

Bouly le campeur

By Anthony Vouardoux

Anthony Vouardoux's film, *Bouly le campeur*, might permit work on the Universal Declaration of Human Rights (hereinafter called the UNDHR) in its entirety. Who do we find in this film? Bouly, a rather disagreeable person, is settled into his camper van and makes pronouncements alternately xenophobic and misogynist. Every time he makes one of these pronouncements, a voice reminds him of the relevant provision of the UNDHR. We don't know if he pretends not to understand or whether he truly does not understand; in any event, his reactions fit his character.

1. The *Universal Declaration of Human Rights* was adopted on December 10, 1948 by the Assembly General of the United Nations. The United Nations www.un.org is a global organisation including at the moment 191 State members. Created after the Second World War, it aims to protect peace and security in the world. It is organised according to a treaty adopted in 1945, the United Nations Charter.

The work in preparing and writing the Declaration was led by the Human Rights Commission, composed of experts and political figures of several nationalities, representing several religious traditions and from several world regions.

It should be noted that when the Declaration was adopted a large number of people on the planet, particularly in Africa and Asia, were under colonial rule. In 1948, the UN had only 58 State members. Nevertheless, taking into account the political forces of the time and without explicit reference to colonialism, the UDHR calls on States not to discriminate between their own nationals and the inhabitants of the territories they govern. This is particularly evident in the preamble and in paragraph 2 of article 2 which makes clear: "Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty".

2. The Declaration is a relatively short text. It is composed of a preamble and 30 articles.

2.1. The preamble is the text at the beginning and it is divided into paragraphs.

It aims to explain the reasons which led the UN to adopt this Declaration, the principles on which it is based and the objectives undertaken by means of it.

Amongst the first figures the Second World War: “disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind” (paragraph 2).

Within the second, the first paragraph is of fundamental importance: “Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”.

Respect for the rights which are enunciated in the Declaration constitutes its principle objective. In effect, the General Assembly “Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”

2.2 The 30 articles of the Declaration are extremely concise. Some of them are only 1 to 2 lines (articles 3, 4,5,6,8 & 24), the longest taking scarcely ten lines. Before giving a global summary, it is important to stress that according to the Declaration, human rights existed before the creation of nation states. In fact, the articles begin systematically with “everyone...” “all...” “no one...”, etc., and not “The States recognize...”, which would have indicated that rights exist only due to their recognition by states.

Before enumerating the different rights and liberties, the Declaration presents two complementary principles which are common to all of them. The first is the principle of equality between human beings from the mere fact that they belong to the same human species (article 1). The second is a corollary of the first. Rights belong to everyone without discrimination on the basis of race, colour, sex, language, religion, political opinion or any other belief, social background, nationality, birth, wealth or any other reason.

The Declaration then deals with what are called civil and political rights or fundamental freedoms (articles 3 to 6 and 8 to 21). These concern the protection of the individual against possible breaches on the part of the States. They are essentially freedoms to do things.

After civil and political rights, the Declaration addresses economic, social and cultural rights. Contrary to the first type of rights, which insist that States refrain from various behaviours, economic, social and cultural rights impose obligations on them, so that they see to it that services are established providing people with work, health care, social security, education, a sufficient quality of life, rest, leisure, etc.

Finally, the Declaration addresses the question of possible limitations to the rights that are recognised. These restrictions are limited (article 29): they must have been anticipated by the law and they must be extended solely for the purpose of securing due recognition and respect for the rights and freedoms of others or protecting legitimate interests (health, public order, etc.). In addition, the rights recognised by the Declaration may not be exercised contrary to the purposes and principles of the United Nations or to the rights and freedoms enumerated in the Declaration.

3. At the beginning, the Declaration did not impose obligations but rather consisted of a number of recommendations. However, because of its ratification by such a substantial number of States, it has become recognised to contain in its articles obligations that impose themselves on States: non-discrimination, the prohibition of slavery and of torture, for example.

In addition, the rights that it recognised were taken up in a more detailed manner in a large number of international treaties which are themselves obligatory. The most important are as follows, with the number of States who were signatories in 2006 indicated in parentheses:

- the *Convention relating to the status of refugees* (146)
- the *Convention (C111) concerning Discrimination in Respect of Employment and Occupation* (165)
- the *International Covenant on Economic, Social and Cultural Rights* (153)
- the *International Covenant on Political and Civil Rights* (156)
- the *International Convention on the Elimination of all Forms of Racial Discrimination* (170)
- the *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment* (141)

All the other texts which are not mentioned are available online at <http://www.ohchr.org/english/law>

The monitoring of the application of these treaties is assured by the committees of experts who examine the periodic reports which the State members are required to submit. These reports must contain the measures taken to implement

human rights. In certain cases, these committees can even hear individual cases, which are complaints coming from particular persons with regard to violations of their rights.

These texts, available to every country on the planet, have been completed in some regions of the globe by regional treaties, for example the *European Convention on Human Rights* which, in addition, have established courts to which individuals can appeal when their rights have been violated and they have not been able to obtain redress before their national courts. This is particularly the case with regard to the European Court on Human Rights, the Inter-American Court of Human Rights and the African Court on Human and Peoples' Rights.

4. The essential rights and liberties established by the Declaration, although not their totality, are also found in the *federal constitution of the Swiss Confederation*; they are contained in Title 2, composed of articles 7 to 36 and 41 <http://www.admin.ch/ch/itl/rs/1/c101ENG.pdf>. Switzerland is also a signatory to the principle international treaties regarding human rights, including those cited above.

In addition, Switzerland is one of the countries with a legal tradition where, once it has become a signatory to an international treaty, the rules of the treaty immediately become part of its national legal system. The terms of the international treaty benefit from the primacy they have over national laws so that, in certain conditions, they can be directly invoked before an administrative tribunal or judge.