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**PROMOTION AND PROTECTION OF HUMAN RIGHTS**

**Human rights and human responsibilities**

**Final report of the Special Rapporteur, Miguel Alfonso Martínez, on the Study requested by the Commission in its resolution 2000/63, and submitted pursuant to Economic and Social Council decision 2002/277\***

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\* In accordance with paragraph 8, Section B, of resolution 53/108, this report has been submitted late in order to include as much information as possible.

### **Executive summary**

The Special Rapporteur divides his final report on human rights and human responsibilities into six parts: the Introduction; the results of the work carried out in the final stage of his mandate; conclusions; recommendations; annex I, the pre-draft declaration on human social responsibilities; and annex II; governmental and non-governmental personalities and NGOs consulted by the Special Rapporteur on the subject of the study during the two working missions in Africa and Asia/Europe.

The Introduction outlines the work still pending after the submission to the Commission on Human Rights of his preliminary report (E/CN.4/2002/107 and Corr.1) at its fifty-eighth session, including completing his research work, carrying out two field missions, analysing the responses to the questionnaire to be addressed to Member States and to a considerable number of NGOs, and the drafting of his final report. It further enumerates the obstacles that hindered completion of the report with the desired quality and within the deadlines established.

In reviewing the results of the work carried out in the final stage of his mandate, the Special Rapporteur recognizes that regrettably, he could not finish all the research work he considered adequate in order to submit his final report with optimal quality. However, he was able to complete two research field missions authorized by the Economic and Social Council: one to six countries in Asia and Europe (Bhutan, India, Malaysia, the Syrian Arab Republic, Spain and the seat of the European Commission in Brussels), and a second to three countries in Africa (The Gambia, Senegal and Egypt). The richness and diversity of the perspectives gathered greatly enriched the study.

The Special Rapporteur expresses gratitude to the Governments of all the countries visited, but particularly to those of Bhutan and the Syrian Arab Republic, which - because of the official invitation extended to him to visit their countries - made it possible to gather additional points of view at practically no extra cost to the United Nations. The diversity within each of the nine countries visited and between the nine provided the Special Rapporteur with an adequate range of opinions and practices on which to base his analysis on his subject matter.

In reviewing the replies received to the questionnaire annexed to his preliminary report, the present report notes the total lack of replies from NGOs, a negative development due, perhaps, to the possibility that the request for their views had never been sent to them by the Office of the High Commissioner for Human Rights. As far as governmental replies are concerned, the Special Rapporteur stresses that while the number of countries responding to his questionnaire was not large, they show the rich diversity of types that, fortunately, continues to characterize our planet, despite the enormous efforts being made to homogenize it via consumerism and the overwhelming and repetitious mass dissemination of a unilateral world view.

The responses also reflect the clear division between the developed countries "of the North" that oppose the formal establishment of the correlation between rights and responsibilities and those of the underdeveloped "South" whose responses unanimously acknowledge this extremely important connection.

“North-South” polarization on this issue was also evidenced in discussions held during his working visits to Brussels and Madrid, on the one hand, and in those he held with representatives of the so-called “civil society” and government officials in Africa and Asia. There, the Special Rapporteur noted that a number of NGOs, advocated the usefulness of clearly defining the responsibilities under study.

The report, moreover, points out that the responsibilities in question are not those dictated by law, but those that correspond to social ethics and human solidarity.

In his conclusions, the Special Rapporteur states that his role is not to rediscover what has already been well explored, but to efficiently and diligently compile the very valuable ideas existing and to organize them in the most accessible manner possible as he attempted to determine if it is possible, convenient or necessary today - in the present international situation of globalization and most visible hegemonic trends - to concentrate efforts solely (both in the conceptual development and practical action) on the rights of individuals and totally set aside their duties towards society.

In this context, the report notes that human responsibilities have received short shrift within United Nations human rights bodies after having received only brief mentions in the Universal Declaration of Human Rights and the two International Covenants on Human Rights.

The Special Rapporteur, on the contrary, shares the view of many others who are alarmed by the neglect suffered by human responsibilities. He traces the origin of this lack of attention to the social duties of the individual towards the community to the priority attributed to the rights of the individual in the 1948 Declaration and the 1966 Covenants. He agrees with a well-known Latin American political figure quoted in the report who said that in 1948 the drafting of a declaration of rights rather than one of duties “undoubtedly reflects” the philosophical background of those who crafted it - the representatives of the Western powers who emerged victorious from the Second World War. Further, he notes the only minimal participation, for historical reasons, of countries “of the South” in the process that led to the adoption of the Covenants.

The report also stresses that the dangers today’s world represents to both individual and collective rights, and urges that ways be found to preserve and strengthen - not destroy - what has already been attained in the standard-setting process and in practical action, as well as to expand the advances already achieved in the promotion, actual materialization and effective protection of all human rights.

The Special Rapporteur concludes that ethics, morality, equity, justice and human solidarity offer rules and principles that are essential for advancing today in the field of human rights. To that effect, he deems it absolutely necessary to create and develop a new individual and collective awareness of the need to find a solid balance between the rights of the individual and his/her social duties or responsibilities.

While the view of the essential linkage between these rights and responsibilities has not been generally accepted in human rights forums, the Special Rapporteur also concludes that they are key to each other’s realization and serve to strengthen each other. Further, he asserts that

every right is, in one way or another, linked to some legal obligation or an ethical responsibility and that compliance with the latter prevents violations of the former.

In fact, notable advances have already been made, both conceptually and in the preparation of international standards. These can be seen in several important multilateral documents as well as in the constitutions of some very different countries.

The report touches on the duties that exist between States, such as the duty to contribute to the effective compliance by every State with its obligation to promote, realize and protect the rights and liberties recognized for every person under its jurisdiction, in particular by means of joint efforts to create a social and international order in which those rights and freedoms may become a reality. In the view of the Special Rapporteur, international cooperation to achieve the right to development is a must in order to arrive at that social and international order.

The Special Rapporteur believes the time is right for the Commission on Human Rights to define the responsibilities of individuals so that, in the words of the Helsinki Final Act "... the right of the individual to know and act upon his rights and duties in this field [of human rights] ..." will be achieved. He is convinced that the adoption of an international standard is essential for that purpose. To that effect, and as a first step in that direction, he offers, in annex I to this, his final report, a "pre-draft declaration on human social responsibilities".

Finally, in his recommendations, he suggests that the most efficient bodies to undertake the task of creating a new standard on this matter are precisely those in the United Nations system specializing in the field of human rights, and that the Commission should consider this issue in its future sessions.

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## Introduction

1. The present report is submitted to the Commission on Human Rights pursuant to decisions 2000/111 of the Sub-Commission on the Promotion and Protection of Human Rights, 2001/115 and 2002/110 of the Commission, and 2001/285 and 2002/277 of the Economic and Social Council.
2. During the months since the submission to the Commission of his preliminary report (E/CN.4/2002/107 and Corr.1), the Special Rapporteur performed, to the extent possible, the tasks pending for the completion of his final report, i.e., to conclude the research into the existing specialized bibliography - particularly in the Library of the Palais des Nations in Geneva - on the subject of the study; to prepare and carry out during the final months of 2002 the two field missions authorized in July 2002 by the Council; to systematize and analyse the extensive and most valuable oral and printed information gathered during them; to analyse the responses received to the questionnaire addressed to Member States and to a considerable number of non-governmental organizations (NGOs) particularly interested in the subject; as well as to draft the definitive text of the present final report on his study.
3. It is necessary to point out first that the Special Rapporteur had to confront some serious difficulties to complete these tasks properly. The main ones can be summarized as follows:
  - (a) The time the Special Rapporteur had available for completing his work has turned out to be totally insufficient;<sup>1</sup> in particular, that available to conclude what he considers should have been adequate research into the extensive bibliography on the subject existing in the aforementioned Library. It was not possible for him to travel to Geneva in December 2002 as he had planned, not only for that purpose but also to carry out other activities relevant to the drafting of the final report.<sup>2</sup> In addition, the process of drafting certain parts of the final text was unnecessarily interrupted owing to a long (and still unexplained) delay in obtaining the vital official translation of an important response to the questionnaire;<sup>3</sup>
  - (b) The decision taken this year that the length of the reports of special rapporteurs could not exceed 10,700 words has presented serious difficulties for the Special Rapporteur. Despite his repeated efforts, it was not possible to satisfactorily summarize in such a limited space the numerous and extremely valuable observations and experiences gathered during his field missions in eight countries and at the headquarters of the European Commission, nor to include in this, his final report, all the possible argumentation for all his conclusions and recommendations. The Special Rapporteur considers that this has not contributed to achieving the optimum quality desired. The multiple revisions which the text has been subjected to so as to comply with the word limitation has consumed precious time in terms of its submission to OHCHR on the successive deadlines set;
  - (c) Finally, in mid-February, the Special Rapporteur was informed by OHCHR that it was possible that the communication requesting the NGOs to respond to his questionnaire (supposedly sent out months earlier) might in fact never have gone out.<sup>4</sup> This news, learnt just at the conclusion of the last stage of the revision of the definitive text to be submitted to the Commission, has provoked an undesirable state of uncertainty. Whether or not that is the real reason that the Special Rapporteur has not received a single response from any of those

organizations, the fact is that he has not been able to benefit from the criteria of these particularly relevant sources for concluding his work appropriately. Moreover, owing to this very disturbing news, the Special Rapporteur has been forced, at the last moment, to revise yet again his conclusions and recommendations and to modify (and even eliminate) some of them. This, in turn, has provoked yet another delay in the submission of this report.

## **I. RESULTS OF THE WORK CARRIED OUT BY THE SPECIAL RAPPORTEUR IN THE FINAL STAGE OF HIS MANDATE**

4. As already mentioned, the Special Rapporteur completed two research field missions: one to six countries in Asia and Europe, and a second to three countries in Africa.<sup>5</sup> The results obtained from these missions - in terms of their contribution to a deeper understanding of the subject of the study and of the richness and diversity of the points of view collected in those countries - can be described as far exceeding even optimistic expectations.<sup>6</sup>

5. The Special Rapporteur expresses his deep gratitude to the authorities of the Governments of Bhutan, Egypt, The Gambia, India, Malaysia, Senegal, Spain and the Syrian Arab Republic, as well as of the European Union (Brussels) - including, of course, the personnel of their permanent missions in Geneva - for the unrestricted facilities that they granted for the due fulfilment of his mission with regard to this report during each and every one of these visits.

6. Annex II contains a listing of the governmental and non-governmental personalities, as well as members of NGOs, with whom the Special Rapporteur exchanged ideas on this subject in the countries visited.

7. The Special Rapporteur extends a very special thanks to the Royal Government of Bhutan and that of the Syrian Arab Republic for accepting - in less than 48 hours - his suggestion to act immediately (upon being informed that he was authorized to visit only two Asian States) on the invitations that they had extended some time earlier, and also for the warm hospitality offered the Special Rapporteur daily during his stay.

8. Considering the lack of funds, according to OHCHR, to finance in its entirety the mission originally proposed by the Special Rapporteur, this generosity made his presence in both countries possible. He could thus compile and analyse an additional group of extremely interesting perspectives on this issue, which were of great benefit to this report, at practically no additional cost to the United Nations.

9. Similarly, the Special Rapporteur cannot fail to express his highest esteem for the Heads of State of the Kingdom of Bhutan and of the Republic of Senegal, His Majesty King Jigme Singye Wangchuck and His Excellency President Abdoulaye Wade, as well as for their respective Heads of Government (Prime Ministers), His Excellency Mr. Lyonpo Kinzang Dorji and Her Excellency Mrs. Mame Mandiar Boye, for the very high honour conferred on the Special Rapporteur by granting him private audiences during his stay in their respective countries.

10. His gratitude must also be expressed for the full cooperation given by Ms. Maxine Olson and Mr. John A. Kakonge, United Nations Resident Coordinators for Development Activities in Malaysia and The Gambia, respectively.

11. Regarding responses to his questionnaire, as noted above, the Special Rapporteur has not received a single response from the NGOs to the questionnaire drafted specifically for them. Further, only a reduced number of government responses have been received to the questionnaire that was actually sent to Member States at the end of June 2002. All those that were sent the questionnaire were advised that the suggested deadline for their replies was the end of November. The shortness of that period of time might be the reason for the limited number of replies.<sup>7</sup>

12. Nevertheless, despite the above, for diverse reasons those replies received, taken together, contain acceptably representative criteria. They demonstrate, once more, the rich diversity of all types that fortunately continues to characterize our planet, despite the enormous efforts being made to homogenize it via consumerism and the overwhelming and repetitious mass dissemination of a unilateral world view.

13. These responses adequately reflect, once again, the clear division, on the one hand, between the developed countries “of the North”, that oppose the formal establishment of the correlation between rights and responsibilities, despite the predominant influence on them of Judeo-Christian traditions that have proclaimed and emphasized, from their beginnings, precisely that very same link, and, on the other hand, those of the underdeveloped “South” whose responses unanimously acknowledge this extremely important connection.

14. Something quite similar occurs with regard to the bibliography on this issue. The voluminous amount of works by sources “of the North” reveals a marked reticence, in general, with respect to the topic of the task with which the Council has mandated the Special Rapporteur, a position very similar to that expressed by the Governments of that “developed” world in their responses to the Special Rapporteur and in their statements to United Nations bodies.

15. Such a reaction is rooted basically (at least publicly) in the fear that insisting on pinning down the social duties (or responsibilities) of the individual, or advocating the usefulness of producing an international standard in this regard, could lead to an instrument that Governments would utilize to limit the exercise of the recognized rights and freedoms of persons under their jurisdiction.

16. Additionally, it is argued that if the importance of the individual’s responsibilities towards the society in which he or she lives were to be highlighted, then the intrinsic value of the rights of each individual and the real possibilities of protecting them - which, in the criteria of those countries and academics, should be practically the sole motivation for United Nations action in this field of human rights - would be significantly eroded in practice.<sup>8</sup>

17. It is worth pointing out that when the Special Rapporteur directly consulted a well-known indigenous source<sup>9</sup> as to the views of indigenous peoples on the subject under study, her response could be understood as the reverse side of the coin with regard to those apprehensions



mentioned above: she reasoned that if the planet (the Creation, in her words) were to disappear tomorrow, the individual would not survive, while the death of any individual would not impede the continuing existence of the Creation.

18. This is a serious and key element in the indigenous concept, i.e. that an individual cannot and should not be considered the centre of the Creation, such as is understood in the societies oriented towards individualism and in which the rights of individuals are allowed to predominate over those of the society. After offering some examples of the sufferings of the indigenous peoples of North America upon losing their ancestral lands, she delivered the coup de grace with the phrase: “Make a person into an individual and take control. It is an old colonizer trick that is still being used.”

19. The Special Rapporteur perceived an identical polarization of “North-South” criteria in discussions on the question during his working visits to Brussels and Madrid, on the one hand, and in those he had with personalities of the so-called “civil society” and with government officials in countries in Africa and Asia.

20. The practically unanimous opinion of the latter was that not only are there no individual rights without corresponding social obligations or responsibilities, but, in addition, there are certain diverse and important advantages to be derived both for those who govern and those who are governed, if these responsibilities can be defined in an appropriate way both in the international framework and on the domestic plane.<sup>10</sup>

21. It is useful to mention that some<sup>11</sup> of the NGOs that advocate the usefulness of identifying these responsibilities point to the advantages that this step would represent for their practical work; in particular, how it may help them gain broader formal recognition from the official authorities of the role that they have to play in the life of the country through their human rights activities, as well as in facilitating efforts to independently finance their tasks.

22. Another remarkable element noted during the two field missions was that - unlike what is perceived with great frequency in the debates on human rights in Geneva - the grass-roots NGOs consulted in the African and Asian countries visited expressed the opinion, in nearly unanimous fashion, that the most effective way of fulfilling their human rights tasks (in the extremely varied contexts discussed) was what could be effectively described as an attitude of “responsible critical cooperation” towards government authorities, and not via confrontation with them.<sup>12</sup>

23. Finally, the Special Rapporteur should underscore the deep impression made on him by the address to his people delivered by the President of Senegal in reaction to the sinking of a Senegalese passenger ferry, which, because of the incalculable number of deaths, constituted a national tragedy, and which occurred shortly before the audience that the President was kind enough to grant him.

24. If the Special Rapporteur correctly understood his speech, one of President Wade’s main intentions was to awaken or reactivate in all of his compatriots a deep sense of the responsibilities that everyone has towards society as a whole, not only to prevent future disasters such as that one, but in general, whether or not they were affected by the tragedy and no matter what role they played, be they government officials with administrative obligations or not. And

it did not seem to the Special Rapporteur that the President was referring to responsibilities dictated by the law, but basically to those responsibilities that correspond to social ethics and human solidarity.

## II. CONCLUSIONS

25. The Special Rapporteur does not believe that his role, in presenting these conclusions, should be to discover what has already been well explored. He is convinced that with regard to the subject of his study, there already exists sufficient significant conceptual development, as well as extremely valuable historical experiences in diverse latitudes and very useful international instruments already approved by States that have particular relevance today. He considers that all these elements permit him to systematically frame his current and future perspectives on this issue.

26. For that reason he will limit himself to trying to be an efficient and diligent compiler of what he understands to be very valuable ideas that have already been enunciated and to attempting to organize them in such a way as to make them comprehensible as a whole to a wide and varied audience, adding here and there some of his own reflections, in the hope that they would be considered as based on solid argumentation and ruled by coherence and practical sense.

27. It is worth emphasizing from the start that the main purpose of this study - as the Special Rapporteur has understood it even before beginning his mandate - is very clear and simple: to determine whether it is possible, convenient or necessary today in this field of human rights - both on the domestic plane in each State and on the international level - first, to highlight conceptually and encourage practical actions exclusively concerned with the rights of individuals, without doing the same with respect to their duties towards their society; second, to block any attempt to define what these social responsibilities could possibly be, and, finally, to deny - as a dogma of faith, impossible to challenge - the notion that there exists a link between the rights and duties of each individual.

28. It is undeniable that the topic of human responsibilities has only merited the scantiest attention in the work of United Nations bodies specializing in human rights. It is encouraging that with the decision to recommend to the Council that it authorize this study, the Commission appears to be emerging from its long lethargy and is beginning to understand that this lacuna is inadmissible and must be eradicated. The Special Rapporteur expresses his hope that this study will not be only the first (nor the last) of the steps in the right direction.

29. The Special Rapporteur has been able to verify that, in reality, the relationship that exists between the rights of the individual and their social responsibilities - to which the Universal Declaration and the two International Covenants on Human Rights of 1966 refer only vaguely - constitutes an element of particular historical and current relevance in very dissimilar parts of the world, fundamentally in countries "of the South" and in the conceptual thinking of limited intellectual circles in countries "of the North".

30. The Special Rapporteur believes that, to a great degree, the odd lack of attention to this matter is due to the singular focus that these bodies have given to those three important documents that date back several decades and were born in well-known circumstances.

31. For example, in 1948 only 57 of the 191 States that today are Members of the United Nations could contribute their ideas to the contents of the Universal Declaration. Only three of them were African countries. Later, during the preparatory work on the Covenants, it was still highly difficult for the dozens of countries “of the South”, recently emerged from the long night of European colonialism and only recently incorporated into the international life as sovereign States, to be able to establish and articulate in a concerted way their positions within the United Nations.

32. The Special Rapporteur shares the idea expressed by a well-known Latin American political figure who recently said the following with respect to the genesis of the 1948 Universal Declaration:

“The fact that a Universal Declaration of Human Rights was drafted instead of a Universal Declaration of Human Duties undoubtedly reflects the philosophical and cultural background of the document draftees, who, as is known, represented the western powers who emerged victorious from the Second World War.”<sup>13</sup>

33. It is evident that this philosophical and cultural heritage of the drafters is enshrined in the practically absolute emphasis observed both in the Declaration and in the Covenants on individual rights and freedoms. Only in one article of the Declaration (16 (3), related to the family) can a brief reference be found to the protection of the social group, and in one article in the International Covenant on Civil and Political Rights (27, referring to minorities) can allusions be found to the rights to protection of a social group, considered as such. Many years will have to pass before there are enshrined, in other international instruments, the so-called collective rights of paramount and well-known historical relevance for a large number of nations in Asia and Africa and for hundreds of indigenous peoples on various continents.

34. It seems obvious that in an international situation like the present one, the advances achieved with respect to both individual and collective rights are confronted by very serious visible dangers, as well as others of a kind impossible to predict. The means - basically of a juridical type - which exist now have not been capable of remedying today's shortcomings in this field, nor does it appear that they will be in a condition to prevent those that threaten us in the future.

35. Thus it is necessary, and with great urgency, to seek new perspectives, ways and means to preserve and reinforce (not to destroy) what has already been obtained in this field, and to try to avoid future dangers that are already casting shadows on the present.

36. Two phenomena preside over the present circumstances: an encroaching globalization of the world economy and of the media that generates multiple negative effects with respect to *all* basic human rights, and the strategic, political and military

unilateralism of a Power with obvious hegemonic tendencies. It displays with impunity the most serious human rights situations inside its own territory, but does not hesitate to use this issue as an instrument for its immediate or medium-range political aims.

37. Because of that, the Special Rapporteur suggests that new elements are required - fundamentally subjective, in the domain of collective and individual awareness and ideas - that would serve to strengthen (not to destroy, dismantle, or render even less effective) the already established legal scaffolding and to open up new, more efficient paths to foster human rights.

38. Ethics, morality, equity, justice and human solidarity offer rules and principles that are essential to forge (or develop, as the case may be) a new social, individual and collective awareness, so as to invigorate the current established legal institutions to more successfully pursue this task.

39. This new ethical and humanistic awareness has to be, by definition, global and, for that reason, pluralistic and imbued with the spirit of solidarity. It should be as pluralistic as is the world in which we all live. It should be based on solidarity and humanism, and as fully participative as required by the need to effectively achieve and guarantee the full dignity inherent in every human being in every corner of the planet. It cannot be based on an incomplete vision, nor seek solutions to humanitarian problems based on double standards or condone political manipulation in the field of human rights.

40. The road to the creation and consolidation of this new ethic passes different milestones. In the view of the Special Rapporteur, one of the most relevant is the point where one internalizes that when dealing with human rights issues one cannot reject the notion that in addition to *rights*, individuals also have *obligations* (the strictly legal dimension of their life in society) and *duties* (the ethical dimension of their living together with others in the same society). It must be acknowledged, nonetheless, that this thesis is not yet generally accepted.

41. In many international forums today there are those who continue to defend a "culture" of "Individual rights, YES! Social responsibilities, NO!" The Rapporteur does not think that they are the numerical majority in today's world, but does not doubt their capacity to influence others. To defend such a "culture" appears as absurd as to oppose it with a "culture" of "Social duties and responsibilities, YES! Human rights, NO!"

42. The Special Rapporteur starts out from the premise that the idea that there can be rights without ethical duties or responsibilities, or rights not based on equity and human solidarity, constitutes a patent breach of logic, as well as a social impossibility. The proof is the thousands of millions of human beings in the world who today suffer from all sorts of deprivations, and the generalized crisis in the economy, the environment and governance that visibly marks today's world should serve as a clear warning to all. Freedoms recognized only generically and in the abstract are simply useless. On the other hand, to argue that social duties can exist without individual rights is not only unimaginable, but absolutely unacceptable under the principles of ethics and equity.

43. For these reasons he considers that all persons have, at the same time, *rights, obligations and duties* in all aspects of life touching on the promotion, effective realization and protection of *all* human rights. Neither from a legal point of view, nor on the ethical plane, is it possible to conceive of rights without such a logical correlation. Every right, in one way or another, is linked to some obligation or some responsibility, and every time that a duty is fulfilled, it is very likely that the violation of some right is prevented.
44. The recognition of individual or collective human rights requires, at the same time, the acknowledgement - with equal zeal - of the matching importance of the duties or responsibilities that are incumbent upon every individual. Only in this way will it be possible to establish an ethical basis upon which to begin to make possible that world "in larger freedom" whose advent we have been awaiting since the Charter of the United Nations was signed.
45. It is worth stressing that, fortunately, notable advances have already been made - both conceptually and in the preparation of international standards - in the development of this crucial thesis. Besides the Universal Declaration and the International Covenants on Human Rights, that crucial interdependence has been recognized in a number of international instruments endorsed by Governments in Latin America and the Caribbean (the American Declaration of the Rights and Duties of Man), Africa (the African Charter on Human and Peoples' Rights), Europe (the Helsinki Final Act), as well as by the members of the Organization of the Islamic Conference (the Cairo Declaration on Human Rights in Islam).
46. According to the information available to the Special Rapporteur, this undeniable link between rights and duties has also received constitutional recognition in numerous countries with profoundly different institutional and political orders (e.g., Costa Rica, Cuba, Spain, Italy, Qatar, St. Lucia and Switzerland).
47. Furthermore, this link has been strongly defended by sources of recognized relevance and authority both within and outside of the specialized framework of the United Nations, both governmental and non-governmental, including personalities of the most dissimilar political ideas and religious beliefs, coming from the four corners of the globe. The Special Rapporteur joins those who argue not only that this link exists, but that it is indissoluble; moreover, such a link has salutary value for the strengthening of both.
48. If it is recognized that all citizens enjoy equal rights, it is fair to admit that all of them are subject to equal duties. Furthermore, would it be rational for someone to proclaim that he or she enjoys certain rights or liberties, without recognizing that others have the duty to respect them? The Special Rapporteur is of the opinion that it is impossible not to perceive that this active link between one and the other constitutes the real and ultimate essence within the social fabric that sustains and guarantees the harmonious survival of the whole human community, no matter what type of political or social organization it has and no matter where it is located on our planet.

49. In addition, awareness of that link will help to avoid that, under certain conditions, the individual moves, imperceptibly but inexorably, towards an unacceptable “freedom of indifference” (in the words of the Inter-Action Council) towards what happens to the rest of humanity.

50. To try, for example, to justify an alleged “right” to the conceptual defence of racism and practical action along those lines by invoking, as a pretext, freedom of opinion, expression and association, appears to the Special Rapporteur as an aberration illustrative of just how far this totally unbridled “freedom” can go without moral constraints.

51. What will this “freedom” be worth when the life of our planet becomes highly precarious or even impossible, when the world’s ecological balance has been destroyed as a result of policies and practices of promoting anarchical exploitation of non-renewable resources for the “development” of a few societies, without any ethical guidelines and based only on profits, the irrational lust for wealth and vulgar riches, at the expense of the habitat of entire peoples (indigenous, in particular) and the future of Humanity?

52. Finally, the Special Rapporteur underlines his conviction that in societies in which some individuals have a greater degree of effective freedom than others, they have correspondingly greater duties than the rest of those with whom they live, and that each individual person has the ethical and moral duty to recognize and exercise the rights that belong to him or her in due form and just degree, according to his/her honest reasoning and good faith (in the words of the Catholic Church).

53. Another important milestone in the development of new concepts in the field of the linkage between rights, obligations and duties/responsibilities has to do with the recognized role played in that sphere by States, which continue to be recognized as the ones fundamentally responsible for the promotion, achievement of the full realization and effective protection of the rights and freedoms of all the persons subject to their respective jurisdictions, without discrimination.

54. But little or nothing has been debated with respect to the reciprocal *duties* of States in their international interaction. These may stem, for example, indirectly from mandatory legal instruments of general international law, international human rights law and international humanitarian law, or from documents that, despite their purely declarative character, are of singular importance in this sphere and have been duly accepted by States as part of customary international law.

55. Obviously, whether or not such inter-State (to give this a name) *responsibilities* are fulfilled may notably affect the real possibilities of many States to be fully capable of successfully confronting their *obligations* towards their own citizens.

56. In accordance with the contents of article 28 of the Universal Declaration and in the context of the “asymmetric” globalization that today presides over international relations with the problems inherent to it, States, groups of States and the international community as a whole have the *duty* to establish and promote, among all of them, the international cooperation that is required to achieve the establishment - both on the domestic plane in

each of them, and at the international level - of an international and social order in which the rights and freedoms proclaimed in the Universal Declaration will be made fully effective.

57. Directly linked with the achievement of that more just and humane international and social order to which the world aspires, the Declaration on the Right to Development proclaims, in so many words, the *duty* of States to cooperate among themselves so as to realize this extremely important and inalienable human right, which is both individual and collective in essence.

58. That *duty* to cooperate implies, in this particular case, the provision - according to the commitments acquired - of official development aid (ODA) without conditions that would impinge on the principle of the equal sovereignty of States and also the establishment of effective mechanisms for observing the advances and difficulties that are visible on the international plane in the actual achievement of this right (in particular in the countries "of the South"), as well as to recommend measures to do away with any obstacles.

59. Upon arriving at this point in his final report - in which he had planned to develop a comprehensive reflection on the reasons why certain individual behaviour ought to be considered as a social "duty" (or "responsibility") and deserving of consideration as such for the purposes of the Declaration and the Covenants - the Special Rapporteur has had to keep very much in mind the limitations of space that have been imposed on his work.

60. He will, therefore, restrict himself to advancing only a few limited general considerations in this respect. He will provide succinct reasoning for each responsibility he considers necessary to include in the articles of the pre-draft declaration on human social responsibilities, included in this report (annex I).

61. To start, it can be seen that these extralegal *responsibilities* may have very diverse sources of authority; e.g. the provisions of the Universal Declaration itself (arts. 1, final part, 14 (2), 29 (3) and 30); non-mandatory jurisdictional or legislative acts (article 85 of the Family Code in effect in Cuba), and even from texts at the constitutional level (e.g. articles 35 of the 1978 Constitution of Spain; 125 of the 1982 Constitution of Honduras; 51A (e) of the Constitution of India; 2 of the 1947 Constitution of Italy; 6 of the present Constitution of Switzerland; and 57 and 58 of the Constitution which came into force in 2000 following a popular referendum in the Bolivarian Republic of Venezuela).

62. On the other hand, the ratio legis for these duties toward the community can be widely varied. First, all individuals have the *duty* to assist the State, within their means, so that it can completely fulfil the basic role that belongs to it.

63. There are, of course, other important details regarding these social responsibilities. However, it is impossible for the Special Rapporteur to elaborate upon them in this part of his report, but they are developed at some length in annex I.

64. Nevertheless, it should be noted here that certain groups with specific social functions (e.g. the clergy, doctors, journalists and lawyers, to mention just a few) acquire - precisely because of the nature of their work - additional social responsibilities. The same is true for the business class in general and for editors (or owners) of the mass media. The decisions taken by these social groups carry such weight in modern society that, depending on their sector, they may limit, deny, or help large segments of the population gain access to their rights to work, to an adequate standard of living, or to adequate information that would allow them to fully exercise their freedom of opinion and expression.

65. All the duties expressed above are applicable, of course, whether the person acts in his/her capacity as an individual, in association with others, or as a member of a specific social group.

66. For all of the above, the Special Rapporteur considers quite evident both the wide variety and the importance of those responsibilities that, to his understanding, each individual has towards his/her community/society under the present globalization.

67. Therefore, the need to compile all of them in an orderly fashion appears unquestionable to him, and perhaps the Commission could initiate that task on the basis of the text presented in annex I. This work should take place entirely within the United Nations bodies specializing in human rights (in particular in the Commission on Human Rights) given the obvious advantages for participation that these offer to both Governments and NGOs during the entire drafting process of the text. That compilation should lead to the preparation of a draft international standard.

68. More than 20 years ago Dr. Erica Irene Daes stressed, unsuccessfully, the need to proceed to the drafting of this type of document.

69. Fifteen years later, the Inter-Action Council took up the initiative on this issue, preparing a remarkable draft, "A Universal Declaration of Human Social Responsibilities", only to encounter marked difficulties that apparently still have not been overcome.<sup>14</sup>

70. The Rapporteur thinks that the moment has arrived to relaunch those praiseworthy initiatives. It seems totally logical and absolutely just to recognize now - as was recognized by Dr. Daes in her time - that those to whom duties are attributed should also be guaranteed the knowledge of what these duties are. Only an international standard is capable of offering that kind of security.

71. To conclude, it is worth recalling that the Commission will be standing on solid ground if it launches this bold initiative. Apart from Dr. Daes, a very important document generated precisely by a large group of countries "of the North", i.e. the Helsinki Final Act (1975), in the Declaration on Principles Guiding Relations between Participating States, confirmed "... the right of the individual to *know* his rights *and duties* in this field [of human rights]" (emphasis added).



72. To facilitate everyone's knowledge of their social responsibilities has been the main motivation for the Special Rapporteur to produce, at the end of his work, this annex I, as a modest initial contribution to what could be a new stage in the development of these concepts. He hopes that despite its almost certain deficiencies, the pre-draft will receive careful initial attention by the Commission at its fifty-ninth session.

### **III. RECOMMENDATIONS**

73. The Commission should continue to review the question of human rights and human responsibilities at its future sessions.

74. The importance and timeliness of this topic merits the drafting of a new international standard dedicated to it.

75. The process of drafting and adopting this new standard should take place within the framework of the higher bodies of the United Nations specializing in human rights questions. These bodies offer the widest possible opportunities for both Governments and NGOs - throughout the entire period of the drafting - to participate fully and actively in the formulation of the possible contents of its final text.

76. Because until now the Special Rapporteur has received a relatively small number of government responses to his questionnaire and - particularly - because of the total lack of responses from NGOs (perhaps because they never received it), the Commission should authorize the resending of the questionnaire, and decide that a detailed and systematic compilation be made of all the elements contained in the new responses that may be received.

### **Notes**

<sup>1</sup> In recent months, unforeseen and unavoidable commitments related to his academic and professional tasks have limited even more the time the Special Rapporteur had to complete the final stage of this vast study, officially mandated to him by the Council only in July 2001 (decision 2001/285).

<sup>2</sup> After completing his two field missions in November 2002, the Special Rapporteur was informed by the Office of the High Commissioner for Human Rights (OHCHR) that it was not possible to authorize a final five-day working mission in Geneva to complete his research and other pertinent aspects of the final phase of this report. The reason invoked for this negative response was that the funds that the Special Rapporteur had understood were allocated for this study had already been exhausted upon completion of the two field missions. No breakdown of expenses was given. On the basis of what he considers well-founded reasons, the Special Rapporteur disagrees with the calculations and figures supplied by the Office later sent to him at his request.

<sup>3</sup> The Special Rapporteur had to wait 49 days before receiving the official translation into English of the response of just four pages from the Government of Egypt, a document delivered to OHCHR on 22 November 2002. The Office received the translation on 10 January 2003, and sent it on to the Special Rapporteur on the same date.

<sup>4</sup> Surprised at the silence of the NGOs to the questionnaire, and concerned because some of them said they had never received it, the Special Rapporteur asked the Office for a list of those to whom the request had actually been sent, so as to include it as an annex to this report and avoid possible misunderstandings. In response, the Office offered the surprising information that while they had found a copy of the note to be sent, they could not locate in their files any trace of the list of NGOs to which it had been actually sent, nor the date of such a mailing. To that information they added, with commendable honesty, the disturbing observation that "It is possible that the same has not been sent". It is not necessary to underscore the implications of that possible oversight.

<sup>5</sup> These could only be realized in their entirety after long consultations and negotiations between the Special Rapporteur and diverse decision-making bodies within OHCHR, a process plagued with uncertainty until virtually the last minute.

<sup>6</sup> The Special Rapporteur gave lengthy thought to the selection of the countries that, from the beginning, he would propose to be included in the two long missions suggested. In his selection, particular relevance was given to the criteria that the societies to be visited should be characterized by the existence of diverse and important religions whose fundamental elements he had not yet deeply explored (i.e. Buddhism, Hinduism and the Orthodox Coptic Church), as well for the coexistence in them not only of those who profess distinct religions but who also generally come from diverse national, ethnic or cultural origins.

<sup>7</sup> The eight Member States are: Cuba, Egypt, Honduras, Lebanon, Qatar, St. Lucia, Sweden and Switzerland, plus that sent by the authorities of Denmark on behalf of the European Union. The Special Rapporteur expresses his gratitude to the competent authorities of those countries and of the EU, not only for the attention given his request but, in addition, for the substantial nature of the content of their responses considering the relatively short period of time they had to draft them. He further considers that he was correct to take into account the two replies (from Sweden and Switzerland) received after the deadline suggested by him, given the importance of their contents, which, as was foreseeable, were in radical contradiction to the Special Rapporteur's criteria on the subject.

<sup>8</sup> Both criteria are clearly perceived and received extensive treatment in the responses sent by Switzerland and the EU.

<sup>9</sup> Ms. Sharon Venne, of the Cree Nation that has settled since time immemorial in what is today Alberta Province, in the Canada of our times.

<sup>10</sup> Mention can be made of, among others, the positions expressed to the Special Rapporteur by the authorities of Egypt and India (whose Constitution details those duties in its article 51-A), and by the Secretary of the African Commission on Human and Peoples' Rights and the leaders of important NGOs in Senegal (such as the Rencontre africaine pour la défense des droits de l'homme (RANDDHO)) and in The Gambia (such as the African Centre for Democracy and Human Rights).

<sup>11</sup> These include NGOs that are not known for always being in agreement with official positions and practical actions, such as the Organisation nationale des droits de l'homme du Sénégal (ONDH) and some of the 21 local NGOs that participated in a meeting with the Special Rapporteur convoked expressly by the Commission on Human Rights of Malaysia (SUHAKAM), and that took place at the Commission's headquarters, chaired by its Vice-President.

<sup>12</sup> Among them, the Senegalese branch of Amnesty International.

<sup>13</sup> See Oscar Aris Sánchez, *Some contributions to a Universal Declaration on Human Obligations*, available on the Internet web site >[asiawide.or.jp](http://asiawide.or.jp)<.

<sup>14</sup> All the documentation of the Inter-Action Council, including a list of its members, experts and other contributors, as well as the text of the Universal Declaration of Human Social Responsibilities in various languages, is available on the Internet ([www.asiawide.or.jp/iac](http://www.asiawide.or.jp/iac)). The Special Rapporteur has found in the work of this organization, not only a source of emotional inspiration for his task but also an enormous amount of conceptual data and technical information of great utility for this study. He wishes to put on record his grateful recognition for the contribution of the I-AC to this work. The Special Rapporteur is convinced that those familiar with the subject will be able to see the degree of influence the I-AC has had on the contents of his reports to the Commission in 2002, as well as this year.

## **Annex I**

### **PRE-DRAFT DECLARATION ON HUMAN SOCIAL RESPONSIBILITIES**

*The Economic and Social Council,*

*Deeply concerned* that despite the advances achieved in the establishment of a large number of international standards in the field of human rights, grave violations of human rights continue to take place and basic human rights fail to be realized and new threats to these and other rights can be foreseen in many parts of the planet as a result of the present international situation,

*Bearing in mind* the central role of States in the effective promotion, full materialization and adequate protection, without any discrimination whatsoever, of all the rights and freedoms recognized for all persons subject to their jurisdiction,

*Bearing in mind also* that the obligations and responsibilities to fulfil such functions are mandatory for each State, under its own domestic legislation or emanating from international treaties and standards that are applicable to it,

*Reiterating* the importance of the Universal Declaration of Human Rights and of the International Covenants on Human Rights, as well as of other instruments adopted by the United Nations system and by regional governmental organizations, as basic points of reference for activities in the field of human rights,

*Reiterating also* that all human rights are universal, indivisible and interdependent and interrelated, and that the international community must treat human rights globally and in a fair and equal manner, on the same footing and with the same emphasis, as well as the importance of guaranteeing the examination of human rights questions on the basis of the principles of universality, objectivity and non-selectivity,

*Bearing in mind* the contents of article 29, paragraph 1, of the Universal Declaration and the fifth preambular paragraph common to the International Covenants on Human Rights, as well as the provisions of the African Charter on Human and Peoples' Rights, the American Declaration of the Rights and Duties of Man, the Helsinki Final Act and the Cairo Declaration on Human Rights in Islam,

*Considering* that the current globalization requires the creation of new extralegal perspectives based on morality, human solidarity and equity, aimed at strengthening, not weakening or destroying, the international legal framework already created in the field of human rights, and the adding of a more visible global ethical perspective - humanist, pluralist and expressing solidarity - to what already exists in international practical actions in this matter,

*Profoundly convinced* that an essential element of this new ethical perspective will be the creation and encouragement of a generalized awareness that the individual not only has rights

that give a legal framework to his freedom but also duties towards the society in which he or she lives that reinforces his or her own freedom, and that there exists an unbreakable link between one and the other,

*Considering* that the insistence on favouring the rights of the individual leads to conflicts, divisions and interminable disputes, and that the neglect of individual responsibilities can endanger freedom and prevent hundreds of millions of human beings from realizing their rights,

*Acknowledging with regret* the lacunae that exist and considering that it would be useful and necessary to define the social duties or responsibilities of the individual towards the community in which he or she lives, the only environment in which it is possible for him or her to exercise his or her rights and freely and fully develop his or her personality,

*Profoundly convinced* that the adoption of an international standard on social responsibilities is the most effective way to arrive at these definitions, to contribute to creating a greater individual and collective awareness of the importance of the responsibilities of the individual and to guarantee the right of every person to know what the international community understands those responsibilities to be,

Therefore proclaims the following

## **DECLARATION ON HUMAN SOCIAL RESPONSIBILITIES**

### **Article 1**

For the purposes of the present Declaration the terms “responsibilities” and “duties” will be used interchangeably to indicate actions and attitudes that are judged on the extralegal social plane and not as mandatory obligations under the law. The term “community” will be utilized in its widest sense, for the purpose of including in its definition each individual’s family, community, the ethnic, religious and national groups, etc. to which the individual can belong in a heterogeneous society, to that same heterogeneous society as a whole, as well as to the entirety of Humanity, of which the individual is, unquestionably, also part.

### **Article 2**

Every individual, in addition to the rights attributed to him or her, has duties with respect to the community. The fulfilment of these duties can be manifested through the taking of concrete actions or by abstaining from taking certain actions. They exist, whether or not the individual acts socially alone or in conjunction with others, and regardless of the nature of the function, profession or activity that he or she engages in, either as a member of the civil society or as a governmental official of whatever rank.

### **Article 3**

These individual responsibilities are founded on the principles of social ethics and of morality, as well as on equity, justice and human solidarity towards all other human beings. These duties, which are not governed by the law, will be appreciated by the society in which they are manifested in accordance with those principles.

### **Article 4**

No person, organization, group, professional category, or official authority of the community, group or society/community can consider itself, in its practical actions, removed from its social duties, nor above them, or beyond the principles of the social ethics on which it is founded. Similarly, no State or group of States - as members of the international juridical community - can justify its international actions if it is in flagrant contradiction with its freely contracted obligations, or with the basic principles of ethics, equity or justice, in particular if its acts imply patent violations of human rights or represent danger to those same rights.

### **Article 5**

The rights of the individual and his or her social responsibilities are indissolubly linked. They mutually reinforce each other and for that reason deserve express recognition of their equal value and importance to life in society. That connection constitutes a key element for the cohesion of the social fabric that assures the harmonious existence of any community and is the fundamental basis of a fully democratic society, in which there reigns the principle that, in practice - and not just in the letter of the law - all its members enjoy equal rights and are subject to identical duties.

### **Article 6**

Every person - acting in accordance with article 29 of the Universal Declaration of Human Rights and other applicable legal instruments - has the right and the responsibility to take effective initiatives, as appropriate, so as to participate in the efficient promotion, full materialization and adequate protection, without any discrimination, of all the rights and freedoms recognized for every person in the community/society to which he or she belongs and to cooperate, for the same purpose, with the authorities of the society in which he or she lives. The central role to be played by each State in these tasks in no way diminishes the value of this participation by individuals.

### **Article 7**

Every State, in view of the central role it has to play in this field domestically, has not only obligations but also international duties, in particular towards achieving the establishment of an international and social order in which the rights and freedoms enshrined in the Universal Declaration of Human Rights and other international instruments can be made effective.

### **Article 8**

To that end, and in the context of the current globalization, all States have the duty to revitalize the principle of international cooperation, particularly that related to the materialization of the right to development (especially for the countries “of the South”), without which the indispensable international and social order mentioned in the Universal Declaration of Human Rights would be impossible. This duty implies the provision of official development assistance without conditions contrary to the principle of equal sovereignty of States and the promotion of effective international mechanisms to analyse the progress towards and obstacles to development that are observed at the international level and the recommendation of measures to overcome the latter.

### **Article 9**

Every person has the duty to contribute to making sure that the processes leading to the promotion and protection of human rights at the international level proceed with strict respect for the purposes and principles of the Charter of the United Nations, are founded on universality, objectivity and non-selectivity, and that they have no purpose other than those that are strictly humanitarian.

### **Article 10**

In fulfilment of the obligations and duties that correspond to them in the area of human rights, States have the additional duty to abstain from promoting or supporting - in particular, through direct or indirect financing - the activities of individuals, groups, institutions or organizations that are in contradiction with the provisions of the Charter of the United Nations. Every person, group, organization or institution has the duty to abstain from engaging in such activities and to reject any support that compromises their independence of action and the credibility of their work in this field.

### **Article 11**

Every person has the duty to contribute actively to the achievement, both at the international level and in his or her own community/society, of an international and social order under which all the rights and freedoms recognized in the Universal Declaration of Human Rights and in other pertinent international instruments are made fully effective. This duty leads him or her to contribute, to the best of his or her possibilities, to the preservation of international peace.

### **Article 12**

Every person has the duty to exercise his or her recognized rights and freedoms, with due consideration and respect for the rights and freedoms of others, for the security of his or her society and the morality prevailing in it. Every person who lives in a heterogeneous society has the duty to exercise his or her rights and freedoms while bearing especially in mind the common interest of that society as a whole.

### **Article 13**

Every person has the duty to contribute to the protection of his or her family, social group, society as a whole and all Humanity against any manifestation of terrorism, an evil phenomenon directly aimed at depriving, in an indiscriminate fashion, countless human beings of their basic human rights.

### **Article 14**

Every person has the duty to behave in a fraternal manner toward others, so as to contribute to the achievement of the effective recognition of the equality of the inalienable rights and the intrinsic dignity of every member of the human family.

### **Article 15**

Every person has duties to himself or herself, his or her specific community/society, Humanity and future generations, in terms of what he or she does for the conservation and improvement of the environment that surrounds him or her and of all the planet in general.

### **Article 16**

Every official person, group, organization, institution or authority directly linked to the promotion or protection of human rights, as well as those social sectors with functions or jobs of particular social relevance or sensitivity, has, as well, additional responsibilities because of the role it plays in the society.

### **Article 17**

Every person linked to the mass media has the duty to provide information with due objectivity and discretion based on sound reasoning, the verified truth of the information given and absolute fidelity to what is said by the sources consulted about it.

### **Article 18**

Every person, in the exercise of his or her religious freedom, has the duty not to legitimize or incite religious fanaticism, as well as to promote respect for the beliefs of others.

### **Article 19**

Every person has the duty to participate in the established procedures to facilitate his or her participation in the political life of the specific community to which he or she belongs, or in the society as a whole, in particular, by exercising his or her right to vote and by serving ethically in elected positions.



#### **Article 20**

Every person has the right to make use of the riches he or she has accumulated, not only for his or her exclusive personal benefit and that of his or her family, but also in the wider sense of human solidarity for others and for the benefit of the progress of Humanity as a whole. This duty implies the social responsibility not to use economic power as an instrument of domination over other human beings.

#### **Article 21**

Every person, because of indispensable human solidarity, has the duty to contribute - in accordance with his or her real possibilities - to the eradication of social ills that affect or destroy key elements in the effective dignity and freedom of others. Such responsibility is greater with respect to the most vulnerable sectors of society.

#### **Article 22**

Every person who lives in a heterogeneous society has the duty to promote the harmonious coexistence of the diverse human groups with which they coexist, in particular, to abstain from sponsoring or condoning excuses for national, religious, racial, etc. hatred, from uncritically spreading such opinions and from engaging in practices that generate or increase insecurity, rancour or conflicts between them. The competent authorities have the duty to create or strengthen effective mechanisms for the prevention or resolution by peaceful means of such potential or already occurring conflicts, and are endowed with the necessary facilities and resources for that purpose.

#### **Article 23**

Every person has the responsibility to preserve the positive elements of the cultural heritage of the community/society in which he or she lives and that has been handed down by previous generations, as well as to enrich them for the benefit of future generations.

#### **Article 24**

Every person has the right and the duty to work to the degree permitted by his or her physical and intellectual capacities, not only as the effective way of guaranteeing his or her family's necessities, but as his or her contribution to the development of the society in which he or she lives.

#### **Article 25**

Every person has the duty to develop, to the greatest degree possible, his or her intellectual, spiritual, physical and emotional capacities, both for his or her own benefit and for that of the community.

#### **Article 26**

Every person living as part of a couple deserves respect and has the duty to demonstrate due respect and consideration for his or her partner and to contribute to meeting the material and spiritual needs of their common life, as well as to guarantee those of any offspring resulting from this relationship.

#### **Article 27**

Every person has, in his or her family relations, the responsibility to promote and maintain the cohesion of this natural and basic element of the society and to guarantee his or her descendants the right to due education and ethical and professional training, as well as to assist, feed and shelter minor children. This duty applies also to the offspring, in relation to their progenitors, when and if they need it.

#### **Article 28**

Nothing in the present Declaration will be interpreted to mean that it confers on any individual, group, institution or organization, or on any State or group of States, the right to promote, carry out or support activities that are intended to evade or make inoperative the social responsibilities or duties of the individual as enunciated in this Declaration or in other international human rights instruments and standards.

#### **Article 29**

Nothing in the present Declaration can be interpreted as diminishing the purposes and principles of the United Nations, nor the obligations and duties freely contracted by States in other pertinent instruments of international law in the field of human rights.

## **Annex II**

### **GOVERNMENTAL AND NON-GOVERNMENTAL PERSONALITIES AND NGOs CONSULTED BY THE SPECIAL RAPPORTEUR ON THE SUBJECT OF THE STUDY DURING HIS TWO WORKING MISSIONS IN NINE COUNTRIES IN AFRICA, ASIA AND EUROPE DURING SEPTEMBER, OCTOBER AND NOVEMBER 2002**

#### **A. First mission: Asia and Europe (13 September-4 October 2002)**

##### **1. Syrian Arab Republic (15-19 September)**

H.E. Major General Ali Hammoud, Minister of the Interior (16 September);

H.E. Mr. Nasser Kanddour, Minister of Emigrants (17 September);

H.E. Dr. Issam Al-Zaim, Minister of Industry (18 September);

H.E. Dr. Suleiman Haddad, Minister for Foreign Affairs a.i. (18 September);

The Right Honourable Dr. Ghassan Lahham, Governor of Damascus (14-15 September);

H.E. Mr. Walid Al-Hualem, Vice-Minister for Foreign Affairs (17 September);

Ms. Chaghaf Kayali, Minister-Counsellor, Ministry for Foreign Affairs (16 September);

Mr. Randwan Loutfi, Counsellor, Ministry for Foreign Affairs (18 September);

Mr. Ghassan Sulaiman Abbas, Ministry for Foreign Affairs (17 September);

Prof. Dr. Abboud Al-Serraj, Dean of the Faculty of Law, Damascus University (16 September);

Prof. Dr. Muhammad Aziz Shukri, Chairman, Department of International Law, Damascus University (16 and 18 September);

Prof. Amal Yazigi, Department of International Law, Damascus University (16 September);

Mr. Amjand Kassem Agha, Ministry for Foreign Affairs (15-19 September).

## **2. Bhutan (23-26 September)**

His Majesty Jigme Singye Wangchuck, King of Bhutan (25 September);

H.E. Lyonpo Kinzang Dorji, Prime Minister of the Royal Government (24 September);

H.E. Lyonpo Thinley Gyamtsho, Home Minister (24 September);

H.E. Dasho Ugyen Tshering, Minister for Foreign Affairs, a.i., Ministry for Foreign Affairs (23, 24 and 25 September);

Ms. Doma Tshering, Under-Secretary, Policy Planning Division, Ministry for Foreign Affairs (23-26 September);

Mr. Sonam Tobgay, Assistant Director, Dept. of Bilateral Affairs, Ministry for Foreign Affairs (24 September).

## **3. India (22 and 26-27 September)**

H.E. Dr. Soli Sorabjee, Attorney-General (26 September);

H.E. Ambassador Kanwal Sibal, Foreign Secretary, Ministry for Foreign Affairs (27 September);

H.E. Ambassador Deepa Gopalan Wandhwa, Joint Secretary, United Nations Economic and Social Affairs, Ministry for Foreign Affairs (27 September);

Mr. Ajoy Sinha, Joint Secretary and Legal Advisor, Government of India, Dept. of Legal Affairs, Ministry of Law, Justice and Company Affairs (26 September);

Mr. S.K. Chattopandhyay, Joint Secretary (Human Rights), Ministry of Home Affairs (27 September);

His Honour Justice J.S. Varma, Chairman, National Commission on Human Rights (27 September);

Mr. P.C. Sen, Secretary-General, National Commission on Human Rights (27 September);

Mr. Partha Satpathy, Ministry for Foreign Affairs (26 and 27 September).

#### **4. Malaysia (28 September-1 October)**

H.E. Ambassador Jasmi Md. Yusoff, Under-Secretary (Multilateral Political Division), Ministry for Foreign Affairs (1 October);

Dato' Mohamed bin Hassan Jawhar, Director-General, Institute of Strategic and International Studies (ISIS) (29 September);

Mr. Tan Sri Abu Talib Othman, Chairman, Commission on Human Rights (SUHAKAM) (1 October);

Mr. Tan Sri Dato' Harun Mahmud Hashim, Vice-Chairman, (SUHAKAM), at a working meeting with representatives of 21 local NGOs (30 September);

Ms. Maxine Olson, United Nations Resident Coordinator for Development Activities (28 September);

Mr. Anis Yusal Yussof, Programme Manager - Human Development (UNDP) (1 October);

Ms. Elina Noor, Researcher, ISIS (29 September);

Mr. Azrul Anaz, Multilateral Political Division, Ministry for Foreign Affairs (28 September-1 October).

#### **5. European Commission (Brussels) (2-3 October)**

Mr. Charles Whiteley, Detached National Expert - Human Rights and Democratization, External Relations Directorate-General, European Commission (2 October);

Dr. Aristote Gavriliadis, Fundamental Rights, Justice and Interior Affairs Directorate-General, European Commission (3 October).

#### **6. Spain (4 October)**

H.E. Ambassador Juan Manuel Cabrera, Director, Office of Human Rights, Ministry for Foreign Affairs (4 October),

Mr. Ignacio de Palacio España, Minister-Counsellor, Ministry for Foreign Affairs (4 October).

**B. Second mission: Africa (22 October-4 November 2002)**

**1. The Gambia (24-26 October)**

H.E. Mr. Joseph H. Joof, Minister of Justice (25 October);

H.E. Ambassador Mohamed Kamel Rezzag-Bara, Chairman, African Commission on Human and Peoples' Rights (then holding its annual session in Banjul) (24 October);

Mr. John A. Kakonge, United Nations Resident Coordinator for Development Activities and UNDP Resident Representative (26 October);

Mr. Germain Baricako, Secretary, African Commission (25 October);

Mr. Robert Ayéda Kotchani, Legal Officer for Protection, African Commission (24-26 October);

Ms. Hannah Forster, Executive Director, African Centre for Democracy and Human Rights Studies (ACDHRS) (26 October);

Ms. Julia D. Harrington, Executive Secretary, Institute for Human Rights and Development (IHRD) (25 October).

**2. Senegal (24 and 26-28 October)**

H.E. Mr. Abdoulaye Wade, President of the Republic (28 October);

H.E. Mrs. Mame Mandior Boye, Prime Minister of the Republic (28 October);

H.E. Mrs. Mame Bassine Niang, Minister-Commissioner for Human Rights, attached to the Presidency of the Republic (24, 27 and 28 October);

The Right Honourable Mr. Youssoupa Ndiaye, President of the Constitutional Council (28 October);

Mr. Alioune Tine, Secretary-General of the Rencontre africaine pour la défense des droits de l'homme (RANDDHO), in a formal working session with a number of leaders of this NGO (24 October);

Mr. El-Hadj Lamine, aka Moctar Bousso, and Mr. Ousmane Seye, Vice-Presidents of the Organisation nationale des droits de l'homme du Sénégal (ONDH), at a formal working meeting with a number of representatives of several local organizations working under this national umbrella NGO (24 October);

Maître Demba Ciré Bathily, Senegalese Branch, Amnesty International (24 October);

Mrs. Amsatou Sow Sidibe, Director, Institut des droits de l'homme et de la paix, Professor, Law School, University of Dakar (24 October).

### **3. Egypt (29 October-2 November)**

His Most Eminent Mohamed Sayed Tantawi, Grand Imam, Jeque of the El Azhar Mosque, Leader of the Sunni Community and of the Cairo Theological School (2 November);

H.E. Ambassador Faisa Aboulnaga, Minister of State for Foreign Affairs (30 October);

H.E. Ambassador Gehad Mandi, Deputy Assistant Foreign Minister for Human Rights Affairs, Ministry for Foreign Affairs (30 October);

H.E. Ambassador Moushira Khattab, Secretary-General, National Council for Childhood and Motherhood (30 October);

H.E. Ambassador Samiha Abou Steit, Adviser to the Secretary-General, National Council for Women (30 October);

Dr. Ibrahim Salama, Director of Legal Affairs, Ministry for Foreign Affairs (30 October);

His Eminence Bishop Moussa, Bishop for Youth, Coptic Orthodox Church (2 November);

Dr. Salah El-Din Amer, International Law Professor, Cairo University (31 October);

Dr. Bahey El Din Hassan, Director, Cairo Institute for Human Rights Studies (31 October).

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