

## ROUND TABLE CONTRIBUTION

HERBERT SCHAMBECK

Ms. Chairperson, dear colleagues, permit me, after Prof. Possenti's presentation, and after the charming introduction by Ms. Hanna Suchocka, to speak about solidarity and subsidiarity. In this context, I shall be referring to politics, law, and international relations.

Politics and law are fundamental aspects of the social doctrine and decisive for international relations. I would like to point out that – while the state, perceived as a social state (and Prof. Zacher has written a lot about this) is able to prescribe, through its social legislation, at least a minimum of solidarity – international law – based on its specific character which, in contrast to national law, does not have a subordinative but a coordinative function – it has no comparable means to prescribe international solidarity, regardless of whether the United Nations or its specialized agencies have the competence to adopt binding rules, like the United Nations Conference on Trade and Development. Therefore, attempts at enhancing social development in an effective way do not always meet expectations.

Due to the lack of centralized legislation and also due to the lack of a central body for the adoption of such legislation, the international community in its organized form, and especially the UN, makes possible certain violations committed by states, and does not allow to intervene in their internal affairs because of the violation of human rights or of the compliance or non-compliance by a state with its international obligations or for the protection of the international community.

Finally, solidarity and subsidiarity also emerge from the international recognition of fundamental rights. The right to freedom and peace requires a certain amount of collective protection, and collective action is based on solidarity. It is the right of a state to have access to the goods of this world and to participate in these goods. On the other hand, every nation is free to define its own internal order without intervention or interference from

outside, as long as it realizes the common good and safeguards human rights. This shows that subsidiarity exists also in the international sphere but is, here as elsewhere, a concept that works in both directions; and since the international sphere is a sphere of freedom this requires compliance by the state, a fact that we cannot conceal all the less as we have the honour of Prof. Skubiszewski being with us. According to Article 38 of the Statute of the International Court of Justice, international law is the decisive legal basis for the conduct of a state, and article 6 of the Treaty on European Union refers to the recognition of fundamental rights, a principle which is of paramount importance.

Ladies and gentlemen, because of the purpose for which we have convened here, and in reference to the previous speakers and in particular to Angelika Nußberger whom I would like to congratulate on her first presentation given in our meeting today, I intend to refer to the integration of Europe. We recently began with the process of ratifying the Lisbon Treaty; and the European Union gives us an excellent example of both subsidiarity and solidarity; and when looking at solidarity, I am thinking of the transfer rates of richer countries to poorer countries. I know that, with the Maastricht Treaty, much attention has come to be paid to subsidiarity, and we are presently in a trial run of subsidiarity because subsidiarity is complied with in numerous EU countries. I was a Member of Parliament, and I know that through the Lisbon Treaty we now have the possibility that national parliaments scrutinize all legislative acts from the point of view of subsidiarity. In my own Chamber of Parliament we once had a meeting, held in Linz, where we discussed precisely this issue. Subsidiarity and solidarity are also referred to in the preamble to the Lisbon Treaty. I will not quote from there in order not to consume too much time but I would like to point out that, in the social order of Europe, we have multiple examples where subsidiarity and solidarity are linked to different social models; and these different models, if we analyse them, refer to certain groups of states, the Anglo-Saxon group, the Scandinavian group, the European continental group and the Southern European group, and they especially refer to the situation in the post-communist countries, just mentioned by our colleague Ms. Hanna Suchocka.

When we talk about subsidiarity and solidarity we should not overlook the fact that the Lisbon Treaty contains a clause which states that by framing and implementing its legislation it is combating social discrimination and is fostering vocational training. In international relations we should be reminded of the fact that the Lisbon Treaty safeguards social policy and economic policy. If Prof. Spieker says that the Christian influence in politics is

there even though it is not explicitly mentioned, I know that, besides economic policy and employment policy, we also have a monetary committee and we should not even ignore the fact that the Roman Declaration of 2003 speaks of the Fundamental Rights Charter; and a series of fundamental rights are listed in my lecture. In 1996 in Innsbruck, the European Union also referred to solidarity and subsidiarity and the necessary dialogue with the civil society to have an open, transparent and regular dialogue and the participation of the people, because the Lisbon Treaty provides in article 8B that you can have a plebiscite if you have a certain number of signatures in support, and the parliamentary system needs to be completed but not replaced because this would not be a democratization but a Jacobinization. Responsible democratic procedures are therefore very important.

In order to stick to the time allotted to me I should like to say that solidarity is a contribution to the acknowledgment and protection of human dignity and freedom. We know that human dignity finds its metaphysical roots in the *Imago Dei*. One way to find this subsidiarity is solidarity; and solidarity and subsidiarity can both contribute to the main issue of our meeting, namely, greater humanity in the social field, so that states and human communities may interact. I am very pleased to say this in this room, after our Holy Father Benedict XVI has taken on board this responsibility in his address to the UN.

Thank you very much for your attention.