
ARTICLE 29(1) OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS: REFLECTION ON DRAFTING, SOURCES AND INFLUENCES

JUNXIANG MAO*, XI SHENG**

ABSTRACT

Individual duties to the community were discussed throughout the various drafting stages of the Universal Declaration of Human Rights (UDHR). Its final incorporation into the UDHR through Article 29(1), indicates the conceptual consensus of the international community on this issue at that time. We found that representative philosophical theories of the East and the West, and world's major religious cultures emphasize on individual duties to the community. Legal provisions in trans-regional legal sources follow suit. Article 29(1) the UDHR, though indirectly, continues to exert important normative influences on domestic constitutions and human rights instruments. The recognition of individual duties to the community as protected under Article 29(1) clearly demonstrate the cross-cultural nature of the UDHR. Therefore, an integral understanding of the UDHR requires further exploration of the value of this provision.

KEYWORDS

Individual Duties to the Community; Drafting History; Philosophical Foundations; Legal Sources; Normative Influences

* Professor of Law School and Executive Director of Human Rights Center at Central South University, China.
Email: tangmao200304@sina.com

** Research Fellow at the Human Rights Center at Central South University.
Email: 1135081517@qq.com

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1. INTRODUCTION

On 10 December 1948, the Universal Declaration of Human Rights (hereafter "the UDHR") was adopted by the United Nations General Assembly resolution 217(III) at its 3rd session in Paris. Drafted by representatives from different regions and with various cultural backgrounds, the UDHR is a normative document that embeds cross-cultural human rights notions. Among them, in the drafting process of Article 29(1), Western countries such as the US, UK, Canada, Australia, New Zealand, and non-Western countries such as China, Lebanon, Uruguay, Cuba, Egypt, participated in the process and raised suggestions on the drafts.

Despite some divergences on the wording of Article 29(1), the clause concerning 'individual duties to the community' was finally incorporated into the UDHR. We propose that, "individual duties to the community", is a general phrase, transformed from the "social duties" in the preliminary draft¹ of the UDHR submitted by Humphrey. Whilst the UDHR did not specify the type of duties, according to earlier drafts of the UDHR, we can indicate that the drafters aimed to impose social duties on everyone.² That is, a just share of responsibility and common sacrifices as may contribute to the common good, so as to enable all men to develop their physical, mental and moral personality. These duties include but are not limited to obedience to law, exercise of a useful activity, and the acceptance of the burden and sacrifices demanded for the common good.

Furthermore, the use of the term "duty" has subtle but essential differences to "responsibility" and "obligation". According to the Oxford Advanced Learner's English-Chinese Dictionary, duty means "something that you feel [you] have to do because it is your moral or legal responsibility".³ Responsibility means "a duty to deal with or take care of sb/sth, so that you may be blamed if sth goes wrong; a duty to help or to take care of sb because of your job, position, ect".⁴ Obligation contains two

¹ Draft Outline of International Bill of Rights, E/CN.4/AC.1/3, 4 June 1947,4; Report of the drafting committee to the commission on human rights, suggestions submitted by the representative of France for articles of the international declaration of human rights, E/CN.4/21, 1 July 1947, 51.

² Report of the drafting committee to the commission on human rights, E/CN.4/21, 1 July 1947, 9, 51.

³ *Oxford Advanced Learner's English-Chinese Dictionary (7th edition)* (The Commercial Press and Oxford University Press 2009) 625.

⁴ *Ibid* at 1699.

meanings of “the state of being forced to do sth because it is your duty, or because of a law, ect.; something which you must do because you have promised, because of a law, ect.”⁵ It can be seen that “duty” holds moral and legal requirements; “responsibility” is mainly a moral requirement; and “obligation” corresponds to rights legally and is compulsory and binding. With regards to Article 29(1) of the UDHR, individual duties to the community are duties that are imposed on individuals to guarantee the full exercise of rights and freedoms in their dealing with their relationship with others and the community they are a part of. Once individual duties to the community are completely excluded, it is easy to cause excessive demand for rights, which has been demonstrated in modern society.

Nevertheless, it remains that the reasons for divergences on the wording of Article 29(1) were due to worries that the clause may help to prevent the expanded exercise of individual rights and may be easily abused in limiting individual rights. The final adoption of this clause reflects its crucial position within the ‘rights-centered’ time period of 1948, and the consensus among countries. In addition, the ordering of this ‘individual duties to the community’ clause after all the clauses centred on individual rights in the UDHR, reflects the logic of states. That is, the substantial influence a clause concerning ‘individual duties owed to the community’ may have on rights-centred clauses. Thus, this indicates that the status and role of the ‘individual duties to the community’ clause, stipulated in Article 29(1) cannot be ignored.

Therefore, in order to understand the UDHR in an integral sense an examination of Article 29(1) must not be excluded. However, we find that after 70 years of the UDHR’s adoption, the fact that the individual duties to the community clause and its meaning are neglected intentionally or unintentionally in today’s society is quite inconsistent with the important role it plays in the UDHR. The United Nations Human Rights Council adopted 1092 resolutions altogether from the 1st to the 41st regular session, among them 800 are thematic resolutions. The most frequently adopted resolutions focused on the various rights, such as the right to development; the right to food; human rights and international solidarity; the human rights to safe drinking water and sanitation; enhancement of international cooperation in the field of human rights; human rights and unilateral coercive. Strikingly, there are

⁵ Ibid at 1373.

none within the resolutions which mainly focuses on individual duties to the community. In addition, there are pertinent academic researches on UDHR clauses including, Article 4 involving modern slavery;⁶ Article 8 to 11 involving fair trial;⁷ Article 12 involving the right to privacy;⁸ Article 18 involving religious freedom;⁹ Article 25 involving the right to health;¹⁰ Article 26 involving the right to education;¹¹ and Article 28 involving social and international order.¹² There are also researchers who pay heed to the role of the UDHR at its 70th year, in terms of the protection of children's rights¹³ and indigenous rights,¹⁴ yet still, there appears to be a dearth of in-depth discussion on Article 29(1). The social disorder and governance deficits in many

⁶ Sands, Matthew, 'UDHR and Modern Slavery: Exploring the Challenges of Fulfilling the Universal Promise to End Slavery in All Its Forms' [2019] *Political Quarterly*. <This paper is just published online, early access: <https://doi.org/10.1111/1467-923X.12712>> accessed 20 October 2019.

⁷ Weissbrodt, D., Hallendorff, M., 'Travaux Préparatoires of the fair trial provisions - Articles 8 to 11 - of the Universal Declaration of Human Rights' [1999] 21(4) *Human Rights Quarterly* 1061.

⁸ Lorna Woods, 'Digital Privacy and Article 12 of the Universal Declaration of Human Rights' [2019] *Political Quarterly* <This paper is just published online, early access: http://apps.webofknowledge.com/full_record.do?product=UA&search_mode=GeneralSearch&qid=3&SID=6FpDIC6OH3opSmuJPQS&page=1&doc=1> accessed 20 October 2019.

⁹ Ismailee, Sania, 'Religious Freedom and the Universal Declaration of Human Rights' [2019] 20(2) *Human Rights Review* 257; Moyn, Samuel, 'The Universal Declaration of Human Rights and the Challenge of Religion' [2018] 60(2) *Journal of Church and State* 325; Hodge, David R., 'Advocating for the forgotten human right - Article 18 of the Universal Declaration of Human Rights - religious freedom' [2006] 49(4) *International Social Work* 431.

¹⁰ Pillay, Navanethem, 'Right to health and the Universal Declaration of Human Rights' [2008] 372(9655) *LANCET* 2005; Ayotte, B L, 'Forging the link between health and human rights: celebrating over 50 years of the Universal Declaration of Human Rights' [1999] 22(2) *The Journal of ambulatory care management* 66; Annas, GJ, 'Human rights and health - The universal declaration of human rights at 50' [1998] 339(24) *New England Journal of Medicine* 1778.

¹¹ Lapa, Fernanda Brandao; Silva, Gusso; Luana de Carvalho; de Souza, Sirlei, 'Human Rights to education (article 26 in the UDHR): challenges to implement Human Rights education in Brazil' [2018] (39) *Dialogo* 119.

¹² Saunders, Natasha, 'Beyond asylum claims: refugee protest, responsibility, and Article 28 of the Universal Declaration of Human Rights' [2018] 22(7) *International Journal of Human Rights* 847.

¹³ Lee-Koo, Katrina, 'The Universal Declaration of Human Rights at 70: children's rights, Australian Journal of International Affairs' [2019] 73(4) *Australian Journal of International Affairs* 326.

¹⁴ Synot, Eddie, 'The Universal Declaration of Human Rights at 70: Indigenous rights and the Uluru Statement from the Heart' [2019] 173(4) *Australian Journal of International Affairs* 320.

countries today caused by mere self-seeking values, while evading social duties, also alert us that we should not ignore this issue concerning individual duties to the community.

In view of the above fact, we cannot help but wonder whether the neglect of individual duties to the community deviates from the drafters' vision of the UDHR? Is the formulation of the individual duties to the community clause only a claim of a certain culture or a universal claim of multiculturalism? Do the individual duties to the community clause reflect merely the proposition before the formulation of the UDHR, or is it a consensus that should have been upheld in the 70 years of the UDHR. We believe that since Article 29(1) is an integral part of the UDHR, discussion on this clause is thus an indispensable work so as to understand the UDHR and its cross-cultural nature holistically.

2. DRAFTING HISTORY OF ARTICLE 29(1) OF THE UDHR

From the preparatory stage, the drafting of the UDHR was conducted in nearly a span of three years, from 1946-1948. The Commission on Human Rights, the Drafting Committee and its working group played a key role in the drafting process. The content of the individual duties to the community in Article 29(1) was thus formulated under continuous revision.

2.1. THE FIRST SESSION OF THE COMMISSION ON HUMAN RIGHTS

In February 1947, in accordance with a decision from the first session of the Commission on Human Rights, a group (the Drafting Committee) consisting of Eleanor Roosevelt, Pen-Chun Chang and Charles Malik, began drafting the International Bill of Human Rights. With assistance of the UN Secretariat, the task of formulating a preliminary draft was given to John Humphrey, Director of the UN Secretariat's Division for Human Rights.¹⁵ The Secretariat then formulated the preliminary draft, 'Draft Outline of International Bill of Rights', and submitted it to the Commission. This Draft contains a preamble and eighty articles outlining

¹⁵ Drafting of the Universal Declaration of Human Rights
<<http://research.un.org/en/undhr/draftingcommittee>> accessed 2 May 2019.

individual human rights. Among them, the preamble states in paragraph 2 that “man does not have rights only; he owes duties to the society of which he forms part”.¹⁶ Article 1 also states:

"Every one owes a duty of loyalty to his state and to the (international society) United Nations. He must accept his just share of responsibility for the performance of such social duties and his share of such common sacrifices as may contribute to the common good."¹⁷

In addition, Article 1 of the Plan of the Draft Outline of an International Bill of Rights submitted to the Commission prepared by the Secretariat during the first session also deals with the "Duties towards Society".¹⁸ The preliminary draft prepared by Humphrey was the first formal version of the UDHR and reflected that the Drafting Committee has already taken heed of incorporating individual duties to the community into the UDHR from the very beginning.

During the first session of the Commission on Human Rights, the representative of the United Kingdom in the Human Rights Commission, Lord Dukeston, proposed a draft International Bill of Human Rights in a form of a legal instrument, in his letter to the Secretary-General of the United Nations. The British draft referred to individual duties to the community in paragraph 3: "Whereas all men are members of communities and as such have the duty to respect the rights of their fellow men equally with their own."¹⁹ The United States also suggested redrafting Article 2 of the preliminary draft, as:

“Duty of the individual towards other individual: The state is created by the people for the promotion of their welfare and the protection of their mutual rights. In the exercise of his rights everyone is limited by the rights of others. The states may impose only such limitations on such rights as are compatible with the freedom and welfare of all.”²⁰

¹⁶ Draft Outline of International Bill of Rights (n.1) at 2.

¹⁷ Ibid at 4.

¹⁸ Plan of the Draft Outline of an International Bill of Rights, E/CN.4/AC.1/3/ADD.2, 6 September 1947, 2.

¹⁹ Text of Letter from Lord Dukeston, the United Kingdom Representative on the Human Right Commission, to the Secretary-General of the United Nations, E/CN.4/AC.1/4, 5 June 1947, 5.

²⁰ United States Suggestions for Redrafts of Certain Articles in the Draft Outline, E/CN.4/AC.1/8, 11

Furthermore, the United States also emphasized individual duties to others indirectly from the perspective of rights limitation.

At this session the Drafting Committee established a temporary working group to suggest a logical rearrangement and re-draft of the articles of the Draft Outline supplied by the Secretariat. Within the temporary working group, the task of re-drafting a declaration based upon the draft outline of the Secretariat was given to René Cassin (France). Cassin's draft contained a preamble and forty-four articles, among them, Articles 1, 2, 3 and 4 deal with individual social duties and rights limitations based on his/her family or social membership.²¹ For example, Article 3 states:

"As human beings cannot live and achieve their object without the help and support of society, each man owes to society fundamental duties which are: obedience to law, exercise of a useful activity, acceptance of the burden and sacrifices demanded for the common good."²²

The Drafting Committee examined and further revised Cassin's draft. It was agreed that where more than one view was expressed, all alternatives would on request be included.²³ After detailed consideration and revision of Cassin's draft, the Drafting Committee provided two alternatives for Article 2, 3 and 4 in terms of Cassin's draft. The first alternative was to retain but revise Cassin's draft (three articles), to stipulate respectively as

"Article 2: The object of society is to afford each of its member's equal opportunity for the full development of his spirit, mind and body.

Article 3: As human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience

June 1947, 1. Later, The United States reviewed this suggestion to delete the last sentence, United States Reviewed Suggestions for Redrafts of Certain Articles in the Draft Outline, E/CN.4/AC.1/8/Rev.1, 19 June 1947, 1.

²¹ Report of the drafting committee to the commission on human rights, suggestions submitted by the representative of France for articles of the international declaration of human rights (The English text is an official translation of the Articles suggested by Professor Cassin, the Drafting Committee did not work from this text but from a rough translation), E/CN.4/21, 1 July 1947, 51.

²² Ibid at 51.

²³ Ibid at 5.

to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for common good.

Article 4: In the exercise of his rights, everyone is limited by the rights of others."

The second alternative was to roll the above three articles into one article (Article 2), which states as: "These rights are limited only by the equal rights of others. Man also owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom."²⁴

2.2. THE SECOND SESSION OF THE COMMISSION ON HUMAN RIGHTS

During the second session the Commission on Human Rights set up three separate working groups to consider, respectively, the Declaration, the Convention or Conventions, and the Implementation aspects.²⁵ In the Draft Articles for the International Declaration of Human Rights contained in the second session report, it stated

"Article 2: In exercise of his rights everyone is limited by the rights of others and by the just requirements of the democratic State. The individual owes duties to society through which he is enabled to develop his spirit, mind and body in wider freedom."²⁶

Comments were also raised on Draft Article 2. For example, the representative of China suggested the following: "In the exercise of these rights everyone shall respect the rights of others and comply with the just requirements of the democratic State".²⁷ In a slightly different way, the representative of the United Kingdom held that the States should not be regarded as limiting the rights of individuals but as promoting the rights of all. He proposed the following alternative text, which he requested it be

²⁴ Report of the drafting committee to the commission on human rights, suggestions of the drafting committee for articles of an international declaration on human rights, Annex F, E/CN.4/21, 1 July 1947, 73.

²⁵ Drafting of the Universal Declaration of Human Rights <<http://research.un.org/en/undhr/chr/2>> accessed 18 November 2019).

²⁶ Report to the Economic and Social Council on the 2nd Session of the Commission, E/600(SUPP), 1 January 1948, 17.

²⁷ Ibid at 22.

placed on record: "In the exercise of his rights everyone must recognize the rights of others and his obligation to society so that all may develop their spirit, mind and body in wider freedom".²⁸ The representative of the United States preferred the following text: "The full exercise of these rights requires recognition of the rights of others and protection by the law of the freedom, general welfare and security of all."²⁹ Alternatively, the representative of Uruguay proposed that the adopted clause be replaced by another provision which provides for the deprivation and limitation of rights, specifying the juridical acts required for this purpose, which, in principle, must be the law, and the reasons on which these acts must be based: public order and the security of the States; normal development of social life; harmonious exercise of all rights.³⁰ From these various comments raised by representatives, it can be seen that these countries all recognized the limited nature of rights and individual duties to others or the community. Despite that, these representatives diverged on the wording of the draft article and did not draw a harsh line between the rights limitation and individual duties.

The Draft Article 2 concerning individual duties to the community was not examined nor revised in the second session of Drafting Committee, despite some countries' comments and suggestions. As for the Brazilian government, they argued that, "Attention should be paid to the duties that correspond to the rights. This relation has been emphasized in juridical doctrine and in the most advanced legislations."³¹ That "all should act toward one another like brothers" - or, at least, in a fraternal spirit should be added in Article 2. The text would thus become complete, as the exercise of rights were limited not only by the rights of others but also by this duty of fraternity.³² While the United Kingdom further proposed that "it would be preferable if the order of Articles 2 and 3 were reversed",³³ New Zealand's government

²⁸ Report to the Economic and Social Council on the 2nd Session of the Commission (n.26) at 22.

²⁹ Ibid at 22.

³⁰ Ibid at 22-23.

³¹ Comments from governments on the draft international declaration on human rights, draft international covenant on human rights and the question of implementation, communication received from Brazil, E/CN.4/82/Add.2, 22 April 1948, 2.

³² Ibid at 3.

³³ Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation, Communication

submitted its revision of the Draft International Declaration on Human Rights and revised the individual duty clauses in Article 1 as

"1. All men are born free, equal in dignity and rights as human beings, endowed with reason and conscience, and bound in duty to one another as brothers. 2. All men are brothers of communities and as such have the duty to respect the rights of their fellow men equally with their own. 3. The just claims of the state, which all men are under a duty to accept, must not prejudice the respect of man's right to freedom and equality before the law and the safeguard of human rights, which are primary and abiding conditions of all just government."³⁴

The Chinese delegation also submitted a Draft International Declaration on Human Rights which contains ten articles, among them, Article X states:

"Every person is entitled to the human rights and fundamental freedoms set forth in this declaration without distinction as to race, sex, language or religion. The exercise of these rights requires recognition of the rights of others and the just requirement of the community in which he resides."³⁵

Although divergences between countries on individual duties to the community were still not eliminated at this stage, these countries did share some common ideas on the scope of rights and recognized in varying forms that individuals carry duties to the community.

2.3. THE THIRD SESSION OF THE COMMISSION ON HUMAN RIGHTS

The third session of the Commission on Human Rights based its work on the report of the second session of the Drafting Committee. The individual duties clause was examined and a re-drafted Declaration was adopted by the Commission. In this new draft, the original Article 2 dealing with individual duties to the community and rights

received from the United Kingdom, E/CN.4/82/ADD.9, 10 May 1948, 3.

³⁴ Comments from Governments on the Draft International Declaration on Human Rights, Draft International Covenant on Human Rights and the Question of Implementation: Communication received from New Zealand, E/CN.4/82/ADD.12, 03 June 1948, 24.

³⁵ Draft International Declaration of Human Rights Submitted by the Chinese Delegation: E/CN.4/AC.1/18, 03/05 May 1948, 1.

limitation was rearranged as Article 27 and transformed into two paragraphs:

"1. Everyone has duties to the community which enables him freely to develop his personality. 2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, public order and general welfare in a democratic society."³⁶

It is worth noting that prior to the adoption of the re-drafted declaration, some sub-committees submitted reports to the Commission on Human Rights and proposed suggestions in regard to the original Article 2. For example, in the report of the sub-committee consisting of the representatives from Australia, China, France, Lebanon, India and the United Kingdom, they suggested Article 2 to be stated as

"1. Everyone has duties to the community which enables him freely to develop his personality. 2. In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of general welfare in a democratic society."³⁷

In addition, in the report of the sub-committee consisting of the representatives from Egypt, France, United Kingdom and Union of Soviet Socialist Republics, they re-examined Article 2 and suggested it to be stated as

"In the exercise of his rights, everyone shall be subject only to such limitations as are necessary to secure due recognition and respect for the rights of others and the requirements of morality, of general welfare and of public order in a democratic society."³⁸

Consequently, the re-drafted Article 27 was an integration of the two sub-committees' suggestions. It was further a reflection of the growing compromise in the divergences

³⁶ Report of the third session of the commission on human rights, E/800, 28 June 1948. 11.

³⁷ Report of the Sub-Committee Consisting of the Representatives of Australia, China, France, Lebanon, India and the United Kingdom on Article 2 of the Draft International Declaration on Human Rights: E/CN.4/111, 07 June 1948, 1.

³⁸ Report of the committee consisting of the representative of Egypt, France, United Kingdom and Union of Soviet Socialist Republics on re-examination of article 2, paragraph 2, of the draft international declaration on human rights, E/CN.4/141, 15 June 1948, 1.

on the formation of individual duties seen in Draft Article 2. This is for example demonstrated with the inclusion of general welfare and democratic society, which implicitly recognizes the different societal values and social systems of the States involved in forming the clause.

2.4. THE THIRD SESSION OF THE GENERAL ASSEMBLY

During the third session of the General Assembly, some countries continued to raise proposals on the order and form of the Draft articles. Cuba submitted proposals to reorder the articles and suggested Article 2 to deal with "Fundamental Rights" and Article 26 to deal with "Extent of Rights".³⁹ Moreover, Cuba suggested to insert Article 1 in the preamble, worded within 6 paragraphs and place them before the right provisions. Among them, paragraph 2 should be stated as

"Respect for the rights of all requires that each shall do his duty. In all human activity, both social and political, rights and duties are indissolubly linked with one another. While rights enhance individual freedom, duties express the dignity of that freedom".⁴⁰

Egypt also suggested "the Third Committee decides that the Declaration of human Rights shall deal both with human rights and with the duties corresponding thereto".⁴¹ Apart from the above suggestions, France proposed to insert Article 27 between Article 2 and 3 and held the view that "it is essential that the social framework in which man lives and the limitations on his rights should appear in the first group of general theses, before enumeration of the rights themselves".⁴² France also amended paragraphs 1 as: "Everyone who has the right freely to develop his personality has

³⁹ Draft Universal Declaration of Human Rights: Proposal Concerning the Order of the Articles of the (Draft Declaration)/Cuba: A/C.3/SC.4/8/REV.1, 3 December 1948, 1.

⁴⁰ Draft International Declaration of Human Rights: Recapitulation of Amendments to Article 1 of the Draft Declaration (E/800), A/C.3/243, 7 October 1948, 1-2.

⁴¹ Draft International Declaration of Human Rights: Proposal/Egypt, A/C.3/222, 5 October 1948, 1.

⁴² Draft International Declaration of Human Rights: Amendments to the Draft Declaration (E/800)/France, A/C.3/244, 08 October 1948, 1.

duties to the community”.⁴³ During this period, both Cuba and Egypt pointed out the inextricable link between rights and duties, which is an important theoretical basis for emphasizing individual duties to the community.

2.5. THE THIRD COMMITTEE’S REVIEW AND THE GENERAL ASSEMBLY’S ADOPTION

At its 142nd meeting on 24 September 1948, the General Assembly submitted the Draft International Declaration of Human Rights to the Third Committee. The Third Committee set up a Sub-Committee composed by eleven representatives from Australia, Belgium, China, Cuba, Ecuador, France, Lebanon, Poland, Union of Soviet Socialist Republic, United Kingdom and United States to review the draft for consistency of language and style.⁴⁴ At its first meeting, after hearing statements by the representatives from China, Cuba and Ecuador on the general structure of the Declaration and the order of the articles, the Sub-committee proceeded to a detailed examination and study of the Declaration article by article. As a result of this examination and study, and subject to the reservations indicated both regarding the text of certain articles and the question of order and arrangement, the Sub-Committee decided to recommend to the Third Committee the examined and studied ‘Draft Universal Declaration of Human Rights’.⁴⁵ The draft was adopted as Declaration with 29 votes in favor, none opposed and seven abstentions. The Third Committee report was considered in plenary meetings on 9 and 10 December 1948. The representative of Poland requested a separate vote on the Preamble and on each article.⁴⁶

On 10 December 1948 the UDHR was adopted as Resolution 217(III) with 48 votes in favor, and 8 abstentions.⁴⁷ In the report submitted by the Third Committee, due to the additional articles, the original Article 27 concerning individual duties to the community and rights limitations was re-ordered as Article 30. In the final voted

⁴³ Draft International Declaration of Human Rights: Proposed Amendments to Articles 27 and 28/France: A/C.3/345, 17 November 1948, 1.

⁴⁴ Report of Sub-Committee 4 of the 3rd Committee/Submitted by Alan S. Watt (Australia), Rapporteur: A/C.3/400, 4 December 1948, 1.

⁴⁵ Ibid at 2.

⁴⁶ Drafting of the Universal Declaration of Human Rights <<http://research.un.org/en/undhr/ga/plenary>> accessed 1 May 2019.

⁴⁷ The 183rd meeting of the General Assembly, A/PV.18,10 December 1948, 317.

and adopted Declaration, the additional Article 3 in the report of the Third Committee was incorporated into Article 2 after being modified. After the modification of the specific wording of paragraph 2 and 3, Article 30 finally was adopted by the Sub-Committee as the final text of Article 29 of the UDHR, and the first paragraph concerning individual duties to the community states:

"Everyone has duties to the community in which alone the free and full development of his personality is possible".⁴⁸

3. ARTICLE 29(1) OF THE UDHR: PHILOSOPHICAL FOUNDATIONS AND TRANS-REGIONAL LEGAL SOURCES ON INDIVIDUAL DUTIES TO THE COMMUNITY

3.1. CROSS-CULTURAL PHILOSOPHICAL FOUNDATIONS OF INDIVIDUAL DUTIES

Visions of human rights are complex and profound. It tends to strike at our very core and force us to critically examine ourselves as human beings: to explore our nature, to consider what it means to be fully human, to wrestle with how we ought to relate to others in society as a whole, and to assess our own values and deeds in response to those who suffer abuse.⁴⁹ We can find traces of Article 29(1) of the UDHR concerning individual duties to the community in various societies. Human rights culture is usually embodied in the political philosophy and religious philosophy of different societies. It is also reflected in the legal documents of certain societies in modern times. Analysis on philosophical foundations and legal sources may be conducive to justifying a cross-cultural basis for the provision of individual duties to the community. To this end, it is necessary for us to conduct a brief examination of philosophical theories relating to individual duties to the community, and to reveal the already existing consensus of countries with differing cultural backgrounds and legal traditions on such concept.

⁴⁸ Report of the 3rd Committee, Draft International Declaration of Human Rights, A/777, 7 December 1948, p7. International Bill of Human Rights: a Universal Declaration of Human Rights, A/RES/217(III), 10 December 1948, 76,77.

⁴⁹ Paul Gordon Lauren, *The Evolution of International Human Rights* (University of Pennsylvania Press 2003) 5.

Natural law theory is one of the most profound and long-lasting theoretical basis of the Western human rights notions.⁵⁰ It contains a wide range of moral arguments for individual duties. Thinkers in classical natural law period and Middle Ages discussed natural law always in a moral condition.⁵¹ They first placed people in community or social groups in which they lived, and distinguished natural rights from the overall background of the community.⁵² The individuals' rights must always conform to the "good" of the community and thus such rights can be natural and just.⁵³ Most of the early philosophical theories of natural law of the Stoics founded after Aristotle, focused on universal responsibilities and obligations, not just on individual rights. They believed that the

“laws of nature provided the principles of reason and equality that governed the entire universe, including the ethical rules of mutual respect for moral equality. Roman Stoic philosophers contended that these laws of nature provided rational and egalitarian principles governing the entire universe. They entailed ethical rules such as the obligation to respect one another as moral equals.”⁵⁴

In addition, the Stoics advocates to achieve personal happiness and harmonious relationship with others through self-restrain. This thought of self-restrain featuring fatalism comes directly from the views of Weltvernunft.⁵⁵ These views require people to treat others in a humane manner, to stand aloof to secular interests, and to strictly discipline personal will so as to cultivate a persevering will and a sense of natural duty to be devoted to duty.⁵⁶

In addition, traditional Western philosophical theories also contain theories on ‘conscience’, concerning the cognition of good and evil and the moral judgment of self-behavior. Conscience is not moral in itself; however, conscience is linked to morality by its functioning outward. It is the motive mechanism of the generation of

⁵⁰ Jianlin Shen, *The Evolvement of Natural Law Theory: Tracing the Western Mainstream View on Human Rights to its Source* (Social Science Academic Press (China) 2005) 5.

⁵¹ Xianming Xu, *Principle of Human Rights Law* (China University of Political Science and Law Press (China) 2008) 8.

⁵² *Ibid.*

⁵³ *Ibid.*

⁵⁴ Paul Gordon Lauren (n.49) at 13-14.

⁵⁵ Jianlin Shen (n.50) at 53.

⁵⁶ *Ibid.*

moral.⁵⁷ Based on the cognition and judgment of our own behavior, coupled with this close connection with moral, conscience also exerts positive influences on us to avoid behaviors that are unfavorable to the community or others, which is actually intriguing for understanding the individual duties to the community. According to Hegel, as a real thing, conscience is a self-regulation that seeks self-conscious good and duty.⁵⁸ Consequently, Hegel defines the conscience through the ideals of freedom, good and duty; thus conscience is the self-consciousness of duties and in this sense, we may expect that performing duties is no longer a burden of freedom but a practical action to guarantee freedom.

The sympathy and compassion of individuals toward others, responsibility ethics, and self-examination in interaction with others are advocated within Chinese Confucian Philosophy. Such philosophy embodies 'moral emotions' towards others, and in this way encourages individuals to perform duties to the community. "Benevolence" in Confucian philosophical ethics is such a moral emotion. As Peng-Chun Chang elaborated in the drafting stage of the UDHR, "benevolence" is a person (when s/he is in need) that can feel that others have the same needs as themselves, and when they are in the exercise of rights, they can take into account that others have the same rights.⁵⁹ In addition, Confucius proposed that we should be severe with ourselves and lenient to others, this can dissolve resentment.⁶⁰ Such approach to responsibility ethics in Confucianism is an important ethical norm instructing on how to act in one's relationship with others. In China, this traditional virtue-resource is pivotal in guiding the performance of duties within communities.⁶¹

Consequently, representative philosophical theories of the East and the West pay attention to individual's duties to the community and others. The world's major religious cultures (such as Christianity, Islamic and Buddhism) also emphasize on individual duties to the community and others. Paul Gordon Lauren states,

⁵⁷ Daixing Tang, 'The Generating Thinking of Conscience: A Virtue Research from another Perspective' [2015] (2) *Morality and Civilization* 14-15.

⁵⁸ Hegel, *Elements of the Philosophy of Right* (The Commercial Press (China) 1961) 139.

⁵⁹ Chung-Shu Lo, *Human Rights in the Chinese Tradition*, in UNESCO (eds), *Human Rights: Comments and Interpretations* (Columbia University Press 1949) 186-187.

⁶⁰ *The Analects of Confucius: Wei Linggong*. (《论语•卫灵公》).

⁶¹ Keguo Tu, 'The Dual Structure of Confucian Responsibility Ethics Subjects' [2018] (4) *History of Chinese Philosophy* 27.

“Despite their many differences, complex contradictions, internal paradoxes, cultural variations, and susceptibility to conflicting interpretation, reinterpretation, and argumentation, all of the great religious traditions share a universal dissatisfaction with the world as it is and a determination to make it as it ought to be. They do this by addressing the value and the dignity of human life, and, consequently, the duties toward those who suffer.”⁶²

Judaism and Christianity emphasize the “love” and the “keeper” role to others.⁶³ Buddhism instructs disciples to practice “righteousness” and “good deeds”.⁶⁴ Islam teaches the love and help to vulnerable groups in the community.⁶⁵ All of these are asking individuals to be detached from self-centeredness, to be friendly to others, and to consider the rights-needs of others equally. This is quite similar to the “benevolence” in Chinese traditional Confucian ethics and is also the driving force for individuals to fulfill their duties to the community.

3.2. TRANS-REGIONAL LEGAL SOURCES OF INDIVIDUAL DUTIES TO THE COMMUNITY

It is worth initially noting that although many constitutions and regional, international human rights instruments contain duty provisions, not all these provisions can be regarded as derived from Article 29(1). Since Article 29(1) aims to protect rights rather than restrict rights, we do not regard those duty provisions that merely aims to restrict rights as the legal sources of Article 29(1). Based on the purpose of the UDHR,⁶⁶ two standards can be derived concerning whether a law, provision, or other norm, can be considered an “individual duty to the community clause” within the ambit of Article 29(1). First, the duties entailed promote the social order on which rights rely. The fulfillment of individual duties is the basis for the forming of the social

⁶² Paul Gordon Lauren (n.49) at 6.

⁶³ Thomas Paine, *The Rights of Man* (Heritage Press 1961 ed.) 114; Paul Gordon Lauren, *The Evolution of International Human Rights* (University of Pennsylvania Press 2003) 8; New Testament, Matthew 5:44, New Testament, Corinthians 13 : 4; New Testament, Romans 13:8.

⁶⁴ Tenzin Gyatso, *Ocean of Wisdom* (Clear Light, 1989)13; See also Paul Gordon Lauren (n.49) at 7; *The Eight-Fold Path; The Ten Good Deeds*.

⁶⁵ Quran, translated by Ma Jian, (China Social Science Press, 1981) chapter 17, section 26 and chapter 9, section 60.

⁶⁶ The preamble of the Universal Declaration of Human Rights.

order, and a good social order is a condition for the realization of rights, which is further supported by Article 28 of the UDHR.⁶⁷ Second, individual duties should not be used to suppress or even deny rights, but to promote the enjoyment of rights and create a good social environment for the enjoyment of rights. This has been confirmed by Article 29(1) of the UDHR which specifies, "...the community in which alone the free and full development of his personality is possible". Thus, within social relations, individual rights and duties are inseparable, and should be developed in a balance. Consequently, those duty provisions that suppress or even deny rights in the name of duties to the community can never be regarded as legal sources of Article 29(1) of the UDHR.

We can find pertinent provisions in some domestic laws that can be seen as legal sources for individual duties to the community. These duty provisions satisfy the above two standards, they are conducive in forming the social order and promoting the enjoyment of individual rights. For example, Article 4 of the French Declaration of the Rights of Man and of Citizens stipulates that

"Liberty consists in the freedom to do everything which injures no one else; hence the exercise of the natural rights of each man has no limits except those which assure to the other members of the society the enjoyment of the same rights. These limits can only be determined by law."⁶⁸

Similarly, the Constitution of the Kingdom of the Netherlands adopted on March 29, 1814, although not clearly stipulated as individual rights and responsibilities are indivisible, states in the first chapter that certain rights shall be enjoyed "without prejudice to his *responsibility* under the law" [authors emphasis].⁶⁹ These include, the right to profess freely his religion or belief in Article 6, the right to publish thoughts or opinion through the press in Article 7 and the right of assembly and demonstration in Article 9. Another example is Chapter 10 of the 1936 Constitution of the Union of Soviet Socialist Republics which especially stipulates the "Fundamental rights and duties of citizens". Article 130 states: "It is the duty of every citizen of the U.S.S.R. to

⁶⁷ Article 28 of the UDHR states: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

⁶⁸ French Declaration of the Rights of Man and of Citizens 1789, Article 4.

⁶⁹ Constitution of the Kingdom of the Netherlands 1814, Article 6, Article 7 and Article 9.

abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labor discipline, honestly to perform public duties, and to respect the rules of socialist intercourse". Articles 131 to 133 specify the duties of every citizen to safeguard and strengthen public, socialist property, to subject to universal military service and to defend the fatherland.⁷⁰

The Declaration on the Rights and Duties of the Americans more clearly reflects the two standards we proposed. As early as the drafting stage of the UDHR, the delegation of Chile submitted the Draft declaration of the International Rights and Duties of Man, formulated by the Inter-American Juridical Committee, to the First Session of the General Assembly. Among them, Article XIX clearly specifies the correlation of rights and duties: "Rights and duties are correlative, and the duty to respect the rights of others at all times as a restriction upon the arbitrary exercise of rights". Article XIV and Article XVI also deals with the duty to work and the duty to the maintenance of social security respectively.⁷¹ The American Declaration of the Rights and Duties of Man adopted by the Ninth International Conference of American States on June 2, 1948, directly emphasized that rights and duties are inseparable. Although the duty clauses are still distinctly less than the right clauses, it is clear that the Declaration tried to balance the development of rights and duties. Paragraph 2 in the preamble specifies that: "The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are inter-related in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty". The preamble paragraphs 4~6 also mention that it is the duty of man to serve the spirit and with all his strength and resources, to preserve, practice, and foster culture by every means within his power and always to hold morality and good manners in high respect and so on.⁷²

⁷⁰ Constitution of the Union of Soviet Socialist Republics 1936, Information from the site of the Faculty of History of Moscow State University < <http://www.hist.msu.ru> URL > accessed 18 May 2019, translated from: КОНСТИТУЦИЯ СОЮЗА СОВЕТСКИХ СОЦИАЛИСТИЧЕСКИХ РЕСПУБЛИК Утверждена Чрезвычайным VIII съездом Советов Союза ССР 5 декабря 1936 года., Информация с сайта Исторический Факультет МГУ.

⁷¹ Draft Declaration of the International Rights and Duties of Man, formulated by the Inter-American Juridical Committee, E/CN.4/2, 8 January 1947, 8-10.

⁷² The American Declaration of the Rights and Duties of Man, paragraph 4~6 of the preamble, 2 June 1948.

In addition, the Declaration also provides for the duties of every person in the enjoyment of rights in specific provisions. The "scope of the rights of man" in Article XXVII, states "The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy". Although this article does not directly stipulate individual's duties to the community, it involves the relationship between individuals' rights and the rights of others and the just demands of society. It was further mirrored in the drafting process of the UDHR, as seen above. More importantly, Articles XXIX to XXXVIII of Chapter 2 directly outline individual duties. Among them, Article XXIX sets out duties in a general manner: "Duties to society: It is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality". Article XXX to Article XXXVIII provide for specific individual duties toward children and parents, to receive instruction, to vote, to obey the law, to serve the community and the nation, with respect to social security and welfare, to pay taxes, to work and to refrain from political activities in a foreign country.⁷³

Although limited to a comparison between Western European countries, former socialist countries and the Americas, it can be seen that despite differences in the legislative models and the wording of provisions, and regions of the world, all have legislative practices that emphasize individual duties to the community to varying degrees. These provisions demonstrate legal sources for individual duties to the community, especially with regards to the possible influence of the Declaration on the Rights and Duties of the Americans on Article 29(1) of the UDHR.

4. THE NORMATIVE INFLUENCES OF ARTICLE 29(1) OF THE UDHR

4.1. PROVISIONS ON INDIVIDUAL DUTIES AND RESPONSIBILITIES IN INTERNATIONAL AND REGIONAL HUMAN RIGHTS INSTRUMENTS

4.1.1 *Provisions on Individual Duties and Responsibilities in International Human Rights Instruments*

The duty clauses in international human rights instruments reflect the direct influence of Article 29(1) of the UDHR. The ICCPR and the ICESCR, declaring "in accordance

⁷³ American Declaration on the Rights and Duties of Man, E/CN.4/122, 10 June 1948.

with the Universal Declaration of Human Rights”, both underline in the last sentence of the preamble that “... realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant”. However, there is little mention of individual duties in the text of the two covenants. Only Article 19(3) of the ICCPR concerning the right to freedom of expression provides that “The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary...”. On December 4, 1986, the United Nations General Assembly adopted the Declaration on the Right to Development by resolution 41/128, which in its preamble considers the UDHR and recognizes the ICCPR and ICESCR. Article 2, paragraph 2 of the Declaration then states:

“All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfillment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.”⁷⁴

This duty provision is quite similar to that of the Article 29(1) of the UDHR, they both seek to fully respect the right and freedoms of all human beings and ensure the free and complete development of the personality of all human beings. This close relation may, at least to some extent, reflect the influence of the UDHR to the Declaration.

The United Nations General Assembly adopted the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms by resolution 53/144 on 9 December 1998. In this Declaration, the General Assembly, reaffirming the UDHR and the International Covenants, recognized “the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels.”⁷⁵ It is noteworthy that Article 18(1) 1 of the Declaration stipulates

⁷⁴ Declaration on the Right to Development, A/RES/41/128, 4 August 1968.

⁷⁵ Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, adopted by General

that: "Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible."⁷⁶ This paragraph concerning individual duties to the community is identical to that of the UDHR in terms of the wording, which only add the individual duties "within" the community. This can be regarded as a direct influence of Article 29(1) of the UDHR on international human rights instruments.

4.1.2 Provisions on Individual Duties and responsibilities in Regional Human Rights Instruments

Europe has a long-standing individual-centered tradition with rights orientation ideology. However, the European Convention for the Protection of Human Rights and Fundamental Freedoms adopted in 1950 provides for freedom of expression for everyone in Article 10 and at the same time paragraph 2 emphasizes that: "The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society...". It means that the exercise of rights and freedoms must be subject to necessary limitations due to individuals' duties and responsibilities. Such limitations are also provided in the freedom to manifest one's religion or belief, freedom of peaceful assembly and freedom of association of the convention. Although the European Convention does not explicitly stipulate that it is due to the individuals' duties and responsibilities that these two types of rights are so restricted, such restrictions are in reality themselves the embodiment of individual duties and responsibilities.

Unlike the European Convention for the Protection of Human Rights and Fundamental Freedoms, which rarely involves individual duties and responsibilities, the American Convention on Human Rights adopted in 1969 specifies "Personal responsibility" in Chapter V. Article 32 states "Relationship between Duties and Rights: 1. Every person has responsibilities to his family, his community, and mankind". Article 32 requires the exercise of rights to be restricted based on the duties carried by every person and the content of the duties are to respect the rights of others,

Assembly Fifty-three Session, A/RES/53/144, 9 December 1998.

⁷⁶ Ibid.

the security of all, and the just demands of the general welfare. Although there is only Article 32 in the whole chapter, it clearly stated the relationship between duties and rights, specified the duties of every person to his family, his community and even mankind. This is more comprehensive and wide-ranging than that of the UDHR and could arguably be seen as a development of Article 29(1) in a normative sense.

The African Charter on Human and Peoples' Rights adopted in 1981 is comparatively the most prominent regional human rights instruments that highlights the balance of rights and duties. The Charter stipulates "Rights and Duties" in the first part and provides 3 articles in chapter II to deal with "Duties". Among them, Article 27 states: "1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community". Article 28 deals with individual's duty to respect and consider his fellow beings and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance. Article 29 specifies eight detailed individual duties, including the duty to preserve the harmonious development of the family; to serve his national community; to preserve the security of the State; to preserve and strengthen the national independence and the territorial integrity of his country; to pay taxes; to preserve and strengthen positive African cultural values; and to contribute to the promotion and achievement of African unity.⁷⁷ These duty clauses in the African Charter are obviously more detailed and specific than that of the European Convention and the American Convention. A legislative model combining general provisions with specific provisions is adopted in the African Charter, emphasizing the consistency and balanced development of rights and duties. The general provision of Article 27 of the Charter on individual duties is a reflection of African countries' basic standpoints on human rights; it also arguably presents the profound normative influence of the individual duties to the community in Article 29(1) of the UDHR on this human rights instrument in the African region.

Moreover, there are also some articles in other regional human rights instruments which refer to individual duties. Although the Arab Charter of Human Rights does not mention individual duties, the Cairo Declaration on Islamic Human Rights issued by the member states of the Organization of the Islamic Conference in

⁷⁷ African Charter on Human and Peoples' Rights 1981, Article 29
<<http://hrlibrary.umn.edu/instrtree/z1afchar.htm>> accessed 18 November 2019.

1990 contains the content of obligations and responsibilities. It states in Article 1, paragraph 1 that: "All men are equal in terms of basic obligations and responsibilities, without any discrimination on the basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations...".

On November 18, 2012, the Association of Southeast Asian Nations (ASEAN) Human Rights Declaration was signed by the ten Heads of State/Government of the Member States of the ASEAN. General principle 6 of the Declaration states that "The enjoyment of human rights and fundamental freedoms must be balanced with the performance of corresponding duties as every person has responsibilities to all other individuals, the community and the society where one lives...". The first sentence of this principle emphasizes the balance of individual rights and duties and requires individuals to assume horizontal duties so as to respect the rights of others. This is closely related to the traditional cultural notion of the relationship between individuals and the community in ASEAN member states,⁷⁸ and is also in line with the spirit of the UDHR that every person should perform his duties to the community.

International and regional human rights instruments recognize individual duties to the community. This indicates that dealing with the relationship of rights and duties is a shared human rights notion worldwide. Of course, the content of the duty clauses in the various regional human rights instruments vary and are shaped by the political, historical, cultural and religious background of the region. Apart from the general and specific provisions of individual duties in the African Charter on Human and Peoples' Rights, most regional human rights instruments, like Article 29(1), tend to state individual duties in general terms without listing them all. However, it should not be forgotten that in the former drafts of the UDHR, the provisions concerning individual duties or duties to the community are not only explicitly referred to in the preamble, but also stipulated in several specific rights. For example, in the preliminary draft prepared by Humphrey, Article 8 states "...a man may be required to perform his just share of any public service that is equally incumbent upon all, and his right to a livelihood is conditioned by his duty to work...". Article 18 states: "There exists a duty toward society to present information and news in a fair and impartial manner"; Article 37 states: "Every one has the right and duty to

⁷⁸ Junxiang Mao, Shufeng Dang, 'New Trends in Human Rights Protection in Asian Region: An Analysis on the ASEAN Human Rights Declaration' [2014] (3) *Western Law Review* 109-110.

perform socially useful work".⁷⁹ In the redrafted Declaration by Cassin, Article 35 in Chapter 8 "Social, Economic and Cultural Rights" states: "All persons have the right and duty to do work useful to society and to develop their personality fully".⁸⁰ However, the UDHR ultimately adopted one general provision on individual duties to the community in Article 29(1), "there are no detailed lists of individual duties as the American Declaration of the Rights and Duties of Man, but just emphasizes the individual duties to the community".⁸¹ The international human rights instruments thereafter may have been influenced by the UDHR to some extent, thus being the reason that they are neither too detailed, nor do they provide specific arrangements for individual duties to the community.

4.2. PROVISIONS ON INDIVIDUAL DUTIES AND RESPONSIBILITIES IN DOMESTIC CONSTITUTIONS

According to the statistics of 156 constitutions in the world, 79.49% of them stipulated rights and duties in the same chapter.⁸² Constitutions of many countries around the world adopted the provisions of the UDHR verbatim or refer to the UDHR.⁸³ The UDHR became important for countries to take into account when formulating or amending their constitutions. After its adoption, we find the presence of duty provisions in some constitutions. Although, we do not claim to have concrete information to prove that the inclusion of duty provisions in constitutions were directly influenced by the UDHR, we argue that it is indirectly linked. As Chinese Former Foreign Minister Qian Qichen's noted, the UDHR is

"the first international instruments that systematically proposed the specific content of respecting and protecting the fundamental human rights. Despite its historical

⁷⁹ Draft Outline of International Bill of Rights (n.1) at 4, 6, 14.

⁸⁰ Report of the drafting committee to the commission on human rights, E/CN.4/21, 1 July 1947, 61.

⁸¹ Junxiang Mao, *Study on Limitation Clauses of International Conventions on Human Rights* (Law Press (China) 2011) 22.

⁸² Yong Li, Qinghua Jiang, *On the Constitutional Obligation of Citizens— —Based on the Balance Spirit of the Constitution* (Shandong People's Publishing House (China) 2008) 116.

⁸³ Hannum, 'The UDHR in National and International Law' [1995-1996] (25) Georgia Journal of International and Comparative Law 287.

limitations, it has had profound impact on and played a positive role in the development of post-war international human rights activities."⁸⁴

Consequently, the duty provisions seen in constitutions, after the adoption of the UDHR, can at least prove that countries recognized individual duties rather than deny it. However, whether such recognition is a reflection or continuation of a country's cultural tradition, or implementation of Article 29(1) of the UDHR, is debatable and worthy of consideration in future research.

Consider, the 1982 Constitution of the People's Republic of China, for example, deals with "The Fundamental Rights and Duties of Citizens" in Chapter II. Article 33 stipulates that every citizen is entitled to perform the duties prescribed by the Constitution and other laws. Article 42, 46, 49, 52, 54, 55 and 56 provide a series of civic duties as to work, receive education, practice family planning and rear children and support parents, safeguard the unification of the country and the unity of all its nationalities, safeguard the security, honor and interests of the motherland, perform military service and join the militia in accordance with law and pay taxes in accordance with law.⁸⁵ Additionally, the Constitution of the Socialist Republic of Vietnam, another example, adopted in 1992 also involves "Fundamental Rights and Duties of the Citizen" in Chapter 5. Article 51 states as "The citizen's rights are inseparable from his duties. The State guarantees the rights of the citizen; the citizen must fulfill his duties to the State and society...".⁸⁶ Article 55, 59, 61, 64, 77, 78, 80 are also clauses concerning fundamental duties of citizens, for example, the duty to work, receive education, observe all regulations on disease prevention and public hygiene, bring up their children into good citizens and respect and look after their parents and grandparents, join in the all-people national defense, respect and protect the property

⁸⁴ Chinese Former Foreign Minister Qian Qichen's speech at the 43rd session of the UN General Assembly <<http://www.china.com.cn/ch-book/crenquna/crenquan10.htm>> accessed 20 October.

⁸⁵ Constitution of the People's Republic of China (Amendment on March 14 2004) <http://english.gov.cn/archive/laws_regulations/2014/08/23/content_281474982987458.htm> accessed 2 May 2019.

⁸⁶ Constitution of the Socialist Republic of Vietnam 1992 <<http://www.asianlii.org/vn/legis/const/1992/1.html#C005>> accessed 20 October 2019.

of the State and the public interest and pay taxes and perform public-interest labor according to the provision of law.⁸⁷

Although these examples are largely limited to the Asian region, where a large emphasis is placed on the community within their culture, civic duty clauses are not limited to just countries within these regions. Whilst, civic duty clauses in domestic law differs from Article 29(1) of the UDHR in its legislative model and its wording, the essence of these provisions remain the same. They all recognize that rights should be accompanied by duties, and that rights and duties are inseparable. Arguably, after the adoption of the UDHR, Article 29(1) makes it a reasonable arrangement for domestic law to stipulate civic duties that are in accordance with the spirit of the UDHR. These duty clauses in domestic laws after the UDHR, at least to some extent, can allow us to consider the importance of Article 29(1) in countries' formulating or amending their constitutions.

5. CONCLUSION: HOW SHOULD WE COMMEMORATE THE UDHR?

The purpose of the UDHR is to promote respect for rights and freedoms of all peoples, so it is not uncommon to see evaluations of the UDHR from rights-centered perspective. We also support the international community's high evaluation of the historical significance and achievements of the UDHR on protection and promotion of human rights. However, much more is needed on evaluating the UDHR from different perspectives. Mary Ann Glendon pointed out that: "The popular cafeteria approach to the Declaration's rights inevitably means that the devices that were supposed to support the integrity of the document would be ignored".⁸⁸ Indeed, many focus on the rights-centered clauses in the UDHR and their normative meanings from the perspective of respecting, promoting and realizing human rights.

Yet, it is important to recall the intention of the original drafters of the UDHR, as done within this article. From the drafting history of the UDHR, in particular the drafting history of Article 29(1), it is clear that individual duties to the community was thought necessary for the protection of rights. This indicates that the drafters of the

⁸⁷ Constitution of the Socialist Republic of Vietnam 1992

<<http://www.asianlii.org/vn/legis/const/1992/1.html#C005>> accessed 2 May 2019.

⁸⁸ Mary Ann Glendon, 'Knowing the Universal Declaration of Human Rights' [1997-1998] (73) *Notre Dame Law Review* 1153-1177.

UDHR the protection of individual rights was a simultaneous with exhorting every person to assume corresponding duties to their community. The drafters of the UDHR remind of us that we should address the relationship between individuals and the community (1), the expansion individual rights should not be unrestrained so as to cause excessive demands on the community and nature (2). This is the premise for maintaining a harmonious community.

The cross-cultural philosophical foundations and the trans-regional legal sources that support ensuring the individual duties to the community further shows the role Article 29(1) plays in validating the UDHR as a cross-cultural international instrument concerning both rights and duties. Moreover, through our analysis, it is demonstrated that individual duties to the community is not unique to a certain region or country, but is universal, being incorporated into many constitutions and regional human rights instruments in Europe, America, Asia and Africa.

In other words, individual duties to the community have remained a cross-cultural consensus for 70 years since the adoption of the UDHR. More academic research should give attention to further exploration of the value of Article 29(1) of the UDHR in today's society. With the hope that this done, we then can claim that we understand the UDHR from an integral perspective.