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| Speak Up- Kōrerotia  The Universal Declaration of Human Rights at 70  21 November 2018 | |
| Female | Coming up next conversations on human rights with “Speak Up” – “Kōrerotia”, here on Plains FM. |
| Sally | E ngā mana,  E ngā reo,  E ngā hau e whā  Tēnā koutou katoa  Nau mai ki tēnei hōtaka: “Speak Up” – “Kōrerotia”.    Tune in as our guests “Speak Up”, sharing their unique and powerful experiences and opinions and may you also be inspired to “Speak Up” when the moment is right.  Kia ora, e hoa. Nau mai ki te hōtaka tika tangata, Speak Up” – “Kōrerotia**.** I’m your host Sally Carlton and I’m really excited: Today we’re going to be talking about the Universal Declaration of Human Rights - the UDHR - which on the 10th of December 2018 turns 70. Amazing!  We’ve got four guests with us today who are going to help us unravel what is the UDHR and what’s its impact: Natalie Baird from Law at the University of Canterbury; her colleague Jeremy Moses who is in Political Science; Rāwā Karetai who has a number of hats including working for or volunteering maybe for ILGA, the International Lesbian, Gay, Bisexual, Trans and Intersex Association - quite a mouthful! - and Te Pūtahitanga as well; and John Hancock who is from the Human Rights Commission.  I’d love to hear a little bit more about all your work and how that relates to the UDHR. Perhaps, Rāwā, we’ll start with you. |
| Rāwā | So I’m probably coming from an advocate perspective as an organisation, trying to get our communities to talk at the Universal Periodic Review and at the Human Rights Council. It’s quite a lot of work to gauge what our people ought to say but what our focus really is is making sure that we can deliver the message about New Zealand people in Geneva at the Human Rights Council. |
| Sally | Fantastic and I know Natalie you’ve been involved in the UPR as well. |
| Natalie | Yes actually not in this round, this current round, but in New Zealand’s second Universal Periodic Review I coordinated a submission about the human rights impacts of the Canterbury earthquakes and probably similar to some of the work you’ve done, Rāwā, involved a lot of liaising with local groups to try and pull out what the human rights issues were back then, that was in 2013/2014. |
| Sally | And John, you’ll be pleased to hear that as somebody who works for the Human Rights Commission, trying to get people involved in the UPR. |
| John | Yes that’s right, it’s exciting times at the moment with the review of the Government just around the corner in January and of course we have a Geneva pre-session in December and we recently had the first in-country pre-session for the UPR in Wellington in late October which was attended by over 30 embassies so it was a really successful event and it was great to be able to bring that process to New Zealand to render it a bit more accessible for civil society participants.  Just turning to your first question about the UDHR and its significance for the Commission: Obviously it’s incredibly significant because the Human Rights Commission is a national human rights institution and the Declaration is really the cornerstone statement of the human rights treaties that New Zealand has ratified and which the Commission is charged with monitoring. |
| Sally | And Jeremy, just a little bit about your work maybe? |
| Jeremy | Yes. I guess my connection with this is slightly more tangential or theoretical, I research in the area of humanitarianism and human rights. I’m particularly interested in humanitarian military intervention and the implications of that for international politics. John’s already referred to the UDHR as the cornerstone - a lot of people talk about it as a touchstone or a foundation for human rights - so I think in terms of understanding how human rights impact on international politics and how that’s developed over the last seventy years then that all feeds into the work that I do around humanitarianism and humanitarian intervention. |
| Sally | Fantastic. Well the first question - and it’s a big one: What is the UDHR? The Universal Declaration of Human Rights. |
| Natalie | The UDHR, Universal Declaration of Human Rights, was adopted, as Sally said, at the start on 10 December 1948 so that date really is key to understanding where it came from. It was a response to the atrocities of World War Two and the crimes committed by the Nazi regime in particular and really an attempt by the world community to set some minimum standards in terms of human rights of people all around the world. |
| Sally | To make it a bit more tangible… What are the key principles or key ideas behind it? |
| Natalie | I teach an international human rights course at the University of Canterbury and I always start with, actually, Article 1 and the very first sentence which says “All human beings are born free and equal in dignity and rights” and that sums up for me what the Declaration is about. I guess after that, human rights are really split into two groups. One group is known as the civil and political rights - so that includes things like freedom of movement, freedom of expression, freedom from slavery, freedom from torture. The second group are known as economic, social and cultural rights so there are fewer of those actually in the Declaration and the key right there is really the right to an adequate standard of living which includes things like right to adequate housing, food, water and also of course and separately the right to health. So there are those two different groups of rights which actually have influenced the way different countries think about rights. |
| Jeremy | Natalie mentions the importance of Article 1 and claims about freedom, people being born free and equal. I mean, this has much longer history in western political thought and I think that that’s really important to understand at the end of World War Two as well is that this is going to be a period of particularly United States-led, but perhaps more broadly western-led, international politics. And those states and certainly a lot of key figures around the leadership in those states - particularly in the United States - felt that putting human rights at the centre of this new international order post-World War Two was an important thing to do. It’s important to understand just how dramatic that change was for international politics, that these claims about human rights and the centrality of human rights and the fact that they belong to all people everywhere in the world had not prior to this been a major organising principle of international politics. |
| John | Yes that’s right and the UN Charter itself provides that members have universal respect for human rights and that preceded the Declaration itself so you can see that the Declaration has its foundations, as well, in the multilateral aspect of post-World War Two national politics. |
| Sally | For people who don’t know too much about it, is it a legal document; is it something that everybody in the world is automatically entitled to? Or do countries have to consciously get involved in it? Do they have to be a member of the UN? |
| Rāwā | It’s not a legal binding document - that’s the key here - but it is a document that a lot of people look to pursue their human rights especially organised communities or civil society groups. It really is a place where we can lean on other governments to provide support for our human rights in our own countries and also to support our international colleagues who are also lobbying for human rights to use this vehicle to promote equal opportunities for their countries. Certainly with ILGA what is great about that is that we’re internationally organised, we’re really well partnered with the Human Rights Commission and what we’ve been able to do is not only just support our own in New Zealand but help in the Pasifika community and Australia but also South America and South Africa, where there has been some really big issues and then we’ve got other countries like Russia which have so far backwards in our opinion but we’re able to get in there and make sure that their advocates are safe first and foremost and then provide the conversation at the Human Rights Council at the UN. |
| Sally | Thanks for that, that’s really interesting and I know that LGBT human rights is such an area where people in New Zealand take for granted but it’s not necessarily safe in other countries to advocate. |
| Rāwā | And yes it has gone a long way, especially for gays and lesbians but not so much for intersex or transgender people and we’re certainly needing to make sure that they are protected under the law. |
| Sally | I guess, just to make it clear from my point of view, everybody is the same under the UDHR, it doesn’t matter what your country is doing, doesn’t matter what international law they ratify or signed up to? Is that correct? |
| Natalie | I mean that’s right, if you look at the language in the UDHR, it says… I’m looking at Article 23 in front of me: “Everyone has the right to work” and it was very aspirational at the time actually, and rhetorical in fact, but the idea was, the intention and hope was, that these rights would apply to everyone. And as Rāwā says it’s not legally binding but actually under international law there’s now an argument in fact that much of the UDHR has become customary international law which means in fact that it has acquired a binding legal status. |
| John | That’s right. So going back to the Charter of the UN, Article 55 requires that member states have universal respect for and observance of human rights and fundamental freedoms and then Article 56 of the UN Charter then goes further and says that members pledge themselves to take joint and separate action and cooperation for the achievement of those purposes. Then of course when you look at the international human rights treaties themselves, they invariably refer to the Declaration in their preambles. Of course they are different distillations of each of the rights, sometimes more specific based on the population group that the treaty is focused on, but the influence of the Declaration is profound when looking at the language of international human rights treaties and then the influence and impact that those treaties have had on domestic human rights law. |
| Sally | So we translate the UDHR into other international human rights treaties? |
| John | Yes well you can see that there’s the International Bill of Rights which is essentially the Internationally Covenant on Civil and Political Rights and the ICESCR, the International Covenant on Economic, Social and Cultural Rights, which both refer to the Declaration in their preambles but obviously one is a treaty which sets out civil and political rights and the other is a treaty that sets out economic, social and cultural rights. The Declaration can be seen as a bridge between the two. |
| Sally | So just to finish off those section - and we’ve spoken already about the UPR, the Universal Periodic Review - what other mechanisms do we have that try and ensure that the UDHR and the various international treaties that have come about referencing it are actually upheld and done justice to? |
| Natalie | Well I guess the UPR is one of the main ones at the international level. As John mentioned, the UDHR has sort of given birth, if you like, to these binding international treaties - the ICCPR, and the International Covenant of Economic, Social and Cultural Rights - and each of those has a monitoring body which examines how states give effect to those mechanisms. I guess Jeremy might add the Security Council there, in a way, as another type of mechanism. |
| Jeremy | Yeah certainly. John has mentioned the references to human rights in the UN Charter itself which in some ways might even be of equal or greater significance than the UDHR itself because that’s a part of the formal laws for the highest body in international politics, the United Nations General Assembly, the United Nations Security Council.  Just to come back quickly to the question of the whole foundation of human rights itself and whether the Declaration establishes these rights or whether it just speaks of rights we already have because really that’s the claim that human rights have within them and it’s also the challenge for those who espouse and want to promote human rights internationally, is that essentially the claim is that we already have these rights, that this is something that is inherent in all human beings by birth and so the Declaration itself doesn’t really create them as such but it’s a statement of these things that we’re all supposed to inherently have. That’s quite a powerful political act coming at that level to set them out and to try and give them that written substance.  It does leave aside the question of enforcement which is the second part of what you’ve asked there and at best I think… We do have these monitoring roles that come under other parts of international law that are followed on from the UDHR and followed on from the UN Charter but there still is huge gaps there and I think this really speaks to the problem of the interaction of politics and the politics of states, sovereign states, and these broader principles of human rights which are supposed to be in some sense above the laws of the state and the behaviour of states in relation to their citizens so there’s a lot of difficult politics in there which is not easily negotiated through the establishment of enforcement mechanisms. |
| Natalie | Just to add to that is that really the main way in which international human rights are enforced is actually at the domestic level so that we have an international human rights system but it’s primarily enforced in the 193 countries around the world. |
| John | The UPR process is relatively new and what’s interesting about it is that it’s a diplomatic process rather than a process of compliance and monitoring so the monitoring of the treaties is done by UN treaty bodies and it’s kind of a legalistic process in the sense that it’s reviewing the compliance or the implementation of treaty obligations by state parties whereas the UPR is not linked to treaties, it’s a general review of a states’ human rights progress and the review is undertaken by member states so in some ways it harks back to the diplomatic and multilateral origins of the Declaration and UN Charter itself. The UPR can be seen as a new way of using diplomatic procedures to encourage and promote and review human rights and the progress of human rights across the globe. |
| Sally | Well that seems like a good point to have our first song. We’ve chosen Louis Armstrong ‘What a Wonderful World’ as a bit of a positive message to start off with. |
|  | **MUSIC BY LOUIS ARMSTRONG – WHAT A WONDERFUL WORLD** |
| Sally | You’re listening to Speak Up-Kōrerotia and today we’re talking about the Universal Declaration of Human Rights which turns 70. In this segment, we’d like to think about what are some of the ways that the UDHR has made a difference or has made an impact, particularly at the international and domestic levels.  You’ve all got examples and stories, I’m sure, but perhaps, Jeremy, we might start with you, in your research and your work on international relations. |
| Jeremy | We’ve already discussed a lot of the treaties that have followed on from the UDHR and many of which wouldn’t have been possible, I don’t think, without that initial very strong statement as to what human rights principles mean on the international level so I think in a concrete sense a lot of that international law that has come out of the UDHR is its most important influence on international politics over the years that have followed. In a more general sense, I think people really assume that human rights are something to be considered when any major international crisis arises - and that’s really where my interests lie.  As I mentioned at the start, I’m interested in this question of humanitarian intervention. It really came to the fore of international politics in the 1990s - so after the end of the Cold War there was a sense that western norms had prevailed in international politics, that this was going to be a new era of human rights and democracy around the world, and alongside that there was an enthusiasm for using military force in order to protect people who were suffering particularly in conflict zones in different parts of the world. This was the case in Somalia; there was a lot of issues in the break-up of Yugoslavia, Bosnia and ultimately Kosovo in the late 1990s.  A lot of concern and upset about what had happened or not happened in Rwanda in 1994, the failure to send in any efficient peacekeeping force or intervention force to prevent the genocide that took place there, very large set of questions arose over that time about how to use military force or whether military force could be used for the protection of human rights and protection of people in these combat zones and this is very challenging stuff because obviously it means like when you’re using force like that you’re going to be killing people including innocent people in every situation.  This was the case in Kosovo in 1999 which is very much based on the idea of protecting human rights and expanding the influence of human rights across Europe and sending a message about western states’ willingness to enforce human rights principles against tyrannical or oppressive leaders and that led to this idea of Responsibility to Protect which is now very prevalent in thinking about military intervention in international relations but it still has failed, I think, in many ways to solve this problem that we have that if you’re going to use military force to try and uphold human rights, you’re going to be abusing someone else’s human rights along the way. And it becomes a political question as to what outcome do you favour? What is it that you’re trying to achieve? How many people can die? How much infrastructure can you damage or destroy in the process of trying to create a democratic human rights respecting society? And I think many of these questions remain unresolved and point back to this fundamental problem that we have with human rights at the international political level is that they are so subject to the push and pull of different powers in the United Nations but outside the United Nations. |
| Sally | Do we have any contemporary examples? |
| Jeremy | Look at the state of international politics at the moment. Many people would say what we’ve seen rather than this sort of progress towards a democratic human rights-respecting world, that we’re seeing a huge regression towards closed, tyrannical, oppressive politics in large parts of the world including in western states. The United States and across Europe, Australia can’t be left out of that picture as well. It’s a complex story and we can’t start with 70 years ago with the formation of this Declaration and say that everything has just continually improved over that time, I think it’s something that requires continued thought and effort, different kinds of action and perhaps there are too many blithe assumptions that we are now on a path to the perfect future and all would ultimately head in that direction.  What do human rights mean in the context of the Syrian war? What do they mean for refugees who are fleeing conflict in not only in Syria, Afghanistan, Iraq, Libya, different parts of Africa, as a consequence of conflict or of economic deprivation? These are the big questions that we have today and I think unfortunately the Declaration itself doesn’t necessarily lend itself to answering those questions. |
| Rāwā | Because you brought up Syria, we went to the anniversary or the centenary for ANZAC Day and we had just sent troops to Syria and I felt really upset with the fact that we were sitting there 100 years later from World War One at ANZAC Cove and in my mind we had not learnt from our past mistakes and yet we’ve just sent people to Syria which is just on the other side of the border of Turkey. |
| Jeremy | There’s no formal New Zealand troop deployment in Syria, are you sure it wasn’t Iraq? Yeah, to train forces to fight against Islamic State. That was a conflict that certainly crossed the border between Iraq and Syria. New Zealand troop deployments have been justified in terms of the broader world order and upholding universal values and norms including human rights values. Certainly the war against Islamic State was presented that way so whether there is any learning there is another question. It certainly has affected the way in which states talk about justify their troop deployments to various parts of the world. |
| Sally | What strikes me, when I’m hearing you talk, is just how political human rights are or can be. |
| Rāwā | You’re dealing with people’s lives when you’re talking about human rights and it is a very political environment. I remember people saying that human rights cost money and that’s why they’re not going to give it to you and that came out of debates for things like indigenous culture, marriage equality, civil unions. |
| John | The Declaration on the Right to Indigenous People - you can link it to the ICCPR [International Covenant on Civil and Political Rights] and the ICESCR [International Covenant on Economic, Social and Cultural Rights] and so while the Declaration itself isn’t a legally binding document, it can be seen as a specific expression of the economic, cultural, social, civil, political rights that are contained in the treaties. That’s one way of looking at it.  Going back to the issue of how has the UDHR been reflected domestically in New Zealand law and I think it has had an enormous impact if you look at what our legislative scheme today compared to what it was back at the time it was signed. Of course we’ve seen the passage of the Bill of Rights Act, the Human Rights Act. We’ve seen the role of the courts over the past 25 years… The courts have actually really led in terms of interpreting legislation consistently with international human rights treaty obligations. But the public law jurisprudence of the court has been a strong driver of human rights consistent law in policy and of course while there are still gaps…  And there’s some big policy issues actually that are coming up at the moment. One is about the status of the Bill of Rights itself, we’ve recently had a Supreme Court decision that was released, this case regarded prisoner voting rights and the High Court a couple of years ago issued a declaration that the Electoral Act that prevents prisoners from voting was inconsistent with the right to vote under our Bill of Rights Act and of course the right to vote is in the Declaration, it’s there in the ICCPR.  This issue of the role of the courts and being able to clear legislation that is consistent with the Bill of Rights can be seen as providing for a formal remedy of sorts and prior to the Supreme Court hearing the government announced that it was going to be amending the Bill of Rights to implement a statutory remedy in there so that the courts would be able to formally declare under statute with another statute that contravenes one of the rights within the Bill of the Rights.  So this is a great thing because we haven’t seen this kind of amendment to the Bill of Rights really at all and it gives rise to other sorts of questions like... In fact our Bill of Rights doesn’t contain all the rights that are in the ICCPR and doesn’t contain any economic, social and cultural rights either and a few years ago when the Constitution Advisory Panel convened, they actually recommended that consideration be given to economic, cultural and social rights being included within our Bill of Rights and of course as we were discussing earlier, the Declaration contains both the civil and political rights and economic, social and cultural rights.  We have a UPR process that’s currently about to get to the crunch point, so I think for civil society there’s a really good opportunity to look at the Bill of Rights, look at our domestic legislative structures and think about how well do they reflect the international human rights obligations that New Zealand actually have a hand in developing? - because of course New Zealand had a role in the drafting of the Declaration - and how well does our domestic legislation actually reflect what we’ve committed ourselves to internationally? And so it’s quite an exciting time in that respect.  When you take stock, there’s been huge development over the years but of course there’s always the gap between what’s written on paper and what happens in reality and of course what’s happening internationally is incredibly challenging, and of course domestically there’s always the challenge between the implementation of rights and the formation of rights themselves. And of course the resourcing required in particular to deliver the economic, social and cultural rights is always a matter for debate but what’s interesting, I think, in that respect, is the Sustainable Development Goals laid on top of that which is looking at sorts of specific concrete actions can states take to deliver a sustainable future which respects human rights.  So there’s a lot of dynamic stuff happening in this space at the moment. |
| Natalie | Just to add to what John said: As I mentioned earlier I’m really big on looking for implementation at a domestic level and sometimes you do have to look quite hard.  A very recent example, actually in relation to economic, social and cultural rights which as John mentioned are not reflected in our Bill of Rights Act, is that I think at the end of October, Parliament passed a law banning letting fees. Tenants rent a house, they’re typically required to pay one week letting fee to the agent and of course this is a huge barrier to people to realise their right to housing because it makes the cost of renting in the first place incredibly expensive and so this law - which I haven’t checked, but I’m guessing - probably actually doesn’t mention the right to adequate standard of living or the right to housing nevertheless goes some way towards helping tenants realise their right to house.  I guess my point is actually you do sometimes have to look quite hard to find examples of policies or laws that implement human rights without in fact using the language and it would be great if it used the language but the fact that it doesn’t, doesn’t detract from the fact that it is actually a step towards helping realise the right to housing. |
| John | And the children’s rights area, actually, has been an area where there’s been some success in terms of explicitly incorporating reference to international human rights instruments in primary legislation. So the updated Oranga Tamariki legislation contains within the principles of that legislation reference to both the Children’s Convention and the Convention on the Rights of Disabled Persons.  Another interesting development has been the Child Poverty Reduction Bill. What that does is particularly interesting, is it reports to Parliament every year under the Appropriations Bill of the funds that will be ring-fenced, if you like, to deliver progress towards the child poverty targets that will be set.  So that’s quite an interesting aspect of that because it links it to the obligation under both the Covenant of Economic, Social and Cultural Rights and the Children’s Convention that states allocate the maximum extent of available resources in order to implement economic, social and cultural rights. Of course this has always been the issue: How do you implement particularly economic and social rights without having a fiscal strategy to do it? So The Child Poverty Reduction Bill is the first statutory instrument that has that type of mechanism in it, it amends the Public Finance Act in doing that also so that’s quite significant. The Public Finance Act, is that classic statute, it doesn’t mention anything about human rights in there, but we’re seeing linkages made now to the legislation that drives the fiscal aspects of our government and those linkages come back to human rights principles.  The other aspect of the Child Poverty Reduction Bill is the amendments to the Vulnerable Children’s Act so there’s going to be a Children’s Wellbeing Strategy that itself refers to the international human rights standards that apply to children. So we’re seeing, slowly but surely, there’s explicit reference to international human rights instruments in primary legislation.  One of the things we don’t have in New Zealand, though, is we don’t have any mechanism at the higher level in policies and legislative development that enable human rights impact assessments or human rights due diligence checks to be done. The Legislative Design Committee, they provide guidance to policy makers and that provides that all legislation must comply with New Zealand and international human rights obligations but we don’t actually have a procedural mechanism at that level yet to ensure that legislation does in fact comply.  One of the issues that the [Human Rights] Commission has been advocating for through the UPR process is the development of a procedural mechanism which will hopefully enable a really robust check of policy and law and development against our human rights obligations. |
| Sally | That sounds really exciting. Great, well we might have our second song which is Bob Marley’s ‘Redemption Song.’ |
|  | **MUSIC BY BOB MARLEY – REDEMPTION SONG** |
| Sally | We’re speaking about the Universal Declaration of Human Rights with Natalie Baird, Rāwā Karetai, John Hancock and Jeremy Moses. Rāwā, perhaps we’ll start with you this segment, thinking about ways that the Universal Declaration of Human Rights has made a difference at the community and personal levels. |
| Rāwā | I’ve been really fortunate to be working alongside the Human Rights Commission here in New Zealand and they’ve provided a lot of support to help engage civil society and with that process we’ve been able to actually really go right into issues that impact one of the most marginalised groups in the LGBT community and that would be the intersex community. And in the last, I would say, five years or so there has certainly been a rise in the discussion around intersex issues globally.  We’ve also been funded to be able to do that consultation. With that we’ve been able to the ‘To Be Who I Am’ report. To be able to find out exactly what intersex people consider are important and be able to help them develop their advocacy skills and we are making inroads which is really good. Before we mentioned the children’s policy area and in that the intersex and children protection is starting to be developed quite well, mostly by ITANZ which is the Intersex Trust Aotearoa New Zealand and Mani Mitchell has been a great advocate, not only raising awareness of intersex people but also looking at what policy changes can be done.  Now the concern really has been to date about how fast we go. Yes, we can use these monitoring mechanisms, we can use these reports to lobby for change, but at the same time we do need to train and educate medical professionals, our own advocates and policy writers and politicians exactly about what these changes actually really do mean to people on the ground. |
| Natalie | Just to pick up on what Rāwā was saying on the need to educate: John earlier mentioned that when your procedural mechanism within policy and law making but for me one of the things that would really make a difference within New Zealand is if we had greater public awareness actually about human rights generally. We don’t really teach it in our schools. When I get my third year university students in my international human rights classes, their starting knowledge of human rights is really low so I think building public knowledge around human rights would really make quite a big difference.  I’ve got one example I can share that was a silver lining, actually, of the Canterbury earthquakes. One of the biggest rights impacted by the earthquake was the right to housing and I think one of the heartening things was the development amongst all that disaster and things going wrong was actually a development of grassroots awareness about housing as a human right. So because of the adversity they found themselves in, they came to appreciate actually that they did have rights in relation to housing and that disaster did lead to greater awareness. |
| John | Oh absolutely, I think particularly those sorts of economic, social and cultural rights. I think until perhaps… New Zealanders are accustomed to at least taking a lot of those rights for granted, our right to be able to access education or health services is relatively speaking reasonably unimpeded compared to a number of other countries which face real challenges.  I recall a few years ago we did a survey of high school students about their knowledge of human rights and one thing that really came out was that they could identify things like freedom of speech - those iconic civil and political rights - but they really didn’t connect things like education, health, housing, standard of living to human rights. It’s really important that the community is aware that those things are human rights and also that our policy makers also make that same connection, too. I think there’s often a disconnect between a lot of the aspirational language used around economic, social and cultural rights and the realisation of those rights on the ground. |
| Jeremy | I think, again, that question of realisation is very important and it’s probably not surprising that that’s what I come back to, coming at it from a political angle, whether it’s at the community level or even at the individual level it’s clear that something like the Universal Declaration of Human Rights has had a profound impact on how people individually, community group, special interest groups have been able to hang their claims, their political claims on something of that significance.  The Declaration as it stands is something that can be a touchstone for these kinds of claims against political power, against government, against the state. The question then is often mainstream understanding of human rights is that these things are above all of that and more important than all of that, that these are the most fundamental things we have and yet when people make appeals to human rights they come against the power of the state. They come up against the power of the police or the organisations that are tasked with making and enforcing the law. As I say, at the community level, at the national level, at the international level, this is the problem. So on the one hand the claim of human rights is that these are the highest principles we have, the highest rights we have as human beings, but when people feel that they’re being breached and want to do something about it, they’re going to run into a lot of political challenges in doing that.  I think in terms of education, that’s something that people need to try and understand as well, is that there is this big grey area between the principles of human rights that are set out in the Declaration and elsewhere and actually having a strong legal claim and a strong legal protection to do something about that and that’s always going to be a contested space, it’s not something that can be taken for granted. You can’t assume that because something is listed in the Declaration of Human Rights, that that means that it’s going to be upheld and enforced.  If community groups, activists and others have an understanding of that and say focused on that grey area between politics and human rights, that that’s really necessary in order to carry out effective work. |
| John | Absolutely, you need a long game strategic approach to human rights because the systemic barriers that you can come up against can be significant.  One example where our government, years ago, reacted quite strongly in the face of a court decision that affirmed the human rights for the groups of people within the Atkinson litigation. So the Atkinson case involved… It was a family carer litigation where a group of parents of disabled adult children took the Ministry of Health to court because of a policy of non-payment for their care of their children and they were successful and it was upheld at all stages of the court process from the Human Rights Review Tribunal right up to the Court of Appeal. And when the Court of Appeal issued its judgement, the reaction was… It implemented a payment policy but at the same time took away the rights of anyone to be able to actually take a further discrimination claim and get the policy under urgency so there was no opportunities for anyone to be able to participate in the legislative process as would normally be the case.  It was done on the basis of fiscal fear, I think Treasury had projected that the impact of the court’s judgement was going to be additional costs of over $500 million which of course didn’t eventuate but you can see how economic issues often can run roughshot over human rights even when a group of people had their human rights upheld and affirmed by the highest courts. |
| Sally | It comes back again to that idea of human rights are kind of at the mercy of political will. |
| Jeremy | The question is, then, how do you retain the inspiration and aspiration of the principles when that happens? And I think that’s why I think it’s important that any process of education about human rights contains an understanding of that because you’re not then promising things to people that are perhaps unlikely to be delivered, at which points human rights just become a frustration. People say it’s all pointless, it’s all rubbish and you have to balance with the reality. |
| John | The thing is also doing sustained commitment. So in the Atkinson situation, we’ve seen now that law is now going to be repealed and the part of that is because the Atkinson litigation itself created a strong community of people who were committed to having their rights upheld. I think it’s easy for people to become cynical because they can see the power of government to be able to impose their will but in a country like New Zealand we’re lucky, we have fairly open government, committed community sector and I think with commitment and strategic nous, over time you can achieve a great change. Once you’ve got that change embedded hopefully it’s there for the long haul. |
| Sally | We might have our final song, then, which is ‘Beds Are Burning’ by Midnight Oil. |
|  | **MIDNIGHT OIL – BEDS ARE BURNING** |
| Sally | This is Speak Up-Kōrerotia with Sally Carlton and guests and we’re discussing the Universal Declaration of Human Rights which turns 70. We’ve had a very, very in-depth discussion about the UDHR and this segment now is just to kind of summarise/conclude where we’ve got to and we’ve talked about the ways in which the UDHR has influenced international and domestic policy, has had an impact at all kinds of levels of society. What has its impact been? |
| Jeremy | Well I think the impact has been very significant but I think it varies at different levels, there’s been a whole lot of discussion amongst all of us today about the impact at community level and at the domestic level, I think that it’s clear that some states at least have taken on boards these principles and have attempted to implement them in their domestic law. I think the biggest challenges still lie at the international level.  We said that the Declaration was a response to the horrors of World War Two. A big part of that was the tens of millions of refugees that were displaced as a consequence of the fighting in Europe and the Pacific and yet now, 70 years later, we have the highest numbers of refugees within the interest of the UNHCR over that entire 70 year period. So this is not a problem that is going away.  I think refugees are incredibly important for understanding the whole issue of human rights. Hannah Arendt made this argument in the wake of World War Two - so around the same time as the UDHR was being developed and brought into being - she suggested that the figure of the refugee really tells us a lot about this whole question of rights because refugees are outside of their domestic situation.  Essentially they’re reliant upon other states and whatever international arrangements are in place in terms of giving them rights at that time. Arendt argued that the human rights had really been shown to have very little substance in that sense, that they are powerful rhetorical tools, that states talk about them a lot and I think that’s only grown in significance over the 70 years since the UDHR came into force. Human rights are central to international political language across the spectrum - there are few issues where human rights won’t be brought into being in some way - and yet refugees still don’t appear to be able to call on their human rights in any concrete sense in the crisis that they fight. That’s been evident in Australia for the last 20 years where Australia has routinely flaunted its international obligations - and often its own domestic laws - in dealing with refugees and there’s no-one that can really effectively punish or hold Australia to account for that. There is monitoring, there are reports occasionally from different United Nations agencies, but in many ways it’s gotten worse and worse from Australia’s perspectives on refugees over that time.  A similar situation in Europe where you see states putting up more and more boundaries against refugees, more and more hostility to refugee reception in different parts of the world, in the United States obviously it was a part of the recent mid-term elections with the threat of the refugee caravan coming from Central America to the southern border.  So I think that this speaks quite negatively in terms of what human rights and what the UDHR has done for international relations over that 70-year period. I don’t think that that means that it’s without value but I do think we need to be wary of the weakness of the Declaration for people in the most vulnerable situations in international politics. I think we also need to be a bit wary of how human rights can be used in order to justify the use of force. I certainly do not want to say get rid of it, it’s been useless, it’s done nothing - because clearly it’s had a big impact on a whole range of different areas and continues to be a touchstone for people who are campaigning for better lives for themselves in different places. |
| John | I’d agree, that’s really one of the critical challenges facing human rights is the rise of nationalism, the reassertion of sovereignty, preference to multilateral arrangement and some of the geopolitical pressures that are coming to bear are incredibly challenging and also as we said recently, the US itself, really the sponsor of the whole UN system withdrawing from the Human Rights Council. So there’s a number of challenges, really significant challenges.  But, I guess, looking more inwardly and looking domestically, New Zealand has always taken the position as the honest broker, as a progressive country and a supporter of human rights and I think for us in New Zealand, it’s about retaining that despite the challenges that are going on around the globe. It’s an interesting time - the awareness of human rights particularly in the west and particularly in relation to identity is probably stronger than it’s ever been - but there are these enormous challenges that are being brought to bear by some of the very complex geopolitical pressures of the last few years.  I think it’s critical for human rights advocates to just keep faith and also think of the long game, not just immediately what’s in front of them but look 20/30 years out and think about what you want our systems and our society to look like in terms of a human rights community and work towards that. It’s easy to react to things that are just going on in front of you but I think with human rights advocacy, a long game strategy is very important because doors will open, doors and opportunities will open and close and it’s important for advocates to take advantage when those doors are open. |
| Sally | I guess that’s a positive way of looking at it, isn’t it, some of these really big, big challenges are what are fuelling an increased commitment to human rights for many people. |
| Natalie | To end on something positive, as well, is that I always start with my first year law students when I talk about the Universal Declaration of Human Rights and ask them to guess how many languages it’s been translated into. It’s 513 different languages, it holds the Guinness World Book of Record for the most translated document in the world, despite the challenges and various geopolitical pressures today says something about its enduring relevance. |
| Rāwā | I’m just really keen to make sure that we do keep looking to the reason why the document was written and it was global peace, brotherhood and looking out for each other as humanity and that for me is what inspires to do the work that I do. |
| Sally | Very nicely put. I’d like to say kia ora, you guys have had so much input into this conversation and hopefully everybody who has listened has got a renewed appreciation for the UDHR has a document and for human rights more broadly and a bit more of a commitment to as you said John, keeping that faith. Thank you so much guys. |