CROSS-CULTURAL
HUMAN RIGHTS REVIEW

"IN SPIRIT OF BROTHERHOOD": THE PRINCIPLE OF FRATERNITY BETWEEN RIGHTS AND DUTIES. A REFLECTION SINCE THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

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ABSTRACT

This article points to the importance of rescuing the principle of fraternity in order to add a new perspective to the debate on the universality of human rights. Drawing on the multicultural conception of human rights by Sousa Santos and on other studies about the idea of fraternity, we first analyze how fraternity was present in the discussions of the preparatory works on the Universal Declaration of Human Rights; and then how it is envisaged in political and religious documents on rights. We argue that the principle of fraternity, on the one side, relates to the sense of duties and responsibilities the individual has towards a community. On the other side, the openness of the principle itself allows the concept to be pushed beyond its application in an identified local community. For this reason, we conclude that the principle of fraternity is well equipped to allow for cross-cultural dialogues to occur in the international arena on the issue of human rights.

KEYWORDS

Fraternity; Human Rights; Cross-cultural Dialogue; Community; Universalism; Rights and Duties

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1. INTRODUCTION

In June 1946, the UN Economic and Social Council established the Commission on Human Rights, granting it the task of preparing what was initially conceived as an International Bill of Rights. One year later, the Committee constituted by the Commission to draft the Universal Declaration of Human Rights (UDHR), chaired by Eleanor Roosevelt, received one of its first major theoretical challenges, coming from the Executive board of the American Anthropological Association (AAA).

According to the anthropologists, respect for the culture of different human groups was equally important as respect for the personality of the individual as such and his right to its fullest development as a member of his society. Starting from this assertion, they considered that the problem for the Commission was "to formulate a statement of human rights that [would] do more than just phrase respect for the individual as an individual" and which should "also take into full account the individual as a member of the social group of which he is a part, whose sanctioned modes of life shape his behavior, and with whose fate his own is thus inextricably bound."[1] The AAA's statement introduced *cultural relativism* on the discussion about human rights. This form of relativism is not the only one existent, and must not be confused with *moral relativism*. The former, however, is probably the most commonly used to oppose universalist claims.[2]

The aim of this paper is to present the idea of *fraternity*, to which the first article of the UDHR makes reference, as a cross-cultural principle able to give a new perspective to the philosophical debate on the universality of human rights. Starting from the paradigmatic AAA's statement to the Commission allows us to consider the main issues present in that debate from a historical perspective. In fact, many of the concerns that would inform it in the years and decades to come were already present in the discussions held during the preparatory works of the UDHR, in which the AAA's statement is inserted.[3] Understanding those issues through a historical perspective enables us, in turn, to better grasp the difficulties the language of human rights still faces in our days when trying to cope with cultural differences. Of course,

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[1] American Anthropological Association, 'Statement on Human Rights' (1947) AMERICAN ANTHROPOLOGIST 539.

[2] Jack Donnelly, 'The Relative Universality of Human Rights' (2007) 29 HRQ 281, 293.

[3] Marcello Flores, *Storia dei Diritti Umani* (1st edn, Il Mulino 2008) 219.

concepts such as *multiculturalism*, *interculturalism* and even *cosmo-culturalism*, to name but a few to which the discussion on human rights are linked today, had their appearance in much more recent times than those years following the Second World War. They have irrupted in spaces of discussion (academic as well as political ones) mainly in the last decades.[4] However, the claims of universality on the one side and of relativity on the other have always accompanied them, and are often at the core of the interruption of dialogue between actors who appeal to one or another to defend their views.

In the first part of the article, we first offer a brief overview of the philosophical questions around universalism that are at stake in the international discussion of human rights, starting from the AAA's statement and the critiques moved towards its cultural form of relativism. We then introduce the cross-cultural perspective as a useful and necessary tool for fostering the dialogue around human rights without this entailing a denial of the critiques that see them as a western concept. As we shall see, the cross-cultural view, with its openness to the idea of *otherness*, creates a better possibility of dialogue between different cultures. Nevertheless, it still lacks a solid principle to which we can appeal when trying to build a consensus on rights that are interpreted differently due to the different background cultures of people who are supposed to "live" those rights.

In the second part, we delve into the concept of fraternity, an idea that has been given little attention in political theory, especially when compared to the two other

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[4] Stuart Hall states that the word "multiculturalism" has at least two different connotations: one which identifies it as a descriptive process of social characteristics and problems of governance presented by any society in which different cultural communities coexist and try to build a life in common, while retaining some of their "original" identity. The second refers to the strategies and policies adopted to govern or manage problems of diversity and multiplicity generated by those multicultural societies. [See Stuart Hall, *Da diáspora: Identidades e Mediações Culturais* (tr. Marina de Souza, 1st edn, Editora UFMG, 2003)]. The term has, nevertheless, been subject to criticism by authors who accuse it of being a Eurocentric concept, part of the cultural logic of multinational capitalism [see Slavoj Zizek, "Multiculturalimo, o la lógica cultural del capitalismo multinacional" in Eduardo Grügner (ed.), *Estudios culturales. Reflexiones sobre el multiculturalismo* (tr. Gustavo Macri, 1st edn, Paidós, 2003)] or of falling into relativism and promoting separatist and segregationist policies [see Néstor García Canclini, *Diferentes, desiguales y desconectados. Mapas de la interculturalidad.* (1st edn, Gedisa, 2004)]. Although offering different reasons why the term multiculturalism should be avoided, both the above-mentioned authors prefer the term "interculturalism".

"founding" principles of modernity – those of *Liberty* and *Equality*, the other two ideas "encapsulated" in the French revolutionary motto.[5] A thorough analysis of the idea expressed by the word "fraternity" is beyond the limits of this article. Such an analysis could be done from different perspectives – philosophical, juridical, anthropological, and theological, for instance – and many authors, mainly in Italy and in Latin America, especially in Argentina and Brazil, have been conducting studies about the concept from those different areas of enquiry. Drawing on some of those studies, our scope is that of making a historical overview to see how the idea of fraternity is present in different international documents (mainly declarations and charters) on human rights, starting from the UDHR. The central question can be put as follows: could the idea of fraternity be used as an inspirational principle *within* the lexicon of human rights so that it would be the propeller of solidaristic policies and agreements among international actors whose dialogue is often halted due to the difficulty of reconciling universalist and relativist claims?

In the first section, we see how the idea of fraternity entered in the UDHR by observing the preparatory works of the declaration. The discussions held during those preparatory works are very relevant to our enquiry, since they are the first historical example of a truly cross-cultural dialogue among actors who considered the possibility of stating the existence of universal rights. From this analysis emerges the association of the concept of fraternity to the idea of *duties*, on the one hand, and to the sense of *community*, on the other hand. This approximation is further deepened in other documents of less universal reach (such as regional declarations or charters). We devote the second section to an overview of some of those documents.

These analysis lead us to argue, in the conclusions, that the idea of *fraternity* may be understood as a cross-cultural principle (that is, one that has resonance to all political-, culture- and religion-informed views) that reveals to be essential in making effective the universalization of the language of human rights. In order to do that, however, it must accomplish three different tasks. First, it has to be stripped out of its possible reductive interpretations. Second, the approximation of the idea of fraternity to the language of duties and responsibilities, perhaps even more to that of rights, but necessarily connected to it, must be highlighted. Third, its identification with the

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[5] Antonio Maria Baggio (ed.), *O Princípio Esquecido* (tr. Durval Cordas, Iolanda Gaspar, José Maria de Almeida, 1st edn, Cidade Nova 2007); Antoni Doménech, *El eclipse de la fraternidad. Una revisión republicana de la tradición socialista* (1st edn, Ed. Crítica, 2004).

sense of community, instead of being a hindrance to the building of a consensus about universal human rights, shall be seen as an opportunity for a more practical understanding of the abstract idea of "human family" present in the preamble of the UDHR.

2. A DILEMMA FACED BY HUMAN RIGHTS

2.1. UNIVERSAL PRETENSIONS VS. RELATIVIST CLAIMS

There are two possible ways to oppose universalist claims within the framework of cultural relativism, both of them can be found in the AAA's statement. The first one is philosophical: according to the Association, no data could support the assertion of a universal set of substantive rights: "Standards and values are relative to the culture from which they derive so that any attempt to formulate postulates that grow out of the beliefs or moral codes of one culture must to that extent detract from the applicability of any Declaration of Human Rights to mankind as a whole."[6] To put it in a straightforward manner: the list of universal human rights set forth by the UN Commission was nothing more than a product of the West (European countries and the US). This could make room for the contestation of this new language of rights by non-western cultures.

The second way of contesting the universality of human rights is connected to the philosophical one, but has a more practical appeal: being a western concept, human rights may be used to serve to imperialist purposes. This concern is found in the AAA statement through the example of historical cases. For instance, it was thanks to the neglect of the relativity of standards and values according to each culture that disastrous doctrines such as that of the "white man's burden" were born, leading to economic exploitation and the denial to the local communities of the right to control their own affairs. All of this had been rationalized by deeming the colonized peoples "culturally inferior". This proved the necessity to respect cultural differences since individual freedom cannot be achieved without the freedom of the group to which the individual belongs.[7] This concern, although anchored in historical examples, had a strong contemporary appeal, since it was addressed to a newly formed United

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[6] American Anthropological Association (n 1) 542.
[7] See Marcello Flores (n 3) 219.

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Nations that until that point had not been able to openly question the colonial practice of European states still in place, mainly in Africa and in Asia.

Notwithstanding the importance of the critiques moved by the American anthropologists in their statement to the UN, their philosophical argument was, according to Donnelly,[8] very dubious. This was due to the fact that their insistence on the necessity of avoiding a hegemonic imposition of Western value models was accompanied by a de-historicized vision in which cultures were depicted as immobile and in which "tradition" could stand for stable and shared "values". Moreover, the flaw in the philosophical argumentation points also to some serious risks concerning very practical issues: if we follow coherently the relativist proposition and stress it to its last consequences, than intolerant, even genocidal cultures are as defensible as tolerant ones. In fact, on which ground could we challenge a culture that says that other cultures are inferior? Paradoxically, the relativist claim could prevent the use of human rights as a standard from which to criticize and to contest colonialist and imperialist practices of western states themselves. As put by Francescomaria Tedesco:

> "In some intellectual spheres, and quite extensively, it has become almost a commonplace that - I say this in a rather simplistic way - being 'in favor' of human rights means being in favor of United States' imperialism. However, this intellectual habitus, which often takes root in the field of thought that one would like to 'criticize', does not realize that being in favor of human rights today cannot but mean to be 'against' the attitude that the United States holds in the matter of human rights, both on its own territory and outside it. In other words (…) defending the language of human rights as instruments of resistance to oppression today means defending them also 'against' the hegemonic and unipolar attitude of the United States."[9]

Tedesco does not exclude that human rights can be a means of 'colonization' by the great powers, but he consider this to be an instrumental use of them. It is thus necessary to protect human rights from this interpretation so that they can be turned *against* that oppressive use.

If we criticize the relativist position as expressed by the AAA, are we then obliged to embrace the universalist conception of human rights? Even if we were to avoid the many distinctions among universalist claims,[10] we would still be left with

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[8] Jack Donnelly (n 2) 295.

[9] Francescomaria Tedesco, *Diritti Umani e Relativismo* (1st edn, Laterza 2009) 65.

[10] For a resume of them, see Donnelly (n 2).

the question about which rights are universal. More specifically, why should we consider universal the list of rights presented in the UDHR? If the answer is to be in history – the act of ignoring those rights had led the world to face a devastating and calamitous war – then we might accept the relativity of such rights, represented by their "westerness". A possible answer is to claim that human rights are found in virtually all cultures across time and space – they are cross-cultural. But would this mean to deny their historicity? If we consider that to be the case, it would seem then that the human rights' language faces a dilemma: if they are universal *because* cross-cultural, then they are also a-historical; yet, if they are historical, then they are also relative.

We could be led to think that, at the basis of this dilemma, is the search for the fundament of human rights, or of a particular list of rights that could be considered to be universal because recognized cross-culturally. But if we go on through this debate we are not taken so far. The search for such a fundament raises the question on where is it to be found. Is it in nature? Is it in God, religion or revelation?

Norberto Bobbio offered a critique on the search for the ultimate (and extra juridical) fundament of human rights that argues for its abandon, focusing instead on the much more important theme of the *consensus* around them.[11] This was also the prevalent position of the members of the Commission that had the task of writing the Universal Declaration. But if we abandon completely the perspective of the fundament to focus only on the consensus around rights that are declared to be universal, we are taken back to the previous discussion and the dilemma it presents. For instance: if a certain state violates a right (one that is considered to be a human right by other states) of one of its citizens, or a group of them, and it does so in the name of culture or tradition, how could it be blamed, reprimanded or condemned? When there is no consensus, there must be some kind of ultimate reason for claiming that there are *some* rights that must be universally respected.

2.2. THE CROSS-CULTURAL PERSPECTIVE

The difficulty the language of human rights faces is further complicated when the word "globalization" enters the discussion. Sousa Santos identifies four types of globalization: *globalized localism,* a process through which a given local phenomenon

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[11] Norberto Bobbio, *L'Età dei Diritti* (4th edn, Einaudi 1992).

is successfully globalized; *localized globalism*, the specific impact of transnational practices and imperatives on local conditions; *cosmopolitanism*, which stands for cross-border solidarity among those excluded by the hegemonic globalization; and the *common heritage of humankind*, encompassing questions of sustainability and environment, that must be administered by trustees of the international community on behalf of present and future generations.[12] The first two are what Sousa Santos calls "globalizations from above", whereas the last two are "globalizations from below". For the author, "as long as human rights are conceived of as universal, they will operate as a globalised localism, a form of globalization from above".[13] Human rights, conceptualized in this way, will always be an instrument of the "clash of civilizations"[14] paradigm, well resumed by the phrase "the West and the rest".[15] To operate as a counterhegemonic form of globalization and be the propeller of progressive politics without false universalist pretensions, human rights must be reconceptualized as *multicultural.*

For Sousa Santos, therefore, the discourse on human rights must react to the false premises of both universalism *and* pure relativism. He then proposes the adoption of cross-cultural dialogues to distinguish progressive politics from regressive ones. Such cross-cultural dialogues must be conducted under a perspective of *diatopical hermeneutics*, which "requires the production of a collective and participatory knowledge based on equal cognitive and emotional exchanges".[16] This would allow for people engaged in the dialogue as if with one foot in a culture and the other in another one, searching for spaces of contact that link both (or as many as they may be) of them.

Sousa Santos' diatopical hermeneutics should not be understood as the *overlapping consensus* of John Rawls' Political Liberalism,[17] for Rawls' liberal neutrality avoids the challenge posed by the coexistence of diverse ways of reasoning based on cultural or identity-informed views. Rather, it connects to Seyla Benhabib's proposal

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[12] Sousa Santos, 'Toward a Multicultural Conception of Human Rights' in HERNÁNDEZ-TRUYOL (ed), *Moral Imperialism. A Critical Anthology* (New York University Press 2002), 42-43.

[13] Ibid, 44.

[14] Samuel Huntington, *The Clash of Civilizations and the Remaking of World Order* (1st edn, Simon & Schuster 1996).

[15] See, for example, Niall Ferguson, *Civilization: the West and the Rest* (2nd edn, Penguin Books, 2012).

[16] Sousa Santos (n 12) 48.

[17] John Rawls, *Political Liberalism* (1st edn, Harvard University Press 1993).

of a kind of deliberation which engages the plurality of cultures that are present in a given society in an open, free and egalitarian public discussion.[18] It is a method of conversation grounded on a *narrative* and *dialogical* understanding of culture[19] capable of fostering a historical awareness which would reveal to be very useful in the pursuit of a just society. Benhabib and other authors[20] advocate for the adoption of public deliberative spaces in which the plurality of cultures is fully considered and are part of the political exercise, but their focus of analysis is the *local* reality. In a certain sense, Sousa Santos' spaces of interaction are the international step of such a conception of public deliberation.

However, Sousa Santos does not explain how this dialogue can occur. He analyzes the conditions under which it can happen – conditions that vary across time and space – but these are mostly *preconditions,* contextual procedural orientations and cross-cultural imperatives which must be accepted by all groups that participate to the dialogue. But how then do we engage different cultures in a dialogue? Must there be a common ground around which to structure it? If so, this common ground arguably cannot be provided by human rights themselves, since they are the main object of the dispute. In this way, we are taken to discuss about something that *informs* human rights' language and that could provide for a consensus about it. The challenge, considering what has been pointed out, is that this consensus should avoid appealing to a metaphysical nature while still allowing for "comprehensive doctrines" to inform the different positions of the participants; it should also not claim to be universalist in an a-historical way, and still be able to be recognized as part of the history of different cultures, peoples and communities. In other words, the search is for a concept or idea that can be found in virtually all (or as many as possible) cultures to be used *within* the already consolidated language of human rights as a bridge to foster a cross-cultural dialogue of the kind envisaged by Sousa Santos. In the next part, we shall see whether the idea of *fraternity* can be this bridge-principle.

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[18] Seyla Benhabib, *The Claims of Culture: Equality and Diversity in the Global Era* (1st edn, Princeton University 2002).

[19] Gerd Baumann, *The Multicultural Riddle. Rethinking National, Ethnic, and Religious Identities* (1st edn, Routledge 1999).

[20] Michael Sandel, *Justice: What's the Right Thing To Do?* (1st edn, Farrar, Straus and Giroux 2009); Amartya Sen, *The Idea of Justice* (1st edn, Allen Lane 2009).

3. FRATERNITY AS A CROSS-CULTURAL PRINCIPLE

Since the 1980s, there have been a vast number of studies and publications around the importance of restating fraternity as a political category.[21] Some of the questions these different studies generally share are related to the analysis of the historical evolution and practical realization of the other two principles, with *liberty* encompassing the struggle for political rights, and *equality* epitomizing the claims for social and economic rights.

According to Antonio Maria Baggio,[22] liberty and equality – the other two principles usually considered the founding principles of modernity along with fraternity – saw an evolution that enabled them to become authentic political categories, capable of manifesting both as constitutional principles and as motivational ideas of political movements. The idea of fraternity (the third principle), on the other hand, did not share the same destiny. In fact, liberty and equality are respectively the inspirational ideas behind the ICCPR (International Covenant on Civil and Political Rights) and the ICESCR (International Covenant on Economic, Social and Cultural Rights), the two first international treaties on Human Rights containing binding commitments, adopted by the UN General Assembly in 1966. But to some authors, it was precisely the contrast between opposing conceptions of the world what prevented the adoption of a singular binding treaty already in 1948, with solid guarantee mechanisms which would ensure protection of human rights in all the countries that would have signed it.[23] Even in the post Cold-war context, the tension is still strong through the paradigms of *recognition* and *redistribution,* as the debate around the concept of multiculturalism demonstrates.[24] Baggio asks whether the problematic realization of those principles, even within the developed democratic countries, but especially in the relation *between* countries, could not be due to the abandon of the idea of *fraternity* in its most universal interpretation.[25]

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[21] Mona Ouzouf, *L'Homme Régénéré* (1st edn, Gallimard 1989) ; Michel Borgetto, *La notion de fraternité en droit publique français. Le passé, le présent et l'avenir de la solidarité* (1st edn, Librairie Générale de Droit et de Jurisprudence 1993) ; Antonio Maria Baggio (n 5) ; Antoni Doménech (n 5).

[22] Antonio Maria Baggio, 'A redescoberta da fraternidade na época do "terceiro 1789"' in *O Princípio Esquecido*, 19.

[23] See, for instance, Salvatore Zappalà, *La Tutela Internazionale dei Diritti Umani* (1st edn, Il Mulino 2011) 26.

[24] Maria Laura Lanzillo, *Il Multiculturalismo* (1st edn, Laterza 2005).

[25] Antonio Maria Baggio, 'A redescoberta da fraternidade na época do "terceiro 1789"', p. 19.

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Filippo Pizzolato demonstrates how the idealistic inspirations of a philosophical nature of the principle of fraternity are consistent with an internationalist vocation of the same principle and indeed support this opening movement. According to him, especially in the historical conditions of contemporaneity, the re-proposition of fraternity cannot but assume the relevant meaning of extending the values of solidarity and horizontal care beyond the threshold of the state boundary.[26] This is also the position of Marco Aquini,[27] for whom, in the current globalization scenario, characterized by a great number of actors who play significant roles in the realization of human rights, especially in the economic and social field, the idea of fraternity allows us to face problems from a non-particularist or nationalist perspective, in view of the fact that every problem as well as every solution has links of fraternal interdependence with other peoples. It is therefore necessary to analyze whether and to what extent this principle has been incorporated into the international order. We shall begin this search by analyzing the discussions held during the preparatory works of the UDHR.

3.1. FRATERNITY IN THE UNIVERSAL DECLARATION

The specific reference to fraternity in art. 1 of the Declaration is decisively linked to the contribution of the French jurist René Cassin. To him, it was necessary to accentuate the connection between the idea of fraternity and that of *duties*. In an original formulation elaborated by him, this dimension of duties or obligations of fraternity was very explicit: "les êtres humains, tous membres de la même famille, sont libres, égaux en dignité et en droits et *doivent se regarder comme des frères* ».[28] The sense of fraternity in the Declaration can be grasped more precisely by acknowledging two important and interrelated issues: first, this dimension of duties as inter-individual responsibility is deepened and seriously taken into consideration. Second, the use of the term "humanity", in the document, makes reference to components of a "same family".

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[26] Filippo Pizzolato, 'Fraternità (principio di)' in AA.VV. *Digesto Delle Discipline Pubblicistiche* (5th ed. Utet Giuridica 2012).

[27] Marco Aquini, 'Fraternidade e Direitos Humanos' in Antonio Maria Baggio (n 5) 141.

[28] Quoted in Filippo Pizzolato (n 26) 393.

The works conducted on the writing of Article 1 of the Declaration provide a good example of those issues. The draft submitted by a working group of the Drafting Committee in June 1947 stated in its first chapter:

> "All men are brothers. Being endowed with reason, members of one family, they are free and possess equal dignity and rights."[29]

At its meeting on 8 December 1947, the Commission set up three working groups to consider, respectively, the Declaration of Human Rights, the Convention (or Conventions) and the Implementation aspects. The working group responsible for considering the Declaration, in its report to the Commission on Human Rights, presented two different suggestions for Article 1. The first one was the text suggested by the Philippines, and stated:

> "All men are brothers. Being endowed with reason and conscience, they are free and possess equal dignity and rights."

The French suggestion read:

> "All men are born free, and equal in dignity and rights, and shall regard each other as brothers."

Carlos Romulo, the representative for the Philippines, and René Cassin, the representative for France, submitted then a new joint text, and Eleanor Roosevelt, who chaired the working group, read out the Article for adoption in the following form:

> "All men are born free and equal in dignity and rights. They are endowed by nature with reason and conscience, and should act towards one another like brothers."[30]

The text approved in December 1948 has as its first chapter the following lines:

> "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood."[31]

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[29] Document E/CN.4/AC.1/11 <https://undocs.org/E/CN.4/AC.1/W.1> Accessed 5 May 2019.

[30] Document E/CN.4/95 <https://www.un.org/en/ga/search/view_doc.asp?symbol=E/CN.4/95> Accessed 8 May 2019.

[31] Art.1, *Universal Declaration of Human Rights* < https://www.un.org/en/universal-declaration-human-rights/> Accessed 8 May 2019.

There are some interesting remarks that can be made when comparing those three extracts, having in mind the cross-cultural dialogue environment of the Commission and the issues that relate to the idea of fraternity, as mentioned previously. First of all, some of the concepts present in the final version of the Declaration can be found already in its first draft. Its authorship is attributed to René Cassin, but there had been important contributions by Lebanese philosopher and diplomat Charles Habib Malik and by Chinese philosopher, diplomat and playwright Peng-chun Chang.[32] To Malik we owe the insertion of the words "endowed with reason", present already in the first draft of the article. Chang added "and conscience" to it, as we can see from the second version of the text. It was also Chang who insisted on the removal of the allusion to nature that appeared in the joint proposal by Romulo and Cassin. That reference to nature had been thought by the two representatives as a way of responding to the necessity of indicating the origins of both reason and conscience without having to adhere to a religious view.[33] For Chang, that allusion should be eliminated in the name of universalism, just as all references to God.

There have been some interesting modifications regarding the idea of fraternity, through the different texts proposed. The first versions start by affirming that "all men are brothers". This suggests the understanding of the human condition as "members of one family", as we can read in the very first version (this reference was further moved to the preamble). But the most interesting remark is that, from the French version presented to the Commission, the idea of "brotherhood" is moved to the end of the paragraph and presented as a *duty*. It ceases to be the first fundament of the rights and becomes the way through which those rights are fulfilled. Interestingly enough, it was following an observation from the Soviet representative Alexander Bogomolov that Cassin decided to present "brotherhood" as connected to a duty. This was accompanied by the suggestion from Eleanor Roosevelt to place the conditions of freedom and equality of all men at the beginning.

A final and very important modification was the substitution of masculine terms for generic ones. This was a result of the observations done by the "Commission on

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[32] For the examination of the preparatory work, we rely mainly on Asbjorn Eide (ed.), *The Universal Declaration of Human Rights: A Commentary* (1st edn, Oxford University Press, Scandinavian University Press 1992).

[33] See Aquini (n 27) 132.

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the Status of Woman".[34] However, it is difficult to explain why, despite the replacing of "men" by "human beings", the expression "as brothers" was substituted by "in a spirit of brotherhood" instead of using the word "fraternity", in the English version.[35]

The text, this way, went through an interesting operation: *liberty* and *equality* became the ultimate reason why the rights presented in the declaration must be respected. Furthermore *because* human beings are free and equal in dignity and rights, they must act towards one another *as* brothers and sisters. What is being recognized in the first place is their condition of freedom and of equality in dignity and rights, not their "brotherhood"; yet, if people do not act fraternally towards one another, this would mean they do not recognize that same condition of freedom and equality. It is through the idea of fraternity *in practice* that people can exercise their being free and equal. Or, to put it in another way, it is the principle of fraternity that inspires actions that enable human beings to enjoy the rights that stem from the other two principles of liberty and equality.

But what does it mean to act "in a spirit of fraternity"? If we consider the great care in the use of all terms present in the text of the works of the Commission, we are taken to argue that it certainly did not intend to add that sentence in an abstract fashion. The effort is thus to see how it translates into concrete endeavors envisaged by the same Declaration. The point of connection is the Article 29, about the duties of the person towards the community.

> "(1) Everyone has duties to the community in which alone the free and full development of his personality is possible."[36]

The connection between the reference to fraternity in art. 1 and the rule of art. 29 is due not only to some vague assonances of the same conceptual horizon, but it is

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[34] Offical record E/615 <https://www.un.org/en/ga/search/view_doc.asp?symbol=E/615> Access 8 May 2019.

[35] There is an important gender critique towards the using of the word "fraternity", even when it is used instead of the more explicitly masculine "brotherhood". Although we do not deal with this issue in this paper, a brief statement to cope with this relevant observation is necessary, at least in order to justify the rescuing of "fraternity" rather than arguing for the use of, for example, "solidarity". In our view, the use of solidarity would move the reflection in another direction, since it does not have the same cross-cultural appeal the term fraternity has, and which will be further discussed.

[36] Art. 29, *Universal Declaration of Human Rights* < https://www.un.org/en/universal-declaration-human-rights/> Accessed 8 May 2019.

attested by the preparatory works of the Declaration.[37] It is not by chance that, also in the formulation of art. 29, Cassin's contribution was fundamental. His original plan even foresaw that the Declaration stated in art. 3 that

> "as human beings cannot live and develop themselves without the help and support of society, each one owes to society fundamental duties which are: obedience to law, exercise of a useful activity, willing acceptance of obligations and sacrifices demanded for the common good".[38]

According to Aquini,[39] the use of the term *community* in article 29 indicates the Commission had taken distance from a vision that identified duties as owed only before the State. This was, first, due to the fact that a prescription of this type was considered a task of the national constitution of each country, but also because there are duties that are exercised in spheres in which the State does not interfere or should interfere as little as possible, such as the family sphere, civil associations, religious communities, indigenous communities, and so on.

> "In the Declaration, the principle of fraternity is colored by a dimension of duty that involves the responsibility of the person, since it comes as a consequence of the recognition of the structurally relational condition of the development of human personality. In the drafts of the articles prepared by Cassin, precisely this constitutive link between the individual (the person) and society lies at the conceptual origin of the recognition of fraternity and, at the same time, of the close relationship that is established between rights and duties. The latter are, moreover, understood in a horizontal and inter-individual meaning."[40]

3.2. THE SPIRIT OF FRATERNITY ACROSS CULTURES

Following both Aquini's and Pizzolato's arguments, we could say that, by drawing attention to the community and the full realization of the personality of the individual within it, and also to the duties and responsibilities of the individual before it, the Declaration opens a fruitful dialogue with cultures that value in their tradition the role

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[37] Filippo Pizzolato (n 26) 394.

[38] Document E/CN.4/AC.1/W.1 <https://undocs.org/E/CN.4/AC.1/W.1> Access 07 May 2019.

[39] Marco Aquini (n 27) 134.

[40] Filippo Pizzolato (n 26) 394.

of the social context in which each individual is inserted and the endeavors he/she has towards his/her fellows. But it does it without identifying itself with visions that annul the individual personality. What is relevant to stress, for our purposes, is that the principle that allows for this dialogue to occur, or at least that facilitates it, is that of fraternity.

In fact, we can see the echo of this reasoning in many different traditions. In the encyclical "Pacem in Terris" of 1963, Pope John XXIII states:

> "In human society one man's natural right gives rise to a corresponding duty in other men; the duty, that is, of recognizing and respecting that right. Every basic human right draws its authoritative force from the natural law, which confers it and attaches to it its respective duty. Hence, to claim one's rights and ignore one's duties, or only half fulfill them, is like building a house with one hand and tearing it down with the other."[41]

We can find a correspondence between this Christian vision and the one expressed by Mahatma Gandhi in his answer to the enquiry promoted by Unesco in 1947.[42] Gandhi stated that "all rights to be deserved and preserved came from duty well done. Thus the very right to live accrues to us only when we do the duty of citizenship of the world".[43] The idea that to every right corresponds a duty was also present in the answer given by another Hindu thinker, S. V. Puntambekar, to the same inquiry by Unesco. Puntambekar considered there were ten essential human liberties. Half of them were social liberties or promises, and the other half were individual liberties. To each of them corresponded one virtue, or duty.[44]

Going outside the framework of the United Nations and the works surrounding the drafting of the UDHR, we can find the link between the idea of fraternity and of duties in other official documents. The American Declaration of the Rights and Duties of Man, also known as the Bogota Declaration, was the world's first international

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[41] John XXIII, *Pacem in Terris* (1st published 1963) < http://w2.vatican.va/content/john-xxiii/en/encyclicals/documents/hf_j-xxiii_enc_11041963_pacem.html> Access 8 May 2019.

[42] This enquiry, carried out during the preparation of the UDHR, was a contribution of the United Nations Educational, Scientific and Cultural Organisation (Unesco) to the discussions about the theoretical problems raised and faced by the Declaration. Unesco circulated a questionnaire among various thinkers of member states of the organization and asked them to give their opinions as experts.

[43] Mahatma Gandhi, 'A Letter addressed to the Director general of UNESCO' in Unesco, *Human Rights. Comments and Interpretations . A symposium* (Allan Wingate 1949) 18.

[44] Ibid. 197.

human rights instrument of a general nature, actually predating the Universal Declaration of Human Rights by less than a year. It states in its preamble that

> "All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another (…) The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty." [45]

It is interesting to note that in this document, the connection between fraternity and duties is even more explicit than in the UDHR (exemplified by a verb that expresses a duty – "[all men] *should* conduct themselves as brothers one to another"), echoing some of the initial versions of the UN Declaration, as we saw.

Strictly speaking, this instrument, being a declaration, is not a legally binding treaty. However, it is considered by both the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights as a source of binding international obligations for the Organization of the American States (OAS)' members (even to those states, such as Canada, Cuba and the United States, that did not ratified the American Convention on Human Rights, in force since July 1978).

The idea of fraternity is present also in the Arab world and in the African continent, where the cultural horizon represented by European concepts can face more resistance when compared to the Americas. In the Preamble of the Arab Charter of Human Rights we find explicit reference to "the eternal principles of brotherhood and equality among all human beings which were firmly established by the Islamic Shari'a and the other divinely-revealed religions". [46] For Bedjaoui, fraternity is, among the values, "la chose plus partagée dans le monde musulman". [47]

The intercultural relevance of fraternity is also confirmed by the African Charter on Human and Peoples' Rights (1981). Although this document does not provide for an explicit mention of the fraternity itself, it is inspired by an idea of solidarity which,

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[45] Preamble, *American Declaration of the Rights and Duties of Man* < https://www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm> Access 8 May 2019.
[46] Preamble, *Arab Charter of Human Rights* < http://www.humanrights.se/wp-content/uploads/2012/01/Arab-Charter-on-Human-Rights.pdf> Access 8 May 2019.
[47] Mohammed Bedjaoui, 'La "fraternité", concept moral ou principe juridique?', *3rd Congress of ACCPUF*. < https://www.accpuf.org/images/pdf/publications/actes_des_congres/c3/I-INTRO/introduction.pdf> Access 8 May 2019.

as it binds the members of a community and the different communities among them, seems fully consistent with that principle. It is again Bedjauoi who considers that, in Africa, "la fraternité est liée à la quintessence de la nature humaine".[48]

The idea of fraternity has a strong resonance in the concept of Ubuntu. This concept comes from sub-Saharan Africa and expresses the awareness of an individual who defines himself by the human context in which he lives and by his relations with others. According to a common definition, ubuntu would translate as "I am, because we are". In fact, the word ubuntu is part of the Zulu phrase "Umuntu ngumuntu ngabantu", which literally means that a person is a person through other people.[49] Ghanaian scholar and religious Noah Dzobo, giving an ontological precedence to "we", defined African communitarian ethics as "we are, therefore I am; and because I am then we are."[50]

Although it could be deemed a somewhat nebulous concept, identified with an abstract idea of "common humanity", it had a very practical political influence in recent times, having inspired the policy of national reconciliation implemented by President Nelson Mandela after the end of the apartheid regime in South Africa.

According to Congolese philosopher Jean Bosco Kashindi, the fact that Ubuntu was taken to the political arena in South Africa to help rethinking South African identity demonstrates that identity is a key aspect of the Ubuntu philosophy.[51] In fact, it was necessary to move from the conception of separate 'citizens' behind the ideology of racial segregation to invent an inclusive South African identity; it was thus necessary to "create" a new conception of South African citizenship. In this, all the colors, all cultures, all nationalistic narratives (Afrikaans, British, Zulu, Xhosa, Tswana, etc.) that made up South Africa were to fit. The philosophy of Ubuntu helped to operate a shift in the conception of identity - from "I am because you are not" (excluding conception, typical from western way of reasoning) to "I am because we are, and given that we are then I am" (inclusive conception).[52]

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[48] Ibid.

[49] Christian B. N. Gade *The historical development of the written discourses on ubuntu*, (2011) 30(3) South African Journal of Philosophy 303, 329.

[50] For an approach to these postulates of African ethics, see Michael Onyebuchi Eze, *Intellectual history in contemporary South Africa* (1st edn, MacMillan, 2010) pp. 94-95.

[51] Jean Bosco Kashindi, "Ubuntu and the African Decolonization: The South African case". In Fernanda Frizzo Bragato, Lewis R. Gordon. (eds.), *Geopolitics and Decolonization*. (1edn., Rowman Littlefield, 2018) 65, 76.

[52] Ibid, p. 75.

The main modern proponent of ubuntu philosophy is Archbishop Desmond Tutu. In his book "No Future Without Forgiveness", he describes a person with ubuntu as "open and available to others", because he is aware of "belonging to something bigger". This person knows her actions will have consequences for others, hence the invitation to act and behave well.

The philosophy of Ubuntu reveals to be very close to the idea of fraternity, for its dialogical understanding of identities and its connection with the sense of duties. Pizzolato states:

> "The centrality of fraternity in Africa seems to be linked to a cultural component, rooted in that continent, aimed at enhancing the community dimension of human existence and promoting the idea of collective rights, even more than individual ones. This solidaristic dimension of the community as something that flows below institutional mediation, within personal ties, is often referred by jurists, social scientists or philosophers in Europe who theorize the need for European countries to rediscover it. It has been argued, in fact, that in order to legalize fraternity, it must be linked to the concrete fabric of relationships in a community."[53]

However, this entails two serious risks. The first one, connected in general terms to the critique that liberals move to the communitarian perspective, is that to put the community before the individual may devaluate the latter to the point that he may lose his personal autonomy, therefore being risked is an essential (human) right. The second risk is that the solidaristic dimension can be confined to a single community, which could also choose not to care about the fates of other communities. This would be to deny the universalist potential of fraternity.

Although those risks have to be seriously taken into consideration, to quickly associate them with the concept of fraternity envisaged by the UDHR and the other declarations of rights mentioned above is misleading. Firstly, the kind of fraternity aspired by the UDHR is an inclusive one, differently from the exclusive kind of fraternity of those who consider it to exist only within a specific group (be it defined in terms of nationality, religion, ethnicity, gender or any other form of defining a group). It is not only opened to the universal, but it is universal per se. Secondly, it is through the universality of the principle (the spirit of *fraternité* among all human beings) and its connection to the idea that everyone has duties towards one another,

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[53] Filippo Pizzolato (n 26) 397.

that it may be translated into solidaristic practices in the community where one belongs or happens to live in.

It is important to highlight what is at the core of this argument to avoid what could be a common misunderstanding. To be sure, the sense of community to which article 29 of the UDHR makes reference does not automatically set the basis for a cross-cultural dialogue, even when a certain kind of fraternity is invoked.[54] However, despite all doubts and critiques the Declaration may receive because of the term "Universal", the combined reading of articles 1 and 29 makes possible for a dialogue to occur *between* the culture that produced the UHDR[55] and other cultures with a strong sense of duties and responsibilities towards the community. The Declaration, fruit of a western tradition of individual rights which evolved from the previous centuries, opens itself to a dialogue with cultures that rather emphasize the *duties* each one has toward the members of his/her own community; at the same time, it goes beyond a certain traditional view of the duties directed only toward those of *my own* community by appealing to a fraternity among *all* human beings. This is not an invention of the Declaration, since this understanding of universal duties is also present in other cultures, as we saw in the previous section. But is exactly the idea of fraternity which makes possible the approximation of the language of rights with that

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[54] It may actually be quite the opposite – as it has been, many times throughout History – if the idea behind the use of the word "fraternity" is a closed and exclusive one. People can appeal to a fraternity among those they consider to be part of their community to justify exclusion, marginalization and violence against the non-brother. This is clear, for example, in a vision of community strongly based on nationality, in which the "other" – the foreigner, the immigrant, the non-national, is almost, if not entirely, seen as an enemy. In the best of cases, he is someone to avoid; in the worst, someone to be fought. In both, there is absolutely no dialogue nor overture to it, because the idea of fraternity extinguishes itself anytime I encounter someone who is born outside the borders that I consider to be the basis of my community. Another example is the religious-informed view of community. In this case, the national borders may count little, but the apparent broader sense of community is jeopardized inasmuch as I consider only those who share my faith and beliefs as worthy to be called brothers and sisters.

[55] Here, we talk about "the" culture that produced the UHDR as being the "western" culture in a general sense, notwithstanding the contributions of different traditions and cultural views to its composition as seen in the previous section. The emphasis is in the fact that it is a declaration of *rights*, and as such it can be placed along a tradition that had produced other important documents, such as the English *Bill of Rights* of 1689, the American Declaration of Independence of 1776, and the French Declaration of the Rights of Man and of the Citizen of 1789, this last one already having universal appeal. For a discussion about the historicity of the idea of universality of Human Rights in the western tradition, see Lynn Hunt, *Inventing Human Rights: A History* (1st edn, W. W. Norton & Co., 2007).

of duties, in the first place, and that opens the latter to a universal dimension, in a second moment.

The most recent illustration of this idea in the form an official document is provided by the "Document on Human Fraternity for World Peace and Living Together", signed on February 4, 2019 by Pope Francis and the Grand Imam of Al-Azhar Ahmad Al-Tayyeb during the apostolic journey of the former to the United Arab Emirates. In the document we read that "the concept of *citizenship* is based on the equality of rights and duties, under which all enjoy justice". It declares "the adoption of a culture of dialogue as the path; mutual cooperation as the code of conduct; reciprocal understanding as the method and standard" for reaching a peaceful living together. And it does it in the name, among others, "of *human fraternity* that embraces all human beings, unites them and renders them equal; in the name of this *fraternity* torn apart by policies of extremism and division, by systems of unrestrained profit or by hateful ideological tendencies that manipulate the actions and the future of men and women".[56]

We see thus that fraternity is being used in this document as the key principle around which to build a culture of dialogue. Yet, not just any kind of fraternity; it is a universal, inclusive use of the concept, which goes as far as to identify itself with the claim for *full citizenship* to all human beings living in a specific society, rejecting the discriminatory use of the term *minorities*, "which engenders feelings of isolation and inferiority" and "paves the way for hostility and discord".[57]

For Vincenzo Buonomo, from a practical point of view, the idea of fraternity could transform the international dimension by operating a shift in it: from a place of "necessary" coexistence between States, the international sphere becomes the place of coexistence between entities (the States themselves, which are the first subjects of the international community) that carry the claims of their peoples and individuals. In this sense, those subjects (the States) would still maintain the characteristic of independence and sovereignty, while also continuing to pursue, through their apparatuses, the common good of their peoples. But they would be also called to act in such a way they would not consider only their sovereign space. Rather, by means

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[56] *A Document on Human Fraternity for World Peace and Living Together* (published 2019) <http://w2.vatican.va/content/francesco/en/travels/2019/outside/documents/papa-francesco_20190204_documento-fratellanza-umana.html> Access 30 August 2019. Italics in the original.

[57] Ibid. Access 19 October 2019.

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of this geographical space and the populations living in it, they would act in order to construct the common good of the "subject-humanity". Finally, the legal-institutional dimension of the State, which establishes it as a subject of international law, would assume its true instrumental function: it would thus guarantee not only singular interests but also general ones, since each community of persons present in a territory, thanks to the bond of fraternity, is part of the one subject - humanity.[58]

> "From another point of view, if this model is framed in the categories of the general theory of Law, it has as an essential feature that of aspiring necessarily to the approximation between the vertical and the horizontal dimension of the international relations. It aims, therefore, that the institutional aspect is placed next to the relational one, in a kind of governability practiced through the rules."[59]

For Buonomo, this is a vision that moves away from an abstract internationalism or a certain version of universalism, like the one represented by globalization, since it does not annul individual identities, but values them without stressing dangerous individualisms, merging them into a unity .

> "The image that emerges is that of the relationship that exists in every society between the individual dimension and the community dimension, distinct from one another, but interdependent."[60]

4. CONCLUSIONS

Where does all of this take us? The first point to stress is this: the cross-cultural dialogues structured under the methodology of the diatopical hermeneutics proposed by Sousa Santos could be inspired by a principle that has resonance to all cultures. The second is that due to the connections that the concept of fraternity presents with ideas and philosophies of non-western cultures, it may be such a principle, despite the fact that the *word* fraternity is deeply connected to western culture and history.

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[58] Vincenzo Buonomo, 'Vínculos Relacionais e modelo de fraternidade no direito da Comunidade Internacional' in Antonio Maria Baggio, *O Princípio Esquecido vol. 2. Exigências, Recursos e Definições da Fraternidade na Política.* (Tr. Durval Cordas, Luciano Menezes Reis, 1st edn, Cidade Nova 2009) 165.
[59] Ibid. 166.
[60] Ibid.

This raises an important observation: fraternity must not be just another product of globalization. As a matter of fact, the latter may even constitute an antithesis of the former, precisely because it may designate the phenomenon of extension of a vision of the world (not only in the cultural sphere, but in the economic and political ones as well) to the whole planet.[61] For Pasquale Ferrara, the principle of fraternity should avoid being both a form of "democratic globalism" (to which the principle of *liberty* is better associated), and of "global democracy", (more easily linked to the historical vicissitudes of the principle of *equality*), if it is not to be a form of *globalized localism*. Rather, it should present itself as a point of connection between different cultures who, each through their own lexicon and through their own practices, make reference to "subject-humanity". If stripped out of its possible reductive interpretations (of the exclusivist forms of living and practicing fraternity), the principle could become essential not only to make effective the universalization of liberty and equality, as Baggio already suggested,[62] but also to foster the dialogue among actors who appeal either to universality or to relativism of rights to defend their claims.

This can come through two operations that occur between the concept of fraternity and the established vocabulary of human rights. The first one is the approximation of the idea of fraternity to the language of duties and responsibilities, which is present in many traditions of thought, perhaps more than the language of natural rights. The second one is its approximation to the concept of community. These two points are deeply related: the adoption of the idea that individuals have duties towards one another (they may act "in spirit of brotherhood", as read in the UDHR) can be of a high importance when trying to address issues that require a concerted effort of the *international community* such as, for example, climate change and the questions regarding sustainability. In order to do this, the link between fraternity and community may prove to be efficient. On the one hand, the endeavors each individual has towards one another can find a better and clearer "applicability" in a contextual situation like that of the community he/she lives in, due to the sense of "belonging" and proximity it entails. This is the perspective found in art. 29 of the UDHR. On the other hand, the openness of the concept of fraternity (inasmuch as that of ubuntu, for instance) makes possible for it to go beyond the limits commonly

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[61] See Pasquale Ferrara, 'A Fraternidade na Teoria Política Internacional' in Antonio Maria Baggio (n 5) 157.

[62] Antonio Maria Baggio, 'A redescoberta da fraternidade na época do "terceiro 1789"', 22.

identified with local communities. Its appeal to a sense of proximity to someone I *know* may have an impact on the way I consider myself to have duties and obligations towards the distant one: even if I don't really know who is far away from me – I may not even know my neighbor – I reasonably know my *brothers* and *sisters*. This is the idea of the belonging to the "human family" present in the Preamble of the UDHR.

It is thus by recognizing itself in the *particular* that fraternity can identify with *universal* issues and try to more efficiently foster shared norms and rules that may have impact in all contexts.