Human rights and the Second World War

When the framers of the Universal Declaration of Human Rights met in Paris on December 10, 1948, and presented the document to the United Nations assembled there, they were engaged in an act of remembrance in a number of evident ways. There they were, in the Palais de Chaillot, a few meters from the spot where Hitler had stared out across the Seine at the Eiffel Tower, and surveyed his new dominions a brief eight years before. A few kilometers away was the Place de la Concorde, the geographical heart of the Revolution. Nearby, the deputies of 1789 and 1793 framed their call to arms in not one but two earlier Universal Declarations of the rights of man and the citizen. To announce a new Universal Declaration in Paris 150 years later was a performative act, an act of memory, and of transition, from the humiliations of Nazi occupation to a Republican future through the reassertion of the universal principles on which the French revolutionary tradition rested. One of the central acts of transitional justice after 1945 was the passage of the Universal Declaration of Human Rights.

The key draftsman in the group responsible for the 1948 Universal Declaration was René Cassin, a French jurist who had lost 26 members of his family, the youngest aged 2, the eldest, 88 years old, all deported to Auschwitz. When he spoke of December 10, 1948, in later years, he claimed that it was a day shared by ghosts. “The men of our generation,” he said, “those who did not forget 1789 or 1848, and who lived through 1914–1918, 1940–44, and 1948, will have fulfilled their mission” if and only if human rights transcend national
sovereignty. Only when sovereign states are made subject to a higher law, will “the cries of the victims” finally be heard, Cassin said.¹

The Universal Declaration of Human Rights is a memory document, a set of principles framed because of the historical catastrophe that preceded it. The legal scholar Robert Cover put it well: “No set of legal institutions or prescriptions,” he wrote, “exists apart from the narratives that locate it and give it meaning. For every constitution there is an epic.”² The “epic” behind the Universal Declaration was the monumental effort to destroy the Nazi regime undertaken by the alliance that became the United Nations.

Nowhere in this document does it state that remembering is a human right. And yet that right is everywhere in it. Without the work of remembrance, in this case the work of a small group of people in the United Nations’ Human Rights Commission, there would be no Universal Declaration of Human Rights. In an important sense, the spheres of remembrance have grown since 1945 precisely because we have entered the antechamber of what Norbert Bobbio terms “the age of rights.”³ I prefer a more limited claim: we live in an age in which human rights claims provide a grammar of justice, transition, and transformation, but no assurance whatsoever that either justice or transition, let alone transformation, will occur or will endure. Once rights claims are made, that is just the beginning of the effort to realize them.

Memory work, I argue, is built into most rights claims, which arise from indignation over evident and persistent violations of the dignity of men and women that we see around us. Indignez-vous! is the title of a current bestselling pamphlet in France, written by Stéphane Hessel, a distinguished human rights activist, who asks his readers to get angry over the indignities, the violations of human rights, they see around them.⁴ He is a survivor of the Resistance, a man who was arrested and tortured by the Nazis and managed to escape twice from imprisonment. He was part of the group that drafted the Universal Declaration in 1948. He is also the son of the fictional couple “Jules et Jim,” immortalized in the classic film of that name by François Truffaut, who probed on a human level the vagaries of Franco-German understanding. Hessel is a still living carrier of memory, a man who has made of his life a remarkable human rights story, continuing today through his engagement with the Palestinian-Israeli conflict.

My argument, then, is that memory acts are imbedded in the language of “transition to democracy,” and that these acts may be traced