

## The International Cooperation as an Additional Guarantee for the Satisfaction of Basic Human Needs

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*“Il n’y aura pas de paix sur cette planète tant que les droits de l’homme seront violés en quelque partie du monde» (R. Cassin)*

### Abstract

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*The International Cooperation links directly with the social justice, by seeking to promote the socio-economic progress of the population and the improvement of the living conditions of all citizens on the Planet, rebalancing, in this way, the North-South relations. It must be considered a Guarantee (in sense not technical-legal) for the realization of economic, social and cultural rights and, in any case, a principle of international law, which must guide the action of the States in favour of the full satisfaction of basic human needs on every place on Earth.*

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### The international cooperation in the Charter of the United Nations

On the international stage, the duty to cooperate is established in the Chapter IX of the Charter of the United Nations, made in San Francisco, the 26th June 1945, entitled “*International Economic and Social Co-operation*” (Spanish Official State Bulletin nº 257, 16th November 1990, and Spanish Official State Bulletin nº 285, 28th November). In addition, the international cooperation is reflected in the Charter of the United Nations as one of the aims of this Organization. Reference to the purpose of achieving the cooperation in different fields (economic, social, cultural, humanitarian, etc.) is made. In particular, the art. 1, 3º of this Charter states that one of the aforementioned aims is “*to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character (...)*”.

The international cooperation is also reflected in several United Nations resolutions, either as a means to achieve some purposes, or as a desirable objective in itself.

Between them, in the Declaration of Principles on International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, which reflects the Resolution 2625 (XXV), approved by the General Assembly of the United Nations on 24th October 1970, is enunciated as a duty or obligation (“*the duty of States to cooperate with one another in accordance with the Charter*”) [letter d)].

Nevertheless, the philosophy behind this Declaration has an important political component, which is present at the historical moment when it is approved, determined by the climate of tension during the Cold War, but not only (growing polarisation between rich and poor countries, decolonization processes, predation of the human environment, etc.) (1). However, any reference to the economic, social, cultural, technical and commercial cooperation was deleted intentionally, in such a way that the aforementioned Declaration underlined, rather, the uselessness of any passive conception (negative) of coexistence, being necessary that the positive concept to cooperation and international aids was added it (1).

For that reason, having been present the debate about development and international cooperation, it was not set out as such, but that does not mean that the aforementioned cooperation does not refer to the economic and social fields within the framework of the United Nations and, for this reason, to the second generation human rights (as it will be seen below). That is, the second great phase of development of human rights (2), inasmuch as the isolated efforts of each national State are not enough to achieve the satisfaction of such rights. This was an idea accepted since the preparation of the Universal Declaration of Human Rights.

The international cooperation, as well as other notions of international law, has the sense of synthesis and integration. On the one hand, it is remarkable its instrumental value in attitude oriented to the achievement of shared purposes; and, on the other hand, its value as a goal to be achieved, as a situation or state of understanding between States, resulting from cooperative efforts and new projects generator of "common undertaking" (3). Moreover, this notion has an all-inclusive character, either by reference to the fields on which is projected, or to the possible ways to be used in order to achieve the common purposes that the cooperation indicates (3).

Secondly, the international cooperation respects the sovereignty of States, and that is why, rather than a defined and precise legal concept, it is presented as a pragmatic conduct pattern (4). Therefore, cooperation and sovereignty are not two antithetical ideas, but complementary, even the one leads to the other (5).

Finally, the idea of cooperation is extended vertically, reaching areas that previously were part of the coexistence, that is, the delimitation of power of each State. This is the context which has served as breeding ground for the development of what is known as the international development law, understood as a body of rules and principles, which decide the legal relationships of developing nations with the investing countries and national or international promotion institutions (6).

Nevertheless, it is of interest, specifically, the meaning of *the international cooperation in the specific context of universal human rights system*. And, in particular, we will try to answer the following question: what role does the international cooperation play in such system?

### **The international cooperation in the universal human rights system**

The previously described is a notion of general international cooperation, whose scope is found in the field of public international law and, therefore, referring –fundamentally– to the relations between States and other subjects of international law (international organizations).

However, the treatment of the international cooperation from the perspective of universal human rights system requires to focus on the Universal Declaration of Human Rights, on 10th December 1948 (UDHR), whose art. 22 provides that: *“everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation 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”*.

It should be noted the recognition of a subjective right, whose content consists of the satisfaction for any individual of his economic, social and cultural rights, which are considered –moreover– indispensable for his dignity and the free development of his personality, as an active dimension of the first. It is also noteworthy the reference made to *“everyone, as a member of society”*, that is, which is found integrated, being the social integration –at the present time– a value for the whole democratic and Law society.

However, this authoritative doctrine has emphasized the difference between the international protection of human rights, which refers to the recognized rights in the agreements and conventions, and the so-called "protection of the humanity", which intervenes before and regardless of any written recognition, highlighting the fundamental and inalienable character of certain inherent prerogatives to the human nature (7), even before taking part of any political community (8).

On the other hand, the International Covenant on Economic, Social and Cultural Rights, on 16th December 1966 (ICESCR), refers to the international cooperation in several occasions along its articles (*Spanish Official State Bulletin* n° 103, 30th April 1977). In particular, the art. 1, 2° provides that: *“all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence”*.

On the other hand, the art. 2, 1° states that: *“each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present”*.

Finally, it also refers to the international cooperation in the art. 11 (for the fight against hunger and, therefore, the adoption of the appropriate measures to improve methods of production, conservation and distribution of food, as well as to ensure an equitable distribution), in the art. 15, 4° (recognition of the benefits to be derived from the encouragement and development of international contacts and cooperation in the scientific and cultural fields) and the art. 23 (*“the States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned”*).

More recently, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights on 10th December 2008 (OP-ICESCR), also refers to the international cooperation in the Preamble in order to achieve the full realization of rights which have been recognized by the aforementioned Covenant (*Spanish Official State Bulletin* n° 48, 25th February 2013). In particular, it points out that: *“Recalling that each State Party to the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as the Covenant) undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant by all appropriate means, including particularly the adoption of legislative measures (...)”*.

Therefore, this notion of international cooperation is located –clearly– in the field of individual rights and, in particular, of human rights, which are, moreover, universal. And, on the other hand, it is related to the international environment, that is, the necessary support and friendship between the peoples of the Earth to achieve the satisfaction of human rights and, more specifically, of second generation human rights.

It is well known that such rights, contrary to first generation rights, are not rights of defense (of protection of the individual against the State) but rights for provision (see below), which demand an active intervention from the State, because its realization depends on the State's initiative. And, for that reason, they are called "participation rights" (9). That is, they are only made collectively and through the State, and they are not conceivable outside the horizon of the political community (i.e., right to work, to education, to union representation, to social security, as well as the right to participate in the cultural life of the society, among others).

However, particular attention has not been paid to the role played by the international cooperation for the realization of said rights, which do not only require the isolated effort of each national State. While this statement was already found in the UDHR, it is reinforced at the present stage, inasmuch as the international system presents a new socio-economic, political and geostrategic physiognomy (10), on the one hand; and, on the other hand, the increasing interdependence between States, in the current international society of cooperation, which this doctrine is referred to (11). And, in this regard, it can be said that, in this new framework, the international cooperation must be conceived as a Guarantee for the satisfaction of economic, social and cultural rights (see below).

Such notion of international cooperation could be found linked or closed to another one: the International development cooperation, which –as it is well known– is seeking to reduce the existing economic gap between developed countries and developing countries. It is considered as the set of actions undertaken for such purpose and, generally, taking place between countries characterized by an important difference in the income level (12).

The aim is to improve the living conditions of people in developing countries so that they can meet the basic needs of the human family (United Nations Millennium Declaration of 2000). However, it will be verified below that the international cooperation that the great texts refers to, which include human rights, is not identified with this other modality, which agrees "to the development".

By contrast, the notion of cooperation founded in its basis has not enabled the aim that the genuine international cooperation between peoples and nations must fulfill, which is clearly indicated by the UDHR and the ICESCR (as well as the Spanish Constitution of 1978): the full realization of the social, economic and cultural rights, essential for the free development of the personality (as an active dimension of the human dignity).

In this regard, we are talking about "the abyss of inequality" to point, from an economic point of view, to the fact that, despite the development cooperation policy was implemented for more than a century, it has not achieved to reduce the distance (from the living conditions perspective) between some countries in the world and others. Frequently, between the northern and southern countries, but not only (13).

The genuine (international) cooperation evokes the idea of the existence of greater degree of dialogue between subjects who tends to place in a position of equality, that is, recognition not only of each other's existence, but from its value as such. Therefore, it is important to define adequately what is meant by "satisfaction of economic, social and cultural rights", whose achievement must tend the international cooperation which the UDHR and ICESCR refers, letting know if the International Development Cooperation has fulfilled this purpose (see below).

On the other hand, it will be a question of verifying whether the satisfaction of human needs is equivalent to the satisfaction of economic, social and cultural rights. Finally, a concise approach to human rights generations and its relation with the international cooperation is made previously.

### **Characteristics of Economic, Social and Cultural Rights**

Undoubtedly, civil and political rights are the emblem or reference of human rights, since its inception in the 18th century. However, as noted above, the international cooperation is indicated in the aforementioned art. 22 of the UDHR to point, specifically, to the satisfaction of economic, social and cultural rights, without mentioning, however, the civil and political rights, on the one hand. And, on the other hand, the International Covenant on Civil and Political Rights entrusts exclusively to the States to adopt the measures as may be necessary to give effect to the rights recognized (art. 2, 2º) (*Spanish Official State Bulletin* nº 103, 30th April 1977).

Hence the importance of analyzing the characteristics presented in economic, social and cultural rights, which require not only the effort of each State (considered in isolation) for its realization, but the international cooperation. As we know, it constitutes, undoubtedly, the most complex set of human rights, for dealing the difficult task of distribution of wealth, characterized –theoretically– by its scarcity.

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 centered upon the protection of the individual and their interests. Human Rights – in every guise – are only HUMAN rights if they are egalitarian (14). 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 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) (15).

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 recognized as one way in which human beings can achieve freedom from fear and want; one of the conditions which goes against human dignity.

However, the guarantees of the second generation human rights are more difficult than other rights. In any case, it is about "second-level rights" regarding its realization (behind civil and political rights), inasmuch as the right of each individual is recognized to obtain the satisfaction of economic, social and cultural rights (*"through national effort and international cooperation"*), but subordinate to the organization and resources of each State (*"in accordance with the organization and resources of each State"*), pursuant to the art. 2 of the UDHR.

### **Human development and Satisfaction of basic human needs**

It is commonly understood by development as a wealth accumulation through an important production of goods and a sustained economic growth over a period of time. However, it is well known that a single definition of development cannot be provided, by being a polysemic notion, on the one hand, and, on the other, by being defined differently according to the most specific context or the field in which it is used. In any case, it is interesting specifically the notion of "human development", which is used commonly as opposed to poverty (16).

The human development consists of widening the range of population options. And, in particular, the three characteristics that allow to understand the meaning of the notion of development are the following: the vital sustenance, the self-esteem and the freedom (17). On the other hand, the expression "satisfaction of basic needs" is being coined currently to refer to a specific approach for the analysis of the socio-economic situation of individuals or various countries, as opposed to those used traditionally, focused on the notion of poverty, which is measured only in accordance with the economic income (18).

Therefore, it is about an approach (of unsatisfied basic needs) which is critical to the income-consumption approach, emerging after the observation of the persistent phenomenon of poverty in certain regions of the world, bringing an end to the notion of development used so far. In this way, after the Second World War and, specially, during the seventies of the last century, the convenience of using a new approach is presented, according to which the true development would involve that any individual has covered some minimum needs.

The approach of "basic needs" was presented by the International Labour Organization in 1976 in the World Employment Conference. Nevertheless, the notion of human need is functional and can have several meanings depending on the circumstances of individuals and within communities referred at any given time. On the other hand, the ESC rights focus on the satisfaction of basic needs of human beings in terms of feeding, housing, health, education, etc (19).

Furthermore, it is about notions intrinsically interdependent (basic human needs and second generation human rights), inasmuch as both are focused on the production and management of goods. The first creates wealth, whose distribution (management) contributes to the well-being of the community or, on the contrary, leads to widespread poverty and social exclusion. Therefore, economic, social and cultural rights, on the one hand, and the human development, on the other hand, have an intrinsic relationship, which is analyzed from several perspectives (20).

### **International development cooperation**

As noted above, in the UDHR on 1948, the two categories defined by the civil and political rights, and economic and social rights, form an indivisible and interdependent set. Therefore, both constitute the basis of "human rights system" (21). In 1977, with the Resolution 32/130 of the General Assembly of the United Nations, the interdependence and indivisibility of human rights was reaffirmed, which means its applicability to all individuals about the basis of equality and non-discrimination.

As was pointed out, this decision was confirmed by the Vienna Declaration and Programme of Action, approved in the World Conference on Human Rights of 1993.

However, during the Cold War period, economic and social rights were subject to discrepancy between Member States of United Nations and, therefore, two Agreements to develop the UDHR were reached in 1966, whose separation was questioned from the initial drafting, because of the fact of considering different categories of human rights (civil and political rights, on the one hand; and economic, social and cultural rights, on the other hand), and for the duality of forms of control compliance (21). Within this framework, two Covenants about civil and political rights, and economic and social rights, respectively, were approved.

Civil and political freedoms were reflected in the first Covenant, which are part of the basic idea of human rights; and, economic, social and cultural rights were configured in the second one, which were of interest to the countries within the communist orbit and many other Third World countries (22). The existence of both Covenants allowed to each Block its own interpretation or view of the world and, after this moment, the International (development) cooperation was used in favour of deepening in the existing ideological fissure.

On the other hand, immediately after the Second World War, the "decolonization process" was implemented, finishing with the independence of several States. The rise of political presence in developing countries, due to the considerably increasing of its number, caused the introduction in the political debate the matter of the economic development within the framework of the United Nations.

And, in particular, the States that, after independence, were in a situation of economic dependence regarding the former colonizing countries, put pressure to take measures to overcome the gap between rich and poor, with the purpose of achieving a fairer world. And, specifically, the United Nations Conference on Trade and Development was created in 1964 within the United Nations, as a forum to channelling of the specific demands of Third World Countries, as well as a permanent structure for information, study and negotiation.

However, it must be stressed the perseverance in the application of the "neoliberal prescriptions", as countries of Western orbit have always stood out more intensely in the area of Development Cooperation. Therefore, we can say that it served more for strategic and ideological purposes, and even, economic (for the benefit of developed powers) than for the well-being of the target group of the aforementioned Official Development Assistance.

Hence the importance of recovering the original sense of the international cooperation between peoples and nations, with a much more specific purpose than the generic development (economic), which consists of the satisfaction of basic human needs (see below).

### **The International Cooperation as a Guarantee of Satisfaction of Social, Economic and Cultural Rights**

In the context of current universal human rights system, the international cooperation is not only a (further) instrument in the hands of the States for the realization of the ESC rights, but it constitutes a clear mandate, that is, a duty, by virtue of the commitment undertaken after the adoption of the conventions on human rights and, specifically, the UDHR and the ICESCR, but not only. It must also be cited the European Social Charter as well as the European Convention on Human Rights, within a more limited regional geographical sphere. Most recently, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, made in New York on 10th December 2008, also comprises the international cooperation in the Preamble in order to achieve the full realization of rights which have been recognized by the aforementioned Covenant.

It is an accepted and assumed commitment by each State at the time of signature and ratification of such conventions, as a (additional) guarantee of satisfaction of basic human needs, understood not in a technical-legal sense, but in a sense of international politics. And it must be guided toward the achievement of specific purposes (material or substantive), so that the States have the obligation to utilize such cooperation in favour of the greatest satisfaction of economic, social and cultural rights, which are those that require to a large extent an active role by the States.

And thus, regardless of the existing international guarantees (both primary and jurisdictional) as well as the more recent ones. In this sense a new step must be seen in the above-mentioned, recent Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which creates faculty to the Committee on Economic, Social and Cultural Rights to receive and consider communications submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party (art. 2).

Therefore, to talk about the satisfaction of such rights is equivalent to provide them with realization, not only in terms of technical-legal guarantees (constitutional, international, jurisdictional, etc.), but, specifically, with real effectiveness. That is to say, to take action "de facto" to alleviate the basic human needs, which are still dissatisfied in many countries and places in the world. Thus, this is the purpose or sense that the international cooperation has in the universal human rights system from its own origin and, specially, at present.

For this reason, the international cooperation must be considered a Guarantee (in sense not technical-legal) for the Satisfaction of economic, social and cultural rights, intended until now, which takes action specifically at and from the international level. It is essential for the satisfaction of a specific set of rights, since its realization cannot be left in the hands of the national State (in isolation), but it is the duty to cooperate with other States, working the aforementioned cooperation towards the international Solidarity, which is the aim of the United Nations (explicit in its founding Charter).

In this sense it is interesting to note the art. 10 of the aforementioned Optional Protocol, which provides that: "*a State Party to the present Protocol may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the Covenant*" (par. 1). In such case, a procedure will be followed, wherein the abovementioned Committee will provide a set of observations and make communications and reports.

And, moreover, the art. 14 provides that the Committee shall transmit, with the consent of the State Party concerned, to United Nations specialized agencies, funds and programmes and other competent bodies, "*any matter arising out of communications considered under the present Protocol which may assist them in deciding, each within its field of competence, on the advisability of international measures likely to contribute to assisting States Parties in achieving progress in implementation of the rights recognized in the Covenant*" (par. 2).

Finally, it can be said that the international cooperation has recovered a renewed importance in the current global context, wherein, in any case, it constitutes a principle of international law, which presides the abovementioned order and, thus, causing to guide toward the fullest satisfaction of human rights and, specially, the economic, social and cultural ones.

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