

“Right to International Solidarity: Meeting with the Independent Expert on the revised draft declaration”

Parallel event -35th HRC - 8 June 2017 from 1 to 2.30 pm - Room IX

Ms. Maria Mercedes Rossi, Main Representative of APG23 and spoke-person of the Catholic-Inspired NGOs working group on the right to international solidarity;

1. Who we are

I am speaking on behalf of Associazione Comunità Papa Giovanni XXIII (APG23) and the Catholic Inspired NGOs Working Group on the Right to International Solidarity that is composed also by Association Points-Coeur, Company of the Daughters of Charity of St. Vincent de Paul, International Organisation for the Right to Education and Freedom of Education (OIDEL), IIMA, New Humanity, Teresian Association and VIDES International.

Our NGOs, being present in one way or another at grass roots level especially with the most vulnerable persons, advocate at national and international level for a better society based on fraternity, reciprocity, social justice, equity and sustainable person/people centred development.

2. Why we have supported the mandate of the Independent Expert on Human Rights and International Solidarity

From several years, our NGOs have actively supported the mandate of the Independent Expert on Human Rights and International Solidarity by filling the questionnaire of the former Independent Expert, Mr. Rizki, by presenting joint written and oral statements on international solidarity at the various sessions of the Human Rights Council, organising parallel events tackling the theme of the right to international solidarity by different angles and facilitating informal consultations of Ms. Virginia Dandan with the civil society, participating to the consultations that took place throughout the process of the drafting of the declaration and contributing with our inputs to the preliminary text of the declaration.

We have supported the idea that the principle of ‘solidarity’ is a direct demand of human fraternity. This principle has fulfilled a fundamental role in the building of State at national level and of integration process at regional level (i. e. European Union). We are convinced that the only principle capable to transform ‘international society’ into an ‘international community’ is ‘solidarity’.

In our view, developing the principle of solidarity into the right to solidarity is the only way to make the principle effective and to let it operating.

The basic point is that the principle/concept of solidarity recalls and contains in itself the **human relationship factor** and brings the attention on the **tutelage of the human dignity** and the respect of the principle of **equality**. The protection of human dignity is a common point to all the human rights, which, in the human right to the international solidarity, may find its maximum explication.

A content of the right to international solidarity would be the right to ask for my/our (someone’s) violated human rights to be respected.

In this regard, the right to international solidarity, that should have an individual and collective dimension, may be claimed only when the national/local level has not the resources to answer, stop and apply remedies to the violation of the human rights that the person or the group suffer = **principle of subsidiarity**;

We are convinced that the recognition of international solidarity as a human right not only is an ideal goal to be achieved for ethical reasons that are rooted in the notion of being a human family and seeking the

common good, but also because such a recognition is an essential necessity for the survival of the world, for the promotion and protection of the common good, a necessary instrument to promote a more equitable and just world and a crucial move for living in peace and harmony.

Such recognition will serve as the litmus test of fraternity and solidarity among the family of nations over and above any political divisions or geographical borders.

3. Right to International Solidarity and Globalisation

We think that a draft declaration on the right to international solidarity is significantly relevant at a time of rising nationalism and fragmentation around the world and that a human rights-based vision of international solidarity could create an alternative narrative to that of the actual globalisation by countering its negative effects and promoting the global sustainable development for all and at all levels.

In fact, the necessity of a right to international solidarity rises mainly from globalization; this right finds its roots in the need to keep the system of human rights as a complex, coherent, interconnected and universal system. It represents a new instrument to face the complexity of global problems, to preserve the universality of the human rights as well as the unity of the system, and to improve the implementation of all the other human rights.

Several challenges such as, inter alia, climate change, increased inequities between and within countries, the supremacy of finance and economics over politics and the unprecedented migration flux require the recognition of the right to international solidarity as a step ahead for the promotion, protection and fulfilment of all human rights.

The problems confronted by any contemporary society can no longer be met by even the most resolute action of any single state. As a consequence, individual states acting alone can no longer satisfy the obligations imposed by even the first and second generations of human rights¹.

We are convinced that the recognition of the Right of Peoples and Individuals to International Solidarity as well as the implementation of the recently declared Right to Peace, and the implementation of the already declared Right to Development (the so called third generation rights linked to fraternity and/or solidarity), are very crucial steps for the progress of the human family towards equality and social justice.

In particular, the right of Peoples and Individuals to International Solidarity is an added value to the panoply of human rights and entails a prophecy for the very survival of humanity.

4. Criticism to the right to international solidarity

The translation of the universal principle of solidarity into the legal category of a human right is the subject of an intense debate. States voting against the resolution on international solidarity insist on the vagueness of the juridical contents of a right to international solidarity, a flaw that according to this criticism makes the process of the recognition of this right a rhetoric move. Solidarity is considered an ethical/moral concept associated to a voluntary choice, and those who oppose the idea of a right think that the concept is hardly declinable in the right/liability mechanism. The argument is that turning solidarity into a right would frustrate the spirit of it.

Such an argument when genuine and not an excuse to maintain the status quo may be valid if we intend solidarity in terms of love, charity and generosity, all values that cannot be imposed but only proposed and chosen.

¹ Roland Rich, *The Right to Development: A Right of Peoples?* In James Crawford (ed.), *The Rights of Peoples*, Oxford, Clarendon Press, (1988) at 39

In reality, the right to international solidarity derives from the principle of human fraternity recognised with the foundation of the United Nations and its legal aspect is dictated and imposed both by our common origin and by the equality in rational nature of all men and women, whatever nation they belong to. Its recognition stems from the need to restore justice and equality.

5. Individual and collective dimension of the right to international solidarity.

Because first- and second-generation human rights are rights of only individual persons, the emergence of group rights would seem to require a more radical transformation of international human rights law. The main objection to any such development is that solidarity rights of this sort could not be human rights. Human rights are, by their very definition, (a definition belonging to western culture!), rights that one has simply as a human being.

Karel Vasak developed the concept of solidarity rights comprising *inter alia* the right to development, the right to a healthy environment, and the right to peace, in his inaugural lecture at the International Human Rights Institute in Strasbourg in 1979. According to Vasak's Theory these new rights were needed to overcome a danger in the traditional theory of human rights, a deficiency reflected in the first and second generations of human rights, defined as rights of each and every individual being; they had presupposed an excessive individualism, even an egoism, that assumed a radical opposition between the individual and the society. Thus, first-generation rights were designed to protect the individual from mistreatment by the state, and second generation rights were intended to enable the individual to demand that the state create and maintain governmental programs to benefit himself. However, this neglects the fact that the individual cannot thrive without participation in the life of the community and that any life worth of human beings *requires fraternity as well as liberty and equality*.

Clear examples of collective/group rights are the rights of indigenous people, of minorities groups, the right to self-determination of peoples etc. It has also to be said that the international law should encompass the different cultures in the world, from the individualistic western countries culture to the UBUNTU African culture etc.

6. Preventive Solidarity

International solidarity linked to the right to development and to a human rights-based approach to development can contribute to alleviate poverty but it depends from which kind of international solidarity will be carried out.

In 2009, replying to the questionnaire of Mr Rizki, the former Independent Expert, APG23 contributed, *inter alia*, by specifying that there are two kinds of solidarity.

There is a **SOLIDARITY POST-FACTUM** that tends to reduce the damage when disasters occur like in case of natural phenomena and emergencies (and this is a good thing that should continue to be carried out) or like the present concept of international cooperation where rich and developed countries "help" the poor ones often attaching conditions that are advantaging the donor countries. This last form may be a sophisticated way of maintaining the status quo and covering injustices.

There is also a **SOLIDARITY ANTE-FACTUM** or **PREVENTIVE SOLIDARITY** that is preferable and aims at tackling the root causes of poverty revealing the truth in the vision that prevention is better than cure. Such solidarity implies that States respectfully the international obligations pledged at the UN, implement the conventions and treaties, are committed to disarmament, clean energy policies, health system strengthening, SDGs etc.

A preventive solidarity is interlinked also with other important issues that are under debate at the United Nations and worldwide fora such as, *inter alia*, the total cancellation of the foreign debt of developing countries, the concept of reparation, the global and national governance, the world trade, the reforming of UN system and international financial institutions, the civil society participation, the issue of intellectual property rights, the agricultural policies, the fiscal heavens, the climate change, the determinants of health, and peace.

Our idea of preventive solidarity has been reflected in the report² of Mr Rizki and later on has been fully endorsed and spread worldwide by Ms Virginia Dandan, to the extent of entering also in few HRC resolutions.

We appreciate very much the fact that the concept of “preventive solidarity”, that has the potential to address the core need for justice and equity at the national and international level, has been retained in the draft declaration presented by Ms Virginia Dandan and made clearer by introducing the concept of “reactive solidarity” echoing the resolution A/HRC/RES/15/13 that states: “ideally, solidarity should be preventive rather than simply reactive to massive irreversible damage already caused, and must address both natural and man-made disasters”.

Preventive solidarity means that interventions are not limited to and implemented when calamities, crises, natural disasters occur, but rather steps are taken by Member States, at national and international level, to address and remove the structural obstacles to the enjoyment of human rights and a fair distribution of benefits in our globalised world. Preventive solidarity aims to remove the root causes of asymmetries and imbalances within and between countries. An example of preventive solidarity would be the full implementation of the 2030 Sustainable Development Agenda.

7. Explanation of the equation on the right to International Solidarity

Finally, I would like to conclude by explaining the meaning of the little leaflet that APG23 prepared and circulated today in this room. It shows the face of Einstein, the great scientist, asking the question “Do you know this equation?” and it brings to our attention the new equation right to international solidarity= human rights x right to development elevated to the infinite.

It is just a creative way to send the important message that the right to international solidarity would immensely enhance the respect of all the others human rights and the implementation of the right to development so long desired and waited for by the people of the world, especially the most vulnerable.

We wish to thank most profoundly Ms Dandan for her excellent work as an Independent Expert, and for having kept her promise to provide the draft declaration on the right to international solidarity at the end of her second mandate.

Thank you!

² A/HRC/15/32