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Celebrating Sixty Years of Human Rights ...and Debating on The Challenges for the Next Sixty

The sixtieth anniversary of the Universal Declaration of Human Rights, which the world celebrated last December 10th 2008, was marked by a multitude of celebrations, many of which had an eminently academic perspective. In some of them, the aim was to assess the legacy of this important Declaration, whereas in others it was its current vitality and future projection what was debated.

Among us, this event was the trigger for the launch of a fascinating experience of academic collaboration and public awareness on the international protection of human rights, driven by the NGO *Helsinki-España Human Dimension* and funded by the *Generalitat Valenciana* and the city of Valencia, which counted with the participation of universities from over forty countries. These three institutions agreed on the opportunity to celebrate the anniversary of what was, and is, a declaration with an undeniable universal vocation through the organization of two international conferences and the setting up of a virtual platform for the exchange of experiences and the debate of ideas among students and professors specialized in Human Rights affiliated to universities located in the vast majority of the OSCE Member States. The call was a clear success since it managed to vertebrate the participation of teams from such prestigious universities as McGill, Virginia, Cologne or Coimbra, and brought together scholars from places as far apart as Oklahoma, Dublin, Chisinau or Vladivostok to study in Valencia (December 2008) the relevance of the Universal Declaration of Human Rights sixty years after its enactment and the potential of the Valencia Declaration of Human Duties and Responsibilities in its tenth anniversary. Moved by the success of this first event, those same teams met again one year later in New York (November, 2009) in order to debate on the dimensions of poverty as

a flagrant violation of basic human rights, and to explore ways through which universities could contribute to its eradication.

The final result of these two years of intense work –preparing meetings, taking part in discussions, writing papers, delivering lectures, drafting declarations, and promoting in an intense on-line debate– are the scientific articles that comprise these two double issues of *Cuadernos Constitucionales*. A collection of articles which, in order to help the reader grasp the wide range of topics addressed, has been divided into three broad thematic areas: one, devoted to the reflection on the major issues raised at the time the Declaration was approved, and still being debated today, such as the universality and the justification of rights; a second one, on the potential that the Declaration still keeps six decades from its adoption, and in a very different world from the one that gave birth to it; and finally, a third one gathering a provoking set of articles with the common denominator of examining poverty as a violation of human rights and proposing ways to eradicate or mitigate it.

Alongside with the diversity of their geographical origins, the authors of the contributions that comprise these collective volumes also come from different fields of knowledge, such as Law (international, constitutional, comparative...), History, Sociology, Political Science, Philosophy and Ethics. We are persuaded that this diversity will imprint an specially rich diversity to the pages that follow. However, they all share the common goal of trying to create a critical mass within universities and raise awareness of the important role that they have to play when it comes to the protection –not only in theory but also in practice– of the most basic human rights.

Within the first large block of contributions, which includes those articles dealing with the problems of the universality and the justification of human rights, the reader will find some rather provocative collaborations (specially those submitted from the University of Aarhus in Denmark and from the University of Cyprus in Nicosia) in which the alleged universality of Universal Declaration of Human Rights will be discussed, having in mind not only sixty years of all-too frequent violations of the most basic rights of the person, but also the ongoing debate on how to address the deeply rooted cultural diversity of our world. In others, authors have reflected on the value of some of the many alternative or complementary declarations to the Universal Declaration that have seen the light in the last decades (University of Moldova in Chisinau); and on whether the rights and freedoms we are supposed to enjoy do guarantee the autonomy of the individual (University of Vilnius, Lithuania); while others have wondered (as does one of the contributions from the Universidad Complutense de Madrid, in Spain), if there is a right to resist injustice, or if the embryos and fetuses have human rights too (as stated by the team from the University of Coimbra, in Portugal); or even if one can argue that there is a right to die (as discussed by the Serb contribution from the Union University in Belgrade).

The second block of contributions, which includes those whose backbone are the new challenges facing human rights in the XXI century, is as diverse in the topics chosen by its authors as intellectually suggestive. Among them, readers will find one (coming from the Democritus University of Thrace, Greece) focused on the complex relationship between freedom and security created by the threat of terrorism, and on its nature as an indiscriminate violation of human rights, and another one (the Croatian contribution from the University of Zagreb) addressing corruption as an intrinsic form of human rights violation. The University Jaume I of Castellon (Spain) dedicated its lines to defend the need of an education for peace, while the University of Warmia and Mazury in Poland focused on the actions carried out in order to dismantle the communist legacy in Poland and the Czech Republic from a human rights perspective; the University of Tampere, in Finland, addressed the role played by the jurisprudence of the ECHR in the development of International Human Rights Law; while the University of Valencia (Spain) decided to focus on the legal and political problems raised by the proposals to extend voting rights to immigrants which are now being debated in a growing number of Western countries.

Finally, the third block of contributions –which entirely makes the second volume of this project–, has focused on the dimensions of social rights in a world in crisis and, above all, on the relationship between poverty and human rights. This final set of articles comprises papers dealing with the complex problem of granting access to justice for the poor (like the one delivered by the University of Genoa in Italy), and with the consequences of not doing so (like the paper delivered from the University of Virginia, USA); on the interrelationship between poverty and gender inequality (the issue raised by the second contribution coming from the Universidad Complutense in Madrid, Spain). The articles co-authored by the members of the teams from the UWED of Tashkent (Uzbekistan) and the UCLM of Ciudad Real (Spain), instead, have critically analyzed the role and responsibilities of multinational corporations concerning the protection of human rights; while others, more *Euro-centered*, focused on the role of the Council of Europe in the eradication of poverty, both through the execution of judgments of the ECHR (the case of the contribution from the Far Eastern Federal University of Vladivostok, Russia) or through the role played by the European Social Charter (CEU-Cardenal Herrera University of Valencia, Spain). The right to housing as a specific social right closely linked with the fight against poverty has been addressed both by the University of Latvia in Riga, and by the Eötvös Loránd University of Budapest (Hungary). Finally, the FON University in Skopje, Macedonia, studied the application of socio-economic rights in the Balkans from the point of view of multiculturalism; the contribution from the University of Iceland in Reykjavik dealt with the problems derived from the need to provide the elder with a decent standard of social benefits in a time of economic crisis and in an age in which the elder have become an ever larger collective; while the Miguel Hernandez University of Elche (Spain), deepened into the study of the UN Convention on the

Rights of Persons with Disabilities, addressing the well hidden relationship between disability and poverty.

Due to the lack of space, on the one hand, and to academic commitments already made by some participants in these conferences and debates, on the other hand, it has been impossible for these volumes to collect the full extent of the vast contribution of the Valencia 2008 and New York 2009 conferences to the ongoing debate on human rights. However, the reader will surely appreciate the following selection of contributions as a telling example of the value of this initiative, and a good starting point for further reflections on the value of human rights. And, furthermore, as an excellent example of the valuable interaction between researchers and students from the most diverse corners of the world.

This was the spirit that moved *Helsinki-España Human Dimension*, the *Generalitat Valenciana* and the office of the Mayor of the city of Valencia to put this complex project into motion. The same spirit that has moved the coordinators of these volumes to undertake the arduous task of compiling, organizing, editing and presenting this valuable set of papers in the two volumes now offered to the reader.

Two volumes in which, beyond the diversity of approaches that the reader will certainly appreciate in their pages, it is not difficult to find a common ground to all of them, on which some additional reflections ought to be made. This common ground is no other than the consideration of human rights as the main factor of legitimacy of law and political power, as the core of the idea of justice, or –one could even say–, as the most genuine expression of the common conscience of humanity.

There is no doubt that in the recent decades we have been witnessing an increasing awareness, even on a global scale, of the universality of human rights. The origins of this renewed concern for human rights can be traced to two main factors. First, the collapse of socialist regimes in Central and Eastern Europe, which caused that one of the two blocks into which the world had been divided since 1945 abjured a political system that could not care less about the guarantee of human rights, subsequently embracing liberal democracy and bringing the recognition and protection of these rights to the forefront of their new legal order. And secondly, the process of globalization, which, among many other consequences, is generating a clear tendency to share common principles and legal values which, in large part, has led to the assimilation of legal principles and values characteristic of the Western tradition.

The result is, in short, the now almost unanimous consideration of human rights as a universal criterion of legitimacy. Recurring manifestations of this awareness of the universality of rights are, *inter alia*, sanctions and criticism against the countries in which violations of human rights are carried out, the creation of the International Criminal Court, or the increasingly wide recognition in different states of the principle of universal jurisdiction –a principle explicitly endorsed by the Spanish Constitutional Court in its resolutions 237/2005, of 26 September, and

227/2007, of October 22–, aimed at avoiding impunity for serious violations of human rights, even those committed by the political power or with the formal coverage of national law.

In our opinion, this renewed consensus on human rights surely deserves a highly positive evaluation, even though it cannot lead us to ignore, of course, that the awareness of their universality has not yet been translated –as emphasized throughout the following pages–, into an effective, universal respect for them. On the contrary, what we have now is still a largely superficial consensus, which actually conceals profound ideological and cultural differences on the concept, the rationale, and even the catalogue and the very extension of the universality of rights; differences that are of course reflected in the contributions collected in these volumes. We are persuaded that it is the task of academic and scientific debate, and of intercultural dialogue, to reach the stronger and deeper possible consensus on this issue, and to get as close as possible to a substantive conception of human rights which could become widely shared. But in the meantime, it is good that we agree on the basic truth that persons have fundamental rights which ought to be respected, though we may fall short of agreeing on why this is the case or which are those rights, or even have doubts about who should be called a person –as can be attested, for example, in the reflections on the legal status of the embryo, also present in these pages.

Beyond these important differences, the contributions presented in the following pages, especially in the third part, highlight the usefulness of human rights discourse in order to address the new legal and political challenges of today and tomorrow. In modern constitutional systems, the dignity of the individual and the human rights that derive from it are seen as the core of the common good that should be guaranteed by public authorities. This was highlighted, among other constitutional provisions, by Article 10.1 of the Spanish, and Article 1.1 of the German Constitution, echoing an idea already present in the Preamble of the Universal Declaration of Human Rights. It is natural, then, that from the perspective of human rights and in order to obtain for them the maximum protection attainable, a response to the many new challenges posed by social change is conspicuously searched. It is therefore necessary to stimulate scientific thinking on this central aspect of the common good, since a better understanding of human rights will with no doubt contribute to its effective implementation.

This is the purpose that drove us, the coordinators of these special double-issue of *Cuadernos Constitucionales*, to bring together the contributions presented here. And, indeed, this was the purpose that encouraged the authors to elaborate their articles and to trust us with their edition, as well.

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(International Day of Human Rights)