

THE OBSERVATION OF THE HUMAN BEING DIGNITY, AS MIRRORED IN CONVENTIONS, TREATIES AND OTHER INTERNATIONAL DOCUMENTS

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Abstract: This article presents the evolution of the concept of human dignity in conventions, treaties and other international documents, starting from the 13th century, when we meet different references to the human rights in the English Charter from 1215 –Magna Charta, and continuing with the American Declaration of Independence from 1776, the French Declaration of the Rights of Man and of the Citizen from 1789 etc. In present times, the most important and relevant documents are The Charter of the United Nations, signed at San Francisco, California, on the 26th of June 1945, The European Convention of Human Rights, signed at Rome, on the 5th of November 1950, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, adopted in 1963, The Charter of Paris, called “For a new Europe” – 1989, The Inter-American Convention on Human Rights, signed at San José, in Costa Rica, on the 22nd of November 1969, The African Charter on Human and Peoples’ Rights, adopted during the Conference for Organisation of African Unity (OAU), on the 27th of June 1981, The Asian Human Rights Charter, elaborated by the Asian Human Rights Commission and proclaimed on the 17th of May 1998 etc.

Keywords: dignity, human rights, human person, document, convention.

Although a relatively new concept in law¹, the ideas referring to the human being dignity have become more frequent in the political speeches, in the national juridical documents and in the international treaties, along with the resolutions adopted by different national and international organisations. The shaping and the affirmation of the human dignity concept, has a long history, longer than the history of human rights, being influenced by the entire evolution of the philosophical thinking, and by the practical applicability of the philosopher’s

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¹ Bernard Edelman, *La dignité de la personne humaine, un concept nouveau*, in Marie-Luce Pavia, Thierry Revet (coord.), *La dignité de la personne humaine*, Paris, Economic Publishing, 1999, pp. 25-34.

teachings, as asserted by the PhD professor, Gheorghe Dănișor: «when we talk about the human dignity, we consider the human individual, regardless the step of the social pyramid where they stand»².

The great thinkers and legislators, of the old times, brought their contribution to the recognition and the observation of the human dignity, as fundamental value, considering that the welfare of each individual cannot be materialised but through the social wellbeing, meaning the respecting of the other wellbeing. From the development of this idea, until the recognition of the equality among people and the guarantee of the fundamental rights, for all the people, there have been many steps, this evolution determining us to consider human dignity a fundament of the human rights.

The mentions about the human dignity can be found in numerous normative documents or national charters because, fighting for the affirmation and the protection of their dignity, the citizens mainly considered the recognition of this concept nationally, inside the borders of the state where they were living, and only secondly the extension of the recognition, and implied protection, internationally. Thus, in the 13th century, we meet different references to the human rights in the English Charter from 1215 – *Magna Charta*, followed by the American Declaration of Independence from 1776, by the French Declaration of the Rights of Man and of the Citizen from 1789 etc.

Magna Charta can be considered one of the first documents on addressing the human rights, issued by King John of England (Lackland), on the 15th of July 1251, for the English barons and bishops. This extremely progressive document for that period, stipulated, at clause 39 that: “No free man shall be seized or imprisoned, or stripped of his rights or possessions, or outlawed or exiled, or deprived of his standing in any way, nor will we proceed with force against him, or send others to do so, except by the lawful judgment of his equals or by the law of the land”³.

The United States of America Declaration of Independence enumerates in its Preamble the ideas and the ideals that founded it – equality, life, liberty, pursuit of happiness, along with “the right to revolution”, the ability of a people to assume its political independence: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and

² Gheorghe Dănișor, *Filosofia drepturilor omului*, Bucharest, Universul Juridic Publishing, 2011, p. 77.

³ Victor Duculescu, *Protecția juridică a drepturilor omului. Mijloace interne și internaționale*, Bucharest, Lumina Lex Publishing, 1998, p. 23.

organizing its powers in such from, as to them shall seem most likely to affect their Safety and Happiness”.

A historical moment was represented by The Declaration of the Rights of Man and of the Citizen, from the 26th of August 1789, adopted in France, an international juridical instrument that consecrated new principles as regarding the human being, and the recognition of their dignity, one of these principles being that people are born free and equal.

The Declaration of the Rights of Man and of the Citizen represents a display of principles for the next French constitution, which was to become a landmark for all the following democratic movements of the world, a document that is still actual nowadays. In succinct definitions, there are adopted the philosophic concepts of the Enlightenment, being enumerated the natural rights of the human (freedom, property, resistance against oppression), people's sovereignty, equality of citizens, the fundamental attributions of the government and the background for the laws. In art. 2 of the Declaration, through the direct borrowing from the English literature of the 17th century, and the French one from the 18th century, there were mentioned the natural rights: freedom (the most important right), property⁴, safety and opposition against exploitation. Articles 4 and 5, by defining liberty, were showing what it was allowed and what had to be limited. The law was strictly meant for the defending of the society, and everything that it was not mentioned in it, belonged to the field of the freedoms. The individual freedom was fundamental. Taking inspiration from the British law, *Habeas Corpus*, the declaration extended it to the freedom of speech, the religious freedom, freedom of expression, which represent only few of the numerous sides and forms taken by the concrete manifestation of the right to dignity. Another freedom is that to oppose against exploitation, being taken from the United States Declaration of Independence and from Locke's ideas.

Confirming the suppression of privileges, the Declaration made from the equality before law, one of the fundamental principles of the new society: “*people are born free, and remain free and equal in rights*” (article 1). Yet, it is not excluded the existence of differences between people, on the condition that they are “based on the common interest”. The objective of the state had to be the providing of inalienability of human's natural rights, among which there was the right to freedom, private property, personal security, resistance against the tentative of violation of the right etc. In art. 4 we find the mention of the necessity to limit freedom, in other words the free exercising of the human right, for not harming another person: “*Freedom is the possibility to do anything, on the condition to not prejudice another individual*”.

The sovereignty of the nation, the representative system, the observing of the individual's natural rights, the proclaiming of the individuals' equality in front of

⁴ As regarding the controversies on the lawful and natural status of property, see Gheorghe Dănișor, *op. cit.*, p. 78.

the law, the liberation from the state's domination⁵, were the principles formulated by the French Revolution and put into practice by the Constituent Assembly, by the adopting of the Constitution from 1791, which legalised the equality of citizens before the law, and abolished the discrimination based on ethnic or religious criteria (Jews, protestants).

The Charter of the United Nations, signed at San Francisco, California, on the 26th of June 1945, proclaims, in its Preamble: "We The Peoples of the United Nations Determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, and for these ends to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples, have resolved to combine our efforts to accomplish these aims. Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations".

Although in the UN Charter it is reaffirmed the recognition of the man's fundamental rights (art. 1 and 55), there is not made any reference to the dignity of the human being. Nonetheless, this charter is considered to be the beginning moment for "the emerging" of the notion of dignity, and value of the human being, into one of the most important international documents from our times⁶.

The General Assembly of the United Nations Organisation adopted, on the 10th of December 1948, through resolution 271 A, the Universal Declaration of the Human Rights, which reads in its preamble: "**the recognition of the inherent dignity** and of the equal and inalienable rights **of all members of the human family** is the foundation of freedom, justice and peace in the world, (...) disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people, (...) it is essential, if

⁵ I. Dogaru, D.C. Dănișor, *Drepturile omului și libertățile publice*, Chișinău, Zamolxe Publishing, 1998, pp. 44-45.

⁶ Madjid Benchikh, *La dignité de la personne humaine en droit international*, in Marie-Luce Pavia, Thierry Revet (coord.), *La dignité de la personne humaine*, Paris, Economic Publishing, 1999, p. 38.

man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law, (...) it is essential to promote the development of friendly relations between nations, (...) the peoples of the United Nations have in the Charter reaffirmed **their faith in fundamental human rights, in the dignity and worth of the human person** and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, (...) Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms”.

Numerous documents that brought an important contribution to the recognition and protection of the human dignity are the ones that incriminated discrimination, one of the most detestable deeds that tell against the human person and against peoples, widely practiced along history, constituting today a severe infringement of the international law norms and principles.

One of the conventions through which there was specifically forbidden any form of discrimination, was the *European Convention of Human Rights*⁷, signed at Rome, on the 5th of November 1950 (by all the states of the European Council). In fact, the rights stipulated by the Convention are: the right to life, the right to freedom and security, and the forbidden of prison conviction on grounds of debts, the right to a good administration of justice, the right to the respect of private and family life, to domicile and correspondence, the freedom of speech, the freedom to meet and the freedom of associations, the right to marry and to form a “family”, the right to appeal before the national courts, in case of infringement of the rights mentioned in the Convention, the right to property, the interdiction to send to exile the national people, the collective expulsion of foreigners, the interdiction of torture and punishments, or inhuman and degrading treatment, the interdiction of slavery, servitude, forced and mandatory labour, the interdiction of any type of discrimination⁸. Through the jurisprudence of the European Commission and Court on Human Rights, through the interpretations that it was conferred in different cases, the Convention passed beyond the stage of simple document, becoming “a living instrument that needs to be interpreted according to the actual living conditions”⁹. Unlike other instruments of international law, the Convention “surpassed the classical theories of reciprocity and nationality”¹⁰, going further

⁷ The integral text of the conventions and additional protocols is available in Romanian at the address http://www.irdo.ro/sectiuni.php?subsectiuni_id=2.

⁸ The Convention instituted a judicial mechanism for international guarantee of the consecrated rights and freedoms, made of a Commission and a European Court of Human Rights (with the headquarters at Strasbourg) and a Committee of Ministers from the Council of Europe.

⁹ Aisling Reidy, *L'interdiction de la torture. Un guide sur la mise en oeuvre de l'article 3 de la Convention Européenne de Droit de l'Homme*, Direction générale des droits de l'homme, Conseil de l'Europe, Strasbourg, 2003, p. 6.

¹⁰ Hélène Lambert, *La situation des étrangers au regard de la Convention Européenne de Droit de l'Homme*, Éditions du Conseil de l'Europe, Strasbourg, 2007, p. 8.

than the framework of a simple reciprocity, between the contracting parties”, creating objective obligations that, according to the terms stipulated in the preamble, benefit from a “collective guarantee”¹¹.

U.N.O. brought its contribution through the numerous declarations and resolutions, among which the *United Nations Declaration on the Elimination of All Forms of Racial Discrimination*, adopted in 1963, occupies the central position in fighting against the racial discrimination. In this declaration, the General Assembly of U.N.O., underlined the necessity to eliminate rapidly all the forms and manifestations of racial discrimination in all the parts of the world, and to assure protection and the observing of human dignity.

On the 21st of December 1965, it was adopted, through a resolution of the U.N.O. General Assembly, and opened for signing, the International Convention on the Elimination of All Forms of Racial Discrimination, through which the states parties condemned any form of discrimination, especially the racial segregation and apartheid, making the commitment to prevent, forbid and eliminate from their territory such malevolent practices, using all the available means, including their incrimination and penal sanction measures. According to this Convention, racial discrimination consists in “any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life” (art.1).

In 1966, the General Assembly of the United Nations Organisation, adopted two covenants, one referring to the civil and political rights¹², and the other regarding the economic, social and cultural rights¹³, which transformed the human dignity into the fundamental of the human rights, acknowledging specifically that “*these rights derive from the inherent dignity of the human person*”.

The fact that the other international documents from this area, among which the most important is the Universal Declaration of Human Rights, place on the same level, human dignity and the human rights, without explicitly basing the fundamental rights on dignity, requires certain remarks. Thus, to the extent to

¹¹ ECHR, Decision Ireland v. Great Britain, 18th of January 1978, available in French at http://www.cvce.eu/obj/arret_de_la_cour_europeenne_des_droits_de_l_homme_irlande_c_royaume_uni_18_janvier_1978-fr-e07eaf5f-6d09-4207-8822-0add3176f8e6.html.

¹² Available on <http://lege5.ro/Gratuit/le2damju/pactul-international-cu-privire-la-drepturile-civile-si-politice-din-16121966->. Romania ratified the Pact on the 31st of October 1974, through the Decree no.212, published in the Official Bulletin of Romania, 1st part, no. 146 from the 20th of November 1974.

¹³ The Integral text of the Pact is available in Romanian at the internet address <http://www.hotararicedo.ro/files/files/PACTUL%20INTERNATIONAL%20CU%20PRIVIRE%20LA%20DREPTURILE%20ECONOMICE,%20SOCIALE%20SI%20CULTURALE.pdf>. Romania ratified the Pact on the 31st of October 1974, through the Decree no.212, published in the Official Bulletin of Romania, 1st part, no. 146 from the 20th of November 1974.

which this distinction is not found in other international documents, we can consider that the signing states either did not agree to establish a hierarchy between the human dignity and the human rights, or the same states did not have, the moment when the papers were signed, a clear idea about the distinctions that could be made between the two notions, or this aspect did not represent a current preoccupation. The second hypothesis seems the most probable, considering that the different international treaties and covenants do not adopt the same position, in this case. An example for this situation is article 1, from the Universal Declaration of Human Rights, which proclaims that “all human beings are born free and equal in dignity and rights”, consequently placing dignity next to the human rights.

Other documents in which there are made references to the human dignity are, mainly, the ones referring to the human rights. The last quarter of the last century was a period of intense promotion of the human rights, mentioning here only the Helsinki Final Act (1975), continuing with the Reunions from Belgrade (1977-1978), Madrid (1983), Vienna (1989), Paris (1989), Copenhagen (1990), Moscow (1991). During the general-European reunions from Belgrade, Madrid and Vienna, there were reaffirmed both the provisions from the *Helsinki Accords on Human Rights*¹⁴, and the principles that govern the relations between the participant states¹⁵. Though this document, which left a mark on “the establishment of the human rights”¹⁶ in the international law, the signing states committed to constantly observe the fundamental rights and freedoms, in their reciprocal relations, and to try, individually or together, including a cooperation with the United Nations, to promote the universal and effective observance of these rights. At section VII, referring to the Observing of the fundamental human rights and freedoms, including the freedom of thought, consciousness, religion or belief, it is stipulated that: “*The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion.*

They will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development”¹⁷.

¹⁴ The participants were: the High Official of Austria, Belgium, Bulgaria, Canada, Czechoslovakia, Cyprus, Denmark, Switzerland, Finland, France, Democrat Republic of Germany, Federal Republic of Germany, Greece, Ireland, Iceland, Italy, Yugoslavia, Liechtenstein, Luxembourg, Malta, Great Britain, Monaco, Norway, Holland, Poland, Portugal, Romania, San Marino, Spain, United States of America, Sweden, Turkey, Hungary, U.S.S.R., Vatican.

¹⁵ Raluca Miga-Beșteliu, *Drept internațional*, Bucharest, ALL Publishing, 1997, p. 189.

¹⁶ Patricia González-Aldea, *Helsinki 1975. Începutul sfârșitului. Degradarea regimului din România și singularitatea lui în blocul de Est, 1975-1990*, Bucharest, Curtea Veche Publishing, 2008, pp. 42-43; Emanuel Copilaș, *Ideologie și politică. HELSINKI 1975 și problematica drepturilor omului în România socialistă*, in “Anuarul Institutului de Istorie «G. Barițiu» from Cluj-Napoca”, volume L, 2011, pp. 232-233.

¹⁷ For the integral variant see <http://www.dri.gov.ro/actul-final-de-la-helsinki/>.

The states that participated at the Reunion from Vienna (1989) considered that *the promotion both of the economic, social and cultural rights, along with the civil and political ones, present a major importance for the future of human dignity*, whose observing becomes, therefore, a priority objective of the leading strategies, establishing as purpose, *the guarantee of effective exercising of fundamental human rights and freedoms, which are tremendous important for the free and entire development of the person.*

Among the objectives established by the states that participated to the reunion, there are¹⁸:

a) to ensure that effective remedies as well as full information about them are available to those who claim that their human rights and fundamental freedoms have been violated; they will, inter alia, effectively apply the following remedies

– the right of the individual to appeal to executive, legislative, judicial or administrative organs;

– the right to a fair and public hearing within a reasonable time before an independent and impartial tribunal, including the right to present legal arguments and to be represented by legal counsel of one's choice;

– the right to be promptly and officially informed of the decision taken on any appeal, including the legal grounds on which this decision was based. This information will be provided as a rule in writing and, in any event, in a way that will enable the individual to make effective use of further available remedies.

b) equal rights of men and women. The participating states confirmed their determination to take all the necessary measures, including legislative measures, to promote equally effective participation of men and women in political, economic, social and cultural life;

c) to ensure the freedom of the individual to profess and practice religion or belief. The participating expressed their commitment to take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, political, economic, social and cultural life, and to ensure the effective equality between believers and non-believers. Therefore, they pledged to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory and to respect the rights of these religious communities:

– establish and maintain freely accessible places of worship or assembly;

– organize themselves according to their own hierarchical and institutional structure;

– select, appoint and replace their personnel in accordance with their respective requirements and standards as well as with any freely accepted arrangement between them and their State;

– solicit and receive voluntary financial and other contributions.

¹⁸ See *Document final al Reuniunii de la Viena a reprezentanților statelor participante la Conferința pentru securitate și cooperare în Europa*, Bucharest, Bălcescu Publishing, 1990, pp. 1-96.

d) respect the right of everyone:

- to freedom of movement and residence within the borders of each State,;
- to leave any country, including his own, and to return to his country;

e) the obligation of every participating state to ensure that:

- no one will be subjected to arbitrary arrest, detention or 10 exile;
- all individuals in detention or incarceration will be treated with humanity and *with respect for the inherent dignity of the human person*;

– observe the United Nations Standard Minimum Rules for the Treatment of Prisoners as well as the United Nations Code of Conduct for Law Enforcement Officials;

– prohibit torture and other cruel, inhuman or degrading treatment or punishment and take effective legislative, administrative, judicial and other measures to prevent and punish such practices.

Through the document concluded at Vienna, it was summoned the *Human Dimension Implementation Meeting* of the Organisation for Security and Cooperation in Europe (OSCE), which took place with three reunions: Paris (the 30th of May-the 23rd of June 1989), Copenhagen (the 5th-29th of June 1990), Moscow (the 10th of September-the 4th of October 1991). The Reunion from Paris ended with the final document – the *Charter of Paris*, called “For a new Europe”. The *Charter of Paris*¹⁹ has as objective the assurance of security, the promotion of fundamental human rights and freedoms, and the development of a wider cooperation among the participating states, stipulating: “Democracy has as its foundation **respect for the human person** and the rule of law. Democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person. Democracy, with its representative and pluralist character, entails accountability to the electorate, the obligation of public authorities to comply with the law and justice administered impartially. No one will be above the law”.

In the *Copenhagen Document*, there were accentuated the human rights on addressing the democratic development of the society, insisting on the separation of powers, the assuring of free elections, political pluralism, consolidation of the democratic institutions in the state of law. For the first time, there were included both detailed provisions regarding the rights of the people belonging to national minorities, and provisions that protect the ethnic, cultural and religious identity of the minorities, the documents being considered « a “landmark” in the establishment of the normative standards for the protection of the minority people’s rights »²⁰. The states committed to protect “the ethnic, cultural, linguistic and religious

¹⁹ Published in the Official Gazette no. 181 from the 9th of September 1991.

²⁰ Adrian Alexe, *Sfârșitul lumii libere*, Bucharest, Aldo Press, 2013, p. 199.

identity of the national minorities on their territory, and to create the conditions for the promotion of this identity”²¹.

Neither do the regional conventions clearly approach the issue of distinction between the human rights and the dignity of the human person, nor the right to dignity.

The *Inter-American Convention on Human Rights*, signed at San José, in Costa Rica, on the 22nd of November 1969, and entered into force on the 18th of July 1979, was conceived after the model of the European Convention of the Human Rights. The states parties assumed, through this convention, the obligation to respect and guarantee the freedom and the entire exercising of the rights stipulated in the Convention, without any discrimination, and to adopt legislative, or other types of measures, measures, for the effectiveness of these rights. Chapter II of the Convention provisions civil and political human rights, along with economic, cultural and social rights. Art. 26 of the Convention stipulates that the states parties ensure the adopting of measures, both internally and regionally, for the gradual effort, though juridical regulations or other appropriate means, towards the full achievement of the rights that residue from economic, social, educational, scientific and cultural standards, established by the Charter of the Organisation of American States, as it had been amended in the Protocol of Buenos Aires. One of the most important provisions, relevant as regarding the human dignity, is that each person has obligations towards their family, community and mankind, and their rights are limited by the rights of the other people (art.32, section 1 and 2). Article 27 from the Convention allows the signing states to depart from their obligations “in case of war, public menace or another crisis, which threatens their independence or security”.

The *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights*, was adopted at San Salvador in 1988, and entered into force in 1999. It acknowledges a series of rights such: the right to work and equitable working conditions, the right to association, the right to social security, to health, the right to a healthy environment, the right to food, the right to education, the right to the formation and the protection of family, the protection of children, elderly and handicapped (art. 6-16). The states parties assumed the obligation to adopt internal laws for the making these rights a reality (art. 2), and the restriction of some of the stipulated rights is inadmissible (art. 4). The states parties also undertake to guarantee these rights, without discriminations based on race, colour, sex, language, religion, political or other opinions, national or social origin, economic status, birth, or other social conditions (art. 3).

The *Second Protocol to the American Convention on Human Rights to Abolish Death Penalty* was adopted in 1990, and does not allow the states to

²¹ Document of the Copenhagen Reunion from 1990 at the Human Dimension Implementation Meeting of the Organisation for Security and Cooperation in Europe (OSCE), in Ion Diaconu, *Minoritățile. Identitate. Egalitate*, Institutul Român pentru Drepturile Omului, Bucharest, 1998, p. 177.

formulate any reservations, but it admits exceptions only for the internal legislation, which can be applied in case of war.

It should be mentioned that the *Inter-American Convention on Human Rights* did not elucidate the question on addressing the fundament of the human rights, but it established in the Preamble that: “the essential rights of man are not derived from one's being a national of a certain state, but are based upon attributes of the human personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states”²².

The references to the human dignity from art. 5 and 6, correlated to the declarations from the Preamble, allow us to believe that the people who drew up this convention considered dignity an attribute of the human being.

The *Asian Human Rights Charter* was elaborated by the Asian Human Rights Commission, along with many other non-governmental organisations from the field of human rights, being proclaimed on the 17th of May 1998, in South Korea – at Kwangju. Among the rights mentioned in the Charter, there is the right to life; the right to peace; the right to democracy; the right to the freedom of religion and consciousness; the right to development and social justice, but also rights specific to women: the right of women to the opportunity of employment; the woman's right to freely choose a profession; the woman's right to social assistance; the woman's right to equal wage with a man, if the job is carried out under the same circumstances; the woman's right to compensation for the family work; the woman's right for the protection of health; the woman's right for the protection of work; the woman's right for social protection during pregnancy, in case the work is harmful; the right to an equal participation of women to the public, political and social life.

The *African Charter on Human and Peoples' Rights*²³, adopted during the Conference for Organisation of African Unity (OAU), on the 27th of June 1981, is different from the European and the American Conventions on Human Rights. Firstly, it proclaims not only the human rights, but also the fundamental duties of them. Secondly, it encoded not only the human rights, but also the peoples' rights, because “the observing of peoples' rights implicitly guarantees the human rights too”. Thirdly, not only does it recognise the civil and political rights, but also protects the economic, social and cultural rights, mentioning that: “the civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights”.

Finally, it is drawn up in a manner that reflects in the same time the influence of UNO instruments that refer to human rights, and the African traditions, in the Preamble

²² Madjid Benchikh, *La dignité de la personne humaine en droit international*, in Marie-Luce Pavia, Thierry Revet (coord.), *La dignité de la personne humaine*, Paris, Economic Publishing, 1999, p. 40.

²³ The integral text of the Convention is available on the address http://www.dadalos.org/rom/menschenrechte/grundkurs_2/Materialien/dokument_7.htm.

of the Charter being stipulated “the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples’ rights”. Nonetheless, in the Preamble of the Charter, it is also mentioned that: “Freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples”.

Most of the rights from the African Charter can also be found in other international documents, being added those specific for the peoples in case. In the first part of the Charter, there are provisioned civil, political, economic, social and cultural rights, along with the duties and the fundamental freedoms of a person and of the peoples, taking into account the dispositions of the articles from the Universal Declaration of Human Rights and the values of the African civilisation. The second part of the Charter includes provisions that refer to the constitution and the organisation of the African Commission on human and peoples’ rights, the competences, the procedure for receiving and solving the eventual infringements of the dispositions written in the charter, the objectives of the Commissions being to promote the human and peoples’ rights, and to assure their protection in Africa.

The references to human dignity from the African Charter on Human and Peoples’ rights are more consistent in art. 5, where it is being mentioned that: “Every individual shall have the right to the respect of the dignity and to the recognition of his legal status. All forms of exploitation, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”.

Taking into consideration that, according to the declarations from the Preamble, the peoples of Africa “still fight for their dignity and real independence, being committed to eliminate colonialism, neo-colonialism, apartheid, Zionism, the foreign military bases that stand for aggression, along with any form of racial, ethnic, skin colour, sex, language, religion or political opinions criteria”, art. 19 asserts « equal dignity and the same right for the peoples ».

These formulations are not absolutely new in the picture that refer to dignity, in the international treaties, therefore our investigation on the fundament of human rights shall be continued, with regard to other European documents.