Human Rights as Basic Rights: A Path to Universality?

Derechos humanos como derechos básicos. ¿Un camino hacia la universalidad?

Elena Pariotti*
Università di Padova (Italia)
elena.pariotti@unipd.it

RECIBIDO: 03/04/2018 / ACEPTADO: 14/12/2018

Abstract: The paper aims to support a view of human rights as essentially characterized by a basic content and in this sense focuses on the notion of *basic rights*. The key features associated with the notion of human rights – moral embedding and universality – should lead to regard human rights as essentially basic rights. The analysis will *(i)* argue for a notion of 'basicness' that is different from the notion occurring both within the so-called minimalist theories and the one worked out by Henry Shue; *(ii)* address the link between the idea of basic rights and the doctrine of the minimum core/content and *(iii)* criticize a deviation from the desirable path, which lies in shifting from the notion of *minimum core of rights* to the notion of *core rights*.

Keywords: theories of human rights; universality of human rights; justification of human rights; international covenant on economic, social and cultural rights; minimum content; core labour standards.

Resumen: El artículo busca respaldar la visión de los derechos humanos cómo esencialmente caracterizados por un contenido básico y, en este sentido, centrados en la noción de *derechos básicos*. Las características fundamentales asociadas a la noción de derechos humanos –moral incorporada y universalidad– deberían llevar los derechos humanos a ser considerados esencialmente cómo derechos básicos. El análisis *(i)* aboga por una noción de «basicidad» que es diferente de la noción presente en las llamadas teorías minimalistas y en aquella desarrollada por Henry Shue; *(ii)* aborda el vínculo entre la idea de derechos básicos y la doctrina del núcleo/contenido mínimo y, *(iii)* critica una desviación del camino ideal, que consiste en pasar de la noción de *núcleo mínimo de derechos* a la noción de *derechos fundamentales*.

Palabras clave: teorías de los derechos humanos; universalidad de los derechos humanos; justificación de los derechos humanos; pacto internacional de derechos económicos, sociales y culturales; contenido mínimo; normas laborales fundamentales.

1. Introduction

The foundation and conceptualisation of human rights have been at the core of Francesco Viola's research and thought, where he has always underlined the innovating role played by human rights as new «bricks» in the building of contemporary law. In this field, the idea of universality of rights has given rise to pervasive issues, since it is at the same time an inherent character of human rights and a challenge under several respects.

* Professor of «Legal Theory» and «Human Rights», University of Padova (Italy), Department of Political Science, Law, and International Studies.

Into literature, the issue of human rights universality has being addressed according to three fundamental trajectories, namely with regard to the definition of the rights holders, to rights effectiveness and to rights justification. These aspects are usually tackled according to separate paths, each of them implying different theoretical tools and frameworks; but sometimes, when we come to address the issue of rights content, we can see the three dimensions converge. This is, firstly, because – as Francesco Viola has clearly pointed out[1] – the form of power that each right is given is drawn from the kind of reasons we have for ascribing rights. Since rights have to be incontrovertible and justiciable, the structure of power they rely on has to meet the purposes they pursue.

The notion of human rights is complex and troubling. It is complex, since it has many faces – moral, social, political, legal – which should be regarded as mutually linked, though each of them rests on different drives and implementation mechanisms. It is troubling, because many issues in the field of human rights seem to be open-ended. Such issues mainly deal with rights definition, normative background, justification as well as their enforceability and guarantees. Therefore, some preliminary definitional choices must be made explicit.

In my analysis, following the integrated idea of human rights that Francesco Viola has contributed to work out, by 'human rights' I will refer to freedoms, entitlements, powers and immunity justified by strong moral reasons and recognized by international legal norms to human beings as such. Two characteristics emerge in this definition as crucial at both theoretical and practical levels. First, addressed in legal terms, the notion of human rights encompasses moral, social and political dimensions, which each performs a distinct function, respectively as ground for interpretation and justification of the relevant norms; as driver for the on-going transformation in terms of listed rights and their content; as framework for their implementation. Second, human rights are inherently universal. Human rights norms structural features depend on the *language* of human rights features, which is supposed to give claims an uncontroversial character.

In spite of the wide diffusion of the language of rights, two phenomena are said to undermine the universality of human rights, in terms of both effectiveness and justification: inflation and lack of transcultural consensus.

---

1 VIOLA, F., «Il futuro del diritto», *Persona y Derecho*, 79 (2018), pp. 9-36.

By 'inflation' it is usually meant the excess in rights multiplication, which undermines the weight of rights and their enjoyment. While multiplication of rights is a process that is inherent to their dynamism and stems from the structural link of rights with the changing social, economic and political contexts, inflation, as an unintended an undesirable effect, occurs when a given threshold is trespassed and governments as well as the International Community resources are not able to meet all the claims covered by rights.

From a philosophical perspective, rights inflation is caused from the tendency to translate whatever ambition to justice into the language of rights. The argument goes that inflation undermines the ability of rights to act as 'trumps' against any other concurrent claim or purpose. In the face of inflation, the problem arises as to whether sound and cogent criteria can be used to qualify a claim as worthy of being supported in terms of a human right. A reference to the idea of 'urgent' or 'basic rights' has been done in the so-called minimalist theories and by the theory developed by Henry Shue, to wrestle with the problem of the universality of human rights and to promote their achievement and effectiveness at the global level.

My overall aim, here, is to achieve a sound view for the notion of basic rights, mainly understood as the 'everyone's minimum reasonable demands upon the rest of humanity'[2], and to provide some reasons why, although human rights tend to stretch their content and their list, basicness can act as an essential element for qualifying a right as a human right. This is a way to seriously incorporate into the very notion of human rights the essential landmark to scarcity and to universality, a way to make prioritarization (of the claims expressed by human rights) act at the conceptual stage rather as an *ex post* procedure to handle conflicts among rights or to reduce their proliferation[3].

First, I will propose to see human rights as *inherently* basic rights. The idea is that instead of selecting a subset of human rights and labelling them as *basic*, we should qualify a right as a human right only if its content can be framed as a basic claim, while it can be stretched and envisaged in thicker terms.

---

2 SHUE, H., *Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy*, Princeton University Press, Princeton, 1980, p. 19.

3 On the idea that prioritarization is involved in determining what can count as a human right in the first place, see PHILIPS, J., «On Setting Priorities among Human Rights», *Human Rights Review*, 15 (2014), pp. 239-257, p. 250.

Second, moving from these criticisms and from the premise that not all the values or goals that are related to justice and human flourishing should be translated into the language either of rights or of *human* rights, the notion of basicness will be seen as very enlightening for justifying the universal and binding nature of rights as well as to foster the compliance with them.

Thirdly, to test the potential of the reference to basicness, the notions of *minimum* (or *core*) *content* and *minimum obligations*, which have been established by the interpretative work of the Committee on Economic, Social and Cultural Rights (CESCR), will be tackled.

Fourthly, by focusing on the case of core labour standards, I will address the risk of shifting from the idea of core content of rights to the idea of core rights, which is not coherent at all with the conceptual universality of human rights[4]. This shift is the counterpart of the theoretical shift from the idea of basic rights as a way of *qualifying* human rights to the idea of basic rights as a *subset* of human rights.

2. The Notion of Basic Human Rights: Reconstructing the Main Versions

The notion of *basic human rights* has played an important role within two different theoretical approaches: the so-called minimalist theories and Henry Shue's theory.

Within the minimalist approach, again, different versions have ascribed a different role to the notion of basic rights. It can be useful to address this topic respectively in Rawlsian theory of human rights, where the notion of 'urgent rights' is introduced, and in Michael Ignatieff's one.

Rawls uses the words 'urgent rights' to refer to the list of human rights that are justified by his wider theory of international justice, which is grounded on the idea of «law of peoples»[5]. In Rawls' theory, the respect of human rights is one of the eight principles that compose the Law of peoples, i.e. the principles that are to be respected by peoples (societies) in order to be qualified as 'decent'.

---

4 Donelly, J., «The Relative Universality of Human Rights», *Human Rights Quarterly*, 29, n. 2 (2007), pp. 281-306, p. 282.

5 Rawls, J., *The Law of Peoples with «The Idea of Public Reason Revisited»*, Harvard University Press, Cambridge (MA), 1999.

The following rights are labelled as 'urgent': the right to life, the right to freedom, the right to property and the right to formal equality. So understood, they should be distinguished from liberal rights, which may consist in a longer list. In Rawls' theory of international justice, human rights express a minimal standard of political well-ordered institutions typical of all the peoples belonging to a just political society of peoples. Namely, human rights have the following functions: (i) Limiting the reasons for war, as their violation is the only valid reason to interfere in domestic affairs and for the use of the force against other states; (ii) being the necessary and sufficient condition for the states complying with them to have their autonomy respected; and (iii) limiting the institutional arrangements that can be regarded as acceptable at the international level.

As it is well known, in his theory of international justice, Rawls addresses the topic of distributive justice in the part dealing with «unfavourable conditions». A society is under «unfavourable conditions» when it lacks of decent institutions due to economical problems. This situation gives rise to a duty of assistance on other societies without the duty being grounded on human rights.

Michael Ignatieff's theory of human rights makes the following main points: (i) the list of human rights should be very short so that only a limited set of rights, which by definition is linked to a core *negative* meaning of freedom, is admitted; (ii) human rights are understood as a 'toolbox' at the disposal of individuals to protect their (negative) liberty, their bodily security and their life from governmental abuse; (iii) the protection of these *stricto sensu* human rights can legitimise the use of force at the international level[6].

The points *sub* (i) and (ii) envisage, strictly speaking, both 'substantive minimalism' and justificatory minimalism'. According to 'substantive minimalism ' «human rights are confined to protections of negative liberty»[7]. According to 'justificatory minimalism', rights should be conceived as much as possible as detached from ethical, religious or cultural perspectives and 'capable of winning broader (i.e. transcultural and global) public allegiance'[8].

The 'deflationist' move that is involved by all the versions of minimalism has been justified on these main premises: (i) exceeding in multiplication of

---

6 IGNATIEFF, M., *Human Rights as Politics and as Idolatry*, Princeton University Press, Princeton (MA), 2001.

7 COHEN, J., «Minimalism about Human Rights: The Most We Can Hope for?», *The Journal of Political Philosophy*, 12 (2004), n. 2, 190-213, p. 192.

8 *Ibidem*.

rights negatively affects their effectiveness; (ii) some alleged rights are too expensive to be fulfilled; indeterminate as to their content as well as to their correlative obligations and depending on societal frameworks. In these cases, expanding the list of rights risks undermining the political self-determination of peoples and rhetorically dissimulating interferences in domestic affairs through the appeal to human rights.

Briefly speaking, the view of rights, which minimalism argues for, is based on the premise that human rights are called to pursue negative freedom ('freedom from') only. Social justice and 'freedom for' are ruled out. The consequences that minimalism wants to avoid for rights deal with a rhetorical and imperialistic use of rights, their ethnocentric justification and the decreasing of effectiveness that is caused by their inflation. While surely a sound theory of human rights should be aware of these shortcomings, it should also be asked whether a shortened list of rights, as substantive minimalism requires, would be a suitable answer to the problem.

To sum up: The idea of basic rights defended by Ignatieff relies on a previous definition of human rights as a toolbox at the disposal of individuals against abuses of political power. In Rawls' perspective, urgent rights are understood as those rights that can and should be enforced at the international level, since by definition they are respected and protected by both liberal and decent societies. Some critical remarks can be made.

First, the minimalist view of human rights is based on the premise that negative freedom is the only value suitable to justify human rights. But how to demonstrate that the value of negative freedom has a higher potential in shaping transcultural consent compared to other values, such as positive freedom, or to other aims, such as subsistence or a decent life? Why should negative liberty be a universally endorsed goal while, for example, social justice should not? Actually, it would rather seem that, ironically, the main problems faced by the process of the internationalisation of human rights in terms of justification just concern the idea of liberty.

Second, the minimalist perspective obviously moves from concerning civil rights and social rights (as well as their background values) as inherently dichotomous. Nevertheless, this has been widely and convincingly rejected by a large number of human rights scholars. Regardless of how it may be grounded, minimalism implicitly brings the theoretical discourse on human rights to a turning point, by fostering (or even starting from) the old contraposition between civil rights and social rights, and re-opens, in a very radical way, the issue of whether there can be a hierarchy among human rights.

In Rawls' perspective, the exclusion of social and distributive justice from the scope of human rights is based on the duty to respect the autonomy of peoples[9]. This is a widespread argument[10], but it should not be taken as if it necessarily led to deny the link between social justice and human rights. Rather, the pivotal issue becomes how to distinguish the reasons that can justify the interference in internal affairs, and any reason needs to be justified.

Having said that substantive minimalism cannot convincingly ground a limitation on the number of human rights, it is my intention to draw the attention on something that escapes the minimalist theories of rights: the fact that the lack of effectiveness of social rights as human rights may depend on their tendency toward content 'dilation', and not so much on either their inflating multiplication and mutual conflict or the 'thickness' of their justificatory values.

When looking at the tendency to content 'dilation', it becomes clear that the solution to the lack of transcultural endorsement as well as to the scarce effectiveness of human rights law cannot be found merely at the level of list, in its reduction. But, still, the link between the conceptual universality of rights and their content cannot be denied. In some sense, the content of rights should arise as a field of inquiry, at both the justificatory and the applicative levels. It is here that the idea of basic rights can play a role.

At first glance, Henry Shue seems to move in this direction and gives a different definition and a different list of *basic rights*. While his theory looks at rights as *moral* rights, it is important for the legal perspective, in order to criticize and overcome the traditional classification of rights that is rooted on the structure of correlative duties[11].

Shue starts from the relevant premise that all human rights imply both negative and correlative duties and that these latter are articulated into obli-

---

9 This view has been widely accepted. See, for example, TRUJILLO, I. and VIOLA, F., *What Human Rights are not (or not only). A Negative Path to Human Rights Practice*, Nova Publishers, New York, 2014, p. 86, where the exclusion of social justice from the international domain is motivated by the need for limiting international intervention within internal affairs and violation of cultural pluralism.

10 See Trujillo, I. and Viola, F., *What Human Rights...*, cit., pp. 80-85. Here the link between human rights and global distributive justice is ruled out because the latter is regarded as too demanding.

11 See also FREDMAN, S. *Human Rights Transfomed: Positive Rights and Positive Duties*, Oxford University Press, Oxford 2008, p. 65, where, after having maintained that «all rights can be seen to give rise to a range of duties, including both duties of restraint and positive duties».

gations to respect, protect and fulfil. In this frame, 'basic rights' are defined as those rights that are essential to the enjoyment of all other rights[12]. They are regarded as specifying «the line beneath which no one is to be allowed to sink»[13], «everyone's minimum reasonable demands upon the rest of humanity»[14], «the rational basis for justified demands the denial of which no self-respecting person can reasonably be expected to accept»[15].

In this perspective, the list of basic rights must be quite short and the social guarantees required by the structure of a right are supposed to act not against all possible threats, but only against 'standard threats'[16]. Three human rights are thought to be basic: the right to (physical) security, the right to subsistence (minimal economic security) and the right to liberty[17]. Each of these, in Shue's understanding, can be detailed, as to the content. For instance, subsistence includes unpolluted air and water; adequate food; adequate clothing and shelter; minimal preventive public health care.

To sum up, it can be underlined that the notion of 'basicness' works differently in the approaches outlined above. According to the minimalist perspective, human rights are identified as inherently *basic* and the definition of what should count as a human right leads to individuating basic rights. Differently, in Shue's view, basicness is detached from the inherent features of rights, connected to their function as means to face standard threats and to the specific enabling function, which is associated to some of them, so that a sub-set of human rights can be selected and regarded as basic.

It can be maintained that, by taking the issue of 'content dilation' seriously, it comes clear that the role played by *basicness* within a discourse on human rights should be more crucial than the one that is played in Shue's view. Basicness should be regarded as an *inherent* and *distinguishing* feature of human rights, but for reasons that are different from those endorsed by minimalism. In this sense, instead of thinking of *some* human rights as basic, we should think that a claim can be regarded as a human right only if its content can be qualified as basic or can be brought back to a basic claim.

---

12 SHUE, H., *Basic Rights...*, cit. note 2, p. 19.
13 *Ibid.*, p. 18.
14 *Ibid.*, p. 19.
15 *Ibidem*.
16 *Ibid.*, p. 29.
17 *Ibid.*, p. 13 and *passim*.

In this sense, Shue's proposal contains some debatable aspects. Shue identifies a subset of rights within a *de facto* endorsed wider list of human rights. The rights that can be regarded as instrumental for enjoying others rights should be deemed as basic. However, it can be argued that the quality of interdependence makes all human rights mutually enabling, so that a subset of rights cannot be actually identified on the basis of their enabling character. As a consequence, basicness cannot be ascribed to rights by resting on their *function* and the focus should rather be put on other aspects of rights, namely – to my mind – either their content or their background values. Rather, the content is to be defined for *all* human rights, starting from the notion of what is basic. This does not impede that such content is stretched when norms are interpreted and applied.

A problem remains with the statute of welfare rights, which needs to be addressed. As it has been underlined, it is obvious that '[f]ew acknowledge welfare as a fundamental human right but most accept that the State has a basic responsibility to provide the existential minimum»[18]. Because of this, and since welfare «is itself subject to strongly divergent approaches»[19], the link some rights have with welfare introduces problems with their conceptualisation. A path for trying to reach a coherent view of welfare rights requires that positive duties and the notion of basic rights are taken into account.

Indeed, two notions have been used in interpreting international human rights law that seem to pursue this aim. They are the notions of minimum (core) content of rights and the notion of minimum obligations.

This is a topic to be addressed once social rights and positive duties are given full recognition within the field of human rights, since such recognition, far from being an answer to the troubles of human rights conceptualisation, leads to tackle specific problems. As it has been pointed out, the struggle implied by the recognition of the indivisibility of human rights 'has meant that few analyses go beyond this and consider the nature of positive duties in detail'[20]. The following analysis aims to contribute to this attempt. This is a way to show the reasons why positive duties have a normative force and to set a path towards their discharge.

---

18 FREDMAN, S. *Human Rights Transfomed...*, cit. note 12, p. 226.
19 *Ibidem.*
20 *Ibid.*, p. 65.

3. The Minimum Core of Rights: Contribution to a Theory of Human Rights

The Committee on Economic, Social and Cultural Rights (hereinafter the Committee) has introduced and worked out the concept of minimum core in interpreting some of the rights that are enumerated in the *International Covenant on Economic Social and Cultural Rights* (ICESCR), and namely the rights to food, health, housing and education[21], water[22]. The Committee has applied this concept to its supervision both of national systems of political economic organisation and of state parties' individual and collective activities in global trade[23]. By so doing, the Committee has worked out a doctrine, which «is heavily contested among both practitioners and scholars as to its meaning, practical implications, and even its ultimate coherence and utility»[24].

My focus here is on (a) the overall aim that is associated to this doctrine and to its function within the wider path of interpretation and implementation of rights; (b) the relation between the notions of *minimum core obligations* and *basic rights*. This link seems to be important especially if one contends – as I do – that the former is not much a standard in itself, but rather a doctrinal (and therefore still theoretical) reference for constructing a set of standards.

To set out minimum core obligations for a given human right is aimed to identify (i) the content and scope of a given human right; (ii) the obligations associated with the right to be fully and immediately complied with by all states; (iii) the secondary duties of the target state (i.e. mitigating the consequences of the lack of compliance with the primary duties; calling for the International Community support) and the International Community[25]. The overall purpose is to shape a common legal standard and overcome the impasse caused by the 'progressive realisation' clause set out in the text of the Covenant, which distinguishes the ICESCR from the *International Covenant on Civil and Political Rights* (ICCPR) and seems to be part of the causes for the former's lack of 'teeth'.

---

21 CESCR, *General Comment n. 14; General Comment n. 13.*

22 *Ibid., n. 15.*

23 Young, K.G., «The Minimum Core of Economic and Social Rights: A Concept in Search of Content», *The Yale Journal of International Law*, 33 (2008), pp. 113-175, p. 120.

24 For a reconstruction and a deep analysis of such criticisms, see Tasioulas, *Minimum Core Obligations: Human Rights in the Here and Now*, Research Paper, 2017, available on line: http://documents.worldbank.org/curated/en/908171515588413853/pdf/122563-WP-Tasioulas2-PUBLIC.pdf

25 Tasioulas, J., *Minimum Core Obligations...*, cit. note 24, pp. 25-26.

It is undeniable that the *progressive realisation* clause has complicated both the conceptualisation and the monitoring of social rights. The requirement, according to art. 2 ICESCR, of evaluating progressive realisation within the context of the maximum available resources, which stems from the obligation of States to take steps to the maximum of its available resources, complicates, under a methodological point of view, the monitoring, since we are not immediately given criteria to judge the State's compliance[26]. As it has been underlined, '[e]ffective monitoring utilising the progressive realisation standard also requires an enormous [impossible to handle] amount of good quality data and statistical sophistication'[27]. This is why it is important to engage in narrowing the meaning of the progressive realisation clause and in weakening its impact.

According to the Committee's perspective, first, there are elements in the rights enriched in the ICESCR that create an immediate duty on the State and are not subject to the progressive realisation clause. Secondly, the progressive realisation of the Covenant rights requires 'deliberate, concrete and targeted steps' and the minimum core can function to orient these steps, telling, for example, when they become retrogressive[28]. In this sense, «the *minimum core* concept purports to advance a baseline of socioeconomic protection across varied economic policies and vastly different levels of available resources»[29]. Furthermore, the notion of *minimum core* plays a crucial role in shaping a framework that makes it possible to shape the idea of *violation* of social rights. Therefore, despite the 'progressive realisation' clause, the ICESCR introduced the notion of 'minimum core obligation'[30] on every State party to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights.

The concept of *minimum core content* is meant to describe 'the 'key part' of the normative content, containing the central elements of the normative content, and serving as a kind of 'archetypal' understanding of the right'[31]. From a legal point of view, the concept of *minimum core* may be understood as

---

26 See, on this, CHAPMAN, A. and RUSSEL, S. (eds.), *Core Obligations: Building a Framework for Economic, Social and Cultural Rights*, Intersentia, Antwerp/Oxford/New York, 2002, pp. 4-5.

27 *Ibid*., cit. note 24, p. 5.

28 YOUNG, K.G., «The Minimum Core...», cit. note 23, p. 121.

29 *Ibidem*.

30 CESCR, *General Comment n. 3*.

31 KÜNNEMANN, R., «A Coherent Approach to Human Rights», *Human Rights Quarterly*, 17, 2 (1995), pp. 323-342, 170-171.

having a substantively defined content, which is borrowed from international law[32], or «as the latent structure of the minimum legal content to be given substance via the developments in the domestic jurisprudence on the content of economic and social rights»[33]. These ways of looking at the topic, even if are not in mutual opposition, trace different interpretive tracks and may drive to different results. While the concept expresses an obvious meaning, it nevertheless needs for some clarification and gives rises to some debates.

On the theoretical level, three rival approaches to the definition of the minimum core have been listed[34].

According to the first approach, the minimum core is a 'normative essence'[35] of each right, 'its most basic feature, which relies on no other foundations for justification'[36]. It has been underlined that this approach leaves room for several and conflicting justifications without giving further criteria for overcoming disagreements. First, the 'normative minimum' perspective can be called into question since normative foundations are open to disagreements. For example, a contraposition between a 'needs-based' core and a 'value-based' core has been underlined[37]. Secondly, the core will look different according to the various instances of the normative anchor points[38] and the approach seems to rely on a fixed and stable version of normative arguments, which hardly could give voices to the moral strands of the language of rights[39]. It should not, however, be neglected that, despite these problems, resting on background values is required in order to articulate the content of rights.

The second approach regards the minimum core in terms of 'minimum consensus'. This approach does not focus on the normative minimum that is to be given priority, but on the consensus that has been reached about the content[40]. On the one hand, it can be said that the consensus approach is a

---

32 YOUNG, K.G., «The Minimum Core...», cit. note 23, p. 125.
33 *Ibidem*.
34 *Ibid*. Young, shows that the plurality of approaches leads to incoherencies in promoting the concept of minimum core and to different ways of implementing economic and social rights.
35 *Ibid*, p. 126.
36 *Ibid*. An example of this approach can be found in BILCHITZ, D., *Poverty and Fundamental Rights: The Justification and Enforcement of Socio-Economic Rights*, Oxford University Press, Oxford, 2008, p. 187.
37 YOUNG, K.G., «The Minimum Core...», cit. note 23, pp. 128-138.
38 *Ibid.*, p. 138.
39 *Ibid.*, p. 139.
40 *Ibid.*, p. 140.

reasonable approach in light of the absence of enforcement mechanisms for social rights under the Covenant (since it does not give its Committee the jurisdiction to hear complaints). On the other hand, it has been criticized for legitimizing «only the lowest common denominator of international protection»[41].

The third approach focuses on minimum obligations in order to find out the minimum core of rights. These obligations are understood to cover both negative and positive obligations; include duties all over the range of respect, protection and fulfilment and cover both conduct-based and result-based obligations[42]. It seems to me that the this approach gives rise to some problems. First, articulating an obligation requires that the content of rights has been previously determined. However, looking, at the relevant general comments of the CESCR, we can see that the notions of *core content* and *core obligations* are used interchangeably to set out a minimal meaning for international norms on social rights, establishing a baseline of quality acts and omissions by states as violations of rights and not only as a failure to achieve or fulfil them.

Second, regardless of whether the content of rights or the content of correlative obligations conceptually comes first, it is clear that the two dimensions are mutually related, so that if one is to be interpreted so is the other. Therefore, it seems that this approach can only work to articulate a *typology of obligations*, and not to set out the core obligations, which remains a challenging step. In this perspective, it is very hard to detect an unambiguous relationship between this work aiming to define the core content or obligation and the above mentioned approaches to the notion of minimum core.

Let us take the right to food[43]. It is said (i) to be indivisibly *linked to the inherent dignity of the human person*, indispensable for the fulfilment of other human rights enshrined in the International Bill of Human Rights and inseparable from social justice; (ii) to require the adoption of appropriate economic, environmental and social policies at both national and international levels that are oriented to the eradication of poverty.

The right to food is fullfilled when every person, 'alone or in community with others, [has] physical and economic access at all times to adequate food

41 *Ibid.*, p. 147.
42 *Ibid.*, p. 152.
43 CESCR, *General Comment n. 12: The Right to Adequate Food (art. 11)*, E/C 12/1999/5, 12 May 1999.

or means for its procurement'. The core content of the right to adequate food implies: 'the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture'. This right imposes three types or levels of obligations on state parties: the obligation to respect, to protect and to fulfil.

In terms of correlative obligations, while the right to food has to be realized progressively, States are given a core obligation to take the necessary action to mitigate and alleviate hunger, as provided for in paragraph 2 of art. 11, even in times of natural or other disasters: 'The principal obligation is to take steps to achieve progressively the full realisation of the right to adequate food'[44].

In this perspective, the way the violation of rights is defined takes a crucial role[45]. According to the Committee, violations of the Covenant occur when (i) a State fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger'; (ii) a State fails to regulate activities of private actors according to the State's duty to protect. Therefore, in the interpretative perspective of the CESR, not only acts of commission, but also omissive conducts, resulting, for example, in failure to reform legislation, are regarded as violations of the Covenant's obligations[46].

As to the right to water[47], the CESR has underlined that: (i) it is indispensable for leading a life in human dignity; (ii) it is a prerequisite for the realisation of other human rights; (iii) it entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. It contains both freedoms and entitlements. In terms of freedoms, it contains the right to maintain access to existing water supply and the right to be free from interference. In terms of entitlements, it implies the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water, but these entitlements are not made explicit.

---

44 «Every State will have a margin of discretion in choosing its own approaches, but the Covenant clearly requires that each State party take whatever steps are necessary to ensure that everyone is free from hunger and as soon as possible can enjoy the right to adequate food». See also KÜNNEMANN, R., «A Coherent Approach...», cit. note 29, pp. 171-182.

45 CHAPMAN, A., «Violations Approach for Monitoring the International Covenant on Economic, Social and Cultural Rights», *Human Rights Quarterly*, 18 (1996), pp. 23-66, p. 43.

46 United Nations Committee on Economic, Social and Cultural Rights, *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, 1997, U.N. Doc. E/C.12/2000/13, n. 15.

47 United Nations Committee on Economic, Social and Cultural Rights, *General Comment n. 15: The Right to Water (arts. 11 and 12)*, E/C 12/2002/11, 20 January 2003.

In this case, the search for the minimum content is construed through the reference to a value (the value of human dignity), the enabling character of the right is underlined and the articulation of the content is quite broad and open.

Core obligations related to the right to water are defined as non-derogable and lack of compliance with them is not justifiable. Violations are also seen with regard to positive obligations and may consist in failures to take feasible steps toward the realization of the right.

Further results may be drawn from the analysis of the right to health, understood as the right 'to the enjoyment of a variety of facilities, goods, services and conditions necessary for the realisation of the highest attainable standard of health'[48]. The right to health contains both freedoms and entitlements. In terms of liberties, it encompasses the right to be free from interference (that, in its turn, may come up in several more specific terms, such as the right to be free from torture, or from inhumane and degrading treatment, or non-consensual medical treatment and experimentation). In terms of entitlements, it includes the right to a system of health protection that provides equality of opportunity for people to enjoy the highest attainable level of health. Moreover, it is an inclusive right «extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information...»[49].

It can be noted here that, while the right to health is perhaps the clearest example of a human right subjected to 'content dilation', the CESCR does not focus that much on the definition of the core content.

Provided that the reference to the notion of minimum core is functional to «prescribing content, ranking obligations, signalling extraterritoriality, and introducing a new language of claims»[50], some criticisms have been made to it.

Core obligations have been criticized for being «intrinsically polycentric» and therefore not suitable to be subject to a «definitive ranking»[51]. According to these criticisms: (i) polycentricity is seen as «inconsistent with the

48 United Nations Committee on Economic, Social and Cultural Rights, *General Comment n. 14: The Right to the Highest Attainable Standard of Health (art. 12)*, 11 August 2000, E/C.12/2000/4.

49 CESCR, *General Comment n. 14*, above note 14, par. n. 11.

50 YOUNG, K.G., «The Minimum Core...», cit. note 23, p. 175.

51 *Ibid.*, p. 163.

project of demarcating the core»[52] and this would be the reason why the challenges raised by social rights justiciability lie in benchmarking, limiting, globalising; (ii) these challenges are better met by simply addressing the notion of rights without resorting to a minimum core/obligation[53]. The idea is that '[t]he articulation of the rights that admits of its own openness is more able to ground a meaningful – and perhaps more trustworthy – indicator for local and international monitoring'[54].

The argument from polycentricity brings into the analysis the issue of the horizontal effect of human rights. This is actually an open-ended issue. I cannot address it here and I start from the premise that horizontal effect should be recognized in case of negative obligations related both to civil and social rights (the obligations to respect), but not in case of positive obligations (the obligations to protect and to fulfil). The argument at stake properly emphasises that, to the extent that private actors may be involved in human rights compliance or fulfilment and the set of correlative duties holders is widened, potential core obligations tend to take on a net structure. This means that the core content cannot be directly derived from single obligations, but does not show either the impossibility to individuate a core content of rights or that qualifying the core content is not useful to support the justiciability of rights.

On the contrary, it should be noted that benchmarking and monitoring are of course essential activities, but they themselves only can work on the basis of a given normative content and a set of obligations. This content may be graduated and should be framed in order to allow prioritizing and timing in pursuing the related aims. This is the lesson taught by the minimum core approach. It confirms its suitability to support the possibility of the very identification of violations of social rights, to overcome methodological and practical problems with monitoring process and to construe complaints procedures at the international level[55].

---

52 *Ibidem*.

53 *Ibid.*, p. 164. «... instead of demarcating different rights and obligations as 'core' and 'non-core', the committee and the courts are better equipped to supervise and enforce the 'predominantly) positive obligations attached to economic and social rights by using indicators and benchmarks and the (predominantly) negative obligations by an assessment of state responsibility and causality» (*ibid.*, 165).

54 *Ibid.*, p. 167.

55 Existing complaints procedures are: (i) ILO's procedures for responding to alleged violations of trade union rights and working conditions; (ii) the procedure established under Economic

For what concerns monitoring, the main difficulties have been seen in the vagueness of many of the related norms, in the absence of domestic and international institutions specifically committed to the promotion of social rights *qua* rights (and not as political goals), and in the high amount of information required to measure the compliance[56]. Furthermore, it has been underlined that, at times, indicators cannot be expressed in numerical terms and it is important 'to develop qualitative criteria, principles and standards for evaluating performance'[57]. Indicators themselves can be both numerical definitions (statistically set out) and «any information relevant to the observance or enjoyment of a specific right»[58].

On this, I would say it is important not to understand the core content as consisting in predetermined standards[59], but rather as a notion that is useful to structure the correlative duties of rights respect, protection and fulfilment. It is important to underline that, within the work done by the CESCR, the content of rights is articulated, in all these cases, according to an analytic framework, which is shaped by the organising principles, namely availability and accessibility (that refers to non-discrimination; physical accessibility; economic accessibility and information accessibility); acceptability; and quality. The organising principles play an important role in guiding the identification of core content as well as in monitoring the compliance.

All this considered, there is no doubt that a contraposition between the 'violation approach' and the 'progressive realisation approach' would not be justified in light of the international norms on social rights[60]. However, if we take the definition of human rights as freedoms and entitlements of human beings as such seriously, the violation approach should be regarded as essential and starting from the violation approach to construct the progressive realisation approach may even make the latter more feasible. The identification of violations represents a higher priority, one the progressive realisation relies on, to face and remove the 'standard threats'. Therefore, the violation approach

---

and Social Council Resolution 1503 (27 May 1970); (iii) the procedure established under the Protocol of San Salvador for complaints relating to infringements of the right to organize trade unions and the right to education; (iv) the procedure provided by the European Social Charter.

56 See CHAPMAN, A., «Violations Approach...», cit. note 45, p. 30.

57 *Ibid*., p. 36.

58 GREEN, M., «What We Talk about when We Talk About Indicators: Current Approaches to Human Rights Measurement», *Human Rights Quarterly*, 23 (2001), n. 4, pp. 1062-1097, p. 1077.

59 On this view, see FREDMAN, S., *Human Rights Transfomed*..., cit. note 12, p. 65.

60 GREEN, M., «What We Talk...», cit. note 56, p. 1086.

and the progressive realisation approach are to be seen as complementary: each of them is able to orient subsequent steps in respecting, protecting, fulfilling human rights, with regard to liberties, claims, power and immunities. It is not a matter of hierarchy but of timing and focusing on a minimal standard (i) under which the violation of a right can and should be acknowledged and (ii) which is useful to the shaping of a legal framework to set out and monitor the compliance with States and the International Community's obligations.

The violation approach is coherent with, and required by, the idea of human rights as essentially basic rights, as tools to prevent or eliminate the 'degree of vulnerability that leaves people at the mercy of others'[61], 'helpless against natural and social forces'[62], as the rights without which human life will be unbearably worse. This approach requires, nevertheless, that the minimum core of rights be endowed with a strong justification.

If we think of human rights as freedom and entitlements to be enjoyed by human beings and covered by international norms, then violations are the first target to be addressed and the International Community should play a strong role in pursuing their compliance. This is an important point, since despite the diffuse endorsement of the idea that human rights are (all) universal and interdependent, social rights still tend to be regarded as mere aspirations, either as rights to be fulfilled solely as constitutional rights or as legislative aims. The risk with this view is that violations cannot ever be seen or can be covered. In this way, progressive realisation takes on a rhetorical meaning.

I aim to offer a justification for the violation approach based on the inherent basicness of human rights. According the Limburg Principles[63], violation is defined as (i) a failure to remove obstacles impeding the *immediate* fulfilment of a right; (ii) a failure to implement *without delay* a right and (iii) a failure to meet a generally accepted international *minimum standard* of achievement. This involves that the perspective underlining the progressive realisation of social rights should not be deemed as opposite to the attempt to set a minimum undeniable content. Indeed, progressive realisation is construed by focusing on deliberate, concrete and targeted steps[64].

---

61 CHAPMAN, A., «Violations Approach...», cit. note 45, p. 37.

62 SHUE, H., *Basic Rights. Subsistence*..., cit. note 2, p. 33.

63 *The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights*, §§ 37-40.

64 MANTOUVALOU, V., *Are Labour Rights Human Rights?*, UCL Labour Rights Institute On-Line Working Papers-LRI WP X/2012, p. 20.

In this sense, qualifying human rights as inherently basic does not impede to stretch their content at the interpretation and application levels, but to establish both an undeniable threshold and the steps for the progressive realisation is an important premise.

4. Core Content of Rights vs. Core Rights. The Troubling Case of Core Labour Standards

The idea of minimum content of rights can be wrongly used, to ground a selection of rights. A clear distinction between the notion of *core content* of rights and the notion of *core rights* can be drawn and should be kept in mind when searching for a universal content of human rights. Any shift from the former to the latter should be avoided. A clear example of this shift comes from the case of core labour standards.

Core labour standards are usually regarded as international standards defining a range of human rights at work that provide a guide to a civilized, dignified and sustainable workplace. They are by definition universally applicable, regardless of stage or nature of domestic development. Core labour standards are drawn from eight ILO Conventions and address: (i) freedom of association and the right to collective bargaining (Conventions, N. 87, N. 98); (ii) the right to equality at work (against discrimination in employment and equal remuneration) (Conventions N.100, N.111); (iii) the establishment of a minimum age for employment (Conventions N.138, N.182) and (iv) the abolition of forced labour (Conventions N. 29, N. 105).

Core labour standards are supposed to act as 'enabling rights', i.e. rights that create the conditions to allow access to other workers' rights. To this extent they meet the requirement set out by Shue's theory in order to be considered basic human rights. Their content reveals that they are also the result of a selection of rights. In this sense, while they imply a reference to a wider set of background values, they are compatible with the minimalist approach.

Western governments promote the diffusion of the core labour standards under the premise that they are universal, but they seem to draw their universality from the facts of being promulgated by internationally representative organisations and occuring in many human rights instruments. Of course, the sense given to the notion of *universality* here is contestable and quite useless in face of the lack of effectiveness of the standards, on the one hand, and of the

open-ended theoretical debate on what should mean to talk about universality of human rights, on the other. Western governments see core labour standards as a universal benefit (and on this basis they propose their introduction into trade agreements as a social clause) to the extent that they are supposed to lead to both improved conditions of labour in developing countries and to prevent the race to the bottom in terms of wages and working conditions. On the contrary, developing countries reject any strengthening of labour standards as inappropriate, because it would undermine their economic development, by serving only the selfish interest of Western countries. The debate is here put at the economic level, but its consequences on the international endorsement and enforcement of human rights are wider and disruptive.

For these reasons, among the others, it has been maintained in the literature that the consideration of the full range rights instead of core rights could provide a basis to reconcile the differences between Western and non-Western societies, whereas the differences are not just a result of stereotypical models[65].

Using the core content of rights as a way to set priority aims should never turn into a *selection* of rights. In other terms, the notion of core content should not be used to compare rights or to prioritize *among* rights, but to set what is non-derogable in the content of each right. Unfortunately, in the case of social rights, this aim conflates in the attempt to show they have to be thought as *rights* and to solve the so-called 'ontological question', which makes things more complicated.

Coming back to our example, why should freedom of association and collective bargaining be given a priority, for example, over health and safety working conditions[66]? Moreover, the alleged universality of core labour standards has been disputed by underlining that the Conventions from which the standards are drawn «reflect the needs and institutions of advanced countries at a particular moment in time»[67].

---

65 WOODIWISS, A., «Globalization and Labour. Putting the ILO in its Place», in *The Routledge International Handbook of Globalization Studies*, ed. by B.S. Turner, Routledge, Oxford, 2010, pp. 571-588, p. 379.

66 See ALSTON, Ph., «Facing Up to the Complexities of the ILO's Core Labour Standards Agenda», *The European Journal of International Law*, 16 (2015), n. 3, pp. 467-480.

67 SINGH, A. and ZAMMIT, A., *The Global Labour Standards Controversy. Critical Issues for Developing Countries*, 2000, online at http://mpra.ub.uni-muenchen.de/53480/ MPRA Paper No. 53480, posted 9. February 2014 09:58 UTC, p. 40.

The core content definition should respect the different forms of discourse and the different forms of institutionalisation of rights. An example comes from freedom of association and bargaining: It has been pointed out that the orthodox approach to trade unions implied in the terms of the two Conventions is hardly relevant to peasant and small-scale farming in developing countries. Again, on the global scale, it can be that the development of social policies or protective standards compensate for failures in warranting freedom of association and bargaining. This remark can explain why it may be debatable to maintain that core labour standards should become compulsory.

This shows not only that the notion of core labour standards is an example of the shift from the minimum core approach to the core rights approach, but also that its content is all but basic. Indeed, it looks too thick and too embedded into specific institutions and organization of labour.

Notions like *core content* or *core standard* should not privilege one set of values over another[68], but should serve the widest possible endorsement and justification of both rights and their background values, paying great attention to the different forms in which they can be pursued.

5. Conclusion

In this paper it has been argued what follows.

First, the point in giving a role to the idea of basicness in human rights discourse is to find the minimum core content of rights, not to keep the list of rights narrow.

Second, individuating the minimum core content is a necessary condition to give substance to the universality of human rights, which implies that what is claimed by the norms ascribing human rights is owed to each human being. Without excluding a further and more demanding development, rights content needs to be typified by a core/minimum content because, by definition, it is to be warranted to everybody. Basicness is what makes the rights content compelling, so that the correlative obligations can be deemed as undeniable and, under certain conditions, the failure in pur-

[68] Woodiwiss, A., *Globalization and Labour*..., cit. note 64, p. 585.

suing them can be qualified as a violation. This does not exclude, on either theoretical and practical level, but even set, a path for more demanding layers of content and obligations. For this reason, the reference to the doctrine of the minimum content of rights should not be criticized for being either too rigid or counterproductive[69] within the frame of international law of human rights. This is also what makes of the idea of basicness a ground to approach the 'ontological issue', which still seems to be particularly stressed when talking about social rights, and integrate the principle of interdependence and indivisibility of rights. For, once we agree that «All human rights are universal, indivisible and interrelate, so that the International Community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis»[70], we still needs for the track towards an integrated respect, protection and fulfilment of rights[71].

Third, core correlative obligations can be derived from the core content and the opposite does not apply.

Fourth, the minimum core content needs for a theoretical ground.

The feature of basicness, so understood, should not be used to justify any classification of human rights into basic/non-basic rights, but to support the conceptualization of human rights as universal rights. In this sense, both the minimalist and Shue's version of the idea of basic rights can be criticized.

The minimum content should help devise the entitlements and claims expressed by human rights, understood as normative standard. This means to envisage the universality of human rights in concrete terms and this seems to be the best way to face the undesirable consequences of rights proliferation, as it directly addresses the problems on both the level of transcultural consent and the level of effectiveness of rights. This can be done without assuming – as minimalist theories do – the values that can be regarded as passing the universality test and without draw a sub-set of human rights – as Henry Shue does – from their enabling function, since this latter a feature

---

69 These criticisms are reconstructed and discussed in TASIOULAS, J., *Minimum Core Obligations...*, cit. note 24, chapter 7.

70 UNITED NATIONS, *Vienna Declaration and Programme of Action*, adopted by the World Conference on Human Rights in Vienna on 25 June 1993, par. 5.

71 On the idea that the degree of indivisibility of rights depends on the degree of their implementation, see NICKEL, J.W., «Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights», *Human Rights Quarterly*, 30 (2008), pp. 984-1001, namely 1000-1001.

that turns out to be common to all human rights, due to their mutual reliance and interconnection.

In this perspective, maintaining that human rights have to be qualified by a core content can both support the fight against the ethnocentric justification of rights and support the compliance with norms.

The feature of basicness in human rights can be properly associated to the idea of minimum content, but this latter needs to be strengthened at a theoretical level. The resulting view searches for the justification of human rights norms among basic human interests and needs.

References

ALSTON, Ph., «Facing Up to the Complexities of the ILO's Core Labour Standards Agenda», *The European Journal of International Law*, 16, n. 3 (2015), pp. 467-480.

BILCHITZ, D., *Poverty and Fundamental Rights: The Justification and Enforcement of Socio-Economic Rights*, Oxford University Press, Oxford, 2008.

BUCHANAN, A., «Equality and Human Rights», *Politics, Philosophy & Economics*, 4 (2005), n. 1, pp. 69-90.

CESCR, *General Comment n. 12: The Right to Adequate Food (art. 11)*, E/C 12/1999/5.

CESCR, *General Comment n. 14: The Right to the Highest Attainable Standard of Health (art. 12)*, 11 August 2000, 11 August 2000, E/C.12/2000/4.

CHAPMAN, A., «Violations. Approach for Monitoring the International Covenant on Economic, Social and Cultural Rights», *Human Rights Quarterly*, 18 (1996), pp. 23-66.

CHAPMAN, A. and RUSSEL, S. (eds.), *Core Obligations: Building a Framework for Economic, Social and Cultural Rights*, Intersentia, Antwerp/Oxford/New York, 2002.

COHEN, J., «Minimalism about Human Rights: The Most We Can Hope for?», *The Journal of Political Philosophy*, 12, n. 2(2004), 190-213.

CRUFT, R., *Human Rights as Rights*, in *The Philosophy of Human Rights. Contemporary Controversies*, ed. by Ernst, G. and Heilinger, J.H., Walter de Gruyter GmbH & Co. KG, Berlin/Boston, 2012, pp. 129-158.

DONELLY, J., «The Relative Universality of Human Rights, *Human Rights Quarterly*», 29, n. 2 (2007), pp. 281-306.

FREDMAN, S. *Human Rights Transfomed: Positive Rights and Positive Duties*, Oxford University Press, Oxford 2008.

GREEN, M., «What We Talk about when We Talk About Indicators: Current Approaches to Human Rights Measurement», *Human Rights Quarterly*, 23, n. 4 (2001), pp. 1062-1097.

IGNATIEFF, M., *Human Rights as Politics and as Idolatry*, Princeton University Press, Princeton (MA), 2001.

KOJI, T., «Emerging Hierarchy in International Human Rights and Beyond: From the Perspective of Non-derogable Rights», *European Journal of International Law*, 12, 5 (2001), pp. 917-941.

KÜNNEMANN, R., «A Coherent Approach to Human Rights», *Human Rights Quarterly*, 17, 2 (1995), pp. 323-342.

Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, U.N. Doc. E/C.12/2000/13.

MANTOUVALOU, V., *Are Labour Rights Human Rights?*, UCL Labour Rights Institute On-Line Working Papers-LRI WP X/2012.

NICKEL, J.W., «Poverty and Rights», *The Philosophical Quarterly*, 55, 220 (2005), pp. 385-408.

— «Rethinking Indivisibility: Towards a Theory of Supporting Relations between Human Rights», *Human Rights Quarterly*, 30 (2008), 984-1001.

O'NEILL, O., «The Dark Side of Human Rights», *International Affairs*, 81 (2005), pp. 427-439.

PHILIPS, J., «On Setting Priorities among Human Rights», *Human Rights Revie*w, 15 (2014), pp. 239-257.

RAWLS, J., *The Law of Peoples with «The Idea of Public Reason Revisited»*, Harvard University Press, Cambridge (MA), 1999.

REIDY, D.A., *Political Authority and Human Rights*, in *Rawls's Law of Peoples. A Realistic Utopia?*, ed. by Rex Martin and D.A. Blackwell publishing, Reidy, 2007², pp. 169-189.

SEN, A.K., «The Global Reach of Human Rights», *Journal of Applied Philosophy*, 29 (2012), pp. 91-100.

SHUE, H., Basic Rights. Subsistence, Affluence, and U.S. Foreign Policy, Princeton University Press, Princeton, 1980.

SINGH, A. and ZAMMIT, A., *The Global Labour Standards Controversy. Critical Issues for Developing Countries*, 2000, online at http://mpra.ub.uni-muenchen.de/53480/ MPRA Paper No. 53480, posted 9. February 2014 09:58 UTC.

TASIOULAS, J., *On the Nature of Human Rights*, in *The Philosophy of Human Rights*, cit., *The Philosophy of Human Rights. Contemporary Controversies*, ed. by Ernst, G. and Heilinger, J.H., Walter de Gruyter GmbH & Co. KG, Berlin/Boston, 2012.

— «Towards a Philosophy of Human Rights», *Current Legal Problems*, 65 (2012), pp. 1-30.

— *Minimum Core Obligations: Human Rights in the Here and Now*, Research Paper 2017, available on line at http://documents.worldbank.org/curated/en/908171515588413853/pdf/122563-WP-Tasioulas2-PUBLIC.pdf.

TOBIN, J., *The Right to Health in International Law*, Oxford University Press, *Oxford*, 2012.

TRUJILLO, I. and VIOLA, F., *What Human Rights are not (or not only). A Negative Path to Human Rights Practice*, Nova Publishers, New York, 2014.

United Nations, Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights, UN Doc. E/CN. 4/1987/17, Annex.

United Nations Committee on Economic, Social and Cultural Rights, *General Comment N. 3 on the Nature of State Parties Obligations* (art. 2 para 1 of the Covenant), UN Doc E/1991/23 (1990).

United Nations, *Vienna Declaration and Programme of Action*, adopted by the World Conference on Human Rights in Vienna on 25 June 1993.

United Nations Committee on Economic, Social and Cultural Rights, *Maastricht Guidelines* on Violations of Economic, Social and Cultural Rights, UN document E/C.12/2000/13, 1997.

WOODIWISS, A., «Globalization and Labour. Putting the ILO in its Place», in *The Routledge International Handbook of Globalization Studies*, ed. by B.S. Turner, Routledge, Oxford, 2010, pp. 571-588.

YOUNG, K.G., «The Minimum Core of Economic and Social Rights: A Concept in Search of Content», *The Yale Journal of International Law*, 33 (2008), pp. 113-175.