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INTERNATIONAL COOPERATION

THE HUMAN RIGHT TO INTERNATIONAL SOLIDARITY

Lucia Tonelotto¹

Introduction

In the era of economic, cultural and ideological globalization in which we find ourselves living, interdependence between people is increasingly proliferating.

To a greater extent, in today's society we can find the truthfulness of the butterfly effect theory: "it is said that the slightest flapping of a butterfly's wings is able to cause a hurricane on the other side of the world"² This phrase, if applied to social reality, reflects the situation in which we live: no choice is an end in itself; every decision causes near and far-off consequences.

In today's globalization, economic and social inequalities are emerging progressively. In a world where wealth increases dramatically, fewer and fewer are benefiting from it. In a world where technology is making great strides, more and more people are dying of hunger, treatable diseases and natural disasters, realities that could be easily prevented.

Moreover, the Covid-19 pandemic has taught us that we are interconnected, and only if we collaborate can we save ourselves: either we save ourselves together or no one is saved. This concept is already present at international level, thanks to international solidarity, but finds itself difficult to emerge because some states don't want to recognize it as a legally binding human right.

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² The Butterfly Effect, film by Eric Bress e J. Mackye Gruber, 2004



THE INTERNATIONAL PATH FOR THE RIGHT TO INTERNATIONAL SOLIDARITY

The concept of International Solidarity saw its emergence on the international scene at the beginning of the 1970s when third generation rights began to emerge for the first time: known as International Solidarity rights.

This new category of human rights was added to the first generation rights (civil and political) and to the second generation rights (economic, social and cultural). In the former it was clear that there was the need for non-intervention by the state in order to favor full access by citizens to civil and political rights; in

the case of economic, social and cultural rights, there was a need for states to implement internal policies that favored respect for human rights.

The novelty that is recognized in third generation rights is the appearance in the sphere of international protection, not of the individual as a citizen, but of the person as he belongs to humanity. Nowadays, the subdivision between generation of rights has failed because it has been recognized that every right is important and interconnected in equal measure without distinction of generation.

The study of International Solidarity as a distinct element within third generation rights begins within the Commission for Human Rights, a United Nations body established for the protection and promotion of human rights. The first official document recognizing International Solidarity was drawn up in 2002³ raising the concern that globalization has not favored all peoples but only some and therefore, through the recognition of International Solidarity, tries to eliminate the gap between developed and developing states. It

³ United Nations, Commission on Human Rights Resolution 2002/73, Human Rights and International Solidarity,

also aims to foster a relationship of solidarity at an intragenerational and intergenerational level.

With this document, states are asked to implement international relations in a manner that *"[...] global challenges must be managed in a way that distributes costs and burdens fairly, in accordance with basic principles of equity and social justice, and that those who suffer, or who benefit least, deserve help from those who benefit most. [...] to create such conditions will ensure that the needs and interests of future generations are not jeopardized by the burden of the past, and to hand on a better world to future generations"*⁴

The Tsunami, which occurred in 2004 in Southeast Asia, accelerates the process of recognition of International Solidarity within the Commission for Human Rights. It is with Resolution 2005/55 that the Independent Expert⁵ (WHO IS THIS?) was established with the task, for a period of three years, of studying the problem and drawing up a Declaration concerning the right of peoples to International Solidarity, collaborating with the United Nations agencies, States, NGOs and all stakeholders on the international scene.

The mandate of the Independent Expert has been renewed over the years and in 2017 the first draft of the Declaration on the right to international solidarity was presented. Currently, it still being analyzed as many Western bloc countries (USA, EU countries, Canada and Australia) do not want to recognize the right to international solidarity. These States, even if they claim to recognize the importance of the principle of International Solidarity and the political commitment that this entails, nevertheless emphasize the fact that each State is primarily responsible for the protection and promotion of the human rights of its citizens. They reiterate that all states can consider international assistance but cannot be determined by it. With the right to International Solidarity, the more developed countries could risk this greater involvement, but they do not want to take it on. Moreover, they affirm that the principle of International Solidarity is already specified in numerous international documents and that, therefore, they see no reason to recognize the right as there are no characteristics for such recognition. Therefore, they give importance to the principle of International Solidarity and to cooperation as an instrument of implementation of this principle so they do not recognize the need for new instruments and new international legal constraints in this field.

⁴ United Nations, Commission on Human Rights Resolution 2002/73, Human Rights and International Solidarity, p. 2.

⁵ Independent figure within the United Nations, of high professional prominence, with the task of studying a specific topic. <https://www.ohchr.org/en/issues/solidarity/pages/iesolidarityindex.aspx>

What is the right to international solidarity

The principles underlying International Solidarity are: respect for human dignity, adherence to the principles of justice, equity, non-interference, self-determination, mutual respect; elimination of slavery; sharing of scientific and technological advances; promotion of ethical behavior; disarmament; help without imposing conditions; role of non-governmental organizations in stimulating public opinion and studies on the subject. The implementation of all these principles at international and state levels are identified as the measures and methods necessary for the realization of the right to International Solidarity.

As far as the right of international solidarity is concerned, it can be recognized that *"the legal subjectivity of International Solidarity is recognized in the freedom of the human person from the borders of the state and that all human beings are born free and equal in dignity and rights: the original belonging is to the "human family". Membership in a given state must be considered not as a possession of the person by that state, but as an obligation of the same to guarantee, within its jurisdiction, the exercise of the set of rights on which universal citizenship is based. The space of this exercise is marked by the range of operations of International Human Rights Law, the space-world, and not by the frontier of states."*⁶

⁶ A. Papisca, *Il diritto della dignità umana: riflessioni sulla globalizzazione dei diritti umani*, Marsilio, 2011, p. 26.

Legal norms can be broken down into four elements⁷ and we will now see how they are expressed in the law of international solidarity:

- the object (what one has the right to): is expressed in the possibility of asserting one's rights and being able to implement them in a community logic of solidarity and mutual aid.
- the holder of active legitimacy to exercise the right: it is humanity as a whole and is recognized, specifically, in the individual or people who need help at that moment. Depending on the conditions of life and government, the law can be made explicit by the State to which the person belongs or, directly by the person, if his own State, which represents him internationally, is not in the right conditions or does not want to do so. The owner, however, may not even be present in the current era, may be identifiable in the future, the intergenerational perspective of solidarity comes into play here.
- the holder of the passive legitimacy on which the obligations connected to the law weigh: it is always the international community as a whole, the strongest parties economically and democratically governed, take charge of the needs of the poorest populations. It may emerge that the holders of duties

⁷ E. Pariotti, *I diritti umani: concetto, teoria, evoluzione*, CEDAM 2013

and rights divide the international community between the rich, who help, and the poor, who receive. On a more in-depth reading, however, it is recognized that these two parts are not antithetical to each other, but dialogue and help each other, each making its own particularity available to the other. However, this exchange must not take place in a profit-making logic, but according to a perspective of fraternity, equity and social justice.

- the conditions of applicability must be implemented in an intragenerational and intergenerational logic. In the first, the need for reporting on everything that states do towards other countries and other populations is recognized, moreover, it is necessary to make transparent every behavior that takes place in the name of an international organization and, above all, that the State you belong and the organization take responsibility for the acts it promotes with this body. This mode of truth-responsibility must be applied to all branches of development: economic-financial, environmental, health, humanitarian, security, peace, etc. Furthermore, the exchange of information and knowledge is required to prevent natural disasters, to build infrastructures, and to improve the economic situation of many poor countries. The developed countries

see this act as a loss, but do not recognize that in this way, many problems can be avoided and instead the system of security and peace that all countries are trying to create would be strengthened. In an intergenerational logic, we want to ensure a minimum standard of living for future generations which is crumbling today. From a perspective of intergenerational equity, International Solidarity implies the involvement of three aspects: a) each generation must maintain the diversity of its natural, cultural and economic resources; b) the quality of the ecological- environmental system transmitted to future generations must be comparable with that enjoyed by present generations; c) the natural and cultural heritage, past and present, must be preserved and handed down so that future generations can have access to it. Intergenerational solidarity is proposed as an action to prevent damage, in which priority must be given to the result and not to the cost of the activity, and the burden of the action must be rightly distributed according to the possibilities.⁸

⁸ D. Shelton, *Intergenerational Equity, in Solidarity: a Structural Principle of International Law*, Rüdiger Wolfrum/Chie Kojima (eds), Springer, 2009

Cooperation vs international solidarity

The last important aspect to analyze with regards to international solidarity is the difference between it and international cooperation. The countries of the Western bloc argue that the principle of international solidarity is part of cooperation, but if we analyze the right of international solidarity carefully, it emerges that they are two distinct matters, indeed the latter is a subsequent and evolved step in cooperation. Cooperation was born as an aid between states to rebuild those countries affected by the Second World War. However, it is not an unconditional help and many times the conditions protect the donor more, as for this charitable gesture the payment of the debt is requested with interest or conditions that determine the recipient's political choices. As stated by Holger Hestermeyer, the cooperation is an act of "self-centered solidarity" for the donor country.⁹ Furthermore, in cooperation it is not essential to report and understand how capital is spent, thus causing serious consequences such as enrichment of the rulers and their officials, instead of raising the well-being of an entire population. This lack of control over the use of money makes cooperation part of a system of coexistence in which States do not control each other to protect the well-be-

⁹ 30 H. P. Hestermeyer, Reality or aspiration? Solidarity in International environmental and world trade law, Otto Hahn group "diversity and homogeneity", outcome paper 2/2012.

ing of the world population. Only in the case of crimes against humanity can, if desired, intervention occur.

Therefore, the cooperation implemented by the States, in recent years, has not favored the growth of developing countries, on the contrary it has only impoverished them: the only ones that have benefited from it have been the developed countries, which in this way controls the governments of these nations within international relations.

International Solidarity replaces this system of coexistence by creating an international environment in which States are responsible for each other. This responsibility is due to the fact that states are identified as entities that protect the world population. They have the task of better governing a good that has been entrusted to them, and which therefore does not belong exclusively to them. In this perspective, the states are responsible among themselves in governing that common good that belongs to the international community, coordinating their choices and actions in order to protect the world population and not just the national one. States will no longer be able to make their own decisions following a logic of economic and political profit but will have to implement them in a spirit of human rights, placing the protection of the person and the people as the main objective. In this way, wealth and well-be-

ing would be redistributed throughout global society. For example, if a citizen of a rich country is entitled to a certain basic treatment for his life by the state, such as health, this must be applicable for all the people of the world. If this is not the case, as previously mentioned, a person must have the opportunity to appeal to the international community and this must take charge of the implementation of the law.

The wealth of rich countries comes from the use of underground materials that they do not own and from the exploitation of centuries of colonization in poor countries. Solidarity cooperation is, therefore, an act due to these populations who have not had the opportunity to develop due to colonization and, subsequently, due to local governments placed by world powers as a function of a bipolar political service logic. International Solidarity recognizes the possibility of development that is given to developing countries by giving them back what was previously taken from them through colonization. Of course, it is not possible today to really give back what has been taken away, but this can be done through financial help and sharing of knowledge. Thus, we enter the "altruistic solidarity" as described by Holger Hestermeyer.¹⁰

¹⁰ H. P. Hestermeyer, Reality or aspiration? Solidarity in International environmental and world trade law, Otto Hahn group "diversity and homogeneity", outcome paper 2/2012.

Finally, today's cooperation is based on a voluntary system, in which countries can freely choose who to help and how to help. However, according to International Solidarity help must be given to everyone, regardless of political ideas (certainly while maintaining respect for human rights) and the modalities must respect very clear criteria.

In order to implement international solidarity, we need a real global responsibility that is able to harmonize development and globalization as indicated by Stiglitz:

What we need are policies for sustainable, just and democratic growth. This is the reason for the development. Development is not a tool to help a few people get rich or to create a handful of useless protected sectors that only a small elite benefit from; development does not mean putting Prada, Benetton, Ralph Lauren or Louis Vuitton at the disposal of the rich in the cities and then leaving the poor in the countryside in misery. The fact that you can buy Gucci bags in a Moscow department store does not mean that the country has switched to a market economy. Development means transforming society, improving the lives of the poor, giving everyone a chance for success and ensuring access to health services and education for everyone.

This kind of development cannot materialize if only a few impose the policies that a country must follow. Ensuring that decisions are made in a democratic way means ensuring the active participation in the debate of numerous economists, officials and experts from developing countries. It also means that participation must be broad and go beyond experts and politicians. Developing countries must become architects of their own destiny, but we Westerners cannot shirk our responsibilities. It is not easy to start doing things in a different way. Bureaucracies, like people, develop bad habits and adjusting to change can be difficult. But international institutions must face the changes, perhaps painful, that will allow them to play the role for which they were born and to make globalization work by working not only for those who are already well and for industrialized countries, but also for the poor and for developing nations.

The West must do its part to reform the international institutions that govern globalization. We are the ones who have created these institutions and now we must work to make them work. If we are to take into consideration the legitimate concerns of those who have expressed their discontent with globalization, if we want globalization to work for the billions of people who have so far found no benefit, if we want globalization with a human face to become a reality, then we must raise our voices. We cannot, we must not remain

*aloof relegating ourselves to the role of simple and inert spectators.*¹¹

Conclusion

The situation we are currently living reminds us even more that we are interconnected to one another and we can only save ourselves together. For this reason, according to me, the right to international solidarity is the answer to our needs. It is time to recognize that we are all part of the same family and it is possible to respect human rights if we legally recognize the membership to this family beyond state borders.

Solidarity, therefore, cannot be a simple economic aid, but must involve a change of mentality that brings man back to the first step of the entire development pyramid, recognizing him as an entity with a dignity to be respected and protected. Man must return to being a “social being” and not a being to produce. The conditions imposed by the market, the economy and finance must be overcome. We need to stop thinking of ever-increasing gains. As the philosophers of antiquity well said, it is not in well-being and possessing material goods that man realizes himself, but in the relationship with the other, in being a gift for the other.

11 STIGLITZ J. E., *Globalization and Its Discontents*, W. W. Norton, 2003