

EDITORIAL FOREWORD

THE MEDITERRANEAN AND HUMAN RIGHTS

AN OVERVIEW BY SALVO ANDÒ AND SALVINO BUSUTTIL

Proliferating regional conflicts and emergency situations affecting millions of human beings call for a radical reconsideration not only of economic policies based on solidarity, but also of military politics which have guaranteed the security of the world after the Cold War in the context of the two great expansions of political thought: the communist one and the western.

However, this new international situation requires also a re-assessment of the principles and norms of international law, which in these last few centuries have given to the States the nearly exclusive role of actors in all matters concerning the international community.

Indeed, today the national State faces a dilemma. It seems to be too "small" and consequently inadequate, to cope with new and old situations of emergency afflicting humanity, and which cannot be attributed exclusively to one particular region of the world. One need only refer to environmental problems and to their impact on the life of whole populations.

Yet at the same time, the national State seems to be too "large" and remote to deal with the problems of individuals, who need effective protection to enable them to fully develop their own human personality.

Such personal needs require the intervention of a force which is nearer the territory, but at the same time decentralised from the power exercised by the national State.

Consequently, we should revisit many classifications of international law revolving around the concept of the State - the State understood as an essential subject of the international legal order, as a sovereign subject *par excellence*, on which peace and war in the world are dependent.

The individual and the nations are increasingly finding themselves in the centre of international affairs, and this new reality must inevitably leave its impact on the rules and collective actions which are essential for a well-ordered international community.

In short, the concept of the national State is to-day being challenged on all fronts.

Inevitably, the traditional prerogatives of the State have to be

questioned and its traditional powers eroded, as the international community will gradually no longer be able to limit itself to providing military protection to guarantee security in the world, as it did during the years of the Cold War. But at the same time, it must find a solution to all those individual and collective needs, which if ignored, would generate serious differences in the world, and consequently political instability in the States.

From this point of view, even the most localised crises can have repercussions, if not on the whole planet, at least on regions of the world which are very distant from the place where the crises originated.

As today's world is no longer only subject to two great political orders, it will inevitably become increasingly more articulate, complex and unstable, and has to be governed on the basis of principles commanding the consensus of all States. Accordingly, a new international order will have more controls and limits capable of restraining the actions of every single State, that is the duties of the States which can be effectively sanctioned.

Divisions due to different religious creeds, political ideologies, military alliances, plans of development and political regimes no longer justify the lack of respect which has prevailed towards international law. Consequently, a serious undertaking to guarantee respect for human rights cannot be limited to tedious rhetoric or to declarations of principle which often pervade international treaties, but it must concretely address the difficulties which arise, to ensure an effective exercise of fundamental rights.

The world in which we live has fortunately seen the end of the ideological conflict which has characterised nearly all this century. The conflict between communism and liberal-democracy was not merely a military and political conflict between two superpowers which slowly disseminated to the whole planet. Rather, it was a conflict which for millions of people appeared to be one between values; and they chose either one ideology or the other. However, the end of this ideological and political conflict does not mean that world peace has taken or is about to take place. New conflicts continue to emerge. It is true that they may be small conflicts, but they can cause great and prolonged suffering to populations who are already in need, and who perhaps have been for years oppressed by regimes intolerant of or openly hostile to any form of protection of human rights.

On the international scene which is being reshaped after the fall of communism, a new kind of ideological conflict is being generated, one that will inevitably engage different religious and cultural groups still believing in the existence of rich and poor societies.

In this sense, the North-South conflict is destined to be a characteristic of the new century, at the end of the second millennium.

Military resources will certainly not be able to bring peace in the world. Nor will this be achieved by the pretension of one, or more, superpower to impose on all nations cultural and political models which it unilaterally declares to be "superior".

One must strive in every way to establish an enduring and institutionalised peace. This objective cannot be reached by re-balancing relations of power, by perhaps allowing every nation to arm itself in order to safeguard its own security. It is necessary to create on a global level a new sense of trust, encouraging in any possible manner information about the problems of others, creating thereby a true culture of tolerance.

The "different" must not be an enemy to be destroyed, but only "another" individual or population with whom one must dialogue. We need to consider with tolerance the "other" social cultures, the "other" political regimes, the "other" religions, so that we may understand the other person's way of reasoning, without adopting an intolerant or superior attitude.

There is no one single culture or regime which can be identified as absolutely bad or absolutely good. Propaganda in this sense does not encourage neither democracy nor socio-economic development. Rather, it disseminates the seeds of resentment between nations, creating divisions and grudges which the passage of time will render irreversible. Or it may be intended to sustain regimes which are destructive of liberty - incapable of guaranteeing a minimum prosperity among nations - and which through their politics of military mobilisation want to conceal the poor level of democracy and well-being to which their citizens are condemned.

In a world where no single State has the responsibility of ensuring world security - because this duty is entrusted to all States - in a world which is no longer bi-polarised, the unsanctioned violation of human rights will inevitably provoke a successive chain of reactions, destabilise large areas of the world, and consequently negatively affect the peaceful cohabitation of populations in entire regions.

Undoubtedly, it is not easy to individualise an objectively universal core of human rights, one in which every human being can be recognised, and which could form the basis of the new international order.

This Journal will deal with human rights, encouraging an exchange of cultural and political experiences, especially between the northern and the southern shores of the Mediterranean, with a view to facilitating the comprehension and the solution of those serious questions which today render difficult a complete affirmation of human rights.

Hardly anybody dare question the so-called right of humanitarian

interference on the part of the international community, wherever and when the protection of human rights is at risk. The sovereignty of the national States must be one of the principal instruments for the promotion of human rights, and not an obstacle for their effective exercise. The Journal will discuss not only "traditional" human rights, but will also examine the emergence of "new" rights.

The crusades for the protection of rights are useful only if they do not stop at being a simple acceptance of solemn affirmations of principle. This Journal, instead, wants especially to develop, within its modest means, a monitorial system given the lack of uniformity in the protection of human rights.

Tolerance has its own price. And its price will be higher and higher as great masses continue to migrate across the world, and the old national societies will become increasingly "assorted" and full of diversity, and consequently of contradictions.

By allowing diverse groups to express themselves completely, the social State would be assuming more duties, in a moment at which many, for understandable reasons, demand that public expenditure be curtailed, entailing the possible regression of the social state.

Yet, the protection of human rights cannot be entrusted exclusively in the politics of the *laissez-faire*. It increasingly requires positive action, intended to guarantee equal opportunities to those who are different because unable in any case to achieve the state of normality; or because in any case they are disadvantaged due to physical handicaps, or due to the cultures and traditions of which they form part and which exclude them from society as a whole, or from the dominant culture to which they do not wish to conform.

This is the reason why the objective of the Journal is to encourage a pragmatic approach to the problem of human rights. For if these rights are to be taken seriously, there must be the necessary political courage to take the necessary decisions to reprimand and sanction the abuse, and to defend and promote the right.

A new international legality must now be defined; and it must be concentrated especially on the people and on their needs. In this sense, new ideas are required even at the level of legal science. But above all, there is a need of a lot of political clout in affirming the rule of law against abuse of power. Experience has shown that in this field no *realpolitik* can hold. *Realpolitik* not only causes the annihilation of the rights of the people, but in the long run even prejudices the rights of the States themselves.

Naturally, this does not mean that liberal-democratic values must be imposed by force everywhere and in any case. Democracy does not need

crusades, more or less genuine; but a slow and persistence exercise of persuasion.

It is only just that States can be judged and are judged, on the basis of the positive actions taken to protect human rights, irrespective of the religious faith of their people and of the prevailing political regime.

All this entails a true and proper Copernican revolution in the relations between States, and in the relations between States and the international community.

This Journal wishes to contribute through communicating opinions and notions which can in some way be conducive to that revolution.

Contemporary geo-political trends facilitate serious action on fundamental rights, guaranteeing in the first place their protection especially in difficult circumstances. This undertaking must be given priority especially in the Mediterranean region, historically a focal point of conflicts and tensions between the two opposite shores, the north and the south.

The great innovation of the XXI century should be cultural and economic cooperation with the aim of promoting human rights. In this context, the Conference of Barcelona of last year finally provided concrete means to enable the realisation of old aspirations and of perhaps actual utopias.

The Barcelona Declaration of November 1995 laid the ground-work for action. In making available considerable funds for the Euro-Med Partenariat, the European Union recognised that it is difficult to exercise human rights and to promote democracy in situations of relative penury. It has implicitly accepted that securing human rights is fundamental to security and stability within the region, at the same time accepting that the attainment of the full exercise of social and economic rights is a major objective of the Partenariat.

To that end, this Journal dedicates its efforts.