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COMMISSION ON HUMAN RIGHTS  
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**SPECIFIC HUMAN RIGHTS ISSUES: NEW PRIORITIES, IN PARTICULAR  
TERRORISM AND COUNTER-TERRORISM**

**Human rights and international solidarity\***

**Working paper submitted by Rui Baltazar Dos Santos Alves**

**Note by the Secretariat**

1. In its decision 2003/115, the Sub-Commission on the Promotion and Protection of Human Rights, recalling Commission on Human Rights resolution 2002/73, requested Mr. Rui Baltazar Dos Santos Alves to prepare, without financial implications, a working paper on human rights and international solidarity and to submit it to the Sub-Commission at its fifty-sixth session.
2. In accordance with this resolution, the Secretariat transmits herewith to the members of the Sub-Commission the working paper entitled "Human rights and international solidarity" for its consideration.

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\* In accordance with General Assembly resolution 52/308 B, paragraph 8, this document is submitted late so as to include the most up-to-date information possible.

### **Summary**

This is a preliminary report on the issue of human rights and international solidarity submitted in accordance with Sub-Commission decision 2003/115. The working paper explores and identifies the expression of the principle of international solidarity - both explicit and implicit - in some of the sources and instruments of international law and examines briefly the historical evolution of the notion. It points out that though, by and large, there is no disagreement as to the importance of international solidarity for the realization of human rights, there are some conceptual issues that could be clarified further.

The report concludes that human rights and international solidarity constitute an extremely broad area of research; that it still arouses controversy and lacks deep analysis and study in the judicial and other fields. In interpreting the concept of international solidarity, it is argued that there should be a right/duty of international solidarity in matters of human rights and related areas. Within the context of globalization and the challenge of the widening gulf between the developed and the developing countries, strengthening international solidarity is necessary for the effective realization of human rights by States. International solidarity, as an instrument for the attainment of human rights, is a fact of international life which should be valued, but which needs new development, with the objective of building a more just and equitable international order that favours these rights.

In contributing to a common understanding of international solidarity, the paper proposes a preliminary work plan for the consideration of the Sub-Commission.

## **Human rights and international solidarity**

### **Introduction**

1. In its decision 2003/115, the Sub-Commission on the Promotion and Protection of Human Rights, recalling resolution 2002/73 of the Commission on Human Rights, decided to request Mr. Rui Baltazar Dos Santos Alves to prepare, without financial implications, a working paper on human rights and international solidarity and to submit it to the Sub-Commission at its fifty-sixth session.
2. At its sixtieth session, the Commission adopted resolution 2004/66 on human rights and international solidarity, in which it recognized that this right needed further progressive development within the United Nations human rights machinery.
3. The present working paper is submitted in accordance with Sub-Commission decision 2003/115.

### **Preliminary considerations**

4. Commission resolutions 2002/73 and 2004/66 referred to some of the main sources and instruments concerning international human rights law, namely the Charter of the United Nations, the Declaration on the Right to Development, the International Covenant on Economic, Social and Cultural Rights and the United Nations' Millennium Declaration. The resolutions establish a relationship of interdependence between democracy, development and the observance of human rights, and stressed that the widening gap between the economically developed and developing countries impeded the realization of human rights. Every country should make the maximum possible effort to close this gap. New and supplementary resources were needed to finance development programmes, and in this regard the Commission recalled the pledge by industrialized countries to allocate 0.7 per cent of their gross domestic product to official development assistance. The Commission thus seemed guided by the recognition that the right to solidarity is not new, because it is already implicitly present in the texts mentioned above. From this viewpoint, the right to solidarity would operate under the "moral legitimacy" of those international instruments.
5. The resolutions were adopted by a vote, which demonstrated a split in positions which, in general terms, corresponded to two blocs - that is, the developed countries and the developing countries. Some of the arguments used by the developed countries to defend their positions were:
  - (a) The promotion and protection of human rights is incumbent above all on States and their relations with individuals; it is not acceptable that respect for human rights be made to depend upon international solidarity;
  - (b) It also does not seem acceptable that the full attainment of human rights should be subordinate to the level of development;
  - (c) The meaning of the expressions "third-generation rights" or "rights of solidarity" used in the resolutions is not very clear;
  - (d) The efforts made by the international community to overcome the difficulties of the developing countries arising from lack of resources are not taken into account.

6. It is important, however, to stress right from the start that there no longer seems to be disagreement over the importance that international solidarity has had and will continue to have for the attainment of human rights, just as it does not seem open to question that there are varying levels of responsibility that may be attributed to the various actors who intervene in the process of guaranteeing and protecting human rights.

7. One final aspect that I wish to mention in these preliminary considerations is that the subject of human rights and international solidarity is very close to the theme of the right to development. But since the questions concerning the right to development are located within the study given to another of the Sub-Commission's members, here I shall try to avoid, as far as possible, referring to that subject.

### **International solidarity in some of the sources of international law**

8. It is important now to mention explicit or implicit references to international solidarity contained in some of the sources and instruments of international law.

9. The Charter of the United Nations enshrines, in its preamble, the commitment of the peoples of the United Nations to "employ international machinery for the promotion of the economic and social advancement of all peoples". In defining the objectives and principles of the Organization, the Charter immediately mentions, in Article 1, paragraph 3, "to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all ...", thus becoming "a centre for harmonizing the actions of nations in the attainment of these common ends" (para. 4). Furthermore, Chapter IX of the Charter, devoted to international economic and social cooperation, alludes to promoting solutions to international economic, social, health and related problems, as well as international cultural and educational cooperation (Art. 55 (b)). In Article 56, the Charter registers the pledge by all members of the Organization "to take joint and separate action in cooperation with the Organization".

10. The Universal Declaration of Human Rights, in article 22, establishes that everyone "is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality". This presupposes solidarity between States expressed through international cooperation.

11. The International Covenant on Economic, Social and Cultural Rights stipulates, in article 1, paragraph 2, that all people have the right freely to dispose of their natural wealth and resources "without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law". And in article 2, paragraph 1, States undertake to act, "individually and through international assistance and cooperation, especially economic and technical, to the maximum of [their] available resources", to achieve progressively the rights recognized in the Covenant.

12. The Convention on the Rights of the Child, in its preamble, mentions the spirit of the ideas proclaimed in the Charter, in particular, "the spirit of peace, dignity, tolerance, freedom, equality and solidarity".

13. The Tehran Proclamation, adopted by the International Conference on Human Rights, in May 1968, states in its preamble that the fact of human interdependence and the need for human solidarity are more evident than ever before.
14. Though the Declaration on the Right to Development, adopted in 1986, does not refer expressly to solidarity, it begins right at the start of the preamble mentioning “the purposes and principles of the Charter of the United Nations relating to the achievements of international cooperation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights”; this is restated in article 2, paragraph 2, article 3, paragraph 3, article 4, paragraph 1, and article 6, paragraph 1.
15. The Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in June 1993, contains various references to notions of international cooperation and solidarity. Thus, in the preamble, respect for the principles of “peace, democracy, justice, equality, rule of law, pluralism, development, better standards of living, and solidarity” is cited. This is strengthened by the determination “to take new steps forward in the commitment of the international community with a view to achieving substantial progress in human rights endeavours by an increased and sustained effort of international cooperation and solidarity”. In the text of the Declaration and Programme of Action, the same principles are taken up again in Part I, paragraph 21 (“International cooperation and solidarity should be promoted to support the implementation of the Convention [on the Rights of the Child]”) and, as regards refugees, in Part I, paragraph 23, it mentions the Charter, and the “relevant international instruments and international solidarity in the spirit of burden-sharing”.
16. The United Nations Millennium Declaration, adopted by the General Assembly in its resolution 55/2 of 8 September 2000, proclaims solidarity as one of the essential values of international relations in the twenty-first century: “Solidarity. Global challenges must be managed in a way that distributes the costs and burden fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most.”
17. The concept of international solidarity, with the implications that flow from it for the attainment of human rights, has also been enshrined in declarations adopted by the United Nations Educational, Scientific and Cultural Organization: the 1998 Universal Declaration on the Human Genome and Human Rights (sect E. Solidarity and international cooperation) and the 2001 Universal Declaration on Cultural Diversity (preamble: “*Aspiring* to greater solidarity on the basis of recognition of cultural diversity, of awareness of the unity of humankind, and of the development of intercultural exchanges”).
18. All the references made above are merely by way of example. They are far from exhaustive, they lack deeper research and they face problems of interpretation, given the different terminologies used (assistance, development aid, cooperation and international solidarity).

### **Conceptual questions**

19. Disagreements of a conceptual nature emerged immediately, at the stage of the first instruments that enshrined the internationalization of human rights. Thus, the States that were represented in the United Nations in the second half of the 1940s took up positions in different

camps as to how human rights should be perceived. Some States defended categories of rights that corresponded to their own internal legal order, and while some gave priority to civil and political rights, others prioritized economic and social rights. These positions were the basis of the emergence of two separate covenants, one establishing civil and political rights, and the other economic and social rights. The defenders of civil and political rights argued that these were immediately applicable and that they required no intervention by the State in the sphere of the individual, since those rights were regarded as inherent and inalienable. But economic, social and cultural rights were to be realized gradually, because they demanded action by the State. The retort to this was that the separation of covenants in accordance with categories of rights was wrong, illegal and unjustified, because it would destroy the meaning and value of the Universal Declaration of Human Rights. It was argued that human rights should not be divided or individual rights compared and classified in accordance with their respective “value”. Instead, they should be regarded as interconnected and interdependent, since when people were deprived of economic and social rights, they were no longer human persons as envisaged by the Universal Declaration.

20. The universal nature of human rights was reaffirmed at the World Conference on Human Rights held in Vienna in 1993. The Conference argued that this universal character did not flow merely from the fact that it is enshrined in the Charter (Art. 55) and other, subsequent international texts, but from the fact that it is linked to the progressive development of ideas concerning human rights and to the very nature and composition of the General Assembly, the body that, in the words of the Secretary-General in his opening statement, “is best equipped to express the idea of universality”.

21. As a result of the ceaseless activity of the General Assembly in developing the idea of universality, the vision of human rights has been broadened. The initial concept of human rights, based on liberal values and inspired by the theory of natural law, which influenced the Universal Declaration of Human Rights in 1948, has been expanded through the International Covenants on Human Rights. The concept of universality has been further broadened with the gradual inclusion of the concept of solidarity. Thus, as one researcher<sup>1</sup> notes, the universality of human rights is linked “to the evolution of international law, which starts from the rights of the isolated individual, first in a narrow way, then in a broader and more active way, then moves on to the protection of human beings, and reaches the rights of the species”.

### **The concept of international solidarity**

22. Solidarity implies a communion of responsibilities and interest between individuals, groups, nations and States, and sometimes it appears linked to the ideal of fraternity proclaimed by the French Revolution. The notion of solidarity, also according to Baptista, corresponds with the notion of cooperation, because one only cooperates in an act of solidarity. Solidarity is one of the greatest values in the construction of human rights. Resort to the use of the word cooperation, first in the Charter of the United Nations, later in most of the documents emanating from the Organization, is the main indication that solidarity has undergone a long and difficult journey.

23. The need to formulate binding international instruments seeking to codify materials concerned with international solidarity gained impetus in the 1970s, and appeared linked to the proposal on the right to development. But it was soon extended to other areas such as the right

to a healthy environment, to peace, to food security, to ownership of the common heritage of mankind, and the right to communication.<sup>2</sup> These rights also appeared under the label of “third-generation rights”, a concept that still arouses controversy, and the analysis of which is beyond the scope of this working paper.

24. Judging from the positions taken by States during the debates around the international human rights instruments already adopted, and from the effort the United Nations has made to remove ideological and cultural barriers, as well as other difficulties that have prevented a common vision of human rights, everything indicates that the international community will find appropriate means of approving international instruments concerning international solidarity, since many of the obstacles that were raised have been overcome.

### **The right/duty of international solidarity**

25. The need for increasing affirmation of international solidarity arises from the state of iniquity that characterizes international relations. This iniquity derives from a certain historical context in which peoples and countries were deprived of the right to development, but it also results from current factors and circumstances which continue to pose obstacles to bringing the living conditions in the developing countries closer to those in the developed countries (these factors include policies on subsidies, imposed conditionalities, the structural adjustment policies developed by the international financial institutions and policies of domination, to mention just some of them). As Anne Orford says:

“Solidarity on the part of people in industrialized States involves the recognition that human rights violations in States targeted by economic restructuring are the condition of prosperous and consumer lifestyles. Perhaps the most important task facing human rights lawyers in industrialized States in this century will be moving away from the triumphant liberalism that is creeping into post-cold war international law literature and towards a commitment to working in solidarity with activists in other parts of the world to challenge exploitation and inequality.”<sup>3</sup>

26. For its part, globalization has been generating new needs. It has spread ideas that mostly travel in just one direction, which also gives rise to new responsibilities. Responsibilities that have to do, on the one hand, with the imperative to reduce and even eliminate historically rooted distortions and, on the other, with a recognition that, in an increasingly interlinked and interdependent world, phenomena that were thought to be local are spreading rapidly on a global scale (migratory movements, ecological disasters, collective threats to international peace and security, pandemic diseases, criminal networks, etc.).

27. If the assumption of international solidarity as a right/duty was always present in spheres such as international humanitarian law, there is no valid reason why it should not also inspire human rights questions.

28. And this is what has been happening, though in a scattered fashion and with a defensive character. The right to health (article 25 of the Universal Declaration), for instance, faced with the HIV/AIDS pandemic, is leading to a broad movement of international solidarity, and it has even forced other rights (such as patent property rights) to yield before a greater and more global interest that poses a threat to humanity. The right to work and to protection against

unemployment (article 23 of the Universal Declaration) was ignored with impunity through the imposed policies of structural adjustment and privatization mentioned earlier. This eventually produced corrective measures, albeit tardy and often inadequate, demanded by the actions undertaken the name of international solidarity.

29. Similar examples can be drawn from the debates and the measures adopted in areas as different as world trade, the debt of third world countries, protection and defence of the environment, the struggle against hunger and poverty, the initiatives to create solidarity funds, and the debates about the role of the international financial institutions transfer of technology, how to achieve the Millennium Development Goals and the fight against terrorism, among others. In such a context, it seems that the right/duty of international solidarity as an essential factor in attaining human rights cannot be called into question and should be a cornerstone in the reconstruction of international relations in the twenty-first century.

30. It may be added that the weakening of the role of States and the recognition of the difficulties that this implies have determined the growing intervention of many other players in actions to restore social balance (United Nations institutions, non-governmental organizations, transnational companies, human rights defenders, individuals, etc.), all more or less inspired by the right/duty of international solidarity.

31. Despite the appearance of international solidarity in matters concerning human rights and the convergences achieved to create breaches in the traditional international legal edifice, the theme of international solidarity and human rights has not yet achieved the depth of analysis and legal conceptualization that it deserves.

### **Conclusions and recommendations**

32. **Human rights and international solidarity constitute an extremely broad research area, one that still arouses controversy and lacks deep analysis and study in the judicial and other fields.**

33. **In this working paper, expressions of the principle of international solidarity have been identified in some of the sources of international law, by way of example. Conceptual differences that accompanied the appearance of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights have been mentioned. The paper broached the concept of international solidarity and argued for a right/duty of international solidarity in matters of human rights and related areas.**

34. **One of the greatest challenges (if not the greatest) that faces humanity in the twenty-first century is the widening gulf between the developed and the developing countries.**

35. **The prime responsibility for attaining human rights is incumbent upon States, but this cannot become effective without a strengthening of international solidarity, given the present context of globalization.**



36. **International solidarity as an instrument for the attainment of human rights is a fact of international life that should be valued, but that needs new development, with the objective of building a more just and equitable international order that favours these rights. It should, on the one hand, avoid a merely theoretical development of the question of human rights and, on the other, prevent human rights from being diluted by political and ideological considerations.**

37. **The Sub-Commission on the Promotion and Protection of Human Rights has the complex task of trying to overcome the divisions reflected in the resolutions of the Commission on Human Rights and of contributing to a common understanding of international solidarity, so as to make it more effective. In that connection, the following preliminary work plan is proposed for the Sub-Commission's consideration:**

(a) **Deepening the analysis of the main instruments of international law and of legal doctrine concerning the role that international solidarity should play in promoting and protecting human rights;**

(b) **Examining the various geographical and legal frameworks for solidarity at the internal, regional, interregional and international levels;**

(c) **Studying the new international context, the new challenges and the need to define principles, objectives and priorities conducive to clarifying responsibilities in the field of international solidarity and human rights;**

(d) **Determining the factors of unity and divergence in the conception of international solidarity and human rights and how to generate consensus around a right/duty of international solidarity so as to make it more effective and efficient.**

#### Notes

<sup>1</sup> Luis Olavo Baptista, "*Mudializacao, comercio internacional e direitos humanos*" ("Globalization, international trade and human rights"), at [www.dhnet.org.br](http://www.dhnet.org.br).

<sup>2</sup> L. Vasak, "For the third generation of human rights: the rights of solidarity", International Institute for Human Rights, July 1979.

<sup>3</sup> Philip Alston (ed.), *People's Rights*, Oxford University Press, 2001, p. 183.

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