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REVIEW

Medio ambiente, seguridad y salud: Grandes retos del derecho del SIGLO XXI

Various authors

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The work on which this brief approach is made is structured, as its title indicates, in different parts: environment, safety and health, thus responding to some of the major—and main— issues to be addressed and that make up some of the great challenges of the law of the XXI century.

In this way, and on the basis of a structure that is both interesting, flexible and agile, certain aspects of these great areas of knowledge—or necessary knowledge—are approached, all interrelated and whose reading leads and moves the reader to think from areas and points of view that perhaps have never been considered before, despite the fact that, apparently, they could be very hackneyed topics and very worked from other fields. But it becomes a crucial approach to approach them from the perspective of Law, especially in this complex 21st century which, immersed in a powerful global geopolitical reconfiguration, leads everything to be questioned and reconsidered... and not always in a way that is in the interest of people, of human beings, or even, and not even, in accordance with the law.

It is for this reason that this work has been published, destined to become a reference in its field, with María Isabel Torres Cazorla and Elena del Mar García Rico, long-time academics with a very significant body of work behind them, and Andrés Bautista Hernáez and Alicia María Pastor García, as coordinators, as editors and authors. Structured in three parts—Environment, Safety and Health—and articulated by means of seven chapters, seven articles that, although each one could be published individually in specialized journals for their quality and rigorousness, the fact of doing it together forms an extraordinary mosaic to fulfil the purpose of the work.

Thus, at the beginning of the book and its first part dedicated to the environment, María Isabel Torres Cazorla, with the graceful style with which we are accustomed to, addresses the always interesting and complex issue of the obligations of States in relation to climate change, under the suggestive title *Too little, too slow? The importance of environmental protection before the International Court of Justice*, trying to show whether this heading corresponds to reality, whether the States, both as key pieces of the international order and, above all, responsible for their citizens, have been diligent in this regard.

The issue is not trivial; the environment is obviously a global environment, and international legal regulation in this regard is fragmentary and usually acts in a reactive manner, in many cases even without directly addressing the area of responsibility, so that a sort of “climate justice” (page 24) is in the process of being assessed, to demand a higher level of commitment than has existed up to now.

The text is full of examples and cases: the nuclear tests carried out in the past—and the effects generated by them—the exploitation of phosphates in Nauru, the construction of a dam on the Danube, cellulose factories on the Uruguay River... among others, make up a sample of facts to be considered in this environmental protection, which is intimately linked to and inseparable from sustainable development. So much so that it is pointed out and explained how, and therefore, climate change is an unprecedented challenge on which depends not only the welfare of present generations, but also of future generations.

The text, which is rich in bibliography, also ends (page 52) with a hymn to hope:

“Let us hope that the International Court of Justice will take up the baton and take up the cause of environmental protection and the fight against the climate crisis and its devastating effects (...) Present and future generations will thank it and this will be a great tribute to international justice and to the survival of the planet”.

Continuing along these lines —the protection of future generations—, the following chapter, *The protection of future generations as transformers of international law and guarantee of the environment of those who will succeed us*, by Nicolás Carrillo Santarelli and Francesco Seatzu, remarks (page 62) that “(...) future generations are and can be protected by international standards (...)”.

To this end, an in-depth analysis is made as to whether these future generations can be considered a subject of international law, and different points, different headings in which, with clear and direct language and full of references, it is shown how it is feasible to protect future generations, It is considered that serious environmental damage can be seen as a breach of duties towards future generations, insofar as it may limit their ability to enjoy fundamental rights (page 68), even introducing a concept called “principle of intergenerational equity” (page 71) which, once again, establishes this direct relationship with sustainable development.

And all this, it is pointed out, without forgetting that the consideration of the need to protect these future generations has, must have, effects in the present, since it may entail the adoption and creation of specific measures that must necessarily be accepted and complied with by the existing subjects of law —individuals, States, companies, etc.—. It is not, therefore, a toast to the sun thinking of a better future from a very illusory perspective but shows how the design of a better tomorrow allows the maintenance and consolidation of a better present.

Beginning the second part of the book, more focused on the field of security, the third article. *The environment and international conflict*, by Javier Roldán Barbero, raises interesting and shocking questions such as (page 104) “social ecology, which requires a new social contract, both internal and international”, or the need to (page 106) “symbolically sign a peace agreement with Mother Nature, to leave her in peace, not as a demand for the future, but as a necessity of the present” or that (page 107) “Human beings are becoming victims and perpetrators of environmental threats” (page 107) “Human beings are becoming victims and perpetrators of environmental threats” (page 107) “The environment and *international conflict*” (page 108).

To this end, the author analyzes how these issues have a direct impact on the political, economic and social climate of any country, even stating that social peace and territorial peace depend more and more on the administration of natural resources; but not only does this direct impact occur at the internal state level, but also at the international level, since (page 115). “Environmental issues have acquired a preponderant role in the international agenda”, and, furthermore, as “(...) the concatenated evils of the environment are the quintessential example of the need for a true global governance”.

Therefore, and reiterating what was stated in previous chapters, he points out that the environmental issue has a powerful holistic component, which permeates most areas of international relations, making it necessary, he notes, to have a multilevel legal framework, despite the existing difficulties... among which, the current short-termism complicates the establishment of the necessary long-term policies.

The following chapter, the fourth, deals with issues such as neurotechnologies, and how they can pose a risk to human dignity, even to the protection of fundamental rights and freedoms, since, as is exquisitely pointed out on page 141, “what is at stake is the human brain, what makes us significant and unique as a species”, aspects addressed in a clear and comprehensible manner by Daniel García San José in his article entitled *International law in the face of the risks of neurotechnologies*.

He points out how the unstoppable scientific progress and all technological innovations leave a certain bittersweet aftertaste, and while our parents and grandparents also had to face challenges related to the development of new technologies, certainly artificial intelligence and the potential symbiosis with neurotechnologies have ethical and legal implications of a scope unknown until now. It is even proposed (page 147) that issues such as personal dignity, free will, mental privacy, equal access and protection against bias be recognized as neuro-rights, even as potential new human rights.

In view of the scope and importance of these issues, he points out –once again– that it seems reasonable to establish a kind of international governance, since the practices and actions that may be developed in one State may have and generate legal effects in other States, for which reason the author develops a series of proposals related to the need for such international regulation, which include, among others, and in a sample of the importance of this issue (page 164), the need to establish a United Nations High Commissioner for artificial intelligence and neurotechnologies.

Continuing the work, the fifth chapter, *Security and health: on unilateral sanctions in situations of health vulnerability*, by Elena del Mar García Rico, analyzes, in a style that is both entertaining and didactic, full of scientific rigor, the core issue of the matter, the legality of unilateral sanctions in the international framework and the close connection between international security and health.

In fact, and although, as the author points out, these are areas that have been considered relatively distant from each other for centuries, within the framework of the “(...) holistic vision that presides over this collective work (...)” (page 172), it is necessary to understand the importance of protecting the right to health, especially in a globalized and hyperconnected world, where health vulnerability takes on new dimensions: just think of the recent COVID pandemic.

This in-depth investigation is unraveled in a gradual manner, ranging from an approach to the term “unilateral coercive measures” in the framework of the United Nations to the “legal order that would result from the application of this matter”, in addition to raising the existing debate on the legality of such unilateral coercive measures, the consequences of such sanctions on the population and their impact on human rights, and always in the light of “the obligation to protect the right to health in the adoption of sanctions” (pages 172-174).

And, it goes on to point out that on this issue, as on many others, there is a lack of consensus, in an environment in which the application of sanctions —unilateral coercive measures— constitutes a common practice in international relations, by a certain number of States against “other members of international society considered responsible for non-compliance with international norms” (page 177); to complicate matters further, the adoption of such unilateral coercive measures is often condemned by the United Nations General Assembly as “contrary to basic norms and principles of international law” (page 188).

Not only is this basic issue addressed, but other aspects such as the distinction between retaliatory measures and countermeasures, the conditions of proportionality and temporality, the so-called smart or targeted sanctions, and secondary sanctions, among others, are discussed in a clear and accessible manner. And temporality of the same, the so-called smart or selective sanctions, secondary sanctions, among others, are described in a clear and accessible manner. And all this reiterating that it is necessary to assess it in the light of the negative impact of unilateral sanctions on the population of the sanctioned State and its potential incompatibility with fundamental norms and principles of the international order, questioning the legality of certain sanctions that restrict, ultimately, the right to health as a fundamental right.

Health constitutes the central core of the third part of the book; and, to begin with, José Manuel Sánchez Patrón, in his chapter (the sixth), entitled *The declaration of “public health emergency of international concern” in the face of pandemics*, takes us back to the recent HIV/AIDS-19 pandemic, and how this raised serious questions about the response provided by the World Health Organization.

With a very powerful documentary support and in an article full of references and explanations, the need for the declaration of the so-called Public Health Emergency of International Importance (PHEIC) constitutes a “(...) key part of the response system to extraordinary situations in which the spread of a disease or pathology may constitute a risk to international public health” (page 242).

The analysis of the formulation, the regulations of the declaration of an ESPII, the procedure to follow, the elements on which it will be based, the economic effects of the same, the need for a grading system... articulate the chapter, with the aim of introducing improvements that will allow the development of effective tools for future contingencies, for future challenges.

And closing the part dedicated to health and finalizing the work, Jorge Antonio Climent Gallart, in his chapter *La respuesta incompleta del TEDH a la esterilización forzosa de las mujeres románias*, addresses issues, among others, such as the right to the protection of private and family life, the right not to be subjected to inhuman and degrading treatment as well as the right not to be discriminated against.

And all these questions, of capital importance, are dealt with by means of a methodical, serious and rigorous legal analysis, starting from the legal background of the judgments formulated for this purpose, and placing special emphasis on the importance of the right to consent.

Going further into the issue of consent, and using quality references and arguments, it is pointed out (page 303) that the welfare of the human being must take precedence over the exclusive interest of science, as well as the guarantee of equitable access to appropriate quality health care. And the analysis is so fine-tuned that it even raises questions such as whether in the context of sterilization the word forced or coerced are synonyms.

For this reason, and in view of the object of study addressed, questions arise that are all surprising, especially considering that the actions under study, the forced sterilization of a certain group of women, have not taken place in these distant and apparently lawless territories; they have occurred in a European country, in a country of the European Union.

To conclude, it should be noted that in this complex, interconnected and technified world in which we live, it is essential to be aware of the number of derivatives that any issue raises, especially if they are so interrelated among themselves as the environment, safety and health, as is clearly evident after reading these more than three hundred pages, these seven documents that, each one by itself, is a pearl in itself, and that together, form a powerful starting point to further delve into these issues.

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