

Abstract

Using archival sources, the authors report on the debates and diverse perspectives of United Nations representatives responsible for formulating Article 25 (relating to health and medical care) and 27 (relating to science) of the Universal Declaration of Human Rights. These articles supply important normative guidelines for human rights and public health policy. The question of whether health-related rights should depend on state and/or private sponsorship was left open. There was agreement that scientists deserve freedom in their work but the elitist tone of Article 27 was modified by adding that the general public should share in its benefits. The political nature of drafting these articles shows they have no one dominant progenitor, but finally reflect hard-won consensus in a process ably chaired by Eleanor Roosevelt.

A partir d'archives relatives à la Déclaration Universelle des Droits de l'Homme, les auteurs font état des débats et des différentes perspectives des délégués aux Nations Unies qui formulèrent l'Article 25 (sur les droits de la santé et les soins médicaux) et 27 (sur les droits relatifs à la science). Ces articles fournissent d'importantes normes pour les droits humains et la politique de santé publique. Les auteurs laissèrent ouverte la question de savoir si les droits relatifs à la santé devaient dépendre de l'Etat et/ou de l'initiative privée. Ils s'accordèrent sur ce que les scientifiques nécessitent la liberté dans leur travail mais ils modifièrent le ton élitiste de l'Article 27 en y ajoutant que le public devrait partager ses bénéfices. La nature politique de la préparation de ces articles montre qu'ils n'ont pas d'architecte dominant, mais qu'ils reflètent en définitive un consensus difficilement obtenu dans un processus habilement présidé par Eleanor Roosevelt.

A partir de archivos referentes a la Declaración Universal de Derechos Humanos, los autores informan sobre los debates y las diversas perspectivas de los/as representantes de las Naciones Unidas que redactaron el Artículo 25 (sobre derechos a la salud y a la atención médica) y el 27 (sobre derechos relacionados con la ciencia). Estos artículos aportan guías normativas importantes para los derechos humanos y las políticas de salud pública. Quienes los elaboraron dejaron abierta la pregunta sobre si los derechos relacionados con la salud deben depender del Estado y/o de la iniciativa privada. Acordaron que la comunidad científica necesita libertad de acción, pero modificaron el tono elitista del Artículo 27 al añadir que el público debe poder compartir sus beneficios. La naturaleza política de la elaboración de los artículos muestra que no hubo un/a progenitor dominante, pero sí refleja un consenso difícilmente obtenido en un proceso hábilmente coordinado por Eleanor Roosevelt.

HEALTH, MEDICINE AND SCIENCE IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

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In 1948, the Universal Declaration of Human Rights (UDHR) identified a cluster of rights associated with everyone's human right to "a standard of living adequate for health...and medical care" (Article 25) and "to share in scientific advancement and its benefits" (Article 27). These provisions and the expressed opinions of those who endorsed them a half century ago are reviewed here.

Background

The UN Charter refers to human rights in no fewer than seven places, thus making it clear from its inception that human rights were to be the business of the United Nations. Major responsibility for human rights is placed with the Economic, Social and Cultural Council (ECOSOC). At its very first session, in 1946, the Council set up a Commission to "make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all" and to prepare a draft bill of rights.¹ The 18 members of the UN Human Rights Commission began their work on January 27, 1947.² Mrs. Eleanor Roosevelt (USA) was elected Chairman; Dr. Peng-chun Chang (China) and Professor René Cassin (France), Vice-Presidents; and Dr. Charles

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Malik (Lebanon), Rapporteur.³ Throughout the process the Commission benefited from the exemplary diplomatic skills of its chair, Mrs. Roosevelt, who ensured that debate remained germane and showed flexibility and openness to differing views on the organization of the draft.

In drafting the UDHR, Commission members tried to formulate a common standard of human rights as a strategy to promote world peace because they believed that “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of [hu]mankind...,” a premise central to this article.⁴ The lessons of World War II, reinforced by the Nuremberg trials and publication of the *War Crimes Report*, heightened the Commission members’ awareness of the serious human rights issues that exist in medical research, including experiments on human subjects.^{5,6}

The Nuremberg trials, in exposing some of the atrocious circumstances of World War II, prompted much discussion of the concepts and content of human rights. Indeed, bills of rights emerged from many quarters, some as early as 1940.⁷ Soon after the war’s end, work began on proclamations of rights by nongovernmental organizations (NGOs) such as the American Federation of Labor, the Inter-American Juridical Committee and the Commission to Study the Organization of the Peace. One such draft declaration, by the American Law Institute (ALI), proved particularly important to the consideration of health-related rights. Moreover, in 1948 the Ninth International Conference of American States prepared a draft bill of rights which helped Latin American countries support UN efforts to promote social, economic and cultural rights, including those relating to health, medicine and science.⁸ In sum, by the time it began its work to prepare a bill of rights, the newly organized Commission on Human Rights had at its disposal eighteen official or semi-official drafts from various sources, a wealth of material from which to fashion a bill of rights.⁹

The Commission faced legal and conceptual issues in fulfilling its mandate, and began by mapping out its functions and scope of work. Debate focused on whether the first human rights formulations by the UN should take the form of a legally binding treaty including enforcement institutions,

or of a declaration addressed to public opinion and carrying only moral suasion. Mrs. Roosevelt felt the instrument should appear first as a declaration adopted by a resolution of the General Assembly to guide public opinion. Mr. Tepliakov (USSR) thought that any decision as to the legal form of this work was premature, but both Indian and Australian spokespersons were impatient with the idea of an unenforceable declaration and pressed instead for a treaty. Mrs. Hansa Mehta (India) argued for machinery to enforce the new instrument when human rights were violated, and the Australian delegate called for a treaty-based International Court of Human Rights within the framework of the UN. The Commission asked staff members to start collecting data from which to draw up a first outline of the Bill of Rights.¹⁰

Drafting Provisions on the Right to Health

As Chairman of the Human Rights Commission, Mrs. Roosevelt placed substantial responsibility on the agency's Secretariat and its Director, the Canadian Professor John P. Humphrey. He compiled rights and liberties provisions of national laws worldwide and drafted an outline for a bill of rights, referred to as the Secretariat Outline.¹¹ While Humphrey claimed that the Secretariat Outline was largely his responsibility, according to him, the draft text had no one dominant progenitor or inspired author, "...in the sense," as he said, "that Jefferson was the father of the American Declaration of Independence."¹²

There was much debate concerning the proper balance between political rights and social and economic rights. A social democrat, Mr. Humphrey said he guessed it unlikely "that economic and social rights would have been included in the final text if I had not included them in mine" because "once the Secretariat had included something in its draft, it was very difficult for a government to object to its being there."¹³ According to Humphrey's recollections, division over support for economic and social rights did not simply separate communists and non-communists; on the contrary, progressive voices could be heard from many directions. Several Latin American delegates, including Chile, Cuba and Panama, submitted drafts which included social and economic rights based on the provisions contained in the 1948 Bogotá

American Declaration of Human Rights and Duties.

Humphrey reported that he relied particularly on the work of the American Law Institute (ALI) in his draft, because it was “the best of the texts from which I worked, though many texts were represented.¹⁴ As a result, the Secretariat Outline had several quite disparate provisions relating directly or indirectly to health and medicine. For example, it included provisions stating that:

- Everyone has the right to medical care;
- The State shall promote public health and safety; and
- Everyone has the right to social security; the State shall maintain effective arrangements for the prevention of unemployment and for insurance against the risks of unemployment, accident, disability, sickness, old age, and other involuntary or undeserved loss of livelihood.¹⁵

According to the ALI, rights included in their draft relating to health and medicine were framed in such a way that, whether health-related rights depend on state and/or private sponsorship, duty bearers should direct their efforts concerning these rights toward raising standards of health, preventing sickness and accidents, and providing medical care wherever needed, including for maternity cases.¹⁶ Much influenced by Latin American jurists, they gave consideration to both state and private sponsorship and left “full scope to private initiative, in countries where it is considered desirable.”¹⁷

The Secretariat Outline was considered in June 1947 by an eight-person committee of the Commission appointed by Mrs. Roosevelt. Commission Co-Vice President, René Cassin, led this committee and produced a document in which several elements of the Secretariat Outline were consolidated into a “First Session Committee Draft.” The Committee’s draft gave a high profile to the right to health and emphasized that its realization required not only access to medical care, but also to adequate food, nutrition, clothing and housing. It said:

Everyone, without distinction as to economic and social conditions, has the right to the preservation of his health through the highest standard of food, clothing, housing and medical care which the resources of the State or commu-

nity can provide. The responsibility of the State and community for the health and safety of its people can be fulfilled only by provision of adequate health and social measures.¹⁸

This language tells us much about progressive thinking of the day because in recommending socially–anchored health policy, it instrumentally connects “the highest standard of food, clothing, housing and medical care” to the goal of meeting health needs. Connecting the broader concerns of public health to the right to health was consistent with Humphrey’s professed social democratic preferences. For its day, the draft seems rather advanced in its inclusion of three concepts: (1) the social context of medicine, (2) the community–based view of public health, and (3) recognition of public responsibilities for health policy. However, this formulation did not survive beyond the second session of the Commission, largely because members had by then decided to draft both a declaration of human rights and a legally binding treaty. Largely lost in the draft revisions that finally led to Article 25 of the UDHR, many omitted elements of the doomed draft nevertheless ultimately re–emerged twenty–five years later in Article 12 of the International Covenant on Economic, Social and Cultural Rights.¹⁹

Guided by the new plan to write both a declaration and a treaty, Mrs. Roosevelt told the Commission that the second sentence in the draft article on health referring to the “responsibility of the State and community” must be struck as “it is inappropriate to...[specify] rights in the Declaration in terms of governmental responsibility.” Rather, she believed, such language belonged in the prospective treaty which would bind states to programs of implementation.²⁰

Mrs. Roosevelt decided to avoid detail in the UDHR once the decision was made to bifurcate drafting efforts into a declaration and a convention. She said that by necessity the UDHR should be simple and concise, acting as a guide and inspiration to individuals and groups throughout the world in their efforts to promote respect for and observance of human rights. In order to inspire people, “the prerequisite...is a document that is set forth in as simple and readily understandable terms as possible.”²¹ She believed that the UN’s “freedom to take up matters of detail would be enhanced,

rather than diminished, by a declaration in broad and comprehensive terms," and that the UDHR should serve as a basic standard to guide the United Nations in achieving, within the meaning of the Charter, international cooperation in promoting and encouraging respect for and observance of human rights and fundamental freedoms for all.

The working group completed a draft Declaration rapidly once consensus had developed about the type of document it was formulating. The draft then wound its way through to the full Human Rights Commission, then on to the Economic and Social Council, and finally to 81 meetings and 168 proposed amendments of the General Assembly's Third Committee.²¹ The evolution of the health and science provisions from the forms first considered by the Commission to their final form in the adopted text is of substantial interest because it shows how they earned hard-won consensus.

Debate Over the Language of Article 25

Contending ideas and expectations shaped the language and terms used in Article 25. The wording changed substantially over the course of the legislative drafting process. Examination of the final draft text of Article 25 serves to illuminate the considerable legislative squabbling involved in the entire process and some of the skirmishes that produced it. In its final form, 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 or in or out of wedlock, shall enjoy the same social protection.

Highlighted phrase-by-phrase below are elements of the drafting debates and the political dynamics that led to the final version.

“...a standard of living adequate for the health”

The International Labor Organization (ILO) played a key role in this wording. A specialized agency of the UN created in 1946 and concerned with policies to fulfill basic human needs, the ILO moved the Commission toward contextualizing the right to health in terms of an “adequate standard of living.”²² Mrs. Roosevelt supported this approach despite efforts by Mr. Pavlov (USSR) to connect health rights to government funding and related programs of “social security” and “social insurance.”²³ The Soviet effort was doomed when it was demonstrated that the meaning of terms concerning social programs differed greatly among countries. Thus, Mr. Wilson (UK) said he could not accept the Soviet language because in Great Britain social insurance was the responsibility of the State, the employer and the worker, and the declaration should not embody “text which compel[s] a country to alter completely a system of social insurance which was entirely satisfactory.”²⁴

“...well-being...including...medical care”

Although the Commission members were generally not willing to go along with tying social and economic rights too closely to state sponsorship, Mr. Pavlov nevertheless managed to garner support for a right to medical care. He argued that, absent any reference to social insurance or security programs, the right to health did not by itself sufficiently imply a right to medical care.²⁵ With endorsement from Mr. Cassin, this independent right was then accepted by the Commission in a new version linking “health and well-being” to “food, clothing, housing and medical care.” When these provisions were later debated in the General Assembly, Mr. Pavlov again stated, with increased emphasis reflecting supporting consensus, that “medical assistance was not merely an item in an adequate standard of living but a specific right.”²⁶

The Human Rights Commission’s “Third Session Draft” began the article on health by stating: “Everyone has the right to a standard of living, including food, clothing, housing and medical care, and to social services, adequate for the health and well being of himself and his family....” Although this was the Human Rights Commission’s final recommendation

to ECOSOC, this language was changed when the draft was turned over to Third Committee of the General Assembly for final review.

In the General Assembly, with all 41 countries participating, new voices were heard. For example, Mrs. Newlands (New Zealand) objected to the wording of the Commission Draft because it failed to emphasize health rights and seemed to take away their status as a primary indicator of “a standard of living.” She found the wording misleading in that it appeared to connect health rights to social services and even restrictively to suggest that the right to health was somehow enjoyed “only through the head of the family.”²⁷ Portions of this critical view were taken into account by Mr. Cassin (France) who, with the approval of the Chilean representative, said that the words “health and well-being” should be substituted for the word “needs,” thereby restoring the very important idea of the right to health as a primary human right.²⁸

“...security in the event of...sickness, disability”

Mr. Cassin’s views on the primacy of health rights were folded into a broadly accepted omnibus compromise draft formulated by Mr. Chang (Republic of China). The Chinese text settled the first paragraph of Article 25 into its final form, and was accepted by the Third Committee of the General Assembly by a vote of forty-one to none with three abstentions.²⁹ This compromise draft rejected other efforts by the Soviet Union and New Zealand to turn “the right to security” into a “right to social security” (already specified elsewhere in the UDHR). The Uruguayan representative argued persuasively that the right involved *seguridad* — personal security broadly defined — and not *seguros*, which implied insurance. Agreement on this matter opened the way to stipulate in the final draft “the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood....”³⁰ The Norwegians asked that the phrase “in circumstances beyond his control” be deleted. However, after Mr. Chang argued that “it would be well to include the words because they would tend to encourage self-reliance,” the Norwegian request was rejected by a vote of twenty to six, with eleven abstentions.³¹

“Motherhood and childhood...entitled to special care”

Mrs. Roosevelt explained to the General Assembly's Third Committee that paragraph 2 of Article 25 had been adopted by the drafting group “following a recommendation of the Commission on the Status of Women.”³² This provision met no objection but did prompt a debate on ways to ensure that references to the child would equally include rights of the “child borne out of wedlock.” The Chinese omnibus proposal finessed this issue by dropping language about the rights of mothers and children of whatever social status in favor of the more abstract assertion that “motherhood and childhood are entitled to special care and assistance.”³³ This reification of mothers and children into an abstract category distressed some delegations who eventually succeeded in their push for the inclusion of additional language: “All children, whether born in or out of wedlock, shall enjoy the same social protection,” in order, according to Mr. Habib (India), to “ensure that the sins of the parents should not be visited upon the children.”³⁴

The “Covering Article”

The Third Committee of the General Assembly stated that Article 25 should be read in tandem with Article 22. As recommended by the Human Rights Commission, the “covering” feature of Article 22 supplies additional overall context for all social, economic and cultural rights. Article 22 says:

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for the dignity and the free development of his personality.

This article uses both restrictive and expansive, if ambiguous, language. For example, while the right to social security is not defined here or elsewhere, it nevertheless takes on elaborated meaning through the reference in Article 25 to the “right to security in the event of unemployment, sickness, disability.” The entire framework of interdependent rights, emphasized by the “covering article,” is limited by,

and acknowledged to be contingent upon, state capacity relative to national resources, augmented by “international cooperation.” International cooperation is understood to include collaboration and support among governmental, intergovernmental and nongovernmental organizations and professional associations working in support of human rights across national boundaries.³⁵ This further clarification helps to breathe meaning into the otherwise abstract and undefined language of Article 22.

The elasticity of Article 22 is also evident with respect to the very nature of the rights covered. Originally, the article spoke legalistically and restrictively about the “economic, social and cultural rights set out below.” But that language was struck in the last phases of discussion when the Third Committee accepted a Cuban proposal to characterize social, economic and cultural rights as those rights “indispensable for the dignity and free development of his personality.”³⁶ It is unclear whether this language adds or limits protections because the Commission made no effort to explicate these pregnant new terms.

Debate Over the Language of Article 27

During most of the Commission meetings, the provisions relating to science had been referenced to as Article 25; only late in the proceedings, and by virtue of the rearrangement of the order of other articles, did they become Article 27.

Article 27 says in section (i): Everyone has the right *freely to participate* in the cultural life of the community, to enjoy the arts *and to share in scientific advancement and its benefits*.

This draft language had many authors. For example, as discussed below, the insertion of the word “freely” was a Peruvian suggestion; the addition of the words “and its benefits” was suggested by the Chinese delegation; and the second paragraph was a joint Cuban, French and Mexican proposal. The entire article as amended was adopted by thirty-six votes to none, with four abstentions.³⁷

“...freely to participate”

Alluding to the corruption of medical studies by eugen-

ics and the misuse of science and technology by the Hitler regime, Mr. Encinas (Peru) noted that creative thought needed safeguards "in order to protect it from harmful pressures which were only too frequent in recent history."³⁸ Encinas' proposal to add "freely" to the provisions relating to creative cultural and scientific activities was promptly endorsed by Mr. Cassin, thereby triggering support from others who responded to the leadership of the widely respected French delegate.

"...share in scientific advancement and its benefits"

The original draft article said that everyone has the right to "share in scientific advancement." Calling for additional reference to "its benefits," Mr. Chang (China) persuasively argued that "in the arts, letters and sciences alike, aesthetic enjoyment had dual components: a purely passive aspect when man appreciates beauty and an active aspect when he creates it."³⁹ In this connection, Mr. Chang said that the expression "participate in" or "share in" did not express these dual facets as precisely as it might. The text referred more to creation than to passive enjoyment. He therefore proposed the addition of the words "and its benefits."⁴⁰ This proposal had the added advantage of overcoming the objection voiced by Mr. Carrera Andrade (Ecuador) that special protection for intellectual property as a human right reflected elitist perspectives on privileges enjoyed by only a small proportion of society. He argued that literary and scientific property belonged under the general article on property rights, lest such work fail to "serve the cause of humanity and be accessible to all without restriction."⁴¹ The elitist tone of the original article, which appeared only to protect scientists, was thus overcome by stating that everyone has the right not only to share in the advancement of science (scientists and students of science) but also to share in its benefits (the general public).

Article 27 says in section (ii): *Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.*

This language was modeled on an intellectual property provision in the 1948 Bogotá Declaration. The Bogotá language served as the basis for Mexico, France and Cuba to suc-

cessfully propose adding the language concerning “moral and material interests” to this section.

Against a British objection that intellectual property needed no special protection beyond that afforded by property rights generally, Mr. Beaufort (Netherlands) offered a strong rebuttal. He noted the example of Mme. Curie, the discoverer of radium, whose work contributed materially to advances in medical research. He said that she “had devoted her whole life to the progress of science for the good of humanity,” not to a mere business venture to be protected by patents. It was incorrect, he said, to consider the protection of the moral and material interests of such a creative scientist, and of other medical pioneers, on the same level as the general right of property. The “moral interest,” he felt, was more abstract and “more than any other, lent itself to infringement.”⁴²

No topic regarding science and human rights was more substantially debated than the proposal by the Soviet delegate to add a provision calling for the mobilization of science in the service of progress and democracy and the causes of peace and international cooperation. Mrs. Corbet (UK) responded sharply with the view — accepted by most — that science should not be placed at the service of an ideology, as it had been recently when invoked by propagandists “of a doctrine which bestowed racial superiority upon Germany.”⁴³ The Soviet proposal was condemned vigorously by the Belgian representative for trying “to assign to science a political mission.”⁴⁴ More succinctly, Mr. Watt (Australia) ridiculed the Soviet proposition as lacking the understanding that “the sole aim of science could only be the quest for truth.”⁴⁵ A roll call vote defeated the Soviet proposal by twenty-five votes to ten with seven abstentions.⁴⁶

From Declaration to International Law

The General Assembly adopted the UDHR on December 10, 1948. Dr. Malik (Lebanon) suggested at this time that, in personal terms, everyone should understand the UDHR to mean: “this is what my Government must have pledged itself to promote, achieve and observe when it signed the Charter.”⁴⁷ To those who take the UDHR seriously as a set of hallowed claims and solemn promises, it constitutes the cen-

tral document for the cause of human rights.

The UDHR has taken on increased vitality and greater scope since 1948. The legal vitality of the UDHR has been greatly enhanced by the binding obligations of the human rights treaties which have followed. The provisions of the UDHR on health, medical care, and science have become law in many countries as they have evolved from the declaratory recommendations to treaty-based legal rights linked to various state obligations.

Recently at the UN World Conference on Human Rights, held in Vienna in 1993, the view that: "the universal nature of [internationally defined human] rights and freedoms is [now] beyond question" was solemnly proclaimed.⁴⁸ A half century after the adoption of the UDHR, the gap between its promises and the human rights violations which persist today must be acknowledged. Violations of the right to health, the right to medical care and the rights to share in the benefits of scientific advances have proliferated well beyond what was imagined in 1948. In addition to the health-related violations of human rights with which we are all familiar, the framers of the UDHR could not have foreseen such present-day issues as the maldistribution of medical services or life-saving drugs based on ethnic, racial and national differences; DNA testing without regard to privacy; gene-patenting that does not benefit gene contributors; misappropriation and sale of pharmaceutical compounds found in nature; pharmaceutical fraud and dumping in less developed countries; misuse of intellectual property on the Internet; arbitrary restrictions on scientific freedom and abuse of scientific "whistleblowers;" and discrimination affecting access to education in science, technology and medicine. For these and myriad other such contemporary problems, we look to the UDHR to begin, but hardly to conclude, inquiry into applicable normative standards and enforcement mechanisms. If we are seriously concerned about resolving today's human rights problems regarding health, medicine and science, then we should be serious about implementing the human rights documents which build upon the language and the promise of the UDHR and directly address the responsibilities of states and, by implication, of multinational corporations and other duty-bearers.⁴⁹

In the journey toward social justice, the first step, which requires vision and the courage to innovate, is due no less honor than the most recent. Eleanor Roosevelt said of the UN drafting project completed in 1948, "No matter how many times we revised the Declaration," we "could always see something a little better... [that we] might do.... On the whole, however," she concluded, "it is a good document."⁵⁰ She thought it would gradually become ever more significant for world public opinion, as indeed it has. It is a tribute to the framers' efforts that, like Eleanor Roosevelt, we too can always see something a little better that we might do.

References

1. ECOSOC Resolution 1/5, February 16, 1946.
2. United Nations, *These Rights and Freedoms* (United Nations: Department of Public Information, 1950), pp. 4–5.
3. Other members represented Australia, Belgium, the Byelorussian Soviet Socialist Republic, Chile, Egypt, India, Iran, Panama, the Philippines, the Union of Soviet Socialist Republics, the United Kingdom, Uruguay and Yugoslavia.
4. Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR Res. 71, U.N. Doc. A/810 (1948); Preamble/Proclamation.
5. R.N. Proctor, "Nazi Doctors, Racial Medicine, and Human Experimentation," in: (eds.) G. J. Annas and M. A. Grodin, *The Nazi Doctors and the Nuremberg Code, Human Rights in Human Experimentation* (New York: Oxford University Press, 1992), pp. 17–31.
6. In November, 1947 the War Crimes Commission said its report "was designed to serve the specific purpose of contributing to the task of the Commission on Human Rights in preparing an international bill of human rights..." United Nations Commission on Human Rights Drafting Committee, U.N. Doc. E/CN.4/W.20, p. vi. That it was so received is evidenced by René Cassin's statement to fellow members of the Universal Declaration of Human Rights (UDHR) drafting committee considering a prohibition of torture (Article 5) that doctors have no "right to inflict suffering upon other human beings without their consent, even for ends that may appear 'good.'" U.N. Doc. E/CN4/AC.1/SR.3, p. 13.
7. United Nations, see note 2, p. 6.
8. The American Declaration of the Rights and Duties of Man antedates the UDHR by several months. Its provisions, which parallel those formulated by the UN, include:

Article XI. Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

Article XIII. Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries. He like-

wise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.

O.A.S. Res. XXX, adopted by the Ninth International Conference of American States (March 30 – May 2 1948), Bogotá, Columbia.

9. A. Verdoodt, *Naissance et signification de la Déclaration universelle des droits de l'homme* (Louvain-Paris: Editions Nauwelaerts, 1963), pp. 41–43.

10. United Nations, see note 2, p.7.

11. United Nations Commission on Human Rights Drafting Committee, Draft Outline of the International Bill of Rights, U.N. Doc. E/CN/AC.1/3.

12. *Ibid.*, p. 43.

13. J.P. Humphrey, *Human Rights and the United Nations, A Great Adventure* (Dobbs Ferry, NY: Transnational Publishers Inc., 1984), p. 37.

14. *Ibid.*

15. United Nations, *Yearbook on Human Rights for 1947* (Lake Success, NY: United Nations, 1949), p. 484.

16. A. Eide, "Article 25" in: (eds.) A. Eide, et al., *The Universal Declaration of Human Rights: A Commentary* (Oslo: Scandinavian University Press, 1992), p. 391.

17. *Ibid.*, pp. 390–93.

18. This text is found at United Nations Commission on Human Rights Drafting Committee, U.N. Doc. E/CN.4/95. p. 11, in combination with alternative texts suggested by France and by the United States. For alternative drafts of Article 25 presented in sequence, see also United Nations, see note 2, pp. 65–57; and United Nations, *Yearbook on Human Rights for 1948* (Lake Success, NY: United Nations, 1950), p. 460.

19. Article 12 of the Covenant on Economic, Social and Cultural Rights states:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

b) The improvement of all aspects of environmental and industrial hygiene;

c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

G.A. Res. 2200 (XXI), U.N. GOAR, 21st Sess., Supp. No.16 at U.N. Doc. A/63316 (1966).

20. United Nations Commission on Human Rights, 3rd session, U.N. Doc. E/CN.4/85, pp. 6–7.

21. *Ibid.*

22. Commission on Human Rights, 3rd Session, Summary Record of the

- Seventy-First Meeting held June 14, 1948, U.N. Doc. E/CN.4/SR.71, p. 2.
23. *Ibid.*, p. 3.
 24. *Ibid.*, p. 6.
 25. *Ibid.*, p. 5.
 26. United Nations, Official Records of the Third Session of the General Assembly, Part I, "Social, Humanitarian and Cultural Questions," Third Committee, Summary Records of Meetings, September 21– December 8, 1948, p. 571.
 27. *Ibid.*, p. 559.
 28. *Ibid.*, p. 569.
 29. *Ibid.*, p. 571. The vote is recorded at p. 575, and the "Chinese compromise" draft is U.N. Doc. A/C.3/347/Rev.1.
 30. *Ibid.*, p. 572.
 31. *Ibid.*, pp. 572–3.
 32. *Ibid.*, p. 560.
 33. *Ibid.*, p. 572.
 34. *Ibid.*, p. 578.
 35. United Nations Commission on Human Rights, 3rd Session, Summary Record of the Sixty-Fifth Meeting, U.N. Doc. E/CN.4/SR.65, p. 5.
 36. *Ibid.*, p. 11.
 37. United Nations, see note 26, p. 635.
 38. *Ibid.*, p. 619.
 39. *Ibid.*, p. 627.
 40. *Ibid.*
 41. *Ibid.*, pp. 618–19.
 42. *Ibid.*, pp. 629–30.
 43. *Ibid.*, p. 625.
 44. *Ibid.*, p. 622.
 45. *Ibid.*, p. 630.
 46. *Ibid.*, p. 634.
 47. United Nations, see note 2, p. 15.
 48. United Nations General Assembly, Vienna Declaration and Programme of Action, Part II, paragraph 1, World Conference on Human Rights, Vienna, 14–25 June 1993, U.N. Doc. A/CONF.157/23.
 49. "The Maastricht Guidelines on Violations of Economic, Social and Cultural Rights," *Human Rights Quarterly* 20(3) (August 1998): 691–704.
 50. United Nations, see note 2, pp. 15–16.