

EDITORIAL

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1. Introduction

Our journal has just started its tenth year of life. The initial idea that led to the creation of the *Mediterranean Journal of Human Rights*, a journal that would deal exclusively with human rights, was that of enabling a dialogue among the cultures, religions, and the social and political models that characterize this area. The Mediterranean is a geographic area that is unlike any other for its great diversity and variety of distinctive features at all levels. Such differences date back to ancient times and have produced irresolvable antagonisms and even armed conflicts, but this has never been an obstacle to the movement of people across the northern and southern shores nor has it prevented the circulation of ideas and men at levels which have been unparalleled anywhere else on the planet. The reason for this is that the Mediterranean has a very specific geopolitical characteristic: it is a "liquid continent", a sea that is the meeting point of three continents.

Any debate on Human Rights in this region, should take into account the need to defy those who refuse any cultural confrontation as they are convinced that no communication is possible between the wealthy Western countries, that are seen as the plunderers of the rights and resources of the countries in the Southern hemisphere, and an Islamic "nation" which is deemed to be irreversibly blind to anything that lies outside its tradition and especially deaf to the values of Constitutionalism. This incapacity to communicate may be overcome only through the mutual

knowledge and understanding of the various social, economic and cultural realities that have "shaped" the history of the various countries rising on the northern and southern shores of the Mediterranean Sea.

Dialogue requires a relativist approach to the truths which constitute the core of the social culture of each country. But it also requires an attitude that, instead of exacerbating differences, seeks to target common values around which a shared unitary list of human rights can be drawn up. Is there a core of values shared among the countries of the Mediterranean area which might promote the framing of a common Human Rights policy? We deem there is. Namely the value of solidarity that in the richer countries takes the form of the social benefits that are provided by the State, while in the poorer countries it takes the form of the many rivulets that spring forth from the religious community, the tribal structures, the larger family. The common fact that brings together the various social cultures is the belief that poverty is not a fault due to indolence or to the lack of personal skills, but is rather the outcome of social history, of a history that has produced incredible delays in the development processes of the region.

On these grounds it is possible that what is accepted by each country of the region taken on its own may become the driving idea behind a cooperation policy entrusted to political bodies that are the expression not only of the differences, but also of the potential and of the resources that the region is endowed with. An embryonic form of welfare system needs to be set up that can give opportunities to those deprived of development, and that engages those whose development process has been under way for a long time so as to promote not only welfare but also a social, political and economic culture that is conducive to the advent of bourgeois societies that are capable of claiming and protecting not only economic liberty but also civil and political liberties.

With a dialogue structured in this manner, even the religious divisions are no longer an insurmountable obstacle to the achievement of a condition of "social tranquillity" in the region. Is it just a coincidence that today the Islamic religion appears to be closed off to diversity, to cultural pluralism, to the acceptance of a world based on truths other than those on which the Islamic societies are based? All religions have in time evolved into development-friendly religions; they have been moulded into

accepting the liberties of modernity. Only Islam (where development is denied also because in the areas where wealth is concentrated it is in the hands of a happy few) is still the religion of underdevelopment, and hence the expression of an unjust distribution of wealth in the world.

If this state of affairs is considered to be carved in stone, the Mediterranean will continue to be the area that is most at risk in the world, with a concentration of all the factors of instability that the West experiences as the true threat to its social tranquillity. Are there shared values within the communities of believers in the territories of Islam that are decisive in excluding dialogue? In spite of the absence of a civil society as we know it in the West, is there a public sphere in Islam that is capable of perceiving and re-directing the demands for change as they emerge? Is the community of believers an embryonic form of civil society?

And again, is it true that diversity inevitably leads to "*holy wars*", that is to the use of weapons to settle differences so as to iron them out? Is it true that the entire population of these countries identifies with the mythic population of the mosques that unyieldingly defends the abyssal distance that separates "*us from them*"? And if all this is true, how would it be possible for there to be a Western Islam that is willing to accept a twofold level of obedience: obedience to the values of Islam and to the civil law of the countries they live in; an Islam that asks for integration and conservation of the collective identity and of common rights, that is of the rights that are not claimed by individuals as foreigners, but as members of a community?

There are no reasons why what we have succeeded in doing in the West – i.e. having Islamic peoples accept a social order based on the co-existence of cultures and on the primacy of civil law – should not be possible in the future in the territories of Islam. History teaches us that, as scientific and economic progress spreads out, the relationship between religions and the world evolves, access to knowledge and to welfare is facilitated and, in practice, the human being is guaranteed all the opportunities required for self-fulfilment. Conditions can be created in the Mediterranean in order for there to be a convergence on the ways in which the culture of pluralism can be spread, in other terms, is it possible to bring about the acceptance of diversity in each territory of the region? We believe it is.

There were times when the Christian religion refused modernity, condemned economic freedom and criminalized any alien knowledge. That being so, we may say that also the Christian religion, just like today's Islam, has acted as an "under development religion". But there have also been Christians who fought against the Church to claim freedom for science, to win over prejudice, to tolerate diversity. Galileo and Campanella inevitably come to mind. Christianity, like many other religions, also went through times when religion was the only resource the oppressed had, to break their ancient chains. But it was also a resource for the ruling classes. The ruling classes would criminalize anyone whose opposed them in the name of loyalty to the divine law, and they would have recourse to violence and to war. But then Christianity became a "*development-friendly religion*".

Today the confusion between divine law and civil law underlies the many refusals by the political regimes of Islamic countries to discuss the practical problems of tolerance, and above all the refusal to drop cast privileges and ancient social, gender and religious discriminations, in favour of consensus through the method of free discussions on the problems posed by social change which is inescapable.

There is a prevailing Islam that embodies the themes of a never ending fight against its enemy, the West, the predator of poorer countries. But there are portions of Islamic societies that rebel against tradition; there are women who claim equal rights, leaders who demand more pluralism, more political freedom and oppose the discriminations against women, and the denial of the most basic civil liberties. This social area can be expanded and made to influence other social areas that are currently the intransigent guardians of the religion.

Work needs to be done to spread the culture of tolerance and start a battle that has never been fought for the freedom of all religions. This is the principle of a liberal revolution on which development depends; a revolution that must be based on a joint initiative by the governments of the region, that one day could even act together within a real Mediterranean Parliament, and decide to organize their cooperation policies autonomously. In the first instance, to take decisions affecting the area: i.e.: they could decide to free the poorer peoples from an illegitimate debt because it is based on oppressive agreements that violate market laws and the

most basic principles of social justice. Furthermore, it is necessary to liberalise, within the region, the free movement of goods from the poorer countries so as to ensure that an increasing number of people may enjoy their right to a job; it is necessary to renounce the profits obtained from scientific research (already sufficiently remunerated in the Western market), in order to enable the poorest populations in the world, who are currently being wiped out by diseases, to be able to receive effective treatment.

If the West comes to these appointments, not in the guise a conqueror, albeit driven by humanitarian reasons and by its democratic vocation, but as a friend animated by solidarity and acts in full respect for the local cultures, well then perhaps it may be possible that Islam will open up to a real Islamic Enlightenment and that it may stop being an “*under development religion*”.

If the West is capable of doing this, in the region there will be more confidence in Western Countries, and more dialogue. And finally positive results will come through cooperation, because the living conditions in the area will really improve. In order to do this, it is necessary to cooperate with conviction, without asking oneself beforehand whether the South of the world is willing to accept the social model of “*open societies*”, in which social mobility is guaranteed to all alongside with the model of democracy based on the access for all to the liberties that ensure the full expression of political and cultural pluralism. Above all, no country should be asked to adhere unconditionally to the interests and values of the Western Countries.

Democracy can be facilitated, suggested, but not imposed; it can be enabled by creating vital bourgeois societies that identify with elites that are freely expressed.

Bush’s doctrine can guarantee neither peace in the world, nor development in the poor countries where the people’s rejection of the West and their support of Fundamentalism are fuelled by poverty. The idea that terrorism is to be fought by “*reclaiming*”, through war, the countries where there is no democratic order – in other terms most of the countries on our planet – by removing dictators with the use of force, leads to disastrous consequences as everyone can see.

- Using force to dismantle a non democratic system without having prepared a ruling class that can count on a responsible,

free and organized consensus, runs the risk of opening wounds that will give rise to endless post-war periods, with the reinstatement of ethnic, religious and social divisions that cannot be settled in the short term through an order regulated by the democratic method.

- Subjecting the civil populations to the traumas of military action aimed at liquidating a regime carries human costs that are often intolerable and carries the risk of “rehabilitating” the old regimes that people end up looking to with nostalgia because of the social tranquillity they used to provide; this explains, as is often the case, the electoral success of the parties that are made up of the nomenclatures that were defeated by the military intervention.
- The fact of voting new governments has no meaning in the absence of environmental conditions that are conducive to the establishment of a true liberal society that accepts and enhances the principles of the Rule of Law. Ultimately, if democracy works only where there is a well-rooted Rule of the Law, there is little point in setting up democratic regimes with the use of force; there is no use in imposing the institutions of democracy if there are no democrats who can “vitalize” or substantiate those institutions. A consensus-based democracy can never be the outcome of the action of military force, even less so can it result from a vote and a Constitution expressed in the presence of military occupation.
- It isn't worth much having a Constitution approved – especially if fashioned after the Constitutions of Western open societies – under the aegis of a military command, if that Constitution cannot be implemented because of the paralysing vetoes imposed by social groups that are not willing to have their long-standing unsolved social or religious conflicts settled from the outside, (and above all they are unsolvable by adopting the solutions used in the West : by a Federal State, for instance)
- A new Constitution is not sufficient to confirm the primacy of the Rule of the Law in a society that has laboriously become secularized by the old regimes that were swept away by the interference of international forces, and where the only social consensus the new order can obtain is that supported by the community of believers. This being the case, the only viable

alternative to dictatorships that violate Human Rights would be the establishment of theocracies that in any case, would be incompatible with any form of political and cultural pluralism.

Democracy requires the formation of a conscious consensus; it requires guarantees for all the liberties which are the consequence of the right that each individual has to shape opinions for himself, and to elect his rulers. Expressing a vote without guarantees that protect the right to information, the right to participate in the political decision-making process, also by setting up parties that are free to proselytise, means producing only a semblance of democracy. What is happening in Iraq in this never-ending post-war period, and the “*debate*” on the Constitution, which sees the participation of the opposite religious factions that are engaged in a fierce civil war, proves that it is not possible to impose democracy “*from above*” through bombs, military patrols, and through voting operations run by the military bodies that occupy the territory.

And even the experience in Afghanistan questions the validity of the so-called “*gun-imported democracy*”.

In Afghanistan the situation regarding political rights, but also other rights, is rapidly deteriorating. In Kabul there is a government that is little more than a phantom. The Talebans are ever more present and they are reorganizing across the entire country. Their guerrilla warfare recruits increasing numbers of new fighters from the populations that are in disagreement on virtually everything but are united by the idea of fighting together against external interference because they all refuse the idea that an internecine conflict be arbitrated by a common enemy. And yet the U.N. is engaged there, and the presence of a multinational contingent certainly does not characterize that military mission as warfare. The truth is that it is the presence of American troops in particular that fuels discontent and the hostility of the local populations.

It is a fact however that the only big crisis that was solved by giving rise to new democracy-prone governments is the crisis that disrupted the Balkans. Indeed Serbia, the country ruled by the dictator Milosevic, the perpetrator of so many massacres, seems to have started an orderly political and civil life. In that context the important role of European culture and tradition enabled Europe to mediate successfully among the different factions; European

culture and tradition were in fact instrumental in enabling Europe to mediate.

As the Federation of Yugoslavia was exploding, the very recognition of the new governments, albeit precipitating the crisis in some cases, paved the way to a network of political relationships in which the European countries were the protagonists. It is true that without NATO the war would have dragged on forever, and it is also true that Europe proved to be weak at the political and above all military levels in some critically decisive moments. But it is also true that on this occasion, the élites, the parties, the cultural debate, they were all indebted to European juridical and political culture. The Americans were not free here to impose puppet governments or, as has happened in Somalia, Iraq, Afghanistan and in many other parts of the world, to direct the political future, to choose those who were to be removed from political life and those who were to be promoted. Indeed, except for the case of Serbia, the so-called '*democratic*' interference has produced only devastating results.

2. Human Rights as principles of international democracy

During these ten years of life of our Journal there has been an unprecedented escalation in violence across the world, especially in the Mediterranean region. Paradoxically, after the fall of Communism, and in the post bipolar era, the world seems to have gone wild. The hopes of those who after the collapse of the walls, had expected to see a world order based on legality, that is to say on respect for International Law and on a refusal to use force for settling international disputes, were soon to be disappointed. Suffice it to mention the long-term conflicts that have ravaged the territories of former Yugoslavia, breeding widespread and atrocious violence against helpless populations compelled to take part in territorial disputes that they did not feel belonged to them. Suffice it to mention the massacres in Rwanda, and then the terrorist attacks, and the meaning that terrorism has taken on, especially after the attack on the Twin Towers. And then the wars for democracy in Afghanistan and in Iraq. Considering the rules of warfare, there have been atypical wars, not fought by regular armies but by sub-state entities, by private or quasi private organizations, by clans or real criminal groups. In a nutshell, war has become privatised. There have been wars prompted by the

desire to respond to a need for justice felt by the International Community, precisely to defend Human Rights.

And then wars have also been waged in reaction to terrorism or to prevent it. And again real "*preventive wars*". And wars to reclaim rogue countries, suspected of harbouring terrorists or of supporting terrorism while waiting for democratic regimes to be set up.

A common element of these new wars, private wars, wars fought for democracy and rights, is the violence they have spawned against civilian populations. These wars have aimed at spreading terror amongst the populations that were disliked by the larger ethnic groups on a given territory where the driving force was the idea of setting up a mono-ethnic state (wars in the Balkans), or wars fought against an invisible enemy that would camouflage itself behind the people, that were therefore subjected to control and retaliation that would make normal life impossible.

Wars for the recognition of rights, for conquering a stable peace, for preventing terrorism, have been defined as imperial wars by many. Often in this connection mention has been made of Human Rights. Human Rights have often appeared to be a pretext to make possible, nay necessary, new forms of political and cultural colonialism. Being theorized as a duty and no longer as a violation of the rights of a State since the end of the Cold War, interference in the domestic affairs of a State has come to be a way of conditioning, indefinitely, the inalienable rights of national sovereignty.

There are no doubts that the need to protect Human Rights in an independent manner, without any iron curtain any more is a need which has been unanimously felt and which has shattered the obedience imposed by *Realpolitik*. But there is a need to anchor the various interventions aimed at defending democracy, Human Rights, at reconstructing the countries destroyed by war, to principles of international democracy. The need is felt to accept and protect such principles of international democracy to avoid that a handful of countries, or even only one country, may become the guardian, and often the police of world order.

It is paradoxical that the country that in the post-war years fought most firmly to guarantee an international order based on the respect for Human Rights, international legality and to widen the boundaries of democracy to include the societies where the value of democracy had never been applied in practice nor found social acceptance, should

be the same country that does not accept that the United Nations should have a role of real government, that in the face of the most serious violations of Human Rights opposes the functioning of a permanent International Criminal Court, like the Court in the Hague, that judges crimes against mankind (like those committed by the Western military forces engaged in peace keeping activities); that does not accept the idea that the countries taking part in humanitarian operations should have the same rights in evaluating what should be done and in having equal responsibility in the management of such operations.

We are referring to the United States. The crusades against terrorism are dutiful. What cannot be presented as a duty, and rather should be sanctioned as illicit, is the attitude of criminalizing entire countries, certainly involved in harbouring or covering terrorism, as if their populations were made up only of terrorists.

Terrorism lives also in western societies, as demonstrated by the attacks against the Twin Towers, in UK and Spain and, with the same violence with which it attacks an enemy country, terrorism also strikes the institutions and individuals of brother countries, especially those that are not aligned, or that are suspected of entertaining relationships with the West.

The idea of denying development to a country that does not bow its head to the imperial plans of the United States is a suicidal idea, because it objectively weakens the reasons, even the noblest reasons of the West in vast regions of the world, with the consequence of prompting support for extremists also in those citizens of Islamic territories who want to live in peace with the world and who are certainly not hostile to dialogue with the West.

And dialogue cannot be so heavily based on tolerance, on the ability of moderately influencing the social culture and the political models of others. Dialogue presupposes being on a pair basis with the counterpart in contributing to the understanding of issues. This viewpoint urges us to go back to the spirit of the Barcelona Conference (1995), and seek to organize a Euro-Mediterranean cooperation that should develop along the two North-South and South-North directions, because it is not at all true that progress should develop along the North-South axis only, thus condemning the south of the world to being only the users of the cultural models and the life-styles that have been adopted in the richer countries.

We need to recognize the differences that coexist in the

Mediterranean region and consider them an asset that can be useful also for the more advanced parts of the region. And this can happen by questioning entrenched false beliefs (e.g. progress viewed as the endless increase in energy consumption) that European countries often prove are unable to question in a real critical manner. The civilization of a country cannot be measured only on the basis of its GDP.

3. An order based on global consensus

Unfortunately the peace-keeping operations that have taken place in the last fifteen years and which were devised as the most convincing expression of a world which can finally shape for itself a new order based on the supremacy of Human Rights, have not been able to deliver positive results.

Defending Human Rights only by force, trying to stop violence only by resorting to violence cannot foster and establish a culture based on the Rule of the Law, especially where there is no tradition of Rule of the Law. The idea of dealing with a humanitarian crisis through armed intervention in troubled areas contributes to spreading violence and to shaping a world ruled by anarchy, feelings of revenge and doomed to live in a state of permanent disarray.

The true risk is that of a relentless decline of the UN, not only in terms of its ability to take military action – an ability it has always had only at the virtual level, given that the UN has never had the means – provided for under Art. 43 of its Charter – to intervene in crises with its own army, but also in terms of its very rule-making ability, i.e. the ability to settle conflicts by establishing who is right and who is wrong, to then urge its member states to provide multinational military contingents.

The UN has lost control of the latest crises, especially the most recent ones, and the United States has contributed formidably to marginalize the UN within the circle of political actors capable of shaping solutions to the crises.

The idea that a great power like the US, the only existing great power, will not accept the decisions of an Organisation whose General Assembly is made up of countries with no international clout brings an element of distortion into the system of international relations, which does not bode well for the future. On the contrary, the best way to establish an order based on global consensus is to

ensure that as many countries as possible feel they are both producers and consumers of security. Each according to its responsibilities, that is to say its economic and political clout.

The other way leads to the isolation of the US in the most underdeveloped regions of the world where violations of Human Rights are more frequent, and hence the risk of destabilising entire regions more concrete, with serious consequences for the security of the West.

It is therefore necessary to create the conditions in which everyone accepts procedures capable of ensuring peaceful solutions to international disputes and in which the violators of such procedures are accountable to an international criminal justice system, not because they are collectively – therefore abstractly – responsible, at political level, but because they are individually responsible, as individual government officials, for the humanitarian crimes they have committed and for the suffering they have inflicted by using violence against their own communities and those of other countries.

It is necessary to restore the natural function of international law as the best tool for ensuring peace. By stating this, the idea is certainly not that of a cosmopolitan order of entities other than states at the international level, in other words the international order discussed by philosophers for centuries, based on a global population, a global government and a global parliament.

The point being made here is simply that there is a need for humanitarian crimes to be seriously assessed as ordinary crimes, by impartial judges, on the basis of unwavering rules, and never covered by the reason of State, and for people to become aware of the fact that there will never be enduring peace if these crimes are not punished with sanctions rather than by committing other crimes dictated by humanitarian reasons, or by waging a just war.

The peace-making processes must certainly be agreed on by the populations who have to bear the human costs of internecine wars. It may also be that in certain cases the desire to understand is stronger than the desire to condemn, in order not to hinder a laborious peace process that is already under way.

However, what is to be rejected is the idea of military intervention as an ordinary tool of interference to solve a crisis, with the consequence of escalating and expanding the crisis, and indeed making it chronic. In addition, one should not forget that

besides the crises that upset public opinion worldwide, that are addressed by “*humanitarian*” and “*democratic*” interference, there are also the forgotten crises and wars, those that do not hit the headlines and yet are just as tragic as those reported by the media.

In the face of these crises, it is right to wonder who decides the priority of intervention, who establishes how dangerous a crisis is from the point of view of the potential involvement of large regions of the world, who decides how to intervene and when to stop, that is to say who decides what objectives can be achieved. In other words what are the criteria by which one can judge whether a war is just, and military intervention is legitimate. These are questions which are not just being asked by the populations living in war-torn areas. These questions are being asked with ever greater frequency by many citizens living in the West.

And these difficulties in understanding, in putting legitimate interference in the right perspective, are now becoming more acute in the face of wars which – because of their being wars without a state and even without a population as main actors – can hardly be distinguished from forms of organised violence perpetrated by criminal associations that have proven capable of engaging a State and of seriously impinging on its will. The warlords cannot be fought only by using weapons, but by forestalling any dialogue they may have at the international level.

Tools do exist to exclude rogue states from the global trade system, and indeed this is the heaviest punishment on the warlords for their systematic violation of Human Rights and for waging dirty wars that breach all international conventions on wartime legislation. In other words the defence of Human Rights may be entrusted to international law, whose supremacy must not only be affirmed through the many, maybe too many, charters of rights. International law is not an unarmed prophet, if one thinks of the quantity and quality of economic sanctions that may be imposed.

Another effective deterrent is the showing on television of the pictures of trials where political leaders and government officials, that only yesterday were very powerful, are now in the dock, forced by international justice to confess their crimes and accept the jurisdiction of a Tribunal representing the international community and voicing its demand for justice.

In terms of deterrence a much smaller effect is produced by certain military missions whose stated objective is to safeguard

rights, but which end up originating infinite humanitarian emergencies and above all never-ending post-war periods, causing predicaments that are even worse than the situations that the troops were meant to set right.