

PROTECTION OF HUMAN RIGHTS AND INTERNATIONAL COOPERATION DEVELOPMENT

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Abstract:

The development process and the trajectory of the economies of developing countries, in relation to the implementation of International Cooperation Development (ICD), demonstrate that economic growth alone cannot sustain the development of a country, without denying that this is a necessary condition for achieving development. The reality of the 1970s, characterised by growing poverty in developing countries, together with an intensification of inequalities, forced the international community (donors and recipients) to recognize the failures in the planning and implementation of ICD and to change their strategies.

Key Words: International Cooperation Development, human rights, receptors countries, developing countries

1. Economic growth as a panacea to overcome underdevelopment

1.1. The market as a solution

Since the advent of the countries born of decolonisation up to the mid-1970s, the precepts and remedies put on the table to overcome underdevelopment revolved principally around the transfer of capital, technology and experience from the Developed to the Developing countries⁴⁴⁰. However by the mid-1970s, faced with a growing situation of poverty and social inequality threatening social cohesion in the developing world, the paradigm of economic growth and the mere accumulation of wealth were put into question⁴⁴¹.

In this way, the “*trickledown*” theory, consisting of the acceptance of the idea that economic growth would involve the reduction of “pockets of poverty” through a “permeation effect” following a mass transfer operation of capital and expertise for the benefit of poor countries, made way for a different approach, aimed at meeting basic needs⁴⁴². From this time a “paternalist vision” of international aid emerged, which concentrated on covering the most urgent needs, such as food and housing⁴⁴³. In light of these facts, and despite the lack of economic growth, the neoliberal vision continued, albeit with a different focus.

This time the Market became the new element on which the hope of ending underdevelopment came to rest. By the end of the 1970s, ICD began to revolve around the ideal of the Market, determining the allocation of available resources, through the interplay of supply and demand. The superiority of the Market, predicated by neoliberalism, means –simultaneously– the supremacy of the private sector over the actions of national governments, who are reduced to play the role of (neutral) arbitrator.

According to the neoliberals, economic freedom, that is to say freedom of the owners of the means of production, is equivalent to outright political freedom. Neoliberal thinking that has prevailed

⁴⁴⁰ As noted by, P. BUSTELO, “La nueva arquitectura de las finanzas internacionales”, *Cuadernos de la Escuela Diplomática*, 2005, nº 26.

⁴⁴¹ Please see, O. WADE, “The world bank and the environment”, M. Boas/ D. McNeill, *Global institutions and development: framing the world*, Routledge, London, 2004.

⁴⁴² As seen in, S. AMIN, *El capitalismo en la era de la globalización*, Paidós, Barcelona, 1998.

⁴⁴³ Please refer to, P.R. MULDOON, “The international law of eco-development: emerging norm for development assistance agencies”, *Texas international Law Journal*, 1987, vol. 22, nº 1.

since the mid-1970s encompasses not only the economic, but also the broader political, social and cultural scope, emerging as an integral vision of society. Liberalism enjoys an interpenetration of almost all social activities and holds a strong claim to become the only valid path for society in our times to follow.

1.2. The appearance of the International Monetary Fund and the World Bank: the Structural Adjustment Program

This direction took hold at the beginning of the 1980s with the onset of the external debt crisis, affecting the majority of the least developed countries⁴⁴⁴. Said crisis did not change the neoliberal perspective born a decade earlier, although it did lead to a greater involvement of the Bretton Woods Institutions, in particular the IMF. Curiously at this time, which coincided with Ronald Reagan and his extreme neoliberal doctrines coming to office in the USA, these institutions converted to neoliberalism almost immediately, summed up in a simple, universal program which became known as the Structural Adjustment Program (SAP)⁴⁴⁵.

The program was initially put into place, under the conditions imposed by the IMF, in Third World countries in Africa and Latin America. The external debt crisis resulting from economic growth policies started in the early 1970s, stemming from remedies proposed by specialists from developed countries, can be assessed in a very particular manner from the neoliberal standpoint. If the theoretical tools of neoliberalism are applied here, three main reasons for the debt crisis stand out: firstly, the crisis is the result of the application of erroneous economic policies in developing countries. These misguided policies altered the free play of market forces and caused distortions in prices, leading to an inefficient allocation of resources.

Secondly, developing countries have always seemed to have an irrational fear of opening themselves up to world trade and to the presence of international capital. Finally, neoliberal policies stand out as a global paradigm, that is to say they are generally valid for all countries, both developed and developing, and economic agents are guided simply by incentives.

1.3. The opening of the economies of poor countries: the era of globalization

In accordance with this assessment, SAPs, as a condition imposed by the International Monetary Fund (IMF) and the World Bank (WB) for the renegotiation of external debt, have demanded the implementation of liberalization policies (internal and external). We find ourselves therefore before a new orientation of economies towards the Market, in this case, a Market with no national borders. The new motto lies in providing a favourable environment for attracting foreign investment, in other words, in promoting a greater role for the private sector, at national and international level⁴⁴⁶. The numerous criticisms of SAPs, especially those made by the International People's Tribunal in its judgment to the G-7, contained in the judgment of Tokyo, 1993, highlight the disastrous results of such programs⁴⁴⁷.

Among other consequences of the application of SAPs, it is worth noting: a sharp increase in unemployment, a decline in wage compensation, a serious deterioration in the environment, a sharp decline in the production capacity of many countries, increased food dependency and deterioration of health care systems and, paradoxically, an astronomical increase of external debt. In short, the consequences of SAPs can be described as mediocre in economic terms, disastrous in social terms, whilst being successful in ideological terms.

⁴⁴⁴ For a detailed explanation, please see, C. BERZOSA, "El Fondo Monetario Internacional y el Banco Mundial en la economía internacional", M. Farré/ R. Alleguez (ed.), *Globalización y dependencia. Efectos de la mundialización sobre el desarrollo de los pueblos*, Universidad de Lleida, Lleida, 2001; J. ROSELL, "Obstáculos al desarrollo de los Países menos Avanzados. La inserción en el comercio internacional desde el "desarrollo hacia dentro" a Seattle", M. Farré/R. Alleguez (ed.), *Globalización y dependencia...*, op. cit.

⁴⁴⁵ Please see, S. AMIN, *El capitalismo en la era de la globalización*, Paidós, Barcelona, 1998.

⁴⁴⁶ Referred to in, BANCO MUNDIAL, *Private capital flows return to a few developing countries as aid flows to poorest rise only slightly*, press release, 2004, no. 2004/284/S.

⁴⁴⁷ International People's Tribunal judgment to the G-7 on debt Tribunal Internacional de los pueblos sobre la deuda http://translate.google.es/translate?hl=es&langpair=en%7Ces&u=http://www.s-j-c.net/main/english/index.php%3Foption%3Dcom_content%26task%3Dview%26id%3D75%26Itemid%3D30 (consultado el 27-07-2012).

On the other hand, from the beginning to the end of the 1980s, peace and Human Rights enjoyed an ideological approach. In the Eastern Block, due to the Truman doctrine, peace, liberty and capitalism made an inseparable trio, whilst in the Soviet orbit Human Rights consisted basically of the satisfaction of human needs through a planned economy.

2. A brief historical introduction to economic, social and cultural rights.

2.1. First and Second generation Human Rights

Human Rights were born from a confluence of different schools of thought and historical experiences and, along these lines, have undergone continuous evolution⁴⁴⁸. The idea of Human Rights as we understand it today stems from the political philosophy of Enlightenment in Europe and North America at the end of the eighteenth century. Among other works from this period it is worth noting those of Hobbes, Locke, Rousseau and Kant, which stand out due to their scope and their contribution to the development of Human Rights. They postulate the realization of freedom of the individual from the State⁴⁴⁹. The revolutions in France and in America led to the birth of the first generation of Human Rights; the classic civil and political rights, subjective of the individual over the State.

Among these are: the right to life, prohibition of torture, the principle of equality, prohibition of discrimination, the right to freedom of opinion, and the right to active and passive suffrage. During the Industrial Revolution it became commonplace that the newly strengthened Bourgeoisie impose their civil and political rights in the social and economic spheres, at the expense of the poorer members of society (Barthel, Armin). Although the principle of equality existed in theory, in practice education and wealth were distributed unevenly. In fact, poverty was (and still is) a factor which led to exclusion from the enjoyment of civil and political rights. The idea that freedom can only be enjoyed if the basic conditions to ensure a decent existence for all members of society are guaranteed became widespread⁴⁵⁰.

Social rights in particular were demanded by the Marx theory, rights which obliged national governments to adopt social and economic measures, guaranteeing a *minimum* in social security. The birth of Economic, Social and Cultural Rights made up the second notable phase in the formation of Human Rights⁴⁵¹. These second generation human rights, unlike the first, are not rights of defence but of participation. They are not rights which protect the individual from their national government; rather they require active intervention, given that their realization depends on government initiative. For this reason ESC Rights are also known as “participation rights”⁴⁵². They include: the right to work, to education, to join a trade union, the right to social security, and the right to participate in the cultural life of society.

The first and second generation of Human Rights enjoy a complementary relationship, given that an adequate framework is required which meets certain economic and social conditions as an indispensable prerequisite for the realization or achievement of Civil and Political Rights. In this way, without the social right to education or training, or at least to literacy, the right to freedom of opinion or information does not hold any effect or importance. For this reason, the strict line separating so-called civil and social rights which existed during the Cold War seems to have disappeared by the 21st Century. Instead the emphasis is placed on the correlation between the two fields of human rights: “*all human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis*”⁴⁵³.

⁴⁴⁸ Please refer to, G. DIETZE, *Bedeutungswandel der Menschenrechte*, C.F. Müller, Karlsruhe, 1972.

⁴⁴⁹ For more details, see, Jerome J. SESHTACK, “The philosophical foundations of Human Rights” in *Human Rights: Concepts and Standards*, Janusz Symonides, Ashgate, 2000.

⁴⁵⁰ Please see, R. ARZINGER, *Das Recht auf Entwicklung als kollektives Menschenrecht*, Peter Lang GmbH, Graz, 2000.

⁴⁵¹ Please refer to, A. PÉREZ LUÑO, “La concepción generacional de los derechos humanos” in, *Los nuevos derechos fundamentales*, XXV Aniversario del Tribunal Constitucional, Celebrado en Baeza, 13-14 de octubre de 2005, Sevilla: Academia de Ciencias Sociales y del Medioambiente de Andalucía.

⁴⁵² For more details, J. MARITAIN, *On the philosophy of human rights*, Unesco Library, Paris, 1985.

⁴⁵³ Please see, UN-Weltkonferenz über Menschenrechte (1993), UN-Doc. A/CONF.157/23, Vienna: Vienna Declaration and Programme of Action.

A first step to this end was the adoption of the two Covenants of 1966, developed within the UN. Through these two Covenants, each Block was allowed their own interpretation or vision of the world. In the first, the political and civil liberties, which are part of the basic idea of human rights, were captured, and in the second, economic, social and cultural rights, of interest to the countries of the Communist orbit and many other Third World countries, were configured⁴⁵⁴. CP Rights and ESC Rights make up the basis of the “Human Rights System”⁴⁵⁵.

On the other hand, straight after the Second World War, the “decolonisation process” was launched, concluding around the 1960s with the independence of various countries. The rise of political weight, due to the significant increase in the number of developing countries, led to the introduction of the issue of “economic development” in policy discussions in the United Nations framework. Particularly the countries who, on gaining independence, found themselves in a situation of economic dependence on their former colonial countries, pressed for measures to be adopted to overcome the gap between rich and poor, in order to achieve a fairer world⁴⁵⁶.

2.2. The characteristics of Economic, Social and Cultural Rights

Economic, social and cultural rights (ESC Rights), just like Human Rights in general, have a series of grounds and characteristics. They are characteristically innate, that is to say they are not acquired or earned, nor are they deserved and they cannot be lost, rather they are rights belonging to mankind for the simple fact of forming part of mankind. In regard to their relationship with national governments, Human Rights, and specifically ESC Rights, precede the existence and legitimacy of government.

These rights and their protection require the existence of a democratic State. An essential condition of Human Rights (ESC Rights) is that they are centred upon the protection of the individual and their interests. Human Rights – in every guise – are only HUMAN rights if they are egalitarian⁴⁵⁷. Otherwise they become individual rights. Every human being is entitled to Human Rights (ESC Rights), without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion (art. 2 of the UDHR).

ESC Rights (just as Human Rights) are universal; that is to say they belong to all parts of the planet, without consideration for political systems, cultures and traditions, or the level of development enjoyed by any country of the world. They can also be characterized by the fact that they are fundamental. The fundamental character of ESC Rights refers not only to their recognition within the laws of every nation, but also to their protection of the conservation or maintenance of human dignity. Hence ESC Rights are interdependent on the other categories of Human Rights. Human Rights in turn constitute an intrinsically linked group which means that if the right to education is violated, for example, the right to freedom of opinion inevitably becomes violated as well.

Finally it is worth noting that the basis of ESC Rights is multifaceted, extending from the idea of God as the source of the Rights (natural law), to other, more pragmatic justifications, such as the satisfaction of basic needs or the development of human potential. Nonetheless, the principle category around which any efforts to establish ESC Rights revolves is that of “human dignity”. Thus

⁴⁵⁴ Please refer to, L. KÜHNHARDT, “Minderheitenrechte, Minderheitenschutz und der Nationalstaat im KSZE-Prozess”, *Aus Politik und Zeitgeschichte*, Wochenzeitung das Parlament, 1994.

⁴⁵⁵ Please see, A. AUPRICH, *Das Recht auf Entwicklung als kollektives Menschenrecht*, Graz: Lang/Peter, Frankfurt, 2000.

⁴⁵⁶ Specifically, 1964 sees, in the framework of the United Nations, the creation of UNCTAD, a forum for channelling specific claims from so-called third world countries and a permanent structure for information, study and negotiation. Later, 77 countries, members of the “non-aligned movement” (founded in Belgrade in 1961 by 25 countries) proposed in 1967 a common document, the “charter of Algiers”, as the starting point of the discussion held at the Conference of New Delhi in 1986. As indicated by the doctrine, this document vindicates economic decolonization, once political decolonization has been produced, namely through the free disposal of national resources, and insists on carrying out the proposals already approved at the First Conference of UNCTAD. For more details, C. BERZOSA, “El Fondo Monetario Internacional y el Banco Mundial en la economía internacional”, M. Farré/R. Alleguez (ed.), *Globalización y dependencia. Efectos de la mundialización sobre el desarrollo de los pueblos*, Universidad de Lleida, Lleida, 2001.

⁴⁵⁷ For more details, W. JÄGER, “Menschenrechte- Historische Entwicklung”, *Arbeitshilfe für die politische Bildung*, 1988, Heft 4.

exists an obligation to regard human beings as different from all other living beings, and as such, they must always be considered to be subjects, never objects (things)⁴⁵⁸.

The International Covenant on ESC Rights adopted in 1966 states in its preamble that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. In the same text the Rights are recognised as one way in which human beings can achieve freedom from fear and want; one of the conditions which goes against human dignity.

3. Is there convergence between international cooperation development and economic, social and cultural rights in the context of globalization?

3.1. International Cooperation Development and globalization

The State continues to be the formal framework under which ICD unfolds and is simultaneously the holder of those obligations appointed by ESC Rights. In other words governments hold the obligation to respect ESC Rights and above all the responsibility for putting into place an adequate framework under which the inherent benefits of the Rights can be satisfied. ESC Rights and ICD enjoy an intrinsic relationship which has been shown in the declarations, covenants, conventions and treaties that have marked the evolution of Human Rights.

One of the purposes set out in the Charter of the United Nations is “*to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character...*”. In article 28 of the UDHR of 1948, which covers both CP Rights and ECP Rights, everyone is entitled to “*a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized*”. For this reason during the Cold War development organizations dedicated their time exclusively to the fight against poverty and the satisfaction of the basic needs of Third World citizens.

Other important aspects of ESC Rights such as the right to human dignity or the right to work come into the United Nations Declaration of 1969 on Social Progress and Development. In the United Nations Declaration of 1986, article 6 emphasises social and cultural rights and calls for international cooperation to defend, respect and promote these rights. It is important to underline the work done by the United Nations Development Programme (UNDP) as an agency of the UN, dedicated to international cooperation in development matters. As is known, since the 1990s this agency has upheld a new development vision based not only on economic growth but also, and above all, on the individual.

This new perspective has led to the development of a line of work based on the recognition and promotion of ESC Rights. Social wellbeing and basic needs were central to the 1995 Copenhagen summit, which revealed that these objectives could only be reached through solidarity between people, generations and nations; in other words, through international cooperation. Above all and worthy of note is the UN Millennium Declaration of 2000. In this document the Member States determine to resort to “*international cooperation in solving international problems of an economic, social, cultural or humanitarian character*”⁴⁵⁹.

Both during and after the Cold War, upholding the intrinsic link between ICD and ESC Rights became a permanent priority for the international community. This (tense) link is clearly visible in the various statements of UN Conventions, Summits, covenants, treaties, etc. However, the new orientation of the pairing between ICD and ESC Rights which appears at the beginning of the nineties, that is, after the fall of the Berlin Wall and the dismantling of the Soviet empire, must be noted. The relationship between Human Rights and international cooperation, which previously existed only in theory, suddenly becomes, during the Cold War, a condition for the donor countries to uphold if there is to be a continuation of cooperation.

⁴⁵⁸ Refer to, G. LOHMANN, “Menschenrechte zwischen Moral und Recht”, S. GOSEPATH/G. LOHMANN, *Philosophie der Menschenrechte*, Frankfurt/M, 1988.

⁴⁵⁹ Please see, United Nations Millennium Declaration (Values and Principles 4).

In reality nonetheless, ESC Rights and ICD are two categories which follow their own separate paths, meeting occasionally on common ground, but also encountering numerous conflicts or collisions. The context in which the two categories are deployed is often the determining factor in the interaction that takes place between them. Since the end of the 1980s, and the fall of the Berlin Wall, humanity has entered an era of globalization. It is therefore appropriate to go on and address the issue of how ICD and ESC Rights operate in the context of globalization.

Nowadays we live in a globalized world, that is, there is an ever increasing interaction or interdependency between different fields; political, economic, cultural... at a global level. The reality of globalization lies, at present, with the interaction and mutual influence of realities, situations, actors and agents, which contribute to shaping a world where almost everything is interconnected⁴⁶⁰.

Inevitably, ICD cannot escape the phenomenon of globalization and its consequences. In so far as it belongs to the field of international relations, ICD is a patent manifestation of globalization. Among the most prominent manifestations of ICD from the perspective of globalization, economic aspects should be highlighted as the main tools at the disposal of markets and firms, as they tend to extend beyond national borders. Economic globalization, as a process of market expansion, depends on ICD as the propagation vector in all sectors of the economy of those countries requiring intervention.

Globalization, understood in this sense, is based on the neoliberal economic theory, and follows specific rules. It is indeed in this sense that we must interpret the many rules imposed on countries receiving international aid as a condition of their monitoring. Thus, international cooperation becomes an instrument to the introduction of neoliberal policies and is accompanied by a series of mandatory measures, among which is the opening of the markets of those countries requiring intervention to the companies of the Western world who wish to enter them. Simultaneously a series of reforms and the privatization of the most important sectors of the economy take place, with austerity as the norm and repayment of the debt the priority. In this way globalization is gradually imposed on poor countries through ICD.

3.2. The disastrous consequences for the realization of Economic, Social and Cultural Rights

In the context described above, a national government plays a merely arbitrary role, dealing with the regulation of the necessary legal and institutional aspects from a neutral perspective, sitting equidistant between the different players involved in the economic questions. In fact governments in this context tend to lose their previous, fundamental role, becoming merely administrators of community assets. The full scope of the economy lies with the market, and this market manages itself, assigning the available assets to the different players involved, whether the government itself, through tax collection; the citizens or the workers through their jobs; or those companies who are the main beneficiaries of this system.

However, the imposition of such practices in poor countries has several consequences, among which is an evident weakening of national governments with respect to the control normally exercised on their economies and, specifically, on those multinationals involved. At the same time, a greater dependence of the government and all its citizens abroad develops in the political, cultural and geostrategic spheres, alongside the economic sphere, already swallowed up by globalization. The social repercussions of such measures are disastrous, with rising unemployment and poverty among the middle classes. It also must be said that the countries receiving international aid have no choice in these matters, given that compliance with these requirements is a non-negotiable condition for the continuation of aid.

As far as the donor countries are concerned, being the main beneficiaries of the capitalist system from the outset, they must find new areas of capital allocation. Only in this way can they guarantee the survival of the system. From the perspective of liberalism as a doctrine, ICD constitutes one of the mechanisms in place to spread capitalism as an economic system. When examining the evolution of the social politics of the neoliberal State, and collaborations with international financial

⁴⁶⁰ Please refer to, B. MOLINA RUEDA/ F.A. MUÑOZ (eds), *Manual de Paz y Conflictos*, Universidad de Granada, Granada, 2004.

institutions, in the framework of conditionality relating to ICD, special attention must be paid to the conclusions of Congress (Washington) held in the late 1980s.

Once again the objective was economic growth. To reach this end in the fastest possible way, it was necessary to stabilize, liberalize and privatize the economy, without regards to the consequences of previous policies, and ignoring the social costs and negative effects which these reforms may have entailed.

On the other hand, the most important players in this system are the multilateral financial institutions, above all the IMF and the World Bank. The Development Assistance Committee (DAC), in the framework of the OECD (Organisation for Economic Co-operation and Development) serves as an office which generates ideas to be put into practice through ICD. It is important to point out that both the WB and the IMF are associated members of the DAC and are always present at any meetings which take place. These two institutions, alongside those agencies belonging to the OECD States, or donor countries, are responsible for the transmission of decisions made within the DAC. All institutions named above belong mainly to Western countries.

The only valid decisions in these institutions are those made by its members, each with the weight corresponding to the level of funding they offer. That which interests us here however is the origin of the measures imposed on poor countries by the multilateral financial institutions. Because of the way they are set up, these institutions are permanently under the control of a select group of well-known countries. These few countries, and/or their companies, are the direct and/or indirect beneficiaries of the measures put in place to ensure favourable conditions for the expansion of capital or economic globalization.

The control that certain governments or companies hold over these decision makers, in the context of globalization, is in flagrant contradiction with the very idea of globalization, given that the measures are imposed by one given competitor. So we find ourselves before an evident conflict of interests between the donor and receiver countries, like a game in which one of the teams is both player and referee, in that they both decide the rules of the game and impose them. The same team has the power to change the rules at any time, depending exclusively on their own interests.

In light of the current practices in the field of ICD, it can be said that ICD is an effective instrument of globalization. Through the multilateral financial institutions made up of Western countries grouped within the OECD, very questionable measures are imposed on poor countries. Such measures favour capitalist expansion, without considering the realization of Human Rights and, in particular, ESC Rights. The current wave of “total globalization” raises the question of whether it favours or promotes ESC Rights. The answer to this question is linked to another process, resulting from globalization, which consists in the creation of homogeneous spaces, surpassing national borders (multinationalisation and globalization of the world economy), and which erodes the geographical or territorial reality of a certain country or area of the world⁴⁶¹.

3.3. Globalization and Economic, Social and Cultural Rights

Globalization and Human Rights share a complex relationship despite not having the same origins, from the historical perspective of their founding. Human Rights first appear through the revolutions of the 18th century. These same revolutions see the imposition of liberal thought, where the capitalist system finds its place, which will later become a motor for economic globalization. It is impossible to find at present any field which does not allude to globalization, but what interests us here is the economic side of this phenomenon.

As shown above, globalization and Human Rights share the same space or field of action, if by globalization we understand, according to the Collins Concise English Dictionary, “*the process enabling financial and investment markets to operate internationally*” without regard for national borders, whilst Human Rights are universal in character (they belong to everybody), not territorial, and equally surpass national borders⁴⁶².

⁴⁶¹ See P. BUSTELO, “La globalización económica: notas sobre sus fundamentos teóricos y su análisis empírico”, M. Farré/R. Alleguez, *Globalización y dependencia...*, op. cit.

⁴⁶² For more details, L. FERRAJOLI, *Derechos y garantías. La ley del más débil*, Trotta, Madrid, 1999.

Furthermore, the relationship between Human Rights and economic globalization is multifaceted. To be able to analyse this aspect it is necessary to examine how both operate with respect to individual national governments, and the consequences of such interaction. In the process of its expansion, economic globalization goes some way to disempower national governments, in that certain responsibilities or obligations assumed over time by these governments disappear or are weakened considerably. The consequences of economic globalization reduce the power of a government significantly, and weaken those institutions of which they are composed. Instead of state intervention, economic globalization calls for a complete economic deregulation of the economic sector.

The disappearance of government regulations frees up a space which allows for the adoption of a system which is –supposedly– regulated by the market. The elimination of government obligations, both as administrator and regulator of the economic system present within its borders, has multiple consequences, among which is the suppression of certain social or labour standards usually aimed at the weaker and most disadvantaged members of society⁴⁶³. As far as Human Rights, and in particular ESC Rights, are concerned, they tend to add to the obligations of a national government, these governments being the holders of those obligations which are responsible for the recognition of such rights.

In other words, a government has the basic obligation to respect these rights, avoiding any action that may hinder, impede or restrict their implementation. Other obligations incumbent on a government with respect to ESC Rights consist in guaranteeing the upholding of the rights and ensuring, through positive action, access to the rights for all citizens. With respect to government, therefore, globalization and Human Rights are being incorporated into the structure of a nation with opposing consequences. That is to say, within a nation, the two phenomenon develop a dialectic relationship.

Through Human Rights and in particular ESC Rights a framework is established which goes towards halting capitalist expansion, or at least towards the introduction of a mechanism which will contribute to softening the negative effects of such expansion. Globalization meanwhile is a factor which weakens ESC Rights, *in so far as it leads to a disruption of the traditional mechanisms put in place by governments to ensure the protection of the rights*. And, as an instrument of capitalism, globalization is a response to the restrictions imposed by the Welfare State in the general interest of the community and of the principles of equality and justice.

In a context where the capitalist system reigns, ESC Rights are a balancing figure between the capital and the workforce. Economic globalization, as understood by neoliberalism within the framework of ICD, constitutes a factor set to sway this balance. Globalization, along with ICD, occasionally depends on Human Rights for its expansion. Human Rights and in particular CP Rights have served the globalization debate due to certain of their characteristics, insofar as they are abstract and individual rights which rest on the notion of the individual as a selfish proprietor. Globalization in its current form is a selective phenomenon in that it globalizes capital while simultaneously “freezing” ESC Rights.

Conclusion:

ICD is an instrument, employed by developed countries, to channel some kind of relationship with the developing countries based, principally, on the interests of the former, especially when dealing with the so-called “*second generation ICD*”, addressing above all those countries born after the decolonization process. The neoliberal proposals made by the decision makers working from within the rich countries and imposed on receiver countries have gone a long way to widening the gap between rich and poor, deepening poverty, inequalities etc. Simultaneously the Market has emerged as the only parameter available to regulate the economic and social spheres when dealing with the allocation of resources. In this way it has become the

⁴⁶³ Please see, P. MERCADO PACHECO, “El Estado comercial abierto. La forma de gobierno de una economía desterritorializada”, J.R. Ramón Capella (coord.), *Transformaciones del Derecho en la mundialización*, CGPJ, Madrid, 1999.

panacea to solving the problem of underdevelopment. For this reason the question of Human Rights and, in particular, the satisfaction of basic human needs, has no place in this context. The proposed system of production is set in place rather to establish conditions conducive to the free movement of capital and the dismantling of the structures, allowing for a more equitable distribution of community assets.

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