

# ALTERNATIVE AND/OR COMPLEMENTARY DECLARATIONS TO THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

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## REZUMAT

*Prezentul articol analizează o serie de declarații care reprezintă diferite sisteme de drept în vederea stabilirii alternativității sau complementarității față de Declarația Universală a Drepturilor Omului. Aceste instrumente tind să reflecte valorile, principiile, trecutul cultural și tradițiile societăților de care aparțin și, în pofida oricărui caracter alternativ sau complementar, ele oferă drepturi și obligații fundamentale și vitale pentru realitățile lumii contemporane.*

Since 1948, the human rights and fundamental freedoms recognized in the Universal Declaration of Human Rights<sup>1</sup> (UDHR) have been developed and further defined in treaties, declarations and resolutions adopted by United Nations and regional bodies, including the Organization of African Unity. Contributing to this process were many of the formerly colonized countries in Africa or countries in Asia and elsewhere that had been denied a voice in defining the nature of human rights and fundamental freedoms<sup>2</sup>. All of these treaties, declarations and resolutions reinforce the universally held belief that every government is obliged to protect the rights of the people within its borders. Despite this, governments continue to violate human rights and often try to justify their actions on grounds of "security" or "sovereignty". It is therefore up to the international community as a whole to protect these rights on behalf of people all over the world.

The Universal Declaration of Human Rights represents a fundamental instrument that had, has and will have a great impact on the democratic development of every society and on the proper observance of human rights. The principles enounced in UDHR represent a core stone for the global community and a necessity in preserving human's fundamental rights and liberties. Nevertheless, the present society is in continuous development and different parts of the world have different traditions, backgrounds and ways of thinking. That is why they have adopted declarations that may complete or become alternative to UDHR.

The Cairo Declaration on Human Rights in Islam, adopted in 1990 can be considered more an alternative instrument than a complementary one. The Cairo Declaration diverged significantly from international human rights standards: absent were guarantees of freedom of religion, asso-

ciation, or the press, and assurances of equality and equal protection under the law. The Muslim opinion remains divided on the relationship between international human rights principles and the Islamic legal heritage, and on the compatibility between the two. More than that, "all the rights and freedoms stipulated in this Declaration are subject to the Islamic *Shari'ah*", and: "the Islamic *Shari'ah* is the only source of reference for the explanation or clarification to any of the articles of this Declaration."<sup>3</sup>

At the same time religious freedom is limited under the Cairo Declaration. Some specialists consider that the Cairo Declaration of Human Rights in Islam is an attempt to limit the rights enshrined in the UDHR and the International Covenants. It can hardly be seen as complementary to the Universal Declaration. The obvious difference of culture, thinking and background had an important impact on the elaboration of the two declarations, fact that can be proved by the differences between them.

The Bangkok Declaration on Human Rights signed in 1993 represents "a carefully balanced construction, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds"<sup>4</sup>. Its importance and multispectral purpose qualifies it as a complimentary Declaration to the Universal Declaration of Human Rights. The Bangkok Declaration claims to contain "the aspirations and commitments of the Asian region"<sup>5</sup>. Recognition of the principle of universality is linked to a claim of respect for cultural diversity. Human rights can be regarded as attempts to regulate the use of state power within a system of sovereign states, to prevent abuse of governments' drastic power over the

lives of their citizens. The Asian states express a positive attitude towards human rights in general, by reaffirming their commitment to the principles contained in the UDHR. The Bangkok Declaration articulated the concern among some of the region's political elite, about the predominance of liberal cultural values within the international system. The Declaration was an attempt to re-orient human rights discourse in recognition of the value and importance of cultural difference.

The African Charter on Human and People's Rights was profoundly inspired by the traditions and values of the African society, including African concepts of law and rights, influenced by negative historical experiences<sup>6</sup>. Even if the academic circles considered it as "the least developed or effective, the most controversial of the regional human rights systems, modest in its objectives and flexible in its means"<sup>7</sup>, it guarantees certain human rights and fundamental freedoms for individuals. Finally, the African Charter may be characterized as an original and innovative instrument in the field of human rights. It is, indeed, clearly distinguishable from other regional and universal legal instruments in this area, as it recognizes the "people" as the holder and beneficiary of such "third generation" rights or "rights of solidarity" as the right to development, peace and a satisfactory environment. The African Charter is not only an instrument that can be read in a manner fully compatible with the standards laid down by the Universal Declaration of Human Rights, but also may be credited with a real "added value". The African Charter is somewhat an avant-garde or revolutionary legal instrument founded on existing or emerging universal cultural values, such as "solidarity" (between individuals, through

the enshrinement of one's duties in parallel with his rights, between peoples, whether or not they form States and between State parties so it should reflect the African conception of human rights [and] should take as a pattern the African philosophy of law and meet the needs of Africa".<sup>8</sup>

It also recognized that the value of international human peoples may pursue their economic and social development according to any principles they choose. The Charter says that colonized and oppressed peoples have the right to free themselves using any internationally recognized means. The African Charter apparently tried to take account of certain realities specific to the African continent modernity and universality which triumph over tradition and regionalism, although the latter clearly find their place in its normative content<sup>9</sup>.

The Valencia Declaration of Human Duties and Responsibilities<sup>10</sup> from 1998 comes to fulfill and complete the inalienable human values enshrined in the Universal Declaration of Human Rights. Because of such negative and dangerous phenomena as nuclear weapon production and proliferation, high military expenditures, terrorism, trade of conventional weapons, genocide, armed conflicts, harmful scientific and technological experiments, international crime, and corruption take bigger and bigger proportions, international community found it necessary to frame the duties and responsibilities that would prevent and eradicate them. The Valencia Declaration uses, for the first time, in Article I the term "global community" which "means States - including their governments, legislatures and judicial institutions - international, regional and sub-regional intergovernmental organizations, non-governmental organizations, public and private sector corporations, including transnational

corporations, other entities of civil society, peoples, communities and individuals taken as a collective"<sup>11</sup> The Valencia Declaration would develop Article 29, Paragraph (1) of the Universal Declaration of Human Rights which stipulates that "Everyone has duties to the community in which alone the free and full development of his personality is possible."<sup>12</sup> Duties and responsibilities are correlative and synalagmatic to the rights and liberties and the global community owes to the human community certain moral responsibilities. The global community has an abiding collective duty to promote and protect diversity in the human family, to respect the rights of minorities and to recognize and ensure the existence and rights of indigenous peoples, in particular their rights to preserve, maintain and develop their distinct identities and characteristics.

In conclusion, it can be mentioned that Valencia Declaration is a necessity in the 21<sup>st</sup> century, where freedoms and liberties must be protected. The Global community has the duty to promote the implementation of the human rights and fundamental freedoms in all circumstances. It is considered that moral duty is a consequence of natural tendencies towards happiness and perfection. Responsibilities involve the sense of solidarity, understanding, respect towards someone's convictions and rights.

All the Declarations analyzed above represent a binding necessity for the present times, inherent instruments for the countries which adopted them. These instruments tend to reflect the values and principles, traditional and cultural backgrounds of their societies and despite of their alternative or complementary character, they do provide basic and vital rights and duties for the contemporaneous realities.

The Republic of Moldova adhered to the Universal Declaration of Human Rights through the Parliament's Decision no. 217-XII of 28.07.90. Article 4 of the Constitution, adopted on the 29<sup>th</sup> of July 1994 stipulates that "all the constitutional provisions regarding human rights and liberties shall be applied in accordance with the Universal Declaration of Human Rights".<sup>13</sup> The Re-

public of Moldova has taken concrete steps in promoting the values enshrined in the Declaration by harmonizing the national legislation and continuing the legal and institutional reform. However, more efficient measures should be implemented in order to bring the legal system closer to the expectations of the national and international community.

## REFERENCES

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<sup>4</sup> Rebecca Wallace, Anne Holliday, Adam Geary, *International Protection of Human Rights* [http://www.londonexternal.ac.uk/current\\_students/programme\\_resources/laws/subject\\_guides/iphr/iphr\\_chs1to4.pdf](http://www.londonexternal.ac.uk/current_students/programme_resources/laws/subject_guides/iphr/iphr_chs1to4.pdf), retrieved on 20 January 2010.

<sup>5</sup> The Bangkok Declaration on Human Rights, adopted in March 1993, <http://law.hku.hk/lawgovtsociety/Bangkok%20Declaration.htm>

<sup>6</sup> African [Banjul] Charter on Human and Peoples' Rights, adopted on June 27 1981, <http://www1.umn.edu/humanrts/instree/z1afchar.htm>

<sup>7</sup> Malcom Evans, Rachel Murray, *The African Charter on Human and Peoples' Rights: the system in practice 1986-2006*, Cambridge University Press, 2002, page 25.

<sup>8</sup> Fatsah Ouguergouz, *The African Charter on Human and Peoples' Rights: A Comprehensive Agenda for Human Dignity and Sustainable Democracy in Africa*, UN Chronicle, 1 June 2004.

<sup>9</sup> Ibid.

<sup>10</sup> Declaration of Human Duties and Responsibilities, proclaimed in 1998 "to commemorate the 50th anniversary of the Universal Declaration of Human Rights" (UDHR) in the city of Valencia, <http://globalization.icaap.org/content/v2.2/declare.html>

<sup>11</sup> The Valencia Declaration of Human Duties and Responsibilities, Article 1.

<sup>12</sup> The Universal Declaration of Human Rights, Article 29, Paragraph 1.

<sup>13</sup> The Constitution of the Republic of Moldova, adopted on 29<sup>th</sup> of July 1994

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