The ("Economic") Crisis And Human Rights

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Abstract:
The paper' s aim is to identify the possible effects of the financial crisis that influenced the human rights area in Europe and in the whole world.
The main purpose of the paper is to show the financial crisis could act both as a catalyst and a disruptive for human rights. We try to focus on the fact that most of the governemnts of the Member States of the European Union usually use the crisis as an apanage in order to breach fundamental rights as the right to education, the right to health. In order to stop the possible abuses, we must identify what is realy a crisis on an objective and case by case matter, taking into account boths the past and future of the State in question.
Keywords: *Economic crisis, social and economical rights, (protection of) human rights, national policy on taxation.*

1. Introduction

Human rights are one of the most sensitive subject for any developing or formed society. When it comes to how human rights or the protection of human rights was born, we can easily state that they were born in time of crisis. For instance, one of the first interests on human rights came to light soon after the World Wars, especially during the second one, when human rights were ignored and the human rase suffered from abusses and violences. Those violences and the opression of the human rights were one of the main reasons for the European Convention of Human Rights.[1]

The Universal Declaration of Human Rights[2] Preamble's invocation of 'barbarous acts' operates in concert with the immediacy of the following clause that 'it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law'.

We can clearly see that at the origin of the international human rights protection was a crisis, the response to the violations acting like an "aspirational reaction" [3]. This is how human rights became the lingua franca of international law [4], the only language that every state should understand and the only one that truly unifies.

1. The definition of the word crisis

As for the understanding of the term we used to define the situation of the 1950-crisis, we begin by saying that there is not an accurate definition of the notion. Firstly, we state that by defining a term, you obtain the opposite of clarifying [5] Secondly, the definition depend on how we see the crisis. Either we consider that the crisis is a constructive event or a distructive one. The word crisis had specific connotations in ancient greek law, tehnology and medicine, deriving from the greek verb krino, meaning to decide, to judge and to separate.[6] In the legal language it meant arriving to a decision, in medical language it meant the determination of the progression of illness or wheatear it is possible to relapse. Just like any legal or juridical concept, the "crisis" evolved with time and ended up being considered to be "an inescapable pressure for action"[7], a critical time requiring a decisive intervention.[8] Even if there are some intempts of defining the crisis itself, we consider that is very difficult to pin down it's meaning because it was considered to be both "a moment of objective contradiction, yet subjective intervention".[9] Crisis can also be seen as a catalyst or as distraction[10], those two being in fact the positive results of the crisis and the side effects.

2.1 Crisis As A Catalyst.

We can refer to crisis as a catalyst when we consider that both the apparition and the evolution of human rights are a consequence of those many moment when one or other type of crisis was a menace for the human being. For instance, we had the Second World War when the human dignity and integrity suffered and we have the current economic crisis that has an important effect on the social and economic rights. But, what we must take into account is that the current situation has not fully developed and we cannot know at the moment whether the economic crisis will be a catalyst or a disruption for human rights in general and for economical and social right in particular.

2.2 Crisis As A Disruption.

In this paragraph we refer especially at the economic crisis that already had a huge impact on human rights both at a national or international level. For instance, due to the crisi, the national budgets for two of the most important Ministers: the education and the health are lower than ever and this situation could have serious side effects on a long term analyze. And those are only some random examples.

We will truly know the kind of crisis was the economic crisis only after we will be able to identify the long term effects that were produced in the human rights protection. Just like any judicial concept, the economical crisis is an evolutive concept and only with the passing of time we will be able to conclude that the economical crisis was a catalyst and helped to provide a better protection for human rights-and we refer especially to the social and economical rights, or it was a disruption and his main effect was the infringement of this category of rights.

3. The impact of the economic crisis on national policy on taxation

Recently, the European Court of Human Rights, gave its ruling in the Grande Stevens c. Italy case.

The matter of the case was the following: the Court was asked to verify if the principle ne bis in idem was infringed by the state of Italy. In fact, the applicants were accused of spreading unreal information to the press by the bias of a press release that caused the collapse of the price of some private society's shares. This is why the applicants were subject of both some administrative penalties and a criminal procedure. We won't insist on the particular aspects of the case, but we will stress out that that the main plot here is that, according to the 7th Protocol of the European Convention of human rights no one can be subject of two penal sanctions. The Italian government argued that the administrative procedure and penalties had not had a criminal character, but only an administrative one, due to the specific category they were put in by the national law. The ruling of the Court was in accordance with its previous jurisprudence: it ruled that it doesn't matter the name stated by the national law for the punishment, but it's nature and effects, the administrative proceeding applied by the Italian government

being in this regard a penal one. Concluding, the Court found an alleged violation of the applicant's right to not be subject of two criminal procedures.

In my opinion, in this ruling we can find another primary subject as already stated in a comment of the case.[11] As an effect of the financial crisis, the Member State of the European Union were forced to change their financial legislation in order to improve and to increase their budgets. This is way so many of the European Union Member States augmented the sanctions applied by the administrative institutions and organs. For instance, in France, the Agence Monetaire Francais has the power to give sanctions with a 100 000 000 euros limit.

This is how the State eludes its role of human rights protector and starts to infringe human rights causing to see the financial crisis as a disruption, but not a catalyst.

What does matter is that we must clearly identify what is a crisis in order to impeach the State to use a special policy for collecting more income for the budget using the excuse of the financial crisis. In the end, what we really need to do is to answer the following questions on a case by case matter: who has the power to identify the crisis and what are the main characteristic of a financial crisis?

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