critical to their visions of the postwar order. Two months prior to traveling to California, delegates from across the Americas had gathered in Mexico City for the Inter-American Conference on Problems of War and

64. *Id.*

65. United Nations Secretariat, 3 Documents of the United Nations Conference on International Organization (1945). There is no small irony in the fact that South Africa was a principal proponent of making human rights a central concern of the United Nations. More than any other nation, the Union of South Africa would be accused in all manner of UN proceedings for violating the human rights of its citizens.

Peace. The gathering adopted, somewhat to the chagrin of the US delegation, a strongly worded Final Act that acknowledged the shortcomings of the Proposals and emphasized the need for a more just world order that included international protections for individual human rights.[66]

In the post-war period, the perspectives and interests of what would become known as the "Third World" became increasingly decisive as the generalities of wartime pledges for human rights were negotiated into specific treaties, declarations, and conventions. At the San Francisco conference, the United States was the indispensable nation, and nearly every paragraph of every article in the resulting Charter reflected the preferences and priorities of the US delegation. Though signatures would not be affixed to the Charter for another month and a half, the CSOP's long crusade to make the protection of human rights an essential part of the international order achieved its most significant victory with the release of the joint amendments of the four sponsoring powers on 4 May 1945. The prominence of human rights in the UN Charter represents more than the triumph of US diplomacy; it represents the ascendant influence of civil society in global affairs. In his statements to the press and in his official account of the conference to President Truman, Secretary of State Edward Stettinius gave credit to the consultant group for the elevated prominence of human rights. Likewise, the constituent groups seemed impressed with their own performances and, as a result, emboldened to continue their efforts to press for their own human rights agendas through the work of the new UN Organization.[67]

VII. CONCLUSION

When Secretary-General Alger Hiss brought down the gavel on the final plenary session of the UNCIO on 26 June 1945, Clark Eichelberger's sigh of relief may well have been audible over the din of applauding delegates. In many respects, the document that representatives from fifty-one nations had just signed was a personal triumph for the self-effacing Eichelberger. No one else had done as much as he had over the past six years to make the UN Organization a reality, and the work of the CSOP was both pioneering and instrumental in the development of official policy. Nowhere was this more true than in the area of universal human rights, in which the intellectual, publicity, and lobbying work of the CSOP was decisive in determining the place and form of the human rights provisions of the UN Charter.

---

66. Lauren, *supra* note 28.
67. Edward R. Stettinius, Stettinius Diary, Entry 26 (26 May 1945), *in* Notter Records, *supra* note 56; Brucken, *supra* note 2.

That the crusade for human rights was led by civil society instead of the state perhaps is not surprising, given the limitation on state sovereignty implied by universal human rights standards. What the story of the CSOP's enormous influence also suggests, however, is that from the outset, the movement for international human rights has served to expand the public sphere beyond a national frame. Although it is true that most of the organizations that mobilized in support of human rights during the war focused their efforts on the US government, their efforts established a precedent—and statutory legitimacy—for NGO involvement at the transnational level. Whether it was a part of some "American tradition" or a unique feature of the Roosevelt administration, the response of the US executive branch to public pressure on foreign affairs began the process of globalizing civil society's human rights.