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International Legal Order and Human Rights
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HUMAN RIGHTS TODAY: FROM A DECLARATION TO THE OTHER

The 70^e anniversary of the adoption of the Universal Declaration of Human Rights by a resolution of the UNGA on the 10 of December 1948, during its third session held in Paris, is a new opportunity to discuss the historical, political, diplomatic and legal challenges of the «progress» of human rights in the modern world.

From a French perspective there is a fruitful dialectic between the Declaration of Rights of the Man and of the Citizen adopted in 1789 and the Universal Declaration of Human Rights proclaimed in 1948. But the French Declaration was only an historical document during more than 150 years, until its incorporation in the Preamble of the Constitution of 1946 and its «reaffirmation» in 1958. In some way, the Conseil constitutionnel used it, as fundamental part of the «bloc de constitutionnalité», as a way to escape the primacy of international law. This trend was reinforced with the constitutional reform of 2008 which institutes a new form of control *a fortiori*, with the so-called «question prioritaire de Constitution» (QPC). For the sake of «constitutional identity» and in the same of subsidiarity, domestic remedies are established in order to undercut international remedies.

On another hand, the human rights international law, enshrined in the UN Charter and the Universal Declaration, came to ne development with the adoption of the two Covenants in 1966 as of other «basic instruments» with treaty bodies to monitor their full implementation. But the Universal Declaration as such is still a matrix of general law, with important development in the «droit dérivé» of the UN and in international conferences, like the Vienna Declaration and Action Program of 1993. The Vienna Declaration underlines the aim of universal ratification for all basic instruments. The universality of human rights is not only an issue of legitimacy or legality, but of efficiency. There are new challenges, at the crossroad of humanitarian law and criminal law, with new types of armed conflicts and new systematic violations.

The need for legal consistency, following the *obiter dictum* of the ICJ in the Diallo Case, is a key-condition of effective universalism in a multi-level system, especially between national courts, European jurisdictions and international organs. The consistency is a two-ways road.