

UNAMIR

THE PREVENTATIVE AND THE HUMAN RIGHTS

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C. P. T. O

A

Monsieur le Directeur des Etudes de l'E.G.E.M.

Objet: Assistance alimentaire en faveur de la
Gendarmerie Nationale de Ruhengeri

En référence à la correspondance dont photocopie jointe, et relative à l'assistance alimentaire en faveur de la Gendarmerie Nationale de Ruhengeri en date du 31 juillet 1995, j'ai l'honneur de vous demander de tenir informée, la Division C.P.T.O de la livraison des quantités réellement reçues au fur et à mesure et cela par bordereau officiel.

Kigali le 3/8/95

Le Chef de la Division
C.P.T.O

C. P. T. O
Tiemoko Camukuru



UNITED NATIONS NATIONS UNIES
ASSISTANCE MISSION FOR RWANDA MISSION POUR L'ASSISTANCE AU RWANDA
UNAMIR - MINUAR
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The Preventive Detention and The Human Rights

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Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity and the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

This Process is set off when a person gets involved with Government because of his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.

If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.

It is in relationship established between the state and the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limits of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are efficient and that comply with individual's respect.

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditial protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarme's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.

That is the recognition of the universality that leads us to accept the equality as an attribute of the human being. By this fact, the equality is the acceptation of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

*The human rights according to the
International system*

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations. It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for the participant states. They don't have any authority for those which didn't confirm them. This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:

- The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the

International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human 's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

The Consciousness freedom

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art. 18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocht.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratical societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art.7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art.9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art.9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the rift must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same manes, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has right to the social order, and internationally to the point that the rights and the freedoms my easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are ententled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

Because of this all democratical regimes have the justice administration system, independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

The duty and the responsibility of the human being
as a subject of rights

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

International tools concerning the treatment of people in
Detention or in Jail

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. The torture the individual doesn't have to be digne in order not to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- *No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.*
- *Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation*
- *He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged*
- *He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge*
- *He has right to compensation in case of arrestation of illegal detention:*
- *Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition*
- *The young must be separated from the duties and their case must be decided as quickly as possible*
- *The young delinquents must be submitted to a regime appropriate to their age and to their legal status*
- *The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners*
- *Nobody can be put in jail because he is not capable of paying his debts*

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.



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The Preventive Detention and The Human Rights

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Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity at the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

~~This Process is set off when a person gets involved with Government because a his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.~~

~~If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.~~

It is in relationship established between the state the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limit of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are ~~efficient and that comply with individual's respect.~~

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditilal protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarme's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity ~~equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.~~

That is the recognition of the universality that leads us to ~~accept the equality~~ as an attribute of the human being. By this fact, the equality is the acceptance of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

The human rights according to the
International system

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

~~The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations.~~ It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for ~~the participant states. They don't have any authority for those which didn't confirm them.~~ This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:

- The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the

International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human 's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

~~The Consciousness freedom~~

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art.18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocht.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratical societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art. 7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art. 9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art. 9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the right must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same maner, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has right to the social order, and internationally to the point that the rights and the freedoms may easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are enttled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

~~Because of this all democratical regimes have the justice administration system,~~ independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

The duty and the responsibility of the human being
as a subject of rights

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

International tools concerning the treatment of people in
Detention or in Jail

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. ~~The torture the individual doesn't have to be dign in order not~~ to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.
- Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation
- He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged
- He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge
- He has right to compensation in case of arrestation of illegal detention:
- Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition
- The young must be separated from the adults and their case must be decided as quickly as possible
- The young delinquents must be submitted to a regime appropriate to their age and to their legal status
- The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners
- Nobody can be put in jail because he is not capable of paying his debts

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.



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The Preventive Detention and The Human Rights

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Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity at the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

This Process is set off when a person gets involved with Government because of his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.

If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.

It is in relationship established between the state the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limit of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are efficient and that comply with individual's respect.

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditial protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarmerie's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.

That is the recognition of the universality that leads us to accept the equality as an attribute of the human being. By this fact, the equality is the acceptance of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

The human rights according to the
International system

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations. It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for the participant states. They don't have any authority for those which didn't confirm them. This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:
- The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the

International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

The Consciousness freedom

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art.18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocr.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratic societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art.7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art.9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art.9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the rift must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same maner, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has right to the social order, and internationally to the point that the rights and the freedoms may easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are entitled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

Because of this all democratical regimes have the justice administration system, independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

The duty and the responsibility of the human being
as a subject of rights

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

International tools concerning the treatment of people in
Detention or in Jail

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. The torture the individual doesn't have to be digne in order not to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.*
- Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation*
- He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged*
- He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge*
- He has right to compensation in case of arrestation of illegal detention:*
- Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition*
- The young must be separated from the duties and their case must be decided as quickly as possible*
- The young delinquents must be submitted to a regime appropriate to their age and to their legal status*
- The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners*
- Nobody can be put in jail because he is not capable of paying his debts*

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.



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The Preventive Detention and The Human Rights

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Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity at the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

This Process is set off when a person gets involved with Government because of his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.

If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.

It is in relationship established between the state the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limit of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are efficient and that comply with individual's respect.

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditial protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarme's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.

That is the recognition of the universality that leads us to accept the equality as an attribute of the human being. By this fact, the equality is the acceptance of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

The human rights according to the
International system

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations. It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for the participant states. They don't have any authority for those which didn't confirm them. This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:
 - The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the

International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human 's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

The Consciousness freedom

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art.18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocht.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratical societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art.7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art.9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art.9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the rift must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same manes, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has rift to the social order, and internationally to the point that the rights and the freedoms my easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are ententled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

Because of this all democratical regimes have the justice administration system, independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

The duty and the responsibility of the human being

as a subject of rights

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

International tools concerning the treatment of people in

Detention or in Jail

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. The torture the individual doesn't have to be digne in order not to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- *No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.*
- *Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation*
- *He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged*
- *He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge*
- *He has right to compensation in case of arrestation of illegal detention:*
- *Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition*
- *The young must be separated from the adults and their case must be decided as quickly as possible*
- *The young delinquents must be submitted to a regime appropriate to their age and to their legal status*
- *The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners*
- *Nobody can be put in jail because he is not capable of paying his debts*

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.



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The Preventive Detention and The Human Rights

Author - Dr. Ligia Galvis

Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity at the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

This Process is set off when a person gets involved with Government because of his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.

If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.

It is in relationship established between the state the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limit of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are efficient and that comply with individual's respect.

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditital protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarme's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.

That is the recognition of the universality that leads us to accept the equality as an attribute of the human being. By this fact, the equality is the acceptance of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

*The human rights according to the
International system*

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations. It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for the participant states. They don't have any authority for those which didn't confirm them. This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:
- The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the

International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human 's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

The Consciousness freedom

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art.18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocht.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratical societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art.7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art.9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art.9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the rift must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same maner, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has right to the social order, and internationally to the point that the rights and the freedoms my easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are ententled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

Because of this all democratical regimes have the justice administration system, independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

The duty and the responsibility of the human being
as a subject of rights

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

International tools concerning the treatment of people in
Detention or in Jail

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. The torture the individual doesn't have to be digne in order not to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.*
- Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation*
- He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged*
- He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge*
- He has right to compensation in case of arrestation of illegal detention:*
- Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition*
- The young must be separated from the duties and their case must be decided as quickly as possible*
- The young delinquents must be submitted to a regime appropriate to their age and to their legal status*
- The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners*
- Nobody can be put in jail because he is not capable of paying his debts*

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.



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The Preventive Detention and The Human Rights

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Every person submissive to any detention or imprisonment is treated with humanity and with respect of the dignity inherent to human being. (Pact of civil and political rights, art. 10).

In democratic Governments, the justice administration is one of the essential functions of the state : its aim is to guarantee the equity and the equality in applying the law, and in solving conflicts between individuals, and to establish sanctions toward those who break the law. The accomplishment of this function must be realized according to substance (nominal) norms and pre-established procedures.

The Exercising of this function is a process that must be realized by several steps according to the formalities established by the Juridical system of the concerned country.

This Process is set off when a person gets involved with Government because of his behavior that is against an individual's interest or against the society's interest, generally. If the harm resulting from this behavior concerns an individual, the restoring of rights of the offended person or the damage caused to his goods.

If on contrary, the harm has been done to the society, this society and the Government must work together to take necessary measures to restore its rights, to identify the responsible, and to determine the sanctions according to the law and the established procedures.

It is in relationship established between the state the behavior harmful to the society and a possible sanction established by law, that a question of human rights becomes a problem. Because the limit of the state authority is nothing other than the respect and the rights of the person. It is therefore the state's responsibility and its representatives to accomplish their duties concerning this matter.

The State is also responsible to inform the society about its rights, and to establish the law that guarantees the protection of the above rights.

The duty of the state is also to protect people's against the rights violation and to guarantee their personal security and the security of their goods. The people safety and the protection of the law are every human being's rights, and it is because of this state's responsibility is founded. In fact, the justice administration is away of protecting a person because the process is established in advance by the law. This assures the equality and a fair and equitable treatment from the beginning of the preventive detention procedure to the step of releasing the person or the accomplishment of the sentence in prison (Jail).

The justice administration has a is component of several steps that must be precised because each each of them requires expert's attention.

From the knowledge of facts to the final sentence, several law enforcers must use authority against the defendant. In every lawsuit stage everybody has some rights that have to be protected by the justice until they are found guilty. The justice action is activated from the time authorities discover some facts considered as infractions that necessitate the law intervention. The responsible agent of doing the first step is the Gendarme.

Through the Gendarme, the state takes action to assure everybody's safety under its jurisdiction and protects them against the prejudice (discrimination) in front of the law.

Among its functions the Gendarme is responsible to bring the suspected's preventive detention. For this matter the Gendarme posses tools set up by the law that are efficient and that comply with individual's respect.

The Juridatial protection is based on being efficient in its application, and on being limited as long as individual's respect is concerned.

This Juriditial protection are nothing else the protection's means of human rights devoted to the short of human rights, which are also predicted for the essential guarantees for protecting individuals rights against the justice administration.

The knowledge of those guarantees and of all rights devoted in the chart of human rights by the Gendarmerie is also a guarantee to reach his goods by exercising his authority:

The purpose of this textbook is to make students be acquainted to some thinking on International human rights' legislation and to open his minds to the point he will be able to respect individuals rights while on duty, using the authority given to him by the law.

By accomplishing his authority, the Gendarme must also be a teacher because

he must give necessary information to the population and to the person submitted to the preventive detention, about the rights given to him by law, and the rights devoted in the code of human rights, and about specific tools concerning the justice administration.

The developed then start by a brief definition of the human being and his attributes, next we will present the chart of human rights including the rights devoted to it including the international tools relative to the gendarme's authority.

The Human being and his attributes

The human history appears to be like away toward the universal definition of essential attributes of the human Being. Considering the above statement, the human history is the foundation of human rights. These attributes are as following : the dignity, the equality, the freedom, and the responsibility. The dignity is the self respect, it is the feet of knowing simply as a human being. The dignity is a fundamental attribute of the person, it is universal and a part of any human being. It is an attribute that is a part of a person by the feet that it is innate to human race.

The recognition of somebody as belonging to human race oblige us to accept him as dignified being universally. Because claiming my dignity implies the recognition of others dignity. Therefore if I have some self respect this should oblige me to recognize my interlocutor's dignity equally the someway I respect mine. This dignity let us recognize my dignity as a subject that has rights and obligations toward myself and others that have the same rights and obligation as me.

That is the recognition of the universality that leads us to accept the equality as an attribute of the human being. By this fact, the equality is the acceptance of others as my equal, and my interlocutor with whom I can share a project, and with whom I cans disagree, in away we must behave decently toward each other. The equality is an essential attribute of human being that get people to live together in the Universe. The communication makes us completely tortuners in life and in our projects. This contact is done freely because it is accomplished and conceived by the untimely and the individual consequence. The freedom is the possibility to choose the life style according to personal goods, individually or collectively without any constraint.

The freedom means that the person must meanage his future independently without anybody's influence. This gives the individual freedom of any human being. This means that the individual must be the author and the actor of his future, his projects and the realization of actions leading to the accomplishment of the above projects.

In the equality context, the freedom supposes to act without harming the freedom of others. Knowing somebody else as any equal and free being pushes us to

recognize him as well to act without constraint. The only limit to somebody's freedom is the fact of taking somebody's else freedom. This limit is defined by law. The law is the freedom, and it is the way of using it at the sometime. The law defines the limit and the possibility of exercising the freedom to the point everybody must give in harmony, having the law as the only constraint. This means accepting law as the only constraint. This means act freely but, keeping in mind the recognition of eventual consequences of own acts and of others without any constraint.

*The human rights according to the
International system*

The International Charter of human rights

The attributes of the human being are the foundation of human rights and the fundamental freedoms. In fact, all rights and freedom recognized in the human right Charter are expression of these attributes.

For this reason, the article n° 1 of the universal declaration of human rights confirms : All human beings are born equal in with the same dignity and the same rights. They are endowed with reason and conscience, and must act toward each other as brothers.

The Charter of human rights is the set of tools concerning the rights and the fundamental freedoms; the guarantees of realizing those rights and the watchers organizations. It is composed of tools with different juridical statute; the universal declaration of human rights adopted and proclaimed by United Nations assembly on December 10, 1948 contains fundamental postulates that support the consideration of human beings as free and equal as for as the dignity and the rights are concerned. I don't have any juridical obligatory strength but it has n unquestionable moral strength. It is universal because it guides all states for all matters regarding people's freedom and rights.

This strength comes from the content and the evidence of its principles, because it belongs to the human being's essence. All cultures in somehow found their social relationships on the fundamental attributes of the human being. They give them different values and that is why they are inequality and discriminatory elements. But on universal point of view, it is difficult to ignore these mandates. The human rights Universal declaration's principles are recommendation addressed to all states with the purpose to invite them to accept these postulates as model to be followed by the state and the individuals in their mutual relationships. The acceptance of these recommendations allows states to build up a democratic system based on the Human Right's culture and fundamental rights, without ignoring a respectful authority exercised on the person and its attributes. Because the

recognition of human beings as equal in dignity and right doesn't deny the state authority to be played to them.

The authority must be understood in double meaning, first its is a determining factor, second it is an opening of the realization of individual and collective action. The simultaneous consideration of limits and the action realization's possibilities makes the state a teaching element for all social relationships and particularly between the individual and the state. This notion of authority carries on the principles of human rights and the fundamental freedom. It regulates the individual responsibility toward the state power, and how people must exercise their rights and their freedoms. The Charter includes also the Pact of economical rights, social and civil and political rights Pacts, adopted by United Nations assembly on December 16, 1966.

The first was effectif on January 3, 1976 and the second on March 23rd the same year. The pacts went into effect because they are different tools of the declaration. In fact, they are agreements made between several states that negotiated them for UN initiative. Once they are approved, the participants sign them, confirm them, and after this they become obligatory for the participant countries. The States which didn't create can accept the authority by adherence. The pacts have a juridical strength that makes them obligatory for the participant states. They don't have any authority for those which didn't confirm them. This conditions has the advantage of being payable because they contain commitments on behalf of states in order to carry on their mandates. Its obligatory strength makes state naughtily in case they don't respect it toward other states or following organisms if they exist. This advantage restricts its enforcement field and its universality because they must be played to participant states, this means those which confirmed them.

Finally, the charter is composed by two protocols of civil and Political Pact:
 - The protocol concerning the possibility given to individuals to file a suit in front of Human Rights every time their rights are ridiculed; this protocol Committee was adopted by the General assembly of United Nations on December 16, 1966 and became effectif on march 23, 1976. This Protocol II aiming the elimination of death penalty, adopted by United Nations assembly on December 15/1989. It is not effectif yet because they are less than ten states which have confirmed it and dhered to it, according to its article n° 8.

Set of arrangements contained in the
International Human Rights Charter

The Human Rights Charter contains the fundamental principles indicated in the art. n° 1, the rights and the fundamental freedom and the necessary guarantees for its

accomplishment. The established declaration, the universal expositions, and the Pacts develop and explicit those expositions for the states in order to ratify them and to adhere.

The two pacts contain two common articles about the principle of free determination of people, and the equality between men and women for the benefit of all economical, socio-cultural, and civil*Political rights. The following is the exposition of the set of freedoms and fundamental freedoms devoted into the Charter.

The Fundamental Freedoms

The freedom is the person's attribute and eventually, it belongs to him by its essence. Because the freedom is an attribute, the Charter makes it a right that anybody can claim anytime. For the same purpose, it is devoted into the article 3 of the declaration and the art.9 of civil and Political rights Pock. Enjoy freedom is inherent to human being, but it is an obligation that comes from a right that everybody must interpose, and comes from a right that everybody must interpose, and comes from a right that everybody must respect. The limit to somebody's freedom is the freedom and the dignity of 07 Hrs.

As a human 's attribute, the freedom arises as a unity referring itself to the person. As an exercise, it includes a variety that the charter defines like fundamental freedoms. They are :

The Consciousness freedom

The Consciousness is the human being's faculty of knowing his own reality, and to fridge according to his own criterion, the consciousness freedom is the capability of every person to act according to internal knowledge and to his capabilities to judge if the action matches fundamental principles of his consciousness and his morality. Nobody can be forced to act against his consciousness. The order coming a superior authority can never bring up any good reason encounter the conscious freedom because the taught, the opinion, the belief, the religion arise from the actions of a well founded consciousness. Art. 18 of the declaration is the same for the civil and Political rights Pact.

Freedom of thought, freedom of speech

These freedoms come from the human being faculty of thinking, expressing his ideas and opinions. They make it easier to develop the creativity, the imagination and the writing and verbal communication. From this set of freedom ensure the freedom of give and request information including the press freedom. Nobody can limit the exercising of freedom except in case of legitimate reasons of restoring the disturbed Public order. Art. 18 of declaration and art. 19 of civil and political rights.

The freedom of belief, of religion and of cult

It comes from the freedom of consciousness. It responds to the human being's

faculty to believe and to direct these believes according to self world's understanding. This set of freedom implies the freedom of having and adopting religion and the conviction of own choice; of expressing conviction publicly or privately, individually or collectively. These freedom can only be restricted by law when it is necessary to maintain the safety of public order or the public health; of the morality or the fundamental freedoms and others rights. Art.18 of the declaration and 19 of civil and Political rights.

Meetings and gathering's Freedom

This freedom is devoted into the declaration as freedom and into civil and Political rights pact as everybody's freedom for peaceful meeting and together with other people freely. The trade union freedom is on of several kind of ausciation. It is the prerogative of workers to associate to protect their interests. Art. 20 of the declaration and 21-22 of civil and Political Pocht.

Other freedom devoted by the Pact are addressed to the freedom of circulate as a right to circulate freely and to choose own residence in the state, including the freedom to leave any country and come back to his own country, art. 3 of the declaration, and the freedom of participating to cultural life art. 27 of the declaration. As it has been mentioned above, exercising freedoms established in the charter can only be restricted by law, when it is necessary to protect democratical societies safety, public order, to protect the health, the public morality or the nights and freedom of others.

It is also important to underline the disposition of art. 20 of civil and Political Pact that prohibits propagandas encouraging war, any call to national hatred, racial or religions, leading to the discrimination, to the hostility also a limitation that the law must set against freedom's practice, especially the freedom of speech, the freedom of opinion and information.

The Rights devoted in the International

Charter of Human Rights

The rights devoted by the charter assure the determination of the person,s protection in all scopes of life individually, socially, politically, and his relationship with the justice administration. These rights are composed by a set of civil, political economical, socio-cultural rights. During world's conference of human rights held in Vienna in 1993, this set was apposed to determining the interrelationship between the two pacts.

This set (unity) is composed by the following rights :

The right to life and to physical integrity, psychological and moral is inherent to the human being. Art. 3 of the declaration and art. 3 of civil and political rights. Pact is the starting points of all human rights. The recognition of these rights lead to the possibility

of exercising all other rights devoted by the International Charter of Human Rights. The right to life implies the preservation of the physical integrity psychological and moral.

To guarantee the right to life, the Charter establishes prohibitions concerning acts that are against enjoying life and its integrity. Therefore, the art. 6 of civil and political Pact interdicts the arbitrary deprivation of life, art.7 devoted to the prohibition of the torture and other offenses or cruel treatments, inhumane or degrading, and the art. 8 interdicts the slaves treat of any kind, the servitude and slavery hard labour, or obligatory and the art.9 establishes the prohibition of the arrestation of arbitrary detention. The same interdictions are devoted by the art. 4 - 5 and 9 of the declaration.

The person's safety is also a right that leads to the state's obligation to guarantee the security of the population through systems of efficient and respectful protection of the person. It is a right devoted by the art. 3 of the declaration and art.9 of civil and Political Pact. From this right comes the right of being protected by law. All people without exception are equally protected against discrimination from race, color, sex, language, religion, political opinion and against any other kind of opinion, national origin, social, financial situation, birth or any other condition. to meet this law requirement, the rift must prohibit strictly any discrimination. Therefore it has been established in the art. 7 of the declaration and 26 of civil and political right's Pact as following :

Every person has right to a nationality (citizenship) as it is established in the article 15 of the declaration. To better guarantee this right, the United Nations approved the convention (agreement) on the reduction of stateless cases. In the someway, according to article 6 of the declaration and art. 16 of civil and political rights pact, all people have right for the recognition of their juridical nationality. This right allows the individual to become a subject of rights and obligations in front of the law. A set of rights concerning the person represents the prerogatives of individuals to enjoy the intimacy, this means, according to the art. 12 of the declaration at 17 of civil and political rights pact, that the territory of the person's private life, his family, his residence, his mail, his honor and his reputation must be protected by the law. The right of asylum is also another prerogative of the individual when because of the harassment he got in his country he is obliged to expatriate himself.

According to articles 22, 24, 25 and 26 of the declaration and 7 paragraph of articles 9, 12 and 13 of

socio-cultural and economical rights Pact, people have also a right to education in order to guarantee the full opening out of the personality, of the dignity and of the respect of human rights, and of fundamental freedoms. The education must be obligatory and free at elementary school's level, general at high schools, and very accessible at superior level (College or

University). The right to health is also a social prerogative that all states member of economical rights Pact, and socio-cultural must guarantee to every person and his family.

It also includes the possibility of adequate nutrition, clothes, shelter, medical care and the necessary social services. The maternity and children have right to a special assistance. In the same maner, all people have right to social security, to vacation and leisure. The rights to participation candidates an essential aspect of the democracy to day. It includes first of all the political participation devoted by the art 21 of declaration and 25 of civil and political Pacts. This right is composed by the individual faculty to participate in leadership of public matters. He has the right to vote and to be elected and to have access to public functions in equal conditions, the political participation is the fundamental political right in the democracy. Every person has right to participate to the cultural life, to enjoy arts and to participate to scientific progress of the society, according to postulates established in the art. 27 of the declaration and 15 of economical and socio-cultural Pact.

Finally, according to individual point of view, the declaration in its art. 28, it is established that every individual has right to the social order, and internationally to the point that the rights and the freedoms my easily realized.

Rights Concerning the family

Concerning the family, the art. 16 of the declaration devotes the man right and the woman right without any restriction to the race, the religion or the nationality, to marry and to have a family from the nubile age, this means that from the time they are able to get married and have children. Spouses have the same rights for everything concerning the marriage, during the marriage and at during the divorce. They are ententled to free consent to conclude their marriage. The same article and the 10 of economical rights Pact, socio-cultural, focus on family, especially mothers before and after birth, on children and teen ages.

The same articles and the 24 of civil and Political rights Pact ask states to pay special attention to children. They must be protected against the exploitation by the job (work). According to this article, every child without exception has right to have the protecting measures required by minor condition, especially the fact of having a name and nationality. In order to facilitate states losks, the United National General Assembly has adopted several International tools relative to the Child rights, such as the declaration of the children's rights, the convention carrying the same title and the set of minimum rules of the United Nations concerning the administration of the justice for minors (Beijing rules) and the

United Nations rules for the protection of minors deprived of freedom.

Every person has also a right to a decent life to assure his well being and for his family as well. This concerns the nutrition, the shelter, medical care, and the necessary social assistance. The States must take necessary measures to improve the production methods and the distribution of food, and to assure the right of self developant.

Labour rights

The declaration concerning its article 23 that every person has right to work, to the liberty to choose a job to fair decent work conditions, to the unemployment protection, to equal salary for equal job, to a fair and decent salary for self and the family, and to have a trade-union to better protect his interests. These prerogatives are developed as extended in the articles 6, 7, 8 and 9 of economical rights Pact, socio-cultural. In this Pact it is requested from states to take necessary measures to safeguard the labour right they must also take into consideration the orientation, and professional and technical training and the planning elaboration to assure economical development, social and cultural. The labour right is related to the principle of trade union freedom. Every person has right to forma and be affiliated to a trade-union of his choice.

The Justice administration right

The justice administration is the culture pillar of human rights. Its affiance is the guarantee of enjoying all rights and particularly civil and political rights. The Goal the justice administration is to solve conflicts between individuals and to sanction the responsible of penal offenses. In the accomplishing its good the justice must prove its fairness, its impartiality and its objectivity.

Because of this all democratical regimes have the justice administration system, independent of others powers, and that have specific laws and procedures, established to guarantee the fundamental right of everybody being equal in front of the law. When an individual has to appear before the justice, he has rights and guarantees that are assured by a fair justice and founded on the principe of equality. All individuals without distinction have the equal right to be protected by law. And every person has a right to present his case and to be heard publicly and fairly by an independent an impartial court, either about his rights and obligations, either about any well founded penal accusation, directed against him, like it is stated in the article 10 of the declaration and the article 15.1 of political and civil rights pact. The publicity is a guarantee of impartiality, the behind doors can be realized partially or during the total proceedings or when the public interest or the justice request it for any case to protect minors.

In order to guarantee the impartiality, the fairness and the equality before the

law, the International Charter of Human Rights, devotes a set of principles and of guarantees that are considered as Juridical predictions, and that the judiciary authorities must carry on to guarantee the person's respect, his integrity and dignity. Because the rights devoted in the Charter put together the fundamental attributes of all without discrimination coming from personal situation. They are two principles that are the bases of any judiciary system :

- The preexisting legality, what it means is that nobody can be sentenced by actions or omissions nor submissive to a penalty if the offenses have not been previously described as penal infractions by a national or international law. Art. 11 of the declaration and 15 of civil and Political rights Pact.
- The presumption of innocence, this means that every person accused of committing a penal offence is presumed innocent until he is proved Guilty by law. Art. 11 of the declaration, and 14.2 of civil and Political rights Pact.
- Another Principle is double judgement for the same Penal infraction. This means that a person can be pursued or punished because of an infraction for which he has been acquired or condemned by the law and the existing procedures of his country Art. 14.7 of civil and political rights Pact.

The art. 14.3 of civil and Political rights Pact establishes the guarantees that constitute the minimum rules for the person's rights protection when accused of Penal infraction. He has the right to :

- Be informed of the nature and the motives of the accusation, in language that he is able to understand.
- Have time and necessary means for his defense
- Be judged in the shortest period of terms as possible
- Be present during proceedings and be able to defend himself or by his counsellor or by a free Government Lawyer
- Interrogate the witnesses of charge and present witnesses of discharge
- To be freely assisted by an interpreter during proceedings if he doesn't understand the language used
- Not be forced to witness against self
- Make examined the culpability declaration and the sentence by a superior authority according to the law
- Compensations when the penal sentence has been canceled because of judiciary mistake.

Self development Right

The self development is the synthesis of all human rights as it has been described in the declaration of the self development right, approved by the United Nations

in December, 1986. In fact, the article 1st affirms that the self development right is an invocable human right which allows the human being to participate in economical growth, social, cultural and political, in which every person can enjoy all human rights and all fundamental freedoms.

The world conference of Human rights held in Vienna in 1993 reaffirmed this notion of self development and requested states and International and regional systems to take all necessary measures in order to eliminate obstacles that are opposed to the accomplishment of his right. The participation of the woman to the self development is a necessary condition to make this right universal.

*The duty and the responsibility of the human being
as a subject of rights*

As subject of rights, the human being is also a subject of obligations toward himself and the community. The original obligation of every person is the self respect as a human being, the self consciousness as a subject and in rights. He also has the obligation to enjoy his rights and respect of others as equal in dignity and in rights. He also has the obligation to enjoy his rights and freedoms in respecting the rights and obligations of others at the sametime.

The individual responsibility is also a fundamental attribute of the person as it has been stated in the article n° of the declaration, when it prescribes the human being as endowed of reason and conscience and that he must behave toward others with brotherhood manner. The universal declaration of human rights has devoted the article 29 especially menatn to define the limit of the individual responsibility toward the community. The solidarity is the obligation that the declaration uses to talk about brotherhood. According the cited article, the only limits of exercising rights and enjoying freedoms are those established by the law, exclusively to assure the recognition and the respect of rights and freedoms of others and in order to fulfil the morality obligation, of the public order and the well being of all. This exercising rights and freedoms can not be against principles and goals of United Nations.

The art. 30 devotes also a limit to dispositions established in the declaration according to which, no state, group or individual can interpret the principles contained in the declaration as rights to conduct activities harmful to the rights and freedoms cited in the declaration. It is a very important concept to define the freedom exercise in democratical society, and particularly, exercising the freedom of speech, of opinion and conscience.

*International tools concerning the treatment of people in
Detention or in Jail*

The Universal declaration of Human Rights and civil and Political rights Pacts, contain disposition concerning every person's rights and his safety. (D art.3 P art. 9), equal protection of the law, and the equal protection against any discrimination that could violate the rights contained in the decalio (D art. part. 26), jurisdictions against the acts violating the fundamental rights that belong to him. These principles determine one of the state's goal, but it is the obligation of all authorities to watch the safety of all persons and their goods. In carrying out this duty they must take necessary measures, about the legislation and the administration to guarantee the protection and the enjoyment of all, of all human rights and fundamental freedoms.

From the state's perspective the rights above mentioned become authorities functions, defined by law and accomplished according the regulations established to guarantee the equality of all toward protection benefit of the person and his goods. Consequently this function is not a graceful concession that the state gives to individuals, it is the accomplishment of an obligation that comes from fundamental rights of the person and commitments accepted by states because of the moral force and usual of the declaration and the ratification or adherence to civil and Political Pact.

We have also affirmed that the declaration and the civil and political Pact devoted the prohibition of torture and other penalties or Cruel treatments, inhumane or dignading (D art 5, Part &) and the prohibition of arbitrary detention, (D. art 9 part. 9). Every authority that have the faculty to make detention, or responsible of surveilling penitentiary establishments must follow his dispositions because they are guarantees that protect the physical integrity, psychological and moral of persons submitted to any kind of detention or imprisonment. The torture the individual doesn't have to be digne in order not to be tortured because the torture is composed of mistake toward the person and it is degrading in order to get information or confession from the person. Every treatment or charge that tears up the dignity is against the person's rights. The Gendarmes are the state's agents, responsible of protecting people their goods, assuring the order in which all individuals must enjoy their rights and freedoms, help people in danger and obey the law. The Gendarme's authority must apply within the respect's scope of the human being because it comes out his functions, and that he is the closest state's representative of the population, therefore because of his contact the community sees him as the state.

To perform their functions (duties) the Gendarme has means planed by law that allow him to carry on his duties with the respect of human rights. They are the Judicial protection. They show limits of the authority representative's action concerning executives, and they are guarantees of respect for individual's rights. The Juridical predictions are

procedures established by law or regulations of the national legislation, but they exist in the human rights Charter. They are the guarantees devoted in the art 9, 19 and 11 of civil and Political rights Pact, they are:

- No body can be deprived of his freedom unless it is for good reason and in conformity with the procedure prescribed by law.*
- Every individual if arrested, must be informed and notified, about why he is arrested, quickly and at the terms of his arrestation*
- He must have a hearing by the Judge and be sentenced within a reasonable terms or be discharged*
- He has "the habeas corpus" right to appeal for the court to decide his detention legally or to order his discharge*
- He has right to compensation in case of arrestation of illegal detention:*
- Every person deprived of freedom must be treated with human manner and with the respect of his dignity inherent to any human being. The accused persons must be separated from the sentenced and be submitted to a regime appropriate to their condition*
- The young must be separated from the duties and their case must be decided as quickly as possible*
- The young delinquents must be submitted to a regime appropriate to their age and to their legal status*
- The essential goal of a penitentiary regime is to facilitate the amendment and the social placement of prisoners*
- Nobody can be put in jail because he is not capable of paying his debts*

Specific tools relative to prisoners treatment

Concerning the prisoners treatment there is an international and obligatory tool : That is the convention against the TORTURE and other penalties or cruel treatments inhuman or degrading, adopted by the General assembly of United Nations on December 10, 1987. Others are principles and rules composing recommendations to States in order to improve their penitentiary systems and the conditions of detained people or those in jail. Among those tools there are those that concern adults and those that concern minors.

Concerning minors, we can cite the set of minimum rules for the prisoners treatment, adopted by the 1st congress of United Nations for the crime prevention and the delinquents treatment in 1955, and approved by the ECONOMIC AND SOCIAL Committee - ECOSOC in May 1977. There are a set of principles protecting all persons submitted to any kind of detention or imprisonment, adopted by the General Assembly of United Nations on December 14, 1990.

The convention against the torture and other penalties or cruel treatments, inhuman or degrading constitute the set of dispositions on which the states commit themselves to eliminate the physical pain psychological and moral, inflicted to an individual in order to intimidate him by using his authority. It defines the torture as "Any act by which a pain or a sharp suffering, physical or mental are intentionally inflicted to a person in order to get from him or from any other person some kind of information or confessions, to punish him for an act committed by him or by another person, to intimidate him or to make pressure on him or on any other person, or for any other good reason to inflict such pain or such sufferings by the state's agent or by any other person acting on the behalf of the Government of by its instigation or with its constant intentionally or tacitus.

The member states commit themselves to take all necessary legislative, administrative and Judiciary measures to eliminate the torture on the whole territory of self Jurisdiction. The interdiction of torture must be total, it can not be accepted under any reason nor because of special circumstances such as a war or political instability. The order form can not be invoked as an excuse. The states must define the tortures the attempt of torture and any act of participating to the torquire, like a penal infraction, judged and sentences by the competent authorities. They must carry on systematic surveillance on rules, instructions, methods and interrogatory practices, and on the dispositions concerning the custody and the treatment of arrested people, prisoners or imprisoned in order to avoid the torture. They also must take sure that there is an education and a training of all the civilian and military personnel, states's agents and other peoples working as guards, the interrogatory or the treatment of any arrested person. It is the something for all acts constituent of penalties or cruel treatments, inhuman or degrading. Any declaration established by the torture means can never be called upon as an evidence in a procedure. It can only be used as evidence against the person accused of committing torture acts.

The convention set up a committee against the torture composed of ten experts, with high standard of morality and possessing a known competence in the human rights domain. The member states must send reports to committee every four years about the measures taken in order to show the following up to the convention's agreement. When the Committee receives a true information that the torture is being practiced in a state, it must invite the above state to cooperate to well analyze the information. It can order confidential inquest and write can urgent report, it can also visit the concerned state and invite the state to cooperate for respecting the agreement of the convention. The minimum rules for the treatment of prisoners, the set of principles for the protection of all persons submitted to any kind of detention or of imprisonment, and the fundamental principles relative to prisoners,

treatment, constitute a set of tools that contain principles of persons treatment who are in detention situation or imprisonment for protecting the person and his freedom, and to offer them decent conditions of life in the detention buildings as well.

They are principles applicable to all, impartially without any distinction of race, color, sex, language, religion, political opinion, or any other kind of opinion, of racial origin, national, birth wealth, or any other situation. A fundamental Principle is that every person in detention or in prison must be treated with humanity and with the respect of the dignity inherent to the human being. All the prisoners and condemned must continue to enjoy their rights as humans and fundamental freedoms, except the conditions set up for their incarceration. The measures of arrestation, of detention or Imprisonment are only applied in the conformity with the law and by competent authorities. All the guarantees devoted in the human rights Charter are developed in the three international tools. Every detained person must have information and explanation concerning his rights and how he can claim them. He has a right to be visited, if asked he must be placed in the detention close to his residence.

Regarding administrative point of view, these tools devote the obligation to have register of prisoners with their identities, the reason of detention, the competent authority present by the time of admission and of discharge, and the order of detention. As it has been confirmed in the human rights Charter, it is necessary to separate adult male prisoners from females, the young must be separated from adults, the prisoner separated from condemned, those sentenced for penal infractions. All Buildings for prisoners and condemned must be kept clean, with lights and must be equipped with both rooms not far from their rooms and they must be clean and decent. All Building must be kept clean and in good condition.

Concerning the prisoner, it is necessary to assure to the prisoners and condemned, a personal hygiene, clothes and clean bedding, adequate nutrition, exercising room, a clinic, storage of their goods and objects, a library, a church, a way of receiving information about the penitentiary regime, away of complaining, with his family, his lawyer and the diplomatic agents, consular of his country, the information to his family in case of sickness or accident, death or information to his closest relatives, or about his transfer. Every transfer of the prisoner must be realized within decent conditions of his integrity. For every duty, the employees must be carefully selected because his integrity, humanity, fitness and capability rely on the good management of the penitentiary. The employees must have the possibility to improve their knowledge. They must be expert in psychology, psychiatry, social services instructors and technical instructors.

The minimum rules contain also some recommendations for different categories of Prisoners, especially for the condemned because of debts and the incarcerated people without being accused. For condemned people, the treatment must foccuss on giving them some incentives to rehabilitate themselves in order to live in the society respecting the law, give them the necessary training to provide for their needs and encourage them to have some self respect and responsibility to themselves and to the society.

These rules and principles are recommendations made by the United Nations assembly to consolidate a good penitentiary system according to the residence concept of the sentence that determines every person, even when he is in detention in jail. He is a human being equal in dignity and rights to others. But it is evident that.