

Respect for Human Dignity: Solidarity and Human Rights*

El respeto a la dignidad humana: solidaridad y derechos humanos

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Abstract:

This article is a theoretical reflection that analyzes some ethical foundations that underpin human rights and solidarity, from philosophical and legal perspectives, arguing that respect for human dignity is a constituent pillar of the common denominator between human rights and the imperative of solidarity. Using a methodology of conceptual analysis and critical review of classical and contemporary philosophical arguments, the main conclusion reached is that the ethical precedence of duty over rights is indispensable for justifying human rights and cementing solidarity as an ethical task, especially in contexts where distributive justice and moral obligations are put to the test, such as pandemic crises. The recognition of dignity underpins the universal claim to human rights and the ethical need to protect the most vulnerable.

Keywords: Human Dignity, Solidarity, Human Rights, Ethics, Distributive Justice, Moral Duty.

Resumen:

Este artículo es una reflexión teórica que analiza algunos fundamentos éticos que sostienen los derechos humanos y la solidaridad desde algunas perspectivas filosóficas y jurídicas, en la cual se argumenta que el respeto por la dignidad humana es el pilar constituyente del denominador común entre los derechos humanos y el imperativo de solidaridad. Bajo una metodología de análisis conceptual y la revisión crítica de argumentos filosóficos clásicos y contemporáneos, se llega a la principal conclusión que señala que la precedencia ética del deber sobre los derechos es indispensable para justificar los derechos humanos y cimentar la solidaridad como tarea ética, especialmente en los contextos en los que se ponen a prueba la justicia distributiva y las obligaciones morales, como las crisis pandémicas. El reconocimiento de la dignidad sustenta el reclamo universal de los derechos humanos y la necesidad ética de proteger a los más vulnerables.

Palabras clave: dignidad humana, solidaridad, derechos humanos, ética, justicia distributiva, deber moral.

Introduction

Based on the distinction proposed by Herbert L. A. Hart between ethical rights and legal rights, Sen refers to human rights as “global imperatives” that should not be “prematurely confined to the narrow framework—real or ideal—of legislation” and that correspond to “ethical demands constitutively connected with the importance of human freedom,”¹ so that their recognition does not depend on legislation.² Thus, he points out that “while Bentham sees rights as ‘children of the law,’ Hart’s view takes the form of human rights seen, in effect, as parents of the law; they motivate certain legislation.”³

Similar to Sen’s approach to human rights,⁴ here we want to suggest that the moral aspiration to affirm the value of solidarity is based on the duty to respect human dignity, as expressed in the 1948 Universal Declaration of Human Rights. Vincenti emphasizes that, since the end of World War II, human dignity has been understood as an intrinsic value of every human being, which makes them deserving of respect from others; and that it is distinct from classical dignitas, which is a virtue that “postulates the agree of the dignus, who must earn public recognition.”⁵ Therefore, respect for this dignity is the common moral denominator between human rights and the duty of solidarity.

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The Ethical Precedence of Duty over Rights; and Respect for Dignity as a Task

Norberto Bobbio argues that “it can be said that the problem of the foundation of human rights has been solved by the Declaration of Human Rights, adopted by the United Nations General Assembly on December 10, 1948”.⁶ But it suffices to paraphrase Copleston⁷ to point out that human rights are not such because they are enshrined in the 1948 Universal Declaration, but rather because they have been recognized in it which is why—contrary to Bobbio’s assertion—the question of their foundation is raised once again, especially when one considers that the second recital of the Declaration states that it is “essential that human rights should be protected by the rule of law”, immediately after expressly mentioning the idea of human dignity in the Preamble and in Article 1.⁸

A. The problem of justification referred to by Bobbio, which he avoids without resolving, lies at the root of the debate between “natural law” and “historicist” conceptions of human rights, summarized, respectively, in the points of view—to which Fernández refers—expressed by Maritain and Croce at the time of the drafting of the 1948 Declaration.⁹ As Maritain, who was part of the committee formed by the then director of UNESCO, Julian Huxley, to work on the theoretical foundations of human rights and support the Human Rights Commission chaired by Eleanor Roosevelt, recalled,

During one of the meetings of the French National Commission for UNESCO, at which human rights were being discussed, someone was astonished to note that certain supporters of violently antagonistic ideologies had reached agreement on the wording of the list of those rights. Yes, they replied, we agree on those rights as long as we are not asked why. Because with the “why” begins the dispute.¹⁰

That controversial “why” is not only political, nor is it satisfied with the recognition or legal enshrinement of human rights; it also points to a philosophical question. Neither their express constitutional provision nor their positivization through fundamental rights eliminates this question; rather, it implies the risk of “reducing” the former to the latter. Höffe refers to this when he reaffirms not only their moral dimension but also their political potential from a critical point of view, which are appropriate for their progressive international expansion.¹¹

B. This reasoning must be based on the axiological precedence of duties and ethics over rights and justice. It is not a question of returning to the “technical legal” design of obligations, as conceived by Kelsen, nor of the disregard for subjective rights proposed by Duguit, issues that have already been analyzed. The duty taken into consideration is that of the moral agent who is challenged by the baby crying because it is hungry, who of course does not invoke any rights when it has not even learned to speak. Gandhi, Weil, and Lévinas offer support and guidance in this regard.

1. Gandhi’s response, written on May 25, 1947, on a moving train, addressed to Julian Huxley regarding the preparation of the 1948 Universal Declaration of Human Rights, a letter already mentioned and quoted on another occasion, is enlightening:

From my ignorant and wise mother I learned that the rights that can be deserved and preserved come from duty fulfilled. Thus, we are only entitled to the right to life when we fulfill our duty as citizens of the world. With this fundamental statement, it may be easy to define the duties of men and women and *relate all rights to some corresponding duty that must first be fulfilled*. Any other right will only be a usurpation that is not worth fighting for.¹² (Emphasis added)

2. Simone Weil, in 1949, at the beginning of her work on rootedness, stated that

The concept of obligations takes precedence over that of rights, which are subordinate to and related to them. A right is not effective in itself, but only in relation to the obligation to which it corresponds (in the text). The successful satisfaction of a right does not come from the person who possesses it, but from others who recognize that they have an obligation to that person. *The obligation becomes effective once it is recognized. If an obligation is not recognized by anyone, it loses nothing of the fullness of its being (“of its being”, in the text). But a right that is not recognized by anyone matters very little.*¹³ (Emphasis added)

3. It is beyond the scope of this paper and its author to examine the thinking of Emmanuel Lévinas, particularly in relation to human rights. However, according to the analysis of Professor Javier Barraca Mayral—whose work has the significant title “Lévinas and Human Rights as Debts to the Other”—it seems that the ethical precedence of duty proposed here finds support in the context of the “anthropological event” that he identifies as a fundamental axis in his vision of rights. In this regard, it suffices to transcribe his comment and the quote from Lévinas on which he bases his assessment:

*It is in the relationship with the other human being—in short—where the revelation of this core fact for human rights takes place [...] the true cornerstone of Lévinas’ reflection on them. [...] it can be described as a profound commotion, the commotion of proximity. (-) “in concrete terms, human rights manifest themselves in consciousness as the rights of another, to whom I must respond. They manifest themselves originally as the rights of the other man and as a duty for me (‘un moi’, in the original), as my duties in fraternity; that is the phenomenology of human rights.”*¹⁴ (Emphasis added)

C. These premises can be developed based on two reflections by Vicente Durán, the thesis supervisor, on human dignity in Kant’s thinking. The first is summarized in the title of his paper, namely that dignity is not so much a privilege of the human species as a task, a responsibility of each human being towards themselves, their fellow human beings, and other natural beings;¹⁵ this implies that, on a permanent basis and with intergenerational projections, this individual responsibility is materialized in collective demands and expectations; so that one’s own dignity and that of others are mutually respected through solidarity. And the second is that dignity

comes from the rational nature of human beings [...] insofar as they are “rational beings who obey no law other than that which they give themselves.” *A being that possesses such a characteristic deserves moral respect, that is, recognition of its dignity. By giving themselves moral laws that allow them to act independently of natural causality, human beings are members of the realm of ends.*¹⁶ (Emphasis added)

This last observation guides the examination of two aspects of this issue (focusing more on the duty of solidarity than on human rights, which continue to be understood in the thesis, as Amartya Sen does, as a set of moral aspirations, increasingly subject to legal positivization, it is true, but whose foundation is moral). The first of these aspects consists of reiterating that the rational nature of human beings does not negate their essential emotionality, as already have been highlighted. The second aspect consists of reiterating that the recognition of the vulnerability and interdependence of all human beings as a fact—experienced and not simply the result of an interpretation—does not imply or mean that solidarity, considered from an ethical point of view, corresponds to one of those inferences that are considered “naturalistic fallacies”, as has already been said with support from Amengual Coll.

D. In any case, according to Cortina,

Morality—it should be remembered—should not be confused with what actually happens, but rather with the awareness of what should happen. Morality deals with what ought to be and, from that perspective, criticizes what happens. (-) And from this perspective, it is a fact that pluralistic societies have arrived at a *shared moral consciousness of values such as freedom, the tendency toward equality and solidarity, which are embodied in the defense of human rights*, not only political and civil rights (first-generation rights), but also economic, social, and cultural (second-generation rights) and, continuing the task, in ecological rights and the right to peace, which make up the so-called third generation. If freedom, it is said, is the guiding value of the first generation, equality is that of the second and *solidarity that of the third.*¹⁷ (Emphasis added)

Amengual Coll highlights that MacIntyre¹⁸ refers to a “just generosity” that consists of “acting from attentive and affectionate consideration towards others”¹⁹ (this, it should be noted here, is what caring means) and which extends beyond community boundaries, since even within the community itself there are “strangers” (others, if you will) who, as such, are owed hospitality. Of course, this echoes MacIntyre’s characteristic reference to the virtues of past eras, such as hospitality, for example, although without concluding, as it might happen on the basis of criticisms such as those of Tugendhat,²⁰ that the

communitarian approach to solidarity prevents reconciliation and, even more so, the realization of moral autonomy (that “invention” of modern moral philosophy, and in particular of Kant’s, as Schneewind would say) in the midst of a life of more affectionate and considerate relationships between the members of an increasingly extended society, which currently seems increasingly disintegrated, amid the saturation of instantaneous and, paradoxically, global connections. MacIntyre’s purpose therefore remains entirely relevant, which, in Amengual’s words, consists of

expanding or complementing justice in two ways: personal, emotional involvement with the dependent, and expansion beyond the circle of the community: both require something more than what is due in justice, because of their appeal to subjectivity, while remaining in line with justice. The proposal to unite justice and generosity is based on the fact that both are limited and mutually dependent.²¹ (Emphasis added)

E. From Professor Manuel Atienza’s monograph on human dignity,²² it is interesting to refer here to two aspects: the history of the concept of dignity and what he calls its normative core.

1. Atienza begins by pointing out that

one factor for optimism [...] is that awareness of human dignity (the *equal* dignity of all human beings) is something quite recent and is also growing in strength... But what is most important to highlight is that in the history of the *concept* of dignity [...], the linking of this notion with that of equality (that is, the idea of the equal dignity of all human beings) is extremely recent.²³ (Emphasis added)

He adds, with support from Rosen, that “it has only aroused the interest of philosophers very recently”,²⁴ and points out some milestones in that genealogy, which are simply listed here in the order and according to his exposition.

a. Atienza is right in pointing out that today it is not a question of Roman’s dignitas, which is linked to social status and honors, and which also implies and preserves the differences between men. He highlights the famous passage from *De Officiis* (Book I, Chapter XXX) in which he refers to the dignity of all human beings (of different social positions among themselves) with respect to animals that lack understanding.²⁵ However, it should be added that, in parallel, in a famous passage from *On the Laws*, Cicero points out the natural bond that exists between all human beings on the basis of friendship and solidarity, which is distinct from the community of law,²⁶ which for the Romans is partly natural and partly not, and consubstantial with the political organization of the civitas, as mentioned in this writing.

b. Thomas Aquinas. Atienza separates the Thomistic notion from the current one, mainly in consideration of the fact that the intrinsic value he attributes to human beings is related to “the place they occupy in the plan of creation, as revealed by Scripture and natural law [...] which [...] cannot be that of a secularized world like ours, which certainly requires some common foundations-values, but which can no longer be those of faith.”²⁷ Although not everyone is secularized, it is reiterated here, with Glendon, that human rights rest on “shared convictions” which, as Maritain pointed out, were reflected in an agreement that included a list of rights, as long as one did not ask why, and that conviction encompasses the affirmation of human dignity in which this, like solidarity, is based.

c. Pico della Mirandola. Atienza differentiates the current idea of dignity from that contemplated by the polymath in his “Discourse on the Dignity of Man” by focusing on the freedom of every human being—which is a related but more relevant consideration in terms of autonomy—and not on their equality.²⁸

d. Kant. Without prejudice to the egalitarian and secularized meaning of Kant’s idea of equal dignity,²⁹ Atienza affirms that there are differences between it and the current notion. He refers mainly to the fact that, in accordance with a classical notion of the rule of law, Kant focuses on political freedoms, such as the negative freedom characteristic of classical liberalism, so that “in his scheme there is therefore no place for social rights, and only limited place for political rights”.³⁰ Although the reference to freedom as a critical yardstick differs from Atienza’s analysis based on equality with respect to Cicero and della Mirandola, and

although the historical accuracy of this reference to classical liberalism, which is a later phenomenon, can be debated, if we leave that debate aside, it is clear that the consideration of social or second-generation rights, as they are often called, in addition to political rights, is fundamental when considering dignity in a contemporary way, as highlighted, precisely, by the right to health.

e. The 1948 Universal Declaration of Human Rights and the development of scientific knowledge. In addition to highlighting that the legal enshrinement of human dignity stems from this Declaration and the 1945 Charter of the United Nations,³¹ an issue that is beyond dispute and has been precisely stated since, as has been said, it is not a legal enshrinement but rather the manifestation of a moral aspiration that has served as the basis for the positivization of the human rights founded therein, Atienza draws attention to the influence of the development of scientific knowledge on its gestation, an allusion that recalls the “Third Enlightenment” hinted at by Putnam and already cited.

It refers to how the theory of evolution points to the common origin of all human beings, without prejudice to the individuality of each person, in terms of the sequence of the DNA chain; and adds, which is shared here as a conclusion to the arguments presented in the paper, that

*It is not that we have evolved to become increasingly altruistic and empathetic, but neither have we evolved to behave all the time as rational egoists [...]. The scientific consensus seems to lean more towards the idea that genes do not determine anything by themselves, but that brains and cultures are constantly evolving. Biology makes us capable of the best and the worst (as Pico claimed), and what distinguishes us as a species seems to be, above all, the extraordinary plasticity of our brain, which makes us capable of possessing moral sense or conscience, capable of exercising sophisticated moral reasoning and, above all, capable of expanding the “moral circle” to move from “I” to “we” (to what constitutes our reference group) and, above all, from “us” to “them”, so that at the end of that process no human being falls outside the (moral) world made up of all beings who possess equal dignity.*³² (Emphasis added)

2. As for the normative core of human dignity, Atienza concludes that it

can be found in *the right and obligation of every individual, each moral agent*, to develop themselves as a person (a development that allows for a plurality of forms, of ways of living, although not every form of life is acceptable) and, *at the same time, in the obligation, in relation to others, to each human individual, to contribute to their free (and equal) development*. It is a broad conception of human dignity, which in the Kantian tradition contains both the imperative of ends or the non-instrumentalization of human beings (dignity in the strict sense) and that of equality (or universality of moral law) and autonomy; and therefore it can be presented as the ultimate foundation of human rights, of all of them.³³ (Emphasis added)

The core described above corresponds to the foundation or common denominator that has been proposed here between solidarity and human rights, both understood from an ethical point of view. And in a manner consistent with Vicente Durán’s aforementioned understanding of the task of dignity, Atienza adds that “it is an extremely demanding concept in relation to the legal, political, or moral practices that we find in our societies”.³⁴

The Stoic Tradition and the Cosmopolitanism of Human Rights

A glance at the tradition of cosmopolitan thought evokes the famous words that Diogenes Laertius attributes to Diogenes of Sinope, a foreigner in Athens and Corinth, when he described himself as a “citizen of the world” free from the demands of the particular laws and customs of each city, which defined who was a foreigner and who was not. It should be remembered that the Romans, who said, graphically, that where there is society there is law (*ubi societas, ibi ius*), understood that the legal order was not limited to the public and private law of their citizens (*ius civile*); and that they also conceived, on the one hand, a law of nations (*ius gentium*) with a more general vocation, in line with their imperial expansion and applicable to Romans and foreigners, and, on the other hand, a natural law on the basis of which all men were free, a freedom that included those who could be legally subject to servitude in terms of the law of nations.³⁵ These ideas have had

an impact throughout the history of Western law, and although today they have premises and connotations very different from those of their origins, they are at the root of the debate between natural law and legal positivism, which is not the subject of this paper.

Diogenes' cosmopolitan view of himself establishes a contrast between the particular conventions of each polis or civitas and the universality governed by the natural law that orders the cosmos; therein lies the origin of rational natural law and, therefore, from the point of view of the history of political theory, Georges Sabine begins with Stoicism, going back to the 15th century AD, which he calls the theory of universal community,³⁶ directly related to that of natural law, a notion to which no reference is made in the research, except in the context of the relationship between law and ethics, focusing on those that exist between the virtues of justice and solidarity.

The human person has been expressly invoked with claims of universal generality in the fourth recital of the 1948 Universal Declaration of Human Rights when mentioning their dignity and value; and reaffirmed in 1966 in the first and second recognitions of the 1966 International Covenant on Economic, Social, and Cultural Rights, by stating that the principles set forth in the Charter of the United Nations are based on recognizing "the inherent dignity of all members of the human family and their equal and inalienable rights," which "derive from the inherent dignity of the human person".³⁷ At the state level, the enshrinement of so-called fundamental rights in numerous political constitutions, such as that of Colombia, follows the same orientation. Therefore, amid all the differences, analogies, and even equivalencies that exist between very diverse conceptions of man and society, the dignity of the human person, regardless of whether this value is assigned a more or less political or moral meaning, or a more particular and temporal one, or whether it is affirmed with claims of more general validity, ahistorical or not, constitutes a fundamental value for life in society; and that is why it can be considered a common support for the ideas of justice and solidarity.

Today, the limited and often biased overall effectiveness of the international institutional instruments designed at the end of the horror of World War II and the beginning of the Cold War contrasts with the greater effectiveness of communities organized under a national state form in gathering resources, allocating them, and backing decisions on their distribution with a monopoly on force in order to deal with a crisis such as that unleashed by the pandemic. This is an additional reason to insist on the reasonableness of the ethical aspiration that underpins the idea of human rights, which postulate the unity of that "human family" expressly referred to in the first recital of the 1948 Universal Declaration, whose members, that is, all human beings, "are born free and equal in dignity and rights and, being endowed with reason and conscience, should behave fraternally towards one another," as stated in its first article, referring to an action based on fraternal affection, which is almost always associated with feelings of brothers very different from Cain.

This aspiration, already mentioned with reference to Sen,³⁸ can be described for these purposes as cosmopolitan and involves confronting its limits with those of communitarianism; and the duty of this fraternal behavior, as described in the 1948 Declaration, must in turn be examined in light of the limits of justice. This latter examination is very illustrative, *mutatis mutandis*, for addressing, also in terms of ethical aspirations, the relationship between justice and solidarity.

Macintyre and Cortina's Positions on Human Rights

Given the importance of Macintyre's and Cortina's thinking in this thesis, it is necessary to briefly refer to their respective approaches to human rights, both of which are important in themselves and very useful in the context of the relationship between them and solidarity discussed here.

A. Macintyre considers human rights to be fictitious, like unicorns, and argues that

In the 1949 United Nations Declaration of Human Rights, *the practice of not giving a good reason for any assertion*, which has become normal for the United Nations, is followed with great rigor. And the last defender of such rights, Ronald Dworkin

(Taking Rights Seriously, 1976), concedes that the existence of such rights cannot be proven, but at this point he simply emphasizes *that the fact that a statement cannot be proven does not necessarily imply that it is not true* ³⁹. *This is true, but it could equally serve to defend assumptions about unicorns and witches. (-) Human or natural rights are fictions, as is utility [...]* (-) [...] a central characteristic of moral fictions becomes recognizable, which is obvious when we juxtapose the criterion of utility with that of rights: *they propose to provide us with an objective and impersonal criterion, but they do not [...]*. Hence, when the claim to invoke rights clashes with claims that appeal to utility, or when either or both of them clash with claims based on some traditional concept, it is not surprising that *there is no rational way to decide which type of claim should be given priority or how to weigh them against each other [...]* (-). The fake arbitrariness of that debate hides the arbitrariness of the will and the power that deal with solve the matter. ⁴⁰ (Emphasis added)

B. Cortina, for his part, after describing MacIntyre's position as "discouraging," confronts him on the basis of discursive ethics; he also formulates his criticisms of Rorty's understanding of human rights, which he describes as "metaphysical consolations"; and explains her own ethical foundation, with which "overcoming natural law, the ethical foundation in the idea of human dignity, and also positivism", she seeks a "rational basis for human rights, through the logic of practical discourse and the ethics of argumentation". ⁴¹ It is important to highlight her warning about how a normative foundation for such rights, which she finds, instead, in the ethics of discourse, could not be based on addressing "only a biological human quality—belonging to the human species—" because if "we tried to base human rights on it, we would inevitably fall into a naturalistic fallacy". ⁴²

C. Shared convictions underlying human rights. The reference to human rights proposed here is different from that made about a material object, such as Big Ben in Sen's example mentioned above; it does not verbally create a unicorn or something similar, as neither do prudence or virtue as conceived by Aristotle, for example. And because such rights correspond to the legal formulation of an aspiration for justice that can be positivized in law, they do not cease to have an ethical origin. The equality and irreducibility of human dignity, a value from which the principle of respect for it is postulated, leading to the formulation of human rights for all human beings, can be related, according to MacIntyre, with "the moral importance of recognizing not only vulnerability and affliction, but also the dependence they generate," ⁴³ which lies, among other things, in the fact that it is a situation that is radically identical in all human beings, an equality that seems to underlie the aspiration and ethical demands of solidarity and cooperative behavior towards the most vulnerable, and which is not reduced to mere biological existence. If, for the sake of argument, we consider that a baby crying from hunger is still little more than that, this does not eliminate the responsibility of the moral agent challenged by its crying, nor the requirement of the child's human right that is correlative to the duty generated by that obligation, in the terms of Gandhi, Weil, and Lévinas mentioned above.

In this context, it is important to highlight the prominent role played by Francisco de Vitoria's Spanish school and his followers in Salamanca in the origins of the idea of human rights. It is worth mentioning here that, in his famous letter of 1534, the Dominican theologian, commenting on the situation of the American Indians, stated that if, as he maintained unequivocally, the Indians "are men and neighbors [...] et quod ipsi praese ferunt, vassals of the Emperor, non video quomodo o excuse these conquerors of ultimate impiety and tyranny, nor do I know what great service they do to His Majesty by ruining his vassals" ⁴⁴ (emphasis added). Based on arguments applicable to Indian law and founded on ethical considerations, he rethought and revitalized the concept of the law of peoples and laid the foundations for what is known as public international law, which was so important in the Spanish American sphere given the inclusion of the indigenous peoples under the same legal status as the other subjects or vassals of the monarch. As Beneyto points out in his analysis of the famous Valladolid controversy, for Vitoria "the obligations of natural law and the law of nations bound all human beings equally. Their basis was not divine laws or a particular religion, but the rationality and common equality of humanity." ⁴⁵ And this equal relationship is affirmed in the Laws of the Indies by placing them in the same category (without prejudice, of course, to other distinctions, legal or otherwise, and regardless of their degree of practical effectiveness), that is, as subjects of their rulers, but not

as slaves; without prejudice to the fact that for the Spanish and for all Europeans, human beings trafficked from Africa (some of them resold to them by “original” slave traders, such as the Ashanti) were indeed slaves, as were many indigenous people subjected to the pre-Hispanic yoke of other aborigines, as in the case of the Aztecs, who did distinguish between their slaves and prisoners of war.⁴⁶

It should be noted that, in any case, Maximiliano Figueroa warns that considering Native Americans as children of the God of the conquerors, that is, nothing less than their brothers, did not prevent many of them from

continuing to treat the natives of the New World in a contemptuous and cruel manner, without really giving them the consideration and respect that go hand in hand with the recognition of their status as fellow human beings. (-) Nor did the Universal Declaration of Human Rights or the struggle for civil rights in the United States serve as sufficient reasons or experiences to prevent apartheid in South Africa, which would only end in the last decade of the twentieth century. The Spanish conquistadors and the whites in South Africa continued to feel that their first and strongest solidarity was with the Spanish and with the white South Africans, respectively.⁴⁷

In current public international law, in addition to states as its original subjects, natural persons are also recognized as active subjects-victims, for example, in cases that can be brought before the Prosecutor’s Office of the International Criminal Court—and passive subjects—such as criminals, to continue with the example—of the same. This is regardless of their nationality, as is the case with disputes related to human rights, which, since the 1948 Universal Declaration, have been subject to the moral claim, increasingly positivized in legal terms, of international recognition and respect for the equal dignity of all human beings and which may give rise to actions brought precisely against certain States or State officials.

It should be mentioned that Rawls, in his work following Political Liberalism, entitled *The Law of Peoples* in reference to traditional international law,⁴⁸ specified that he was proposing a political viewpoint on the law applicable to public international law, which he described as a “*realistic utopia*” (emphasis added)⁴⁹; and, in the second part,⁵⁰ Rawls addressed, among other issues he describes with sympathetic courtesy, as “Tolerance for non-liberal peoples,” “Extension to decent hierarchical peoples” and the role of human rights in a “reasonable law of nations.” All these terms need to be explored in depth in order to understand how and in what way this ‘extension’ of the criteria of political justice designed for a well-ordered society is to be carried out and defined. In this regard, the section that seems to offer the most clues, and which suffices to mention here, is the one that refers to what he calls “distributive justice among peoples.” Given the common vulnerability and equal dignity of all human beings, belonging both to well-ordered Rawlsian societies and to those “non-liberal” or “decent hierarchical” peoples he mentions, this could be the starting point for the construction of an original position beyond the boundaries of his initial theory.

On another occasion, it was argued,⁵¹ and it is now reiterated that the claim of general validity of human rights, which is the subject of communitarian criticism,⁵² that is inherent to its moral connotation, which is not necessarily linked to a supra-historical conception of the human being, but rather to a contemporary aspiration to build a community, not only national but global, that respects all people who inhabit the earth and are part of diverse cultures. As Glendon states, and as already mentioned, the Commission’s work confirmed the conclusion reached in their final report by the philosophers who were members of the UNESCO Committee on the “Theoretical Foundations of Human Rights”, according to which cultural diversity cannot be exaggerated, since it is found that “basic human rights rest on a ‘shared conviction,’ even though those convictions ‘are expressed in terms of different philosophical principles and on the basis of different political and economic systems’”.⁵³

The intersection and complementarity between the set of “universal” human rights and that of a specific constitutional order have political, moral, and cultural dimensions that are not reflected on a merely “horizontal” level; and both sets are formed with concepts that are neither timeless nor unambiguous,

with concurrent political, moral, and legal meanings, such as those constructed on the basis of the shared convictions that gave rise to the Declaration.

D. The scope of justice and Lindahl's illegality. The aforementioned reference to Hans Lindahl's notions about the boundaries, limits, and failures of globalization adequately frames the problems faced by both the general invocation of human rights from "outside" a national legal order—which encompasses and covers sub-national orders—and the specific assertion of fundamental rights from "within" that national legal order and codified in its state constitution. This composition of place, as Lindahl himself points out, highlights the legal tension between local legal systems and a global order, in terms that simultaneously leave "both particularism and universalism behind"⁵⁴ or, if you prefer, that illustrate the inadequacies of the extremes in both orientations and their necessary complementarity.

Lindahl refers to the limitations of all kinds involved in resorting to human rights, after examining two points of view: The cosmopolitan view of a Kantian-inspired State of the Peoples by Habermas, which leads to a global legal positivization of human rights; and that of Sheila Benhabib, who refuses to reduce morality to the realm of law and politics, based on the defense of the rights of immigrants and asylum seekers on the basis of human rights that express a moral reciprocity she considers universally valid, and therefore dispenses with invoking their positivization. Lindahl argues that, in line with Arendt's assertion, there is no difference in concreteness between moral and legal rights, but rather a difference in class:

Moral rights refer to reciprocity between individual human beings; legal rights refer to reciprocity between political equal [...] (-) [...] preferential differences between insiders and outsiders, and between members and non-members, cannot be mitigated or undone by appealing to human rights, such as the respect and equal treatment that individuals owe each other as human beings [...] (-). What, then, are human rights if they are not legal rights, that is, fundamental rights? The question is important if, as I do, one declines the "Kantian" invitation to see them as universal moral rights [...] (-) [...]. In a well-known essay, Jeremy Waldron argues that cosmopolitanism is characterized by its insistence that "nothing human is alien". He is, of course, alluding to the famous line from Terence's play *Heautontimorumenos*: "Homo sum, humani nihil a me alienum puto". Waldron's evocation of this line neatly encapsulates the cosmopolitan claim to realize an all-inclusive collective founded on the humanity of human rights. It is not surprising that Waldron sees human rights as the essential core of *ius gentium* [...] (-). However, invoking humanity in human rights also posits a whole from which a collective has definitively separated itself [...]. Humanity is first and foremost this anonymous and pre-reflective stratum of sociability and socialization, the backdrop from which a legal collective breaks away to emerge into the foreground [...] human rights maintain a critical function with respect to legal orders without becoming a totalizing category, whether moral, political, or legal. Paradoxically, human rights claims (unlike legal rights) articulate in the language of reciprocity what is definitively excluded from the circles of legal reciprocity available to a collective. They are not so much the archetypal "rights of others" as the rights of strangers.⁵⁵

Determining the legal limits of state action in response to the pandemic and its effects requires an explanation of who is excluded or marginalized as a result of such limitations and why. This is analogous to Lindahl's proposal in the broader context of globalization, which calls for weighing the corresponding decisions against the principle of equality before the law, so that the reasons why the distribution of scarce resources leads to exclusions accepted as fair are made explicit. And beyond the weighing up of this issue from a legal point of view, the question goes beyond that framework and opens up a debate, either on the limits of justice or on the ethical basis and scope of criteria for distributive justice. It is in this context that the need arises to establish whether the idea of solidarity is exhausted in that of equitable distribution, or whether that idea, as argued here, forms part of an additional or complementary orientation to those of distributive justice, which can form part of the basis of an ethical stance on political decisions in accordance with the distribution criteria applicable in a given legal system.

The limits of the legal boundaries of a contemporary state raise numerous questions; but the importance of the scope of decisions made based on a given state law, both inside and outside those borders, was highlighted during the pandemic because, as already noted, MacIntyre emphasized that communities "have numerous fundamental needs that can only be met by using state resources and with the intervention of government agencies."⁵⁶ But he also highlighted the situation of those who are definitively or temporarily excluded from

the scope of such decisions, which is clearly evident from Lindahl's analysis, which raises the moral question that arises from the existence of human beings who are exiled from everywhere, as sung in chorus by the undocumented immigrants in the musical *Notre Dame de Paris*, who are foreigners, homeless, and barefoot.

E. Realization of moral aspirations of universal scope. In this context, Nino's revision (or reconstruction, as he calls it) of Maccormick's notion of 'subjective moral right' is also illustrative. First, he specifies that

what one ought to do morally does not coincide completely with moral duties or obligations but has a broader scope: for example, almost all of us would agree that poverty and war ought to be eliminated, but many would think that no one in particular has the duty or obligation to bring about such elimination; at least it seems certain that the first statement does not necessarily imply the second. The difference between these two moral judgments is obscured in Spanish by the homonymic coincidence between the verb "deber" and the noun "deber", but this distinction is clear in other languages that have different expressions for each grammatical function (ought to and duty in English). The idea that something should be or should be done [...] does not seem to be subject to the principle that duty implies power, as is the case with the duty or obligation to do something (it makes sense to say that poverty in India should be eliminated or should not exist, even if it is impossible to eradicate it, while it is absurd to say that someone has a duty to save a drowning person when they cannot swim) [...]. The most plausible way to justify duties is to resort to what ought to be or ought to be done, with the addition of considerations about, first, the special situation of certain individuals with regard to the state of affairs in question (such as, for example, a particular role linked to its materialization) and, second, the possibility of bringing about the realization of that state of affairs (the assignment of duties that protect rights is what determines the scope of those rights).⁵⁷

He then reformulates it as follows:

The moral right to access a situation S (which may be [...] that of having certain resources or being free from certain contingencies) is assigned to someone when the individual in question belongs to a class C and it is assumed that S normally implies for each member of C a good of such importance that access to S must be facilitated and it is morally wrong to prevent such access (-). This definition indicates that a theory of individual rights must be constituted [...] by principles concerning the good of individuals and the distribution of that good.⁵⁸

The moral aspiration underlying human rights allows us, to paraphrase Nino, to argue that the moral right to have access to medical care that protects as far as possible from the risks posed by the pandemic to life and health can be attributed to each and every human being (which is the common "class" or gender of all), since it is so important that denying such access is morally wrong because it disrespects dignity through unequal treatment compared to other members of the human race. It is difficult to imagine a better example of a matter of more general interest than the need and urgency for a state and citizen response, both international and human, that is as fair and efficient as possible in the face of the calamity caused by the pandemic.

However, given the existence of inclusions and exclusions that cannot be resolved solely in legal terms, conflicts such as the following remain open, within the framework of available resources and their allocation or distribution: Under equal medical conditions, if the local protection of an infected foreigner is subordinated to the priority protection of a national based on local law, can the protection of infected nationals be invoked outside that local order, abroad (in another country) or from abroad (through aid, for example)? Furthermore, within the country, could the infected foreigner invoke the same treatment based on the same fundamental right that protects nationals or by invoking a broader human right?⁵⁹

Therefore, for example, it must be assumed that the possible prevention or treatment of COVID among immigrants who do not contribute to the public health system,⁶⁰ or the hypothetical establishment of a universal minimum income and its financing in a given state, are channeled through its legal system and within the respective jurisdiction; and that this scope is defined in subjective terms (the legal entities that are beneficiaries and those obliged to finance it) and objective terms (the subject matter of the regulation and the territorial factor applicable to establishing the powers of the authorities that create or apply a given rule). Decisions to extend coverage beyond citizens require, in political, legal, and ethical terms, a prior prioritization in favor of the latter, as already mentioned; but this does not detract from the fact that those who have been excluded or neglected are as entitled to human rights as nationals. On the other hand, decisions

that favor nationals, such as a possible temporary suspension of patent rights for drugs (without considering here their equity or efficiency, which have already been examined), as occurred some time ago with drugs used to treat AIDS in South Africa and Brazil, have implications for their implementation and enforcement as a result of pressures arising from the asymmetries of all kinds that characterize international relations.⁶¹

However, the ethical basis for respect for human dignity, which is closely related to the idea of solidarity, implies a universalizing claim for human rights based on an argument aimed at an equally universal audience that simultaneously goes “beyond” both a particularizing communitarian substantialism and a universalist but purely procedural moral reason, such as that postulated by Cortina in search of a “universal obligation in a pluralistic context”,⁶² and which does not fall into the formal universalism that she points out in the Kantian moral subject.⁶³ This assertion can be made in a situation of “a-juridicity”, as proposed by Lindahl, already mentioned, or from a perspective such as that put forward by Singer, also already mentioned, when proposing an “ethics that serves the interests of all those who live on this planet”: It starts from contemporary “material bases” provided by “our new interdependent global society, with its remarkable possibilities for connecting people around the planet”; and from the concurrent fact that “the communications revolution has created a global audience, so that we must feel a need to justify our behavior to the whole world.”⁶⁴

F. Dignity and its moral foundation. The pandemic presents a global case in which, when applying the balance of distributive justice in a given community, we must answer whether solidarity has any decisive weight in maximizing respect for the principle of human dignity for all, sick and healthy, old and young, poor and rich. This is relevant to two guiding principles of distributive justice identified by Dworkin, one of which has already been mentioned, namely that through the law we must “show equal consideration for the fate of each and every person over whom it claims jurisdiction,” and “fully respect the responsibility and right of each person to decide for themselves how to make their life valuable.”⁶⁵

Therefore, an ethical foundation for demands based on solidarity makes it possible to question the political and legal determination of the limits of state action in the face of the pandemic and its effects. It is a matter of evaluating in ethical terms the explanations and justifications regarding who and why they are excluded or neglected as a result of such limitations, as well as why the distribution of resources (which must be assumed to be scarce) leads to such exclusions. And this evaluation and the response to it must be presented in terms consistent with topics appropriate for an audience open to the rest of the world.

Faced with a possible and foreseeable shortage of distributable resources that makes maximum protection and cooperation impossible, we must examine how the corresponding distribution decisions are made and implemented in search of a socially acceptable minimum in the face of local, national, regional, and global difficulties and restrictions. It is in response to this scenario that this research argues that, as it seems, one of the relevant ethical criteria for the corresponding assessment and practical judgment is that of solidarity, so that the willingness to aspire to and demand protection for the most vulnerable does not depend solely on justice. It is striking that, regardless of the justification given (whether compassion or benevolence), based on Galen, Harper refers to the fact that in Rome during the Antonine Plague, Marcus Aurelius paid for the burials of poor people from the public coffers.⁶⁶

This leads to the conclusion that the recognition of human dignity is the common foundation of everyone’s duty to care for those most in need and of the human right to be respected by all. As has already been said and is now repeated, Victoria Camps points out that “care is provided within relationships that are not egalitarian [...] (-). If there is an ethical imperative that applies to the caregiving relationship, it is that it must preserve the autonomy or dignity of both parties, the caregiver and the person being cared for”.⁶⁷

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Notes

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* Research paper

1 Amartya Sen, *The Idea of Justice* 366 (Belknap Press, Harvard University Press, 2009).

2 *Id.*, at 362.

3 *Id.*, at 363.

4 That is the sense in which they are examined by Crf. Sen, *supra* note 1, at 355-387. In that work, Sen distinguishes between their proclamation, such as that of 1948, and their various forms of normative enshrinement, noting that “The existence of human rights is obviously not like, say, that of Big Ben in central London. Nor is it like the existence of legislation in a statute book. Proclamations of human rights, although declared in the form of recognition of the existence of things that are called human rights, are really strong ethical pronouncements about what should be done.” *Id.*, at 357. It should be noted that this is the perspective already accepted and expressed by this author on another occasion and which is now being taken up again. Jorge Pinzón, *Objeción de conciencia al servicio militar obligatorio. los derechos humanos y la autonomía moral*, Bachelor’s thesis (Pontificia Universidad Javeriana, 2012).

5 Unofficial translation.

6 Norberto Bobbio, *Presente y porvenir de los derechos humanos*, 1 Anuario de Derechos Humanos 1 (Instituto de Derechos Humanos de la Universidad Complutense de Madrid, 1982), cited in Eusebio Fernández, *Teoría de la justicia y derechos humanos* 82 (Ed. Debate, 1984).

7 In his study on Saint Thomas Aquinas, when referring to the limit on the content of legal norms derived from the need for “justice,” resulting from the famous subordination of positive law to natural law, Copleston specified that, “Aquinas believed that actions contrary to natural moral law were not wrong simply because God had forbidden them; they were forbidden by God because they were wrong.” Frederick Copleston, Aquinas 226 (Penguin, Harmondsworth, 1967), (Unofficial translation).

8 *Id.*, at 120.

9 Eusebio Fernández, *Teoría de la justicia y derechos humanos* 84-85, 101-102 (Ed. Debate, 1984), to propose, as an alternative to both, what he calls a “rational justification of the ethical basis of fundamental rights,” which stems from “rational demands of moral conscience that allow us to speak of inalienable human rights inherent to human beings,” and which “revolve around the idea of human dignity, a basic idea and sine qua non condition for speaking of fundamental human rights.” *Id.*, at 120. I have not identified the 1947 document referred to by Fernández, but rather one—which appears to be the one mentioned—dated June 15, 1948, which appears on the UNESCO website, entitled “A collective approach to the problem of human rights.” (provisional manuscript) Unesco/PRS/3, with an introduction by Maritain, and which, among other contributions, includes the beautiful letter written by Gandhi to Julian Huxley on board a train and which forms part of the responses—almost 70—received by the UNESCO committee of philosophers, the final paragraph of which is transcribed below.

10 Jacques Maritain, *El hombre y el Estado*, trans. M. Gurrea (Club de Lectores, 1985).

11 “Those who discuss human rights solely in terms of written fundamental rights not only ignore their legal and moral status but also reduce their critical potential. Only those who clearly separate human rights from fundamental rights and then relate them to each other will be able, on the one hand, to critically develop, in the name of human rights, those other fundamental rights that are actually in force within a common entity; and, on the other hand, formulate the task of extending the protection of fundamental rights beyond a particular common entity to the coexistence of all common entities, to an international legal community”. Otfried Höffe, *Derecho intercultural*, trad. R. Sevilla 168-169 (Gedisa, 2000). “When current law is criticized in the name of tradition, one is simply resorting to a different form of positivity, namely tradition. Legal morality will only be critical in the full sense when it refers, in the final analysis, not to traditions dependent on a particular culture or era, but solely to universal human reason, enriched by the experiences of all humanity. A moral philosophy that adheres only to these two factors, to the combination of universal reason with equally universal experience, supported by the human condition, can rightly claim the category of universal.” *Id.*, at 56. (Unofficial translation).

12 Pinzón, *supra* note 4.

13 Simone Weil, *The needs for roots*, trad. R. Schwartz 33 (Penguin Books, 2023).

14 Javier Barraca Mayral, *Lévinas y los derechos humanos como deudas con el otro* 28 (Avaragani, 2018). The quote from Lévinas corresponds to the text “Les droits de l’homme et les droits d’autrui” (Human Rights and the Rights of Others), HS, op. cit., at 87. (Unofficial translation).

15 *Id.*, at 199.

16 Vicente Durán Casas, *La dignidad humana en Kant: una tarea, no un privilegio*, en Carmen Trueba Atienza & Sergio Pérez Cortés, eds., *Dignidad: perspectivas y aportaciones de la filosofía moral y la filosofía política* 189 (Anthropos, Universidad Autónoma metropolitana, 2018). (Unofficial translation).

17 Adela Cortina, *Ética aplicada y democracia radical* 204-205 (Tecnos, 1993). (Unofficial translation).

18 In his work, the most important for this research, *Rational and Dependent Animals: Why Human Beings Need Virtues*.

19 Unofficial translation.

20 The purpose of this work is described by Tugendhat as follows: “On the one hand, constructive in the sense that if we follow MacIntyre’s historical path backwards, we will be led to Aristotle and, with him, to the concepts of virtue and happiness, which are fundamental to ethics [...]. However, [...] MacIntyre’s work has primarily a critical function: this book is perhaps the most thoughtful of an entire genre that rejects not only the Kantian conception, but all attempts to construct an enlightened morality.” Hans Tugendhat, *Lessons in Ethics* 191, trans. L. Roman (Gedisa, 1997). (Unofficial translation).

21 Gabriel Amengual Coll, op. cit., at 318. In relation to the last paragraph, Amegual refers to a work by Professor de La Torre. (*Dependencia y vulnerabilidad en la filosofía moral de Alisdair MacIntyre*, 5 Revista Iberoamericana de Bioética 1-18 [2017]).

22 Manuel Atienza, *Sobre la dignidad humana* (Ed. Trotta, 2023).

23 *Id.*, at 138.

24 *Id.*

25 *Id.*

26 De Lucas notes this and quotes D’Ors’ translation: “All of them (men) are united by natural bonds of friendship and solidarity, even by a community of law”. De Lucas, *supra* note 2.

27 Atienza, *supra* note 23, at 138.

28 *Id.*, at 139.

29 *Id.*

30 *Id.*, at 140.

31 *Id.*

32 *Id.*, at 141-142.

33 *Id.*, at 127.

34 *Id.*

35 Digesto del Emperador Justiniano. L.I.T.I De la justicia y el derecho, Bilingual Edition, Translation by B. A. Rodríguez, pub. M. Gómez y P. Gil, Printing Press R. Vicente, Madrid, 1872, Vol. I, 1-12, at 31-33.

36 Georges Sabine, *Historia de la teoría política*, Trad. V. Herrero (FCE, 3ª. ed., 2021).

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38 Above, note 11.

39 Alisdair Macintyre, *Tras la virtud* 81, Trad. A. Valcárcel (Ed. Crítica, 1987).

40 *Id.*, at 96-97.

41 Adela Cortina, *Ética sin moral* 239-253 (Ed. Tecnos, 2ª. ed. 1992).

42 *Id.*, at 248.

43 Alisdair Macintyre, *Animales racionales y dependientes* 23, Por qué los seres humanos necesitamos las virtudes, trans. B. Martínez de Murguía (Ed. Paidós, 2001).

44 Carta de Francisco de Vitoria a Miguel de Arcos, cited by Alejandro Salafranca, *Cinco aportaciones de España al humanismo* 99 (Ladera Norte, 2024). Cfr. Francisco de Vitoria, *Reelección primera sobre los indios recientemente descubiertos*, at Francisco de Vitoria, *Sobre el poder civil, sobre los indios, sobre el derecho de guerra* 57-84, trad. L. Frayle (Tecnos, 2nd ed., 2012). (Unofficial translation).

45 José María Beneyto, *La conquista, el imperio y la paz. Vitoria y Erasmo ante Carlos V.* 298-299 (Cátedra, 2024). (Unofficial translation).

46 Cfr. Carlos Bosch García, *La esclavitud prehispánica entre los aztecas* (El Colegio de México, 1944).

47 Maximiliano Figueroa, *Richard Rorty: idea y construcción pragmática de la solidaridad* (n.d.), in Maximiliano Figueroa & Dorando Michelini, comps., *Filosofía y solidaridad. Estudios sobre Apel, Rawls, Ricoeur, Lévinas, Dussel, Derrida, Rorty y Van Parijs* 166-167 (Universidad Alberto Hurtado, 2007). (Unofficial translation).

48 In his introduction, the author begins by explaining that he understands this to mean a particular political conception of law and justice applicable to the principles, norms, and practices of public international law; that the expression derives from the traditional *ius gentium*. John Rawls, *The Law of peoples* 3 (Harvard University Press, 1999).

49 It is a direct quote from the final report from Mary Ann Glendon, *Un mundo nuevo. Eleanor Roosevelt y la Declaración Universal de Derechos Humanos* (Fondo de Cultura Económica, 2011).

50 *Id.*, at 59-120.

51 Pinzón, *supra* note 4.

52 Like Sartori, for whom “Talking about a global community is pure rhetoric, it is vaporizing the concept of community [...]. Every community implies closure, a coming together that is also a closing off from the outside, an exclusion. An ‘us’ that is not circumscribed by a ‘them’ does not even come into existence.” (Unofficial translation). Giovanni Sartori, *The Multiethnic Society. Pluralism, Multiculturalism, and Foreigners* 48. Trans. M. Ruiz (Ed. Taurus, 2001).

53 *Id.* This is a direct quote from the Final Report. (Unofficial translation).

54 Hans Lindahl, *Fallas de la globalización* 444. Trans. J. Restrepo (Siglo del Hombre, U. Rosario, 2018).

55 *Id.*, at 476-492. (Unofficial translation).

56 It adds that “the quality of community political practices is fundamental to correctly defining these needs and ensuring that they are met”. Macintyre, *supra* note 43, at 167; “The modern nation state is governed by a series of agreements between a variety of economic and social interests that are more or less in conflict with each other [...] Money fundamentally determines bargaining power and the ability to negotiate, especially money invested in the resources necessary to acquire political power [...]. The result is that most individuals share, albeit to varying degrees, public goods such as the guarantee of a minimum order, but the distribution of goods by the government in no way reflects a general opinion reached through common deliberation governed by rules of rational inquiry. In fact, the size of modern states makes this impossible, which does not mean that relations with the nation-state [...] are unimportant to those who practice the politics of the virtues of recognition of dependence. If only because of the vast resources it manages or the coercive legal powers at its disposal and the threats inherent in its clumsy and distorted benevolence, no one can avoid having a relationship with the state that is of considerable importance.” *Id.*, at 155-156.

57 Carlos Santiago Nino, *Ética y derechos humanos. Un ensayo de fundamentación* 37-39 (1984) (Astrea, Bs As, 5ft Reprint 2020).

58 *Id.*, at 40.

59 Vives observed that “Healthy beggars who are strangers should be sent back to their cities or towns, which is also mandated by civil law, but they should be given provisions, because it would be inhumane to send the needy away without any means for the journey, and whoever did this, what else would they be doing but ordering theft?” (Unofficial translation).

60 In this regard, written prior to the pandemic, the study by Luis E. Delgado del Rincón, *El derecho a la asistencia sanitaria de los extranjeros: limitaciones y problemas competenciales* (Tirant lo Blanch, 2019).

61 There is no better term to refer to them, as it has a semantic tradition that facilitates its understanding; and in any case, it does not limit its scope to those that are inter-state in nature.

62 Cortina, *supra* note 41, at 174.

63 *Id.*, at 177.

64 Peter Singer, *One World- The ethics of globalization* 12 & ss. (Yale University Press, 2002). For Singer, the increasingly widespread awareness of our interdependence, evidenced by facts such as a shared and vulnerable atmosphere affected by global warming, and the turbulent and institutionally weak movement toward a more integrated global economy, are putting pressure on the traditional idea of state sovereignty. *Id.*, at 106. The tone and volume of the book *One World*, which increasingly advocates for a global ethic—except for the diplomatic moment when it lowers its voice and pragmatically explains the world’s softness in the face of Chinese abuses in Tibet—and which, based on a changing world and a single atmosphere, leads the reader, chapter by chapter, to an economy, a law, a community, and a question about a better world, it lowers to a simple whisper about charity and aid, culminating in its “realistic” approach in *The life you can save. Acting now to end world poverty*. Picador, Nueva York, 2009. In any case, Singer regains his voice by advocating, not for humans, but for animal liberation, in a “speciesist” stance on which it is worth considering Jean-Francois Braunstein’s devastating confrontation (cf. *Philosophy Has Gone Mad: A Politically Incorrect Essay* 109 ff., Trans. A. Torrego [Ariel, Barcelona, 2019]). The soundness of this criticism is confirmed by examining Singer’s essay, with abundant references to Bentham, entitled “All animals are equal,” in Peter Singer, *Unsanctifying human life* 79-93 (Ed. Helga Kuhse, Blackwell, 2002). It suffices to highlight his “anti-speciesist” statement in the context of animal experimentation, according to which “it seems that human infants do not possess relevant characteristics that adult mammals do not possess to an equal or greater degree” (*Id.*, at 88-89). It is unclear whether Singer has examined the ethical implications of experimenting and not experimenting with non-human animals in the search for a vaccine for humans against diseases transmitted to them by animals, such as the Covid-19 coronavirus.

65 “No government will be legitimate if it does not adhere to two prevailing principles. First, it must show equal consideration for the fate of each and every person over whom it claims jurisdiction. Second, it must fully respect each person’s responsibility and right to decide for themselves how to make their life worthwhile. These guiding principles set limits on acceptable theories of distributive justice: theories that establish what resources and opportunities a government should make available to its citizens. I raise the question in this way, in terms of what governments should do, because any distribution is the consequence of law and official policies: *politically neutral distributions do not exist* [...] So, to justify any distribution, it must be shown that what the government has done respects those two fundamental principles [...] The question of distributive justice therefore requires a solution to simultaneous equations. We must try to find a solution that respects the prevailing principles of equal consideration and personal responsibility, and we must try to do so in a way that does not compromise either principle: rather, we must find attractive conceptions of each of them that result in the full satisfaction of both. [...] (-) The justice we have imagined begins with what seems like an unquestionable proposition: that the government should treat those under its authority with equal consideration and respect. That justice does not

threaten our freedom: it expands it [...] It is not in favor of big government or small government: only fair government. *It arises from dignity and aspires to dignity. It makes it easier and more likely for each of us to live a good life well* [...] Without dignity, our lives are nothing more than fleeting moments. But if we manage to live a good life well, we create something more. We put a footnote to our mortality. We make our lives tiny diamonds in the cosmic sands” Ronald Dworkin, *Justicia para Erizos* 16, 17, 511, trad. H. Pons (Fondo de Cultura Económica, 2014). (Emphasis added). (Unofficial translation).

66 Kyle Harper, *El fatal destino de Roma. Cambio climático y enfermedad en el fin de un imperio* 141 (Crítica, 2017).

67 *Id.*, at 130.

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