INTERNATIONAL ETHICS IN PUBLIC RELATI

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I. UNIVERSAL DECLARATION OF 1948-THE MAIN SOURCE OF HUMAN RIGHTS IN THE INTERNATIONAL LAW

December 10, 1948 is a historical date because it marks the birth of the contemporary law of human rights. On that date the Universal Declaration of Human Rights was proclaimed by the General Assembly of the UNO which enunciated for the first time the consensus of the international community in a **"common ideal which should be attained by all the world nations '** in the field of human rights. The declaration is the main model and source and nowadays presents the legal consolidation of the physical persons. Kurt Waldheim, Secretary General of the UNO was stating that **"After this historical noteworthy event, the Universal Declaration of Human Rights served as a moral imperative which governed the relations between the individuals and their governors, as well as a guarantee for the protection of human rights, fundamental freedoms and of the inherent dignity of all the members of the human family".**

The Declaration had a favourable impact on the most of the world states which by means of the United Nations Organisation allowed for the adoption of full-sized international Resolutions, which stimulated the creation of new legal rules and obligations

Being bom from the idea that the respect of the physical person, the promotion and guarantee of human rights constitute one of the indispensable conditions for the world peace and human progress and as a reaction to monstrous violations of these rights in a flagrant way by the totalitarian regimes of the Hitler's Germany, Hort's Hungary, Franco's Spain, Salasar's Portugal and other, the international legal norms on human rights have been channelled on three main pillars: 1) reaffirmation, development and codification of the basic norms of human rights; 2) application of the mechanisms for the observance of the con-

Activites de l'ONU dans le domaine des Droits de l'Homme, New York 1982, p.III.

ventional norms and 3) education of the present and young generation in a spirit of the respect of the existent international legal norms on human rights.

The tendency of launching, confirmation and respect of the human rights has been crystallised as early as the Second World War through the speech of Woodrow Wilson, president of the United States of America, as of August 14, 1941. He imagined a world created on four fundamental freedoms: freedom of opinion and press, freedom of every person to adore the God in his own way, poverty and fear eradication[1]. The first attempts in this context have been made through the adoption of the United Nations Declaration of January 1,1942 by 27 states of the anti-Hitlerite coalition, which states that an absolute victory over the enemies will be possible ...and "for the defence of life, freedom, independence and the religious freedom, as well as for the conservation of human rights and justice in their own countries and in other nations".[2]

We can only regret the reality formed by the member States of the United Nations Declaration of 1942. This reality consists in the fact that the ideas regarding the human rights were not reflected in the constituent act of the United Nations Organisation, which was created in 1945. This happened because all of the big powers faced serious problems in this field in their own countries: United States, a legal system dedicated to the racial discrimination; France, Great Britain, Belgium, Holland, Portugal, Spain and other states with commanding colonial empires; Soviet Union, a totalitarian regime with hundreds of gulags. However, the Charter of the United Nations introduces among its goals the promotion and observance of "human fundamental rights and freedoms for everybody regardless of the race, gender, language or religion..."[3], thus laying the main bases for the future development of the international protection of human rights.

Analysing the activity of the United Nations Organisation for the past 50 years, we can underline the following:

The legal acts which formed the basis of the creation of UNO and other specialised institutions- UNO Charter, ILO Constitution, UNESCO Convention, HIO Constitution, FAO Constitution- dwell upon the human rights problems, institutionalising their main principles. Other five legal instruments- Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights and two additional protocols to the latter which are generically called the and two additional protocols to the latter which are generically called the **International Charter of Human Rights-** regulate the global aspects of the human rights problems. Other 45 international instruments adopted under the auspices of the international forum cover particular spheres of the matter in all the fields. **In the field of civil and political rights,** there have been developed normative acts regarding the right

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Thomas Buergenthal, Alexandre Kiss, La proteextion International de droits de l'homme. Precis, Strasbourg, p.12.

Ibidem, p. 12-12

" Art.l, at the end of the paragraph 3 of the Charter of the UNO

to self determination, right to life, abolition of slavery and forced labour, trade with human beings, protection of the arrested people, right to the citizenship, improvement of the refugee status, freedom of opinion and expression, freedom of association, protection of minorities and other. The regulated domains **in the field of economic, social and cultural rights** pertain to the right to work, education, health, nourishment etc. Many of the legal norms deal with the protection of rights and welfare of the members of the vulnerable sections - children, mental disabled and handicapped, homeless and aged people, improvement of the conditions for women, elimination of discrimination and intolerance, and on the other hand, protection of human rights during the armed conflicts, natural catastrophes or catastrophes provoked by men.

II. HUMAN RIGHTS IN THE PRESENT INTERNATIONAL LAW

The development of the legal norms on human rights in the national legislation and international law contributed to the formation of a modem conception of human rights which is based on two main pillars: a) the human rights are those set forth in the international instruments: in the Universal Declaration of 1948, International Treaties, as well as in other instruments adopted under the auspices of the United Nations Organisations and of its specialised institutions, as well as within the Organisation for Security and Co-operation in Europe; the human right notion is closely connected with that of the state. Ashjm Eide stated **"It has no sense, except within an organised society..., endowed with an organised power that acts in the relationship between the human being and the state, with freedoms enjoyed by the human being, with his right to justice in the conditions established through the law, with his right to participate in the public works and with his rights and obligations towards the state as a right to a decent standard of living and the satisfaction of his fundamental needs"[4].**

Most of the international legal specialists classify the human rights into two main categories: individual rights and collective rights. The first category
includes the rights enjoyed by every human being and comprises:

1. Legal norms regarding the justice under the terms established by the law: a fair trial in cases of punishable acts, the right to the assistance of a lawyer; non-retroactivity of the law.

2. Legal norms regarding the conscience and action; freedom of opinion, expression, and religion, freedom of peaceful assembly, freedom to form and to join trade unions, other organisations and associations; freedom of movement, including the right to leave any country and to return to it.

3. Legal norms regarding the physical and mental integrity which comprise the right to life, liberty and security of person, including the prohibition of torture or the cruel,

H. Lauterpcht, International Law and Human Rights, London, 1950, pp. 17-18

inhuman treatment, prohibition of slavery, servitude and forced labour, prohibition of arbitrary arrest or of abusive deprivation.

4. Legal norms regarding the political aspect: the right to take part in the government of his country, the right to vote and to be elected.

5. Legal norms regarding the private life and family: the right to the respect of private life, the right to the family respect and protection.

6. Legal norms regarding the social, economic and cultural aspects of the life: the right to work, to a decent standard of living, to social security, to medical care and to culture.

7. Legal norms regarding the legal, racial, and religious equality.

The category of **collective** rights comprises the right of persons to dispose of themselves, the right to a permanent sovereignty over the natural resources, the right to development etc.

The analysis of human rights from the national legislation (Germany, Spain, Italy, France, Great Britain, etc.) confirms the observance of the requirements set forth in the Universal Declaration as of December 10, 1948. Since this historic date all the public authorities contribute to the Universal and efficient respect of all the human rights. The obligations reflected in the national legislation have their legal basis in the article 2, paragraph 1 of the International Covenant on Civil and Political Rights which states: **"When not already provided for** by **existing legislative or other measures, each state Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognised in the present Covenant".**

With a view to observing the obligations provided by the Universal Declaration as of December 10, 1948 several preliminary conditions are necessary, and namely: the state should be free and democratic, it should operate on the basis of the law primordiality and of the principle of legality, the whole activity of the executive power should be under control.

It is indisputable that in order for a nation to enjoy the plenary right to dispose of its fate, the state where it lives should be free. A state under a foreign occupation or under the threatening of a foreign intervention cannot offer to its citizens but a limited guarantee of human rights.

The legal national and international provisions also imply a democratic political system. Only in such situation any person can exercise his right to take part in the governance of his country directly or through the freely elected representatives. The will of the people shall be the basis of the authority of government. This will should be expressed in periodic and genuine elections as provided by the article 21 of the Universal Declaration of Human Rights. Only in such a way the structure of the political system can meet the fundamental requirements of the democracy.

The observance and protection of human rights is based on the law primordiality. In

order to do so, the public authority institutions should be subject to the law through a series of general provisions regulating the way of their power exercise.

According to the available data, nowadays about 50 states included in the national Constitutions - the fundamental law of the country- provisions from the Universal Declaration of Human Rights which inspires the action of the public powers. And several states with strong democratic traditions have passed special laws on human rights.

With a view to adapting to the evolutionary process of the society and providing for the mechanisms of application of the legal norms on human rights, the constitutional provisions are concrete, clear and simple at the same time. In most of the European states including Moldova, the Constitution, the law adopted by the Parliament of the republic, most of the normative acts comply with the fundamental principles of the separation of legislative, executive and judicial powers.

It is presupposed that in all the national legal systems of human rights protection, one of the fundamental principles be the rule according to which any limitations of fundamental rights and freedoms cannot be done but on the basis of a preexistent law, which should obligatorily emanate from the legislative power. Other two principles should be mentioned here: according to the first one, the power of passing laws should belong to a union elected by the people through the universal, direct and equal vote which would represent their will. The second is that any restriction in the human rights should be enunciated in the form of law so that every human being is warned about the limits imposed to his freedom of action.

In order to efficiently protect the human rights there is a need for other guarantees, such as: principle of non-retroactivity on the basis of which no one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence at the time when it was committed, or the principle of

the independence of judicial power from the legislative and executive branches.

According to the principles enunciated in the Universal Declaration of Human Rights as of December 10, 1948 and especially by the article 8 of the Declaration, everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

If compare to other legal norms when applying the human rights a great role is played by different ministries, parliaments, tribunals. A great number of nongovernmental organisations, trade unions, churches, mass media and other national institutions are also preoccupied by the human rights problems.

Nowadays about 4000 nongovernmental organisations[5] operate in different states of the world, which have in view the observance and application of the human rights[6]. There are nongovernmental organisations that have been created to act on the international and regional area, other organisations act only within one state. Among the latter, judging by their programmes and actions, some of them serve some governments and especially in the states with only one party, and other are of contestatory and anti-governmental character. **"In order to really fulfil their rights the nongovernmental organisations dwelling upon the human rights should be neither anti-governmental nor in favour of some governments, but serve to the camouflage of human rights violations to which they are attributable to. They should be aware of the human rights at the national, regional and international level**"[7]. In order to carry out this role, they need a legal recognition to allow them to act independently and exercise freely their activities both at the national and international levels.

Depending on the variety of functions carried out by the nongovernmental organisations they can be of four types:

1. NGO having as a main objective the protection of human rights;
2. NGO acting in more than one field, the problem of human rights constituting one of their programmes and projects;
3. NGO which are interested in the problems of human rights. But these problems do not constitute a general objective of theirs or a subdivision of the problems they are dealing with. They support indirectly the programmes in regard to human rights.
4. NGOs the objective of which is the education of the population as a support in

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Concept of the nongovernmental organisations assigns "the international organisations which have not been created through intergovernmental agreements" (Rez.1296 (XLIV) of the Economic and Social Council on the provisions concerning the consultations with the nongovernmental organisations, as of May 23, 1968, par.7).

C.M. Eya Nchama, Le role des organisations non gouvemamentales et le mouvement des Droits de l'homme, in "Bulletin des Droits de l'homme", 90/1, Nations Unies, 1992, pp.53-88.

Ibidem, page.56

respecting the general human values[8] .

Among the activities of the nongovernmental organisations in the filed of human rights, firstly there can be mentioned their reports on serious violations and lack of civil and political rights. There are nongovernmental organisations that play an important role in the field of normative activity. Niall MacDermont states that through this activity is meant **"the drafting and application of the conventions, declarations and other international instruments enunciating the obligations through which the member States are linked, be it conventions or directing principles earmarked for all the states, or declarations or other international instruments**"[9] **.**

A limited number of nongovernmental organisations deal with the protection of the victims of human rights violations[10]. Others dwell upon the development of population awareness and education programmes and methods in the relevant field[11]. Also, within the bar associations of some states there have been created commissions which provide legal advice on a free basis to the persons whose rights have been violated and who do not have financial means or who are not protected against discriminations.

In most of the national legislation on human rights a special role is played by the ombudsman institution which can be a physical or legal entity nominated usually by the Parliament on the basis of the Constitution or a special law. The main obligation of the ombudsman is to protect the rights of the human beings who consider themselves victims of the administration injustice. He receives and investigates complaints having access to all the documents of the public authorities, and finally formulates a recommendation in the form of declaration. In case there are no recommendations he can subject the Parliament to an ad-hoc report. Usually, one can address the ombudsman only after the exhaustion of all remedies at law. He can also play an intermediary role

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8 Diego Garcia-Sayan, Les organisations non gouvemamentales et le mouvement des droits de l'homme en Amérique Latine, in "Bulletin des Droits de l'homme" 90/1, Nations Unies,1992, PÇ.32-43.

Niai MacDermot, Le role des organisations non-gouvemamentales dans l 'elaboration des nonnes relatives aux Droits de l'homme, in "Bulletin des Droits de l'homme ", 90/1, Nations Unies, 1992, p. 44.

10 Nigel S. Rodney, Activités des organisations non-gouvemamentales en matières de promotion et de protection universelles des droits de l'homme, in "Bulletin des Droits de l'homme", 90/1, 1992, pp.89-100.

E.A.C. de Silva, Nouvelle presentation de l'enseignement des Droits de l'homme: une experience Sri-Lankaisc, in "*Bulletin des Droits de l'homme", 90/1, 1992, pp.101-104.*

between the person who considers himself harmed, and the administration.

A special role in the legislation regarding the human rights is being played by the specialised institutions for the protection of several vulnerable sections (handicapped, mental disabled etc.) and ethnic, linguistic, religious minorities, native population (aborigines), foreigners, migrants, refugees, children, women, the poor etc. Usually these specialised institutions are created with a view to promoting a social policy developed by the governments for the protection of these sections. The main function of these institutions is to investigate the complaints formulated by the members of the respective sections, having no right to formulate an executory decision or institute legal proceedings[12].

II. MENTALITY FOR PUBLIC ADMINISTRATION

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What has happened in the Country of Moldova lately worries every native and person of good faith.

Together with the adoption of the sovereignty all of us hoped that there would occur a positive change of the situation. Unfortunately, in many cases they opt for a coming back to the past. The reason is simple: human rights, Constitution-the fundamental law, the laws adopted by the Parliament, the Government resolutions and decisions are violated; the public authorities pass decisions which contradict the local and international legal norms; they spread the so-called European experience, which is in reality a deliberate fraud etc. Such a tolerance of the situation can produce a national and ethnic scission with fatal consequences.

As for the evaluation of the national unity, it is necessary to study the population preferences and market economy interests. They demonstrate that every consumer has a continuous impact on the whole society. The public power should undertake an economic planning according to the fundamental principles of the market economy and compare the advantages and disadvantages of all the types of public actions, thus improving the citizens' democratic participation.

Such a mentality requires that the public administration be decentralised. Through decentralisation the public administration will be better oriented towards the services and human welfare where the projects are developed with the direct participation of the population.

Principes concernant le statut et lefonctionnement des Institutions nationales pour la protection et la promotion des droits de l'homme, developed in October, 1991, by the Centre for Human Rights from Geneva, in Institutions nationales pour la promotion et la protection des droits de l'homme, Fiche d 'information No. 19, pp. 13-17.

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Becoming a member of the UNO and Council of Europe, let's hope that Moldova will succeed in attaining the summit of the political and legal culture maturity and in overcoming the adolescence stage.

Mention should be made that Moldova together with all the UNO coup- tries accepted to observe the Charter of the UNO, proclaiming "confidence in the fundamental human rights, in the dignity and value of the human being... " and because of this, as well as by the character of their profession, the public relation practitioners of these countries should undertake to know and observe the principles contained in this Charter;

Considering that sebesides his "rights" a person needs not only physical and material freedoms but also intellectual, moral and social ones and that the person can really enjoy his rights to the extent these needs (in what they have anything essential) are satisfied;

Considering that the public relation practitioners exercising their profession can follow the way in which they exercise, fully contribute to the satisfaction of these intellectual, moral and social needs of the people;

Considering in the long run that the utilisation of the techniques which allow the public relations practitioners to contact simultaneously millions of individuals gives them a power which should be limited through the observance of a strict morality;

For all these reasons, the International Association of Public Relations subordinated to the UNO and UNESCO, declares that the principles of the International Code of Ethics for public relations is a moral Charter for them and that through this Code every member has rights, obligations and duties to the Council, and the evidence brought against one of them will not be considered a serious infraction resulting in an adequate sanction. As a result all the members of this association:

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Should make efforts:

1. - To contribute to the fulfilment of these moral and cultural conditions which allow the people to affirm themselves and enjoy the idefeasible rights provided by the Universal Declaration of Human Rights;
2. - To create communication structures and channels which will facilitate the free circulation of the important information and ensure that every member of the group is informed, concerned, responsible and solidary;
3. - To behave in any situation and circumstance in such a way as to deserve the confidence of those whom they contact with;

4. - To take into account the fact that because of the public character of their profession, behaviour, even particularly, will have an impact on the courts, having as an objective the profession as a whole;

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Should undertake to:

5. - To observe the principles and moral rules of the "Universal Declaration of Human Rights" in the exercise of their profession.

6. - To observe and safeguard the dignity of the human being and recognise to everybody the right to form his judgement.

7. - To create moral, psychological, intellectual conditions for a real dialogue, to recognise the right of the parties to describe the case and express their points of view;

8.- To act in any circumstance in such a way as to take into account the respective interests of the parties: the interests of the organisation and institution which uses their services as well as of the interested public;

9. - To keep their promises, commitments which should always be formulated in the terms which do not provoke doubts or confusions, and to act honestly and loyally in all the situations so as to maintain the confidence of their present or former clients or civil servants, or of any type of public interested in their actions;

Should forbid to themselves:

10. - To subordinate the truth to other imperatives;

11. - To disseminate the information based on uncontrolled and contradictory facts;

12.- To send the information to enterprises, other legal and physical entities or to cause damages through their actions thus violating the honesty, dignity, and integrity of the human being;

13.- To use any manipulating method, means, technique with a view to creating motivations by means of which they would try to artificially avoid the responsibilities for their actions.

This International Code of Ethics, called the Athena Code has been presented by the CERP Council in January 1965 in London and adopted in May 1965 by the CERP Assembly in Athena. It has also been accepted by IPRA, other international bodies subordinated to the UNO and UNESCO.

Today it is necessary that all representatives of the governmental bodies of Moldova know its entire content, otherwise they blemish the authority and honesty of the Republic of Moldova on the international arena.