

ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE PRESENT INTERNATIONAL ECONOMIC CONTEXT

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This article analyses globalisation processes in the international economic context and the manner in which these processes are conditioning the lives and rights of millions of people. It argues that the idea that the dismantling of social security systems can be justified in the name of economic liberty has served to multiply the cases where economic, social and cultural rights are being trampled upon. In this context reference is made to the Universal Declaration of Human Rights, which is based on the principle of the indivisibility of human rights since it caters both for civil and political rights, as well as economic, social and cultural rights; without imposing any hierarchical order between these two categories of rights. Reference is also made to the International Treaty of Economic, Social and Cultural Rights, which requires progressive compliance to ensure continual improvement in living conditions. The author then examines whether this requirement is being put into effect against the backdrop of past and present trends in world economic structures; especially of what has been termed the: "neo-liberal globalisation" of world economies. He argues that whilst economic globalisation is promoted as modern and necessary, it is in reality a step backwards which is negatively affecting the enforcement of economic, social and cultural rights.

Introduction

The odyssey of this century is the diffusion of a universal conscience about human rights. It is the propagation of a concept which tries to overcome all kinds of discrimination among human beings; and which considers that the value of human dignity has a character of ethical supremacy which places it above all other interests or ideological, political or economical values.

Nevertheless, today, we are troubled by the imposition of neo-liberalism which emarginates, excludes and maintains a large portion

of the human race in poverty. We are concerned that globalisation processes do not respect environmental or citizens' rights, particularly the rights of those most in need. We sadly realize that decisions concerning international economic coordination decide the destiny of people and have a greater weight than issues of national and international politics. We notice that the equality of rights affirmed in the Universal Declaration is either conditioned or ignored in practice according to the directives of world economic power. It would seem that in the name of the economic liberty of the great transnational capitals, it would be legitimate today to completely dismantle the social security systems which in various countries granted some social benefits to the population. We are anguished to notice that poverty is present within the most vulnerable sectors: women, old people and children.

Nobody can remain indifferent when confronted with this reality. We all have the responsibility to refuse to accept impunity for crimes of violation of human rights against life or physical integrity, or the trampling of any fundamental liberty or right, *obviously including the economic, social and cultural rights*. Human rights are indivisible. The violation of any one of them puts all the rest in doubt. When we fight against violating a single right, we are fighting in favour of all rights.

1. Economic, social and cultural rights: an integral and indivisible part of human rights

The Universal Declaration of Human Rights contemplates both civil and political rights, as well as economic, social and cultural rights: articles 3 to 21 refer to the former, while articles 22 to 27 refer to the latter. It is for this reason, that one speaks of the equilibrium that exists between the two categories of rights in the Declaration, as well as the absence of any hierarchy between them.¹ This is manifested in the second paragraph of the preamble to the Declaration, where it is stated that the most elevated aspiration of

¹ Cf. René Cassin - former President of the Human Rights Commission : The genesis of the Human Rights Charter in *El Correo de la UNESCO*, year XXI, January 1968.

the human being is the obtaining of both the first and the second type of rights: "the arrival of a world in which human beings, freed of fear and misery, may enjoy freedom of expression and freedom of beliefs."

The Declaration also affirms the so-called principle of the indivisibility of human rights. This means that all rights, civil and political as well as economic, social and cultural, are indispensable for the respect of human dignity. Indeed, Article 22 states that each person has a right to obtain: "...the satisfaction of economic, social and cultural rights, indispensable for his dignity and for the free development of his personality." It is superfluous to recall all the reasons which confirm this indivisibility; we only wish to point out that recently in 1993 – 45 years after the approval of the Universal Declaration – it was once again endorsed during the Vienna Conference organised by the United Nations. At this conference, it was emphasised that: "all human rights are universal and interdependent and related among themselves." In short, the Universal Declaration includes both categories of rights without establishing any subordination or hierarchy amongst them and considers their validity as a whole a necessary and indispensable condition for the dignity and free development of all persons.

2. The Treaty of Economic, Social and Cultural Rights

The two treaties, complementary to the Universal Declaration – the "International Treaty of Civil and Political Rights" and the "International Treaty of Economic, Social and Cultural Rights" – are international instruments of an obligatory nature for all signatory states. There is, however, an important difference between them. The Treaty of Civil and Political Rights must be complied with *immediately* by all states, without allowing for any delay concerning the agreements involved. The Treaty of Economic, Social and Cultural Rights, on the other hand, only requires compliance in a *progressive manner*, because of the nature of some of its dispositions which are related to economic and social conditions not possessed at the present moment by all countries.

In this latter Treaty, according to Article 2, every state must adopt measures: "...up to the maximum resources available to obtain progressively, with all suitable means, including the adoption of legislative measures, the full effectiveness of the rights herein

recognized." This obligation to obtain the full effectiveness of these rights progressively does not excuse a state from not obtaining them because of lack of resources. It rather imposes the obligation to advance systematically for their effective realization, as is very clearly stated in Article 11 which establishes the right of every person to an adequate standard of living: "and a continual improvement of living conditions".

3. The present international economic situation: the "globalisation" of neo-liberalism

At this stage, it is necessary to ask oneself whether the continual improvement of living conditions as established in the just-quoted article of the Treaty of Economic, Social and Cultural Rights exists; and what is the state of the economic, social and cultural rights in the present international economic context. Still, before tackling these questions, it is necessary to consider the present economic reality. The past two decades have witnessed long-term fundamental modifications in the structure of the world economy. These changes correspond to an attempt to escape from the crisis that capitalism undergoes every now and then. Ever since capitalism emerged from the roots of the industrial revolution and world markets, the whole system has been pervaded periodically with economic and social contradictions.

Towards the end of the 60's, there were several indications showing the beginning of a new structural crisis of capitalism at world level. Income levels were declining in the USA as a consequence, among other reasons, of the exhaustion of the technological model and of the growing pressures on salary structures. Some of the occurrences that were an expression of this crisis included the international monetary crisis around 1971 when the USA announced the end of the gold-dollar model; the oil crisis in 1973; and the foreign debt crisis in 1982. As from then onwards, there is a phase of adjustment and re-structuring of the international capitalist system during which period the technological, economic and political bases are created to surmount the crisis and to start a new cycle. Many countries had to suffer because of this and many are still suffering today from the so-called programmes of Structural Adjustment.

At the present moment in the economic plan, the objective bases for accumulation of capital on a world-wide scale have been

established. This is the essential background of what has been termed: "globalisation" or: "trans-nationalism," the stage of development of capitalism in which the most dynamic sphere of accumulation becomes the world market. This is already the case at the level of financial capital, particularly in the speculative field. The world economy is no longer an aggregate of national economies. These are connected by commercial or investment flows, to be progressively converted into a unique network of markets and products. The globalisation process could be defined as a system of production in which an ever-growing fraction of profits and assets is generated and distributed world-wide by a complex of interrelated private networks managed by the large trans-national companies, gaining the full advantages of financial globalisation - the central nucleus of the process.

In order to ideologically justify these changes and to present them not only as convenient but also as unavoidable, the concept of Neo-Liberalism has been developed, a concept that has become widespread during the last 15 years. As a publicity stunt, the notions of novelty and modernisation are used to obtain the approval of the people to these policies. An attempt is made to present anyone critical of neo-liberalism as being against modernisation, as a traditionalist, a conservative and a retrograde.

If facts are examined, however, it is neo-liberalism that means a step backwards, a return to past eras of lower protection of the rights of persons. This is expressed in some of the central notions of liberal ideology, such as Privatisation, the Minimalist and subsidiary state and the De-regulation and commercialisation of work relations and of the labour market. All this has an enormous effect on the enforcement of Economic, Social and Cultural Rights.

4. Neo-liberal "globalisation" and its impact on Economic, Social and Cultural Rights

The effects on the enforcement of these rights have been very serious. The Economic Commission for Latin America, CEPAL, has pointed out in no uncertain terms that: "...the technological advances - which should allow men and women to have better jobs and to receive higher salaries with machines doing the routine, unpleasant and dangerous jobs - are reflected in elevated long-term unemployment figures, a sustained reduction of work opportunities

and the creation of new badly-remunerated jobs, a concentration of earnings and of riches, an accentuation of heterogeneity in salaries, the elimination of social benefits for workers and an increase in the burden of work for those who are lucky enough not to have been discharged from their job as a result of the process of reduction of expenses for companies."²

The balance is disastrous. The concentration of earnings has increased dramatically over the past years. In 1960, the richest 20% of the world population registered earnings that were 30% higher than those earned by the poorest 20%. In the beginning of the 90's, the richest 20% were earning 60% more. This comparison is based on the distribution among rich and poor countries. Should we take into account the uneven distribution within the various countries, the richest 20% of the world population earn at least 150% more than the poorest 20%.³ The difference during the past years tends to increase if one considers that inequalities in technology and in information systems have also increased. If material riches are concentrated in this world, still more is scientific knowledge.

The disciples of the neo-liberal perspective argue that through the: "process of internationalization and of modernization," many countries have achieved growth. In my country, for example, there is talk of around a dozen years of sustained growth, with low levels of unemployment, low and decreasing inflation rates, lower levels of poverty and an increase in the material well-being of the population. This is the pretty side of the model that is given publicity all over the country and internationally on all occasions, in order to serve as an example to follow by other poor and dependent countries. There is, however, another side of this coin, another aspect to this story, which is that suffered by the workers and the majority of Chilean men and women who aspire to justice, liberty, solidarity and democracy; to a harmonious life with nature and with other human beings.

² Panorama de la Inserción Internacional de América Latina y el Caribe, CEPAL, December 1996.

³ Cf. Informe sobre el Desarrollo Humano (Report on Human Development), United Nations Development Programme, UNDP, 1992

What is not said is that as a consequence of this model, our people lose completely their ability to govern their economic and social structure; they lose their liberty and their sovereignty. Countries become slaves of investment decisions of trans-national capital that controls the major sources of economic power. Increasingly, the concentration of earnings grows, encouraging social disintegration and the generation, in many cases, of "two worlds" within one and the same country. Growth in many countries is being achieved to the detriment of the environment and of the standard of living of the whole population. Violence in the cities, corruption in business and in politics is a rampant and growing reality with which we unfortunately have to live. Moreover, there is the trampling of rights of indigenous people; the lessening of rights for workers with suitable salaries, of rights for social security: they are all evident consequences that are suffered daily by the population.

Life is definitely becoming more and more commercialized, without even sparing health and education, which are basic rights proclaimed in the Universal Declaration and in the Treaty of Economic, Social and Cultural Rights. Those who do not have money cannot study and literally die if they are unlucky enough to get seriously ill. As things stand today, the enforcement of a person's rights depends on the amount of money one has.

5. The role of politics in the violation of Human Rights

Nowadays, there is an attempt to spread the belief that it is normal that the exercise of rights depends on the resources available to each person; one is made to believe that it is not possible to expect better or that the fruits of this model may be spread among the poor. We know that what this model really does is to spread poverty and inequality.

What is happening today is that there is an attempt to suppress the anxieties connected to the enforcement of human rights for all. We should not allow it. It is not acceptable to deny the exercise of the most basic rights to millions and millions of human beings on this planet under the pretext of the lack of the right economic conditions. This is the paradox of a world that has never created so much wealth and lived in such dire poverty at the very same time. The truth is that in trampling on the rights of the poorer people, what is being risked is the introduction of an unacceptable concept

of the human being. When the rights of all are not respected, this means fundamentally that we are not really accepting for some – the majority who make up the poor in this world – the condition of human beings. What is being risked, therefore, is the breaking up of the human race in different categories, some superior to others, some dominating and other dominated. The trampling on the rights of the poorer people has, therefore, not only an economic dimension of exploitation but also a political dimension: getting used to injustice, promoting submission and depression. Indeed, this is its political function: maintaining the domination of some over others.

6. Proposals for facing today's challenges

In the face of this reality, then, what is it that we can do regarding the defense and promotion of human rights? We propose three strategies of action:

- a) The introduction of a **Social Clause** in commercial agreements, modelled on international agreements concerning vested rights, which will place an unassailable limit on states, in their search to facilitate foreign investment at the cost of such rights.
- b) **The search for a relation between populations** to face the effects of liberalisation, to build networks and links of solidarity and to search for forms of integration among peoples and not only among multi-national companies. This is a job for today. At the same time, the refusal of commercial agreements and of summits that have these aims in mind, will serve to prevent the legitimising of such fora as places for political decision and action.
- c) **Promoting the creation of an international UN instrument**, which will censure and specifically control Commercial Agreements and contracts of multi-national companies and corporations. We obviously know that we must try to construct a political consensus on this matter. An agreement for the protection of economic, social, cultural and environmental rights, within "globalised" economic regimes is a contemporary necessity. In this context, it is necessary to strengthen and support the work of the rapporteurs of the UN who monitor the situation, including violations of economic, social and cultural rights.

Now is the time to propose the above suggestions. It is time to start the process of construction of an international system for the protection of workers' rights and of the rights of the poor in any part of the world. Faced with this historic moment, we proclaim that we are against the globalisation of the trans-national companies, against this integration of all the peoples of the humanity. We are against the model that destroys nature and the search for a sustainable development. We are against dictatorship and the manipulation of persons; we are for the urgent construction of a participative democracy.

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