**Interview with Lebanese historian Habib Malik to mark the 70th anniversary of the Universal Declaration of Human Rights (UDHR) on 10 December 2018**

**"The UDHR is an excellent benchmark to be revisited indefinitely"**

**On 10 December 1948 the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR), which was to lay the foundations of international human rights law. One of the key intellectual figures behind the UDHR, and one of its principal drafters, was Dr Charles Malik of the Commission on Human Rights. To mark the 70th anniversary of the groundbreaking document, Christian Solidarity International (CSI) interviewed the prominent Lebanese historian Habib Malik, the son of Charles Malik, and the author of *The Challenge of Human Rights: Charles Malik and the Universal Declaration.***

*Q. Your father, Charles Malik, is said to have insisted on the need for a formal guarantee of inherent human rights in the UN Charter. Why was he so insistent?*

A. Out of his conviction that has a lot to do with the concept of natural law that comes through the philosophy of St Thomas Aquinas, which is very much in harmony with Aristotelian concepts. There is something about the human person that is inherent, inalienable, and that is the reason why we talk in terms of human dignity. So, even before rights there is dignity. And that's the groundwork for talking about rights. I think that's where he was coming from.

*Q. Not everyone agreed with him?*

A. In the Human Rights Commission there were lots of debates and all sorts of viewpoints. For instance, my father wanted to use the word 'created' and the others refused on the grounds that if you say 'created' you will upset a lot of people in the secular world. The Soviets certainly objected, and even western delegates, the Australian, British and so on, did not feel comfortable with the word. 'Endowed' was used instead, which is more inclusive because it leaves it up to you to decide whether endowed by nature, endowed by God or by a creator.

But words like 'inalienable', 'inherent', these words are found in other documents like the United States Declaration of Independence, even a document as secular as the Declaration of the Rights of Man and of the Citizen from the French Revolution has some interesting references in that regard. So, in a sense the choice of language makes a big difference as to how much consensus you can garner.

*Q. And it was your father who wrote the preamble that contains the words 'inalienable' and 'inherent'?*

A. Yes, and there's an interesting story attached to this. My father was wearing several hats at the same time: he was Lebanon's ambassador to the United States, he was also the head of the Lebanese

delegation to the United Nations and he was the rapporteur in the Human Rights Drafting Committee. So during the week he would have to commute between Washington and New York. Over weekends usually he went to Washington, and before he left on a Friday, [Human Rights Commission Chair] Eleanor Roosevelt said, "Dr Malik why don't you put together some kind of proposal for a preamble for our 30 articles." So, on the aeroplane, literally on the back of an envelope, he wrote a few things down and then presented them on Monday to the Drafting Committee. And they had a vigorous debate over it. [Committee member] René Cassin came in with a longer, much more elaborate text. The problem with that text was that it was too grounded in the recent horrors of the Second World War and it projected much less on a universal level, was more legalistic and less philosophical. After much debate, Cassin's text was seen to be unwieldy. The preamble as it stands today is my father's.

*Q. Did his religious faith influence his outlook and philosophy?*

A. Very much so. My father was not just a Christian from the Middle East. He knew the world of Islam very well and he had many close Muslim friends. And he was trained in the West, at Harvard, in philosophy. He started out in Lebanon in mathematics and physics, which is a natural progression for many philosophers. All of this found its way into the Declaration in some way or another. But certainly his Christian faith played a very big role. He had a very profound and strong faith; he used to tell me he got his faith from his grandmother on his father's side. He had this very inclusive vision. He was Greek Orthodox to the bone and loved the liturgy and music and would be the one to recite the Creed and the 'Our Father' during the Sunday liturgy. At the same time he had tremendous exposure to Roman Catholic theology, especially Thomas Aquinas, and because he immersed himself in Aristotle that became the natural area in philosophy and theology that he gravitated towards. And thirdly, he was personally on a daily basis so immersed in scripture and the Bible that that endeared him very much to the Protestant world, and he made lots of friends there as well. So in a sense he was a living example of an ecumenical Christian figure before his time.

*Q. Charles Malik was instrumental to the inclusion of Article 18 on freedom of religion. How satisfied was he with the final wording?*

A. There had to be an article on religion. It's his wording and it was adopted as such, without any changes. And in it he spells out the right to change one's religion. Even if you take that sentence out you can still infer the right from the text but the fact that he spelled it out was, in retrospect, extremely important. He recognized that, coming from a region where it's not easy to change your religion – apostasy, according to Islamic sharia law, is punishable by death.

*Q. What do his papers reveal about the debates leading up to the vote on the Declaration?*

A. My father was head of the UN General Assembly's Third Committee, which had over 80 meetings in the fall of 1948 to go over every single comma and word in the final draft of the Declaration before the final vote. The Soviet delegation adopted the tactic of filibustering; they wanted to scuttle the whole thing. My father realized this and began to see clouds of tension arriving between East and West on the world stage, so he procured a stopwatch and declared in one of the meetings that everybody had three minutes to speak after which the gavel comes down and it's the next person's turn. That moved the debates along at a brisker pace. And the night before the vote, which was on 10 December, my father gave a memorable speech in which he went out of his way to be the grand diplomat and give credit to everybody. In that speech he said that were it not for the Soviet

delegation we would not have been fully sensitized to the economic and social rights of the person. The result was, the following day there were no votes against. There were eight abstentions and everybody else was in favour.

*Q. How did Charles Malik get on with the other members of the Drafting Committee?*

A. He had a lot of run-ins with P.C. Chang, who was the Chinese representative. This was before China became communist in 1949. Chang was very much a Confucian and a traditional Chinese thinker. Sometimes there was common ground but most of the time there was disagreement. With the Soviet delegates my father drew very clear limits as to how much he would be able to agree with them, particularly as regards the centrality of the human person and a rejection of materialism, and they did the same. Remarkably, he and Cassin got along quite well. My father had a very good working relationship with John Humphrey, a Canadian, in charge of the secretariat for the Committee. And he had a very good working relationship with Eleanor Roosevelt, the Committee chairperson. She, my father and Cassin were the three who ended up being the core Committee that synthesised all the debates and the wording and finally came up with the actual Declaration.

My father shepherded this endeavour, making full use of that fortuitous historical 'crack', as I refer to it, when neither the Islamic nor the communist worlds were in a position to totally derail something like this, as they probably would be today, and at the same time sufficient support for it was coming from other corners that you could steer something like this to fruition. He played a major role in bringing that about.

*Q. How did your father look back on his achievement years later; were there any regrets?*

A. No, on the contrary, he was very proud of what he did. I remember on the 40th anniversary of the founding of the UN the remaining living delegates were gathered at the Fairmont hotel in San Francisco, where they initially formed the UN in 1945. At that gathering, he had an interaction with those who were left, and he was quite happy with the work on human rights. Now the UN itself took a different course, as we know. The bottom line, as he used to say, is that despite all its problems I prefer a world with the UN to a world without the UN.

*Q. But there were criticisms about the UDHR, for instance that it enshrines 30 rights on individuals but no obligations.*

A. On the question of duties and obligations and rights, it's implied when you're talking about rights you are not only talking about your own rights but about everyone's rights. So the implication is that where your rights end someone else's begin, and when you cross that territory your obligations begin towards those rights. So duties and obligations are in a sense implied in the concept of rights. Do you need to spell these out? Maybe.

*Q. What about the allegation of western bias?*

A. If you look at the composition of the Human Rights Commission, and of the larger delegations that worked on every word, everybody is there. Mrs Hansa Mehta represented India and she had lots of input during the discussions. We had Muslims in the larger and the smaller committee, we had Chinese, we had the Soviets, we had Christians, westerners, everybody. I don't think this argument is legitimate. There was every opportunity there for everybody to speak out.

*Q. Seventy years after the UDHR, how well has it succeeded in its objectives given the conflicts around the world and the disregard for human rights in so many places?*

A. The Universal Declaration is not binding, it's a declaration. In fact, the international human rights covenants that eventually materialized in 1966 *are* binding but precisely because they are binding they have an escape clause for states embedded in them. A purely moral declaration, which is what the Universal Declaration is, has proven to be much more effective than the actual legally binding documents that states subscribed to.

It was much more appealing to groups like Charter '77, Civic Forum, all the anti-communist, East European movements. They all took the Universal Declaration as their banner, not the International Covenants. The same thing happened in South Africa, against apartheid. The moral force of this declaration, 30 articles and a preamble, was so attractive to people wanting to get rid of apartheid or communism that I think those are its two main successes. Universal rights have survived and thanks to the Universal Declaration they have been articulated.

*Q. Should a new bill of rights be drawn up for the present era?*

A. If you tried the same exercise today it would likely fail. It was really a matter of three or four years between the end of the Second World War or the Nuremberg trials and 1949 when the Cold War began in earnest. Arguably it is the single-most important international document of the 20th century and its genesis came about in a very interesting and fortuitous moment – the historical 'crack' that I referred to.

I think what we have from 1948 is an excellent benchmark to be revisited indefinitely, tweaked and improved. But that is not a green light to bring in a whole host of suspect so-called rights or pseudo-rights without proper debate and in-depth scrutiny about whether they qualify as rights or not.