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Human solidarity⁴ – the ultimate victory of good-will, understanding, knowledge and peace⁵

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www.cambridge.org/engage/coe/article-details/5f30f379c67b860019834f8f accessed 09. Oktober 2020.

5 Albert Szent-Györgyi: "I thank you for this teaching with all my heart and lift my glass to human solidarity, to the ultimate victory of knowledge- peace, good-will and understanding." The International Human Solidarity Day is celebrated since the year 2006. The UN General Assembly on December 22, 2005 had proclaimed that the Day would take place on December 20 each year.

Abstract:

Whether we are fighting a pandemic, financial or climate crisis, it is evident that we need solidarity, science, and decisive solutions. The recovery from the currently corona pandemic must guarantee a sustainable future for coming generations on a solidarity basis. The global vaccination plan, Covax brings together countries, companies, international organizations, and financial institutions, but nations must fight for its vaccine, only a 2 percent of the population started getting vaccinated. Most people in low- and middle-income countries still must wait. In this article, we examine how social solidarity can appear in the regulatory work of a nation or on a higher international level and, vice-versa, how law affects social solidarity. Our fundamental principle is that solidarity protects society from lawlessness, injustice, isolation, vulnerability and above all from disintegration. Solidarity was the name of an organisation and movement of workers against the communist government in Poland, which began in 1980 and established free elections in 1989. In our article, we aimed to describe why people act based on solidarity, which could be the root of their behaviour, and how solidarity works in practice. We collected many meanings and phenomena associated with solidarity; this term becoming increasingly relevant in a global crisis, because it is time (or it should be the time) to show solidarity and humanity. The financial crisis in 2008 and the COVID-19 situation, in view of the pandemic, create some interesting and crucial, in societal and economic terms, opportunities for solidarity that might be readily analysed, too. Politicians and religious leaders often use this word to become more popular or influence people's understanding of delicate situations or even to gather followers to help solve problems. We summarise the philosophical origins, the moral framework and the basis of this term. We outlined the Durkheimian sociology, which argues that the cohesion of the modern, "organic" society is built up from the interdependency system of increasingly differentiated and specialised individuals. Before covering global society in practice, we examined other sociological aspects as well, all the way to describing the procedures to ensure that household evictions are only carried out as a last resort and with due process.

Introduction

The origin of solidarity can be traced to the Roman legal concept of *correality*⁶, where a single thing was owed by more than one person. There was just a single obligation, under those circumstances. There was a transformation and growth of this idea during the *ius communae*, before being codified in the Napoleonic Code of 1804.⁷ Our fundamental principle is that solidarity protects society from lawlessness, injustice, isolation, vulnerability and above all from disintegration. Solidarity was the name of an organisation and movement of workers against the communist government in Poland, which began in 1980 and established free elections in 1989. In this article, we examine how social solidarity⁸ can appear in the regulatory work of a nation or on higher, international level and vice-versa: how law affects social solidarity⁹. We describe why people act based on solidarity, which could be the root of their behaviour, and how solidarity works in practice. We collected many meanings and phenomena relating to solidarity; this term is becoming increasingly relevant in a global crisis, because it is time (or it should be the time) to show solidarity and humanity. The financial crisis in 2008 and the COVID-19 situation, in view of the pandemic, create some interesting and crucial, in societal and economic terms, opportunities for solidarity that might be readily analysed. Politicians and religious leaders often use this word to become more popular or influence people's understanding of delicate situations or even to gather

6 Especially as far as *bonae fidei iudicia* were concerned. More about this in: J. Kerr Wylie (1923). 245

7 Obligatio in solidum: A **solidary obligation**, or an obligation *in solidum*, is a type of obligation in the civil law jurisprudence that allows either obligors to be bound together, each liable for the whole performance to be bound together, all owed just a single performance and each entitled to the entirety of it. Solidarity can be either active or passive. A solidary obligation that is active exists among the obliges (creditors) in the transaction. It is passive when it exists among the obligors (debtors) in a transaction. The origin of solidarity can be traced to a Roman idea known as *correality* where a single thing was owed by more than one person. Under these circumstances, there was just a single obligation. There was a transformation and growth of this idea during the *ius commune* before being codified in the Napoleonic Code of 1804. In Louisiana law, solidary obligations are governed by articles 1789–1806 of the Louisiana Civil Code. Wikipedia (2020) Link 1.

8 The term solidarity appears to have entered the English language in the 19th century from the French "solidarite". The term, as well as related ones, has a considerable history. In the 1765 Encyclopedia (Encyclopédie ou Dictionnaire ..., 1765) of Denis Diderot (1713-1784) and Jean Le Rond d'Alembert (1717-1783), one finds the definition of „Solidarité". A French-English dictionary from the 19th century gives prominence to the legal significance of the terms solidaire (a bond or contract), solidairement (wholly, for the whole) and solidarité (being bound or obligated in solido) (Boyer's French Dictionary, 1830, p. 480). The roots of these terms lie in a form of obligation at law involving joint and several liability, as well as rights. This remains the third meaning provided in the Oxford English Dictionary (Oxford English Dictionary: 1933, vol. 10, p. 400). The current collectivist interpretation of these terms is apparently drawn from French communist understandings of the latter part of the 19th century (cf. Skeat, 1956, p. 580]. In English, the word came to designate "the fact or quality, on the part of communities, etc., of being perfectly united or at one in some respect, esp. in interests, sympathies, or aspirations" (Oxford English Dictionary: 1933, vol. 10, p. 400]

9 Engelhardt H.T. (1999)

followers to help solve the problems. We summarise the philosophical origins, the moral framework, and the basis of this term. We outlined the Durkheimian sociology, which argues that the cohesion of the modern, “organic” society is built up from the interdependency system of increasingly differentiated and specialised individuals. Before covering the global society in practice, we collected the sociological aspects as well, all the way to describing the procedures to ensure that household evictions are only carried out as a last resort and with due process.

The New interpretation framework of solidarity

The issue of solidarity raises moral, legal, and religious questions at the same time¹⁰. How and why should it be, can it be, or is it necessary to cooperate with the other person? The answer can only be given by the cooperation of all the three previously mentioned areas of a normative system. The complexity of this question is shown by the fact that although the meaning of solidarity itself as a “terminus technicus” was developed by the ideologues of the Enlightenment, its roots go much deeper. Even the religious thought of the Old Testament recognised solidarity in the common fate that unites the chosen people with the Creator who covenants with them. (There are many further examples of solidarity in the Book of Prophets.) In addition, in the early Christian communities, the obligation to pay attention to each other and to cooperate also gained practical significance. St. Paul, for example, regards the community as an organic whole, in which individuals are parts of the community, stating that if something is bad even for the smallest member of the body, it is bad for the whole body¹¹. Human solidarity may be regarded as inherent in Islam, for example, as well. One of Islam’s five pillars aims at ending poverty, helping poor citizens, and sharing prosperity via giving alms (Zakat¹²) to strengthen society, achieve peace, protect the planet, and foster a life of dignity for all.

In the modern age, solidarity is mostly a reflection of the need for togetherness, the importance of cooperation, not only according to the principles of Enlightenment, but also in Christian social education¹³. However, especially with regard to more serious community challenges, if it is raising

¹⁰ Birher (2019.)

¹¹ *Rôm 12, 4-8; 1Kor 6, 12-20; 10, 14-22; 12, 4-8;*

¹² Zakat (2020) Link 2.

¹³ We are particularly thinking about the German social movements that have been active since the second half of the 1800s and the political organizations that have unfolded from them. Birher (2020) Link 3.

awareness of the environmental impact of unsustainable social functioning or a major epidemic, possible armed conflicts, we need to look at how the individual is prepared to show solidarity with people in need.

If we look at the frequency of use of the term solidarity, it can be seen that, in the recent period – from the late 1970s – the frequency of use of the word in English and German has declined. The exception to this is the period since coronavirus appeared and solidarity became a frequently used word again – at least according to Google search engines¹⁴.



Figure shows the change in search frequency for the word “solidarity” in the last 5 Years. Source: Google trends

The trend is a proper indication of the recognition that – in order to be able to create social systems (including production systems) that are integrated and lasting along the lines of values - it is necessary to take into account the fact that one is not simply an individual but a “*zoon politicon*”, a creature of the community, and also has a kind of social existence. His life cannot be interpreted without others. He alone cannot conceive, be born, grow up, or learn.

The other person facing him does not delimit him; he does not simply become aware of his personal finality, as Jean Paul Sartre puts it, because the others are not hell but, on the contrary, give the possibility of life (eternal life). Every real life is an encounter - we know from Martin Buber. Solidarity is the right way to deal with these encounters, to experience the encounters disinterestedly. There is no direct selfishness in solidarity. Solidarity is based on the recognition

14 Trends (2020) Link 4.

that I could be in a situation when I need help at any time. That is why it is my duty to help. Solidarity, moreover, is a specific principle that appears in all norms. Neither law, nor morality, or religion can be imagined without enforcing the principle of solidarity. In fact, John Rawls' theory of justice is also based on this principle. A society that pushes this principle into the background becomes unviable. The world of the selfish is not reproductive. Jesus of Nazareth articulates this evolutionary truth beautifully: “If the grain of wheat does not fall to the ground and does not die, it remains alone, but if it dies, it bears much fruit.”

Under the principle of solidarity, human beings are considered to have common fundamental characteristics, equal dignity and human rights. According to the church's teaching, solidarity is goodwill and an aspiration in society that is directed for the benefit of all people.¹⁵

The word “solidarity” comes from the Latin word *solidus*, which means solid, concise, a complete whole, and it was initially used in certain legal contexts. The obligation of solidarity was the unlimited obligation of each debtor, as regards the total amount of a total debt, to which any person is to settle the obligations of the others.¹⁶

What true innovation means is recognizing the necessary and joyful power of interdependence. Here, however, interdependence does not mean the interconnection of producer and consumer chains, as they are self-serving and do not affect the horizons of humanity beyond material reality. Interdependence primarily means family, nation, state - in Aristotle's interpretation, and from Jesus' point of view, love and eternal life. Focusing on today's current challenges in Western life should elevate sustainability as well as social equity. If we do not become aware of this fact, we will be unable to secure the future entrusted to us by our grandchildren and great-grandchildren.

Behind all innovations the solidarity must be the basic idea for ensuring a human future. Following these abstract principles, we examine how a country can regulate solidarity in law and ethics in practice (the presentation of the need for religious regulation goes beyond the scope of this dissertation). Within the regulation at national level, we also analyse a specific legal institution - implementation – where “solidarity” can be an important step towards greater social justice.

The purpose of solidarity is to build our common purpose, and to embody our mutual care and concern for justice. Solidarity works best when we respect each other's differing needs and life

¹⁵ ncsszi (2020) Link 5.

¹⁶ Anzenbacher (2001) 187

circumstances, understand that there are many ways of being in solidarity and co-ordinate our responses.

In common terms, solidarity means mutual commitment and the willingness to help each other, which - to be honest - unfortunately has almost completely disappeared today.

The modern-liberal bases of solidarity

Mechanical and organic solidarity

Modern thought recognised: Solidarity is a kind of “glue” between individuals, the bond of unity between the members of society united around a mutual mission, goal or against a common enemy. Émile Durkheim is usually considered the father of modern social sciences, as he basically established the framework for the academic discipline of 20th and 21st century sociology (similarly to Max Weber and Karl Marx). In his well-known, widely cited book *The Division of Labour in Society* (1893), he examined and analysed the “glue” of society, which he named social cohesion, or solidarity, which can be divided into two types: mechanical societal solidarity and organic societal solidarity¹⁷.

Mechanical solidarity is an old type of societal integration. Before the industrial revolution, the “mortar between the bricks” of society was the similarity of its members, the simplicity of farming, trade and production; the low level of the division of labour; territorially fragmented, but regionally unified beliefs, values, and religiosity; the homogeneity of individuals: a system of human relations and connections characterised by a ruled lifestyle, which is often based on the kinship ties of familial networks and intertwined with tradition. As a linguist, Noam Chomsky found a close relationship between identity and language in studies that emphasize that a speaker's identity is not a definite phenomenon, but open to transformation, which is contextual and this is done through interactions: the research is based on practical categories and variability of identity, where solidarity and distance, as well as the granting of temporary autonomy and the exercise of power are the cornerstones¹⁸.

¹⁷ Brunkhorst (2005)336.

¹⁸ As a Hungarian example. It was highlighted by the studies of Hamori (2006) and Szabo (2011).

The historical dividing line – or rather – breakpoint between the two principles (the mechanical and organic solidarity) was the Industrial Revolution and technological developments that resulted in an ever-increasing need for knowledge-sharing and ever-expanding and specialised professions in a much more complex society. Rawls suggested in his book *A Theory of Justice*, that the “*egalitarian difference principle, which involves treating the endowment of each as part of the jointly held resources for the benefit of society as a whole, presupposes a high degree of solidarity among the participants.*” By contrast, Hauke Brunkhorst attempts to delineate a concept of solidarity that is not heavily tied to strong concept of community.

Obviously, the central normative concept is “democratic solidarity,” the bond among free and equal citizens, who in modern democracies are not identical in any ascriptive characteristics. Furthermore, examining the problem following the line of Emile Durkheim’s argument, Brunkhorst¹⁹ develops a concept of solidarity suited to a democratic society, namely that a modern society must be a “solidarity among strangers.” Moreover, it is intended to be Universalist, as far as it is rooted in a “patriotism of human rights” central to modern constitutional democracy and is impartial. It is local and biased. This does not in any way detract from the universality of moral duties or human rights²⁰. It only aims to distinguish between the universal level of morality and the local, solidarity-based level of certain forms of social justice. Solidarity, accordingly, is an interesting attitude, since it “lies half way between unmediated feelings like love or compassion and a pure rational Kantian recognition of the moral standing of fellow human beings who have dignity and rights. One may describe solidarity as sympathy mediated by a belief in a common project”. Rawls gave a really surprising definition of justice and solidarity in society: “*All social primary goods — liberty and opportunity, income and wealth, and the bases of self-respect, — are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage*

19 Brunkhorst’s distinctive approach to the concept of “solidarity combines history, normative theory, and political sociology in an innovative contribution to social and political thought. The first part of the book provides a historical account of the development of this modern egalitarian idea of democratic solidarity out of, and, in contrast to, the less egalitarian notions of civic friendship in the Greco-Roman world and brotherliness in the Judeo-Christian tradition. Part II analyses the modernization of Western societies, which destroyed the older solidarities that depended on the hierarchical structures of premodern societies. This process gave rise to problems of exclusion that modern societies could solve only with the help of democratic solidarity. Democratic constitutions aimed to bring social forces under the control of a politically constituted people; constitutions served as the institutional embodiment of democratic solidarity”.

20 Equal respect applies to all human beings as such; concern applies in more local groups, like peoples. Richard Miller (1998) 27. 202. 22.

of the least favoured”²¹ This way solidarity combines personal and impersonal components: the objects of solidarity are mostly anonymous in the sense that the subject does not personally know them. However, they are not considered as just human beings abstracted from all their individuating characteristics either²².

Organic Solidarity, in contrast with Durkheim’s Mechanical Solidarity, is grounded in the differences between people that call for cooperation and division of labour if they are to be overcome. It is the recognition of the importance of the different functioning in different parts of society, analogous to the harmonious functioning of parts of an organism. According to Dénes Némédi's remarkable suggestion²³, a three-element theory could explain that constellation: the theory of social differentiation, the theory of the moral attachment of individuals²⁴), and the theory of value integration of group consciousness. This would be significantly different from the general concept of the Division in the general structure of complex theory. Durkheim later took steps in this direction, but the most important changes in his theory did not ultimately lead to this. Solidarity²⁵ is also one of the six principles (dignity, freedoms, equality, solidarity, citizens’ rights, and justice) of the Fundamental Rights of the European Union²⁶.

Noam Chomsky argued, from an ideological and cultural point of view, that solidarity is the core element and driving force of human nature. Guided by his opinion Adam Smith, David Hume and others emphasised the importance of solidarity, but from a practical viewpoint they reached the opposite conclusion when the examples - taken from real life - were analysed.

The difference between Mechanical and Organic Solidarity can be made more understandable by considering their law systems. In a mechanical society, with regard to crime, people respond intensely, emotionally: go to get revenge and urge to remove the perpetrator from the community; in this way the transgressor expects a typical mediaeval, Biblical punishment, such as

21 Ibid. While Rawls has since modified his theory of justice to some extent, the basic idea of the difference principle is still captured by the original formulation: “All social primary goods—liberty and opportunity, income and wealth, and the bases of self-respect, are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favoured” (303). Hauke Brunkhorst

22 By this way: We care for people with whom we feel solidarity but do so based on their belonging to “our” group fighting for a certain goal rather than as just individual human beings.

23 Dénes, Némédi (2006) 500.

24 Kohlberg, Lawrence ; Charles Levine; Alexandra Hower (1983)

25 Solidarity: such as the unifying principle that defines the labour movement

26 Charter of Fundamental Rights of the European Union and December 20 of each year is International Human Solidarity Day recognized as an international observance.

stigmatisation, imprisonment, exile, and even sentence to death. In contrast, in the organic society everybody is different, without a strong, unified morality; therefore, what is considered a “sin” is breaking the processes, disrupting the system, not the violation of morality. The modern “organic” punishment is creative and tailored to re-forming and correcting the rule-breaker, this is called restitutive law (as distinct from retributive law). According to the Durkheimian viewpoint, crime is a natural and healthy phenomenon of society. Similarly, in the welfare states the basic principle of crime prevention is to support solidarity in communities and to embrace bottom-up, collaborative initiatives. Professional aspirations for crime prevention include strengthening social inclusion and tolerance, eliminating prejudices, consistent action to combat all forms of discrimination and the widest possible use of restorative justice tools to repair the damage caused by crime. This principle is based on the almost 150-year-old foundation of organic solidarity.

“When one speaks of solidarity, one surely means to keep it within limits. When one turns systematically to fashioning social structures to feed the poor or protect those in danger by enforcing altruism, one discovers debates at various levels concerning the proper character of social structures and the goals they should pursue.”²⁷ Engelhardt criticised the theory of solidarity, describing poverty and the uncertainties of definitions and meanings thus: There does not appear to be agreement regarding substantial, concrete, content-full understandings of solidarity. Yet, it is precisely about such issues that agreement is necessary if one is to determine whether solidarity should be directed first to achieve equality or first to preserve-individual freedom. One can have a solidarity among libertarians and individualists, just as one can have a solidarity among egalitarians. Moreover, one needs to know how much of what one may or should sacrifice for others. Supporting others may not only benefit them, but also harm them. There may be forms of support that may meet short-term needs while undermining the best interests of those one aids. Explorations of solidarity begin with ambiguities concerning the concept and its application. These ambiguities for their part disclose the predicament of our time: there is no one universal moral narrative to give canonical moral content or guidance.

Today, therefore, we cannot be satisfied with the simplified dogmatic definition of solidarity but must clearly outline at least two systems of norms: legal and societal (and the third are those of

27 K. Bayenz (1999) 293-308.

various religions), as the framework for cooperation within society in order to ensure a sustainable future.

Solidarity-based behaviour

Which part of our curriculum comprises solidarity²⁸? How much solidarity is there in humans²⁹? Economists and psychologists try to explain why people share. Are we more in solidarity than we thought – or are we just disguised egoists? Human beings are not only rational, as scientists claim. Man tries to balance self-interest and fairness. A very fair person feels bad when he is better off than his partner in a transaction and therefore gives him more. In order to be able to be in solidarity with others, he renounces something.³⁰ Why do we help another person or stand up for him?³¹ Is there any answer? We help other people to ensure the dissemination and preservation of our basic information about other ones. We tend to support people whom we classify as similar due to different characteristics such as kinship or appearance. Those who are similar, we think, also carry parts of our genetic material. Another theory is that we orientate ourselves towards helping us to see if we can expect help from the person in the future. This principle is called “Reciprocity”. Being in solidarity seems rewarding. It also increases our status. Only those who are strong can support others. The one who helps feels better. “The higher the anonymity in a society, the less solidarity there is.”³² “Everyone is best helped if he thinks only of himself in the competition”.³³ “There can be not only competition, but also solidarity”³⁴. “A society does not work without solidarity”³⁵. Solidarity “is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and persevering determination to commit oneself to the common good; that is to say, to the good of all and of each individual, because we

28 “There has been a general assault in the last 25 years on solidarity, democracy, social welfare, anything that interferes with private power, and there are many targets. One of the targets is undoubtedly the educational system...” (Noam Chomsky, 2000) 231.

29 Solidarity research (2020) Link 6.

30 Solidarity Game (2020) Link 7.

31 Artenschutz (2020) Link 8.

32 Urban ethology (2020) Link 9.

33 Christoph Lütge (2020) Link 10.

34 Psychologist Michael Kastner Link (2020) 11.

35 Gesellschaft funktioniert nicht ohne Solidarität (2020) Link 12.

are all really responsible for all³⁶.” Solidarity has many faces; depending on how people act in solidarity, for example out of self-interest or out of coercion. The various forms of solidarity include solidarity from natural solidarity (usually in small groups of relatives), solidarity out of self-interest (in the sense of giving and taking), fairness, coercion, and solidarity out of self-sacrifice³⁷. Solidarity out of fairness is in the interests of everyone, but it can be escaped without harm and “free rider position” adopted, i.e. benefiting from the positive effect without reciprocity (e.g. in the provision of public goods). We then need a willingness to be fair in order to make one’s own contribution freely. Solidarity out of coercion is usually institutionalised when fairness is obviously not enough for everyone to make their contribution. Such coercion today is usually the result of democratically adopted laws, which is why the term “force” can be contentious. Solidarity from self-sacrifice refers to solidarity-based action, which is neither linked to self-interest nor can be regarded as a requirement of fairness.

The five solidarity groups of different sizes by Gerhard Kruip (Various groups of solidarity³⁸) include the social area of the family, the field of civil society organisations, the nation state, supranational associations such as the European Union and world society. Kruip stated that “sustainably accepted forced solidarity requires at least five things: the fullest possible control of their observance, fairness in the distribution of their burdens, effectiveness and efficiency in the use of resources, democratic procedures to determine them and the lasting awareness that it is right to organise certain forms of solidarity through compulsory solidarity. It seems that for the humanity of a society it is important to combine the various solidarities optimally. A large part will be based on self-interest. Solidarity through self-interest also has its value and should not be talked down by excessive moralising. Solidarity from fairness will continue to work in many areas today. In addition, solidarity through coercion is also needed, otherwise too many weaker ones will be excluded and not all the necessary public goods can be produced and the costs for them distributed fairly. However, because not everything that belongs to a human society can be organised based on coercive measures, the potential for solidarity of self-sacrifice and fairness must also be promoted and maintained.”

36 Pope John Paul II. (1987)

37 Mahatma Gandhi (2020) Link 13.

38 Sozialethik (2020) Link 14.

Solidarity in practice today

Solidarity is necessary in a divided world, because of inequalities in human development and differences in economic growth³⁹. People feel responsible for solving problems; governments and non-governmental organisations (NGOs) have special programmes to help. The form of global solidarity includes cross-border solidarity, regional support, scholarships, helping by reconstruction after war or natural disasters, or regarding epidemic or pandemic, activism, new global arrangements, and shared security.

Solidarity as an abstract term dates to the labour movement, then developed in different directions, but there is no definition of who should have solidarity with whom. In the global world, several areas exist, where the term is frequently used, for example by the International Labour Organization (ILO), the World Health Organization (WHO), the International Monetary Fund (IMF) and the World Bank, the United Nations High Commissioner for Refugees (UNHCR) and by the protest movement against the Group of Seven (G7) or Group of Twenty (G20). Solidarity is the conception of assistance in the European Union and in the United Nations.

Global solidarity

The year 2020 was declared to the year of the Solidarity. "What the world needs now is solidarity. With solidarity we can defeat the virus and build a better world."⁴⁰ Are we responsible for all conflicts in the world? Can we help in fact to solve them? Everybody can do something in his own community. "You can work on the good ones in the world,"⁴¹ as well. The new global governance reflects on the dysfunctions, which cannot be solved by traditional tools⁴². A significant part of the global elite lost its sense of solidarity.⁴³ The New Earth Politics suggested by Simon Nicholson and Sikina Jinnah, and the Earth System Governance of Frank Biermann proposed finding new ways and establishing new dialogues and "megalogues"⁴⁴. The new century made a huge jump and

³⁹ Human Development Report (2019) Link 15.

⁴⁰ UN-Secretary General Antonio Guterres

⁴¹ „Du darfst am Guten in der Welt mitarbeiten.“ (Albert Schweitzer 1875-1965)

⁴² Laszlo Z. Karvalics (2019)

⁴³ Dubai World Economic Forum 2019

⁴⁴ Megalogue (2020) Link 16.

created new levels of systems, functions, and instruments. The main risk factors contain climate change, environmental degradation, violent conflicts, absolute poverty, and rapid demographic transition. Peter M. Haas described the so-called epistemic communities, where there are networks of knowledge-based decision-makers to define the problems, to identify various policy solutions and to assess policy outcomes. The common policy enterprises support the common goals and improve social welfare, due to open dialogues and "megalogues". In the regular sessions of international organisations and global forums, delegates of the countries, NGOs, politicians, and scientists gather to discuss the global problems.

The United Nations General Assembly adopted the Resolution 70/1, Transforming our World: the 2030 Agenda for Sustainable Development on 25th September 2015 with 17 Sustainable Development Goals and 169 targets, which aim to end poverty and hunger, protect human rights, human dignity and the planet from degradation, and foster peace.⁴⁵ “We are determined to mobilize the means required to implement this Agenda through a revitalised Global Partnership for Sustainable Development, based on a spirit of strengthened global solidarity, focused in particular on the needs of the poorest and most vulnerable and with the participation of all countries, all stakeholders and all people. The scale and ambition of the new Agenda requires a revitalised Global Partnership to ensure its implementation. We fully commit to this. This Partnership will work solidarity with the poorest and with people in vulnerable situations. It will facilitate an intensive global engagement in support of implementation of all the Goals and targets, bringing together Governments, the private sector, civil society.”

“If you want to go too fast, go alone. If you want to go fair, go together.⁴⁶” The “leave no country behind”⁴⁷, international action of the United Nations supports countries’ capacity to enact and finance their development strategies, and enable channels through which global wealth can be redistributed. This action promotes global rules for an equitable distribution of income and development opportunities at the international level, taking effective action on international cooperation, on tax, cross-border financial flows, migration and remittances, debt relief and trade.

⁴⁵ Migration (2020) Link 17.

⁴⁶ Lost Boys of Sudan (2020) Link 18.

⁴⁷ Leaving no one behind (2020) Link 19.

For shifting development cooperation to a more comprehensive and representative framework, the programme integrates new and traditional providers, in which governance representatives of both donors and recipients take part. In all the above-mentioned areas, least developed countries should be prioritised.”

The 56th Munich Security Conference (so called "Westlessness") Munich Security Report 2020⁴⁸ from February 14 to 16 2020 was about the question “Has the West lost its way?” At this conference, which was founded in 1963 under the themes of peace, networked security and solidarity was discussed through dialogue between senior politicians, diplomats, military and security experts from the member countries of North Atlantic Treaty Organisation (NATO) and the European Union, but also from other countries such as China, India, Iran, Japan and Russia. Representatives of international diplomacy held discussions in the following fields: energy security, cyber security, health security, human security, arms control, coronavirus, climate change, social media, artificial intelligence, and the Libyan conflict. In conclusion, what is needed for our shared security is a common understanding.⁴⁹

“No one country is alone”: for example, with regard to SARS-CoV-2/COVID-19⁵⁰, the international community⁵¹ has given China⁵² valuable moral and material support, such as shipping diagnostic kits, as well as supplies of masks, gloves, gowns and other personal protective equipment to China and some of the countries that needed them the most⁵³. After the situation was declared a pandemic, the World Health Organization (WHO) launched the Covid-19 Solidarity Response Fund.⁵⁴ In all affected countries, citizens should try to act on basic human solidarity – mostly in their neighbourhood⁵⁵ – which means we must take care of older people or help citizens

48 Munich Security Report (2020) Link 20.

49NATO Secretary General Jens Stoltenberg

50 Coronavirus (2019) Link 21.

51 Twenty-one countries have provided aid to the coronavirus-hit China to help battle the spread of the disease. South Korea, Japan, Thailand, Malaysia, Indonesia, Kazakhstan, Pakistan, Germany, the UK, France, Italy, Hungary, Belarus, Turkey, Iran, the United Arab Emirates, Algiers, Egypt, Australia, New Zealand, Trinidad and Tobago, and the UNICEF have provided aid.

52Foreign Minister of China, Wang Yi

53Tedros Adhanom Ghebreyesus (Director General, World Health Organization)

54 Covid 19 (2020) Link 22.

55 Songs for solidarity (2020) Link 23.

in need. Many of them understood that they should stay at home (self-lockdown) because of the limited capacity of the hospitals, and in order to stop or at least limit the spread of the pandemic.

In the 21st century, consumers became more interested in the origin of products. People understood the importance of environmental protection. To keep safe the Earth safe, we need common actions and participation by all of us, even companies, students, and governments. One of the best examples of common engagement is the Fridays for Future⁵⁶ (FFF) movement, which mobilises tens of thousands of young people worldwide and has been taking them to the streets⁵⁷ since August 2018. Multinational groups, if they want to address more consumers, need special arrangements, such as Corporate Social Responsibility⁵⁸ and sustainable business management. Governments established their soft power⁵⁹ and public diplomacy, which includes the export of their own interests in the frame of political, ethnic, or religious solidarity.

The European Union is a community of European States established on the spirit and principles of solidarity. In the charter of EU Fundamental Rights, Articles 27-38⁶⁰ described the expectations of the behaviour of the Member States, how they relate to each other. However, did this solidarity

⁵⁶ Fridays for future (2020) Link 24.

⁵⁷ Every Friday in 2018 and 2019, instead of going to school kids go on strike to campaign for better climate protection, demanding their governments take action to limit global warming under the 1.5-degree Celsius limit specified in the UN's Paris climate agreement. The FFF school strikes have developed into a global movement aroused global solidarity on environmental protection.

⁵⁸ CSR (2020) Link 25.

⁵⁹ The soft power (2020) Link 26.

⁶⁰ Charter of Fundamental Rights of the European Union (2012/C 326/02) Title IV, Solidarity: Workers' right to information and consultation within the undertaking, Right of collective bargaining and action, Right of access to placement services, Protection in the event of unjustified dismissal, Fair and just working conditions, Prohibition of child labour and protection of young people at work, Family and professional life, Social security and social assistance, Health care, Access to services of general economic interest, Environmental protection, Consumer protection

work in times of need⁶¹? – this question was raised at the global pledging conference⁶², (called global response – on 4 May 2020) by the EU together with the partners of the G20 and G7, and with other private partners⁶³ as well. EUR 7.5 billion were given for funding to start global research cooperation, to develop diagnostics, increase treatment effectiveness and to develop vaccines. The EU has already committed over 380 million Euros to research and innovation measures to prevent the spread of the virus. However, this budget was not enough to solve the human and the economic catastrophe and to avert economic recession. The French-German Initiative made on 18 May for about 500 billion Euros for the recovery of European business. Supporting the initiative, the European Council on 21 July 2020 agreed on a Covid-19 assistance package, the solidarity-based

61 The German Federal Foreign Office initiative to bring home German travellers cost 50 million EUR, helped other European citizens to return home, as well. Many other European Foreign Ministries followed them and offered the same.

The most infected country of The European Union was Italy⁶¹ in March 2020, followed by Spain in April. As the region of Lombardy reported the first local transmission of the virus with three new cases, officially the pandemic began on 20th of February in Italy. The first case in Spain was reported at end of January; the spread of the pandemic became faster in March and made Spain the most infected European State from April.

Under the cohesion policy, on 14 March 2020, the European Commission proposed the new Coronavirus Response Investment Initiative to direct 37 billion EUR to fight against Covid-19. To this effect, the Commission supposed to relinquish this year its obligation to request Member States to refund unspent pre-financing for the structural funds. This amount is to about 8 billion EUR from the EU budget, from which the Member States will be able to use 29 billion EUR to supplement structural funding across the EU. In that event that, a public health crisis might happen, the Commission proposed to extend the scope of the EU Solidarity Fund up to 800 million EUR for the year 2020, which can be mobilized rapidly - if it is needed - especially for the Member States, hit by the virus the most.

62 Donor conference is an international assembly of politicians and diplomats to collect money to finance relief efforts after war or natural disasters. Donor Conferences are organised around the world to support reconstruction or recovery after civil or natural catastrophes.

1996 in Dayton two DCs for disarmament and reconstruction aid: USD 1.23 billion

2001 Brussel DC for Yugoslavia: DM 3.5 billion

2006 DC in Sweden for Lebanon after the war: USD 900 million

2013 DC in Brussels for reconstruction of Mali: EUR 3.25 billion 2014 Berliner DC for Green Climate Fund (GCF): USD 9.3 billion

2014 DC in Cairo for Reconstruction of Gaza: USD 5.4 billion

2015 DC in Berlin started for "Impfallianz GAVI" to collect USD 430 million

2017 DC in Brussels for Syria: EUR 6 billion (support for Syria between 2012 to 2017 from Germany EUR 4.5 billion)

2017 DC in Geneva for Yemen after the civil war: USD 1.1 billion

2018 G5-DC Mauritania for financing PIP (Programme d'investissements prioritaires) : EUR 1.3 billion

2019 Germany supposed to organise a DC for East-Ukraine, wanted EUR 3 billion

2019 started a French DC for fighting against Aids, TBC and Malaria will collect USD billions into the Global Funds

2020 DC for Albania after the earthquake: EUR 1.15 billion

The most famous live aid concert was held in July 1985 -raised USD 127 million for famine relief in Africa. The word hunger help (Welthungerhilfe) was founded in Germany, supported 8900 projects so far, in 70 countries with EUR 3.53 billion, aimed at zero hunger until 2030.

63 EU, UN, WHO, Saudi Arabian, GB, Japan, Canada, Germany, France, Madonna, Bill and Melinda Gates

recovery fund called Next Generation EU, with 750 billion euros to mitigate of the economic consequences of the pandemic.

Since in 2020⁶⁴ the European Commission allowed the Member States again to protect their own economic actors - based on the Article called on the world for more solidarity as well.

Y. N. Harari⁶⁵ called it a leaderless world in his article in *Time* magazine.” Today humanity faces an acute crisis not only due to coronavirus, but also due to lack of trust among humans. To defeat an epidemic, people need to trust scientific experts, citizens need to trust public authorities, and countries need to trust each other. Over the last few years, irresponsible politicians have deliberately undermined trust in science, in public authorities and in international cooperation. As a result, now we are facing this crisis without global leaders who would inspire us, organise and finance a coordinated global response. History indicates that real protection comes from sharing reliable scientific information, and from global solidarity. The epidemic could be a golden opportunity for the EU to regain the popular support it has lost in recent years. If the more fortunate members of the EU swiftly and generously send money, equipment and medical personnel, to help their hardest-hit colleagues, this would prove the worth of the European ideal better than any number of speeches. If, on the other hand, each country is left to fend for itself, then the epidemic might sound the death-knell of the union.”⁶⁶

Two practical examples of solidarity

The German regional funding programme and the Hungarian eviction

Examining the role of public administration in increasing solidarity and how solidarity prevails on a regional basis, it is worth understanding the deeper aspects of the concept, which is a historical and economic philosophical doctrine. Hechter (1987) distinguishes two types of social solidarity, action (behaviour) and emotion (sentiment). Regarding solidarity for action, the individual mobilises his resources in the interest of community, while the emotional approach in social solidarity manifests itself in empathy, regret, friendship, and in love.

⁶⁴ First time was in 2008 because of the financial crisis 2007-2008

⁶⁵ Yuval Noah Harari (2020) Link 27.

⁶⁶ Leadership (2020) Link 28.

Lindenberg (2002) does not consider Hechter's approach to be sufficient and, according to him, social solidarity in action should be further subdivided: In this case the common good, the behaviour of the individual, is adapted to the group, while the distributional situation consists of allocating costs and benefits to the individual in the interests of the group acting against its own interests. Regarding an emergency, the individual will offer help to the group. In an unfortunate situation, the individual may behave differently than the group expects. In retrospect, however, the individual is able to explain why he did so (psychology calls it cognitive dissonance). In many cases, the literature defines three concepts in a very similar way: social solidarity, collective action and altruism. They are mostly defined as a slightly overlapping set.

These three important concepts lead us to new paradigms of the welfare state and the service state⁶⁷, which must be based on the paradigm system of social solidarity, including those already described above. Already in the 1960s, the issue of inequality of opportunities for the disadvantaged, the unfortunate, those living in minority groups and the poor, and the importance of the application of positive discrimination came to the fore in scientific and social policy discourses. Later, this was replaced in the 1980s and 1990s by the inclusion of access and equal treatment in the legislation and the proliferation of ombudsmen, but today the literature speaks more of fairness and social solidarity. Public administration faces serious challenges in offsetting the distortions of economic life and the failures of social ascension.

Welfare states intervened in the functioning of the market and society in a predetermined way, through political and administrative means. Signs of this can be seen in the expansion of social transfers (benefits, pensions, etc.), the fulfilment of fundamental social rights, and the provision of public services. Services affect not only the poor but also the state and society as a whole has become the subject of the activities of the welfare state. As a part of this, educational and cultural goods were also accessible to a wider range of people, as these services developed into free or state-subsidised forms. The ideas of national solidarity and social responsibility were accompanied by the strengthening of state power. The transformation of welfare states (sometimes with significant delays per state) arrived at a crossroads in the 1980s. Welfare states, at the height of their successes, were forced to change attitudes due to the 1973-74 oil price explosion and crisis. It has become clear that, in the face of deteriorating economic performance (rising inflation and

⁶⁷ By Merriam-Webster Dictionary: „...the *service state*... takes the whole domain of human welfare for its province and would solve all economic and social ills through its administrative activities” — Roscoe Pound

unemployment, an aging society), a state system that is basically in line with the situation prevailing half a century ago cannot be maintained. Social-philosophical critiques of welfare states have also influenced shrinking and profile cleansing. The accusations that often come up today are the following:

- Frequent misappropriation of benefits (not by those who need them),
- Corruption and inefficiency,
- Over-proliferation of the state, integration of too many roles,
- Low- and poor-quality services for a lot of money,
- Office orientation instead of customer orientation. Preparing the legal environment to support new social phenomena and processes.
- Subsidiarity and deconcentrating (delegation of decision-making competence, transport of public administration closer to citizens),
- Outsourcing and commercialization of many public tasks (energy, post, etc.) keeping it, it seeks to move from a superior position to a subordinate, cooperative relationship with those to whom it offers its services.

In the administration of the service state, the concept, organizational culture, operating model, technological infrastructure, transformation schedule, and pervasive long-term thinking of the administration, become emphasised. All this serves solidarity, which underpins the long-term security of society, a kind of calm, benevolent prosperity.

Solidarity in Germany between the federal states

The economic strength of the Member States of the European Union varies widely. It is not the aim of the European Union to bring all states to the same economic level. However, the EU is committed to the principle of solidarity, which helps the weaker ones improve their circumstances and become more developed. This solidarity is expressed materially in the European structural and regional policy, which specifically supports the regions lagging behind. However, solidarity is also the basis of cooperation between the EU countries politically, in fields of security challenges, disasters and dealing with refugees as well. The central issue of the European Funding Programmes is to support weaker regions and reducing inequalities between the areas of the Member States. Article 107 of the EU Treaty even allowed state aid for the Member States to promote the economic

development of areas where the standard of living is abnormally low because of their structural, economic and social situation.

The German Federal Republic started its domestic contribution programme for structurally weaker regions in 1969⁶⁸ and it was based on the Constitution⁶⁹. After the reunification, it was necessary to develop a special programme (Solidarity Pact⁷⁰ 1995-2019) for the new federal states⁷¹ (former German Democratic Republic) and to introduce a special tax, the Solidarity Surcharge⁷². This surcharge has financed the costs of German Unity since 1995; the highest amounts are 5.5 % of income tax and corporation tax. The federal government is entitled to this tax⁷³.

The reconstruction of the East requires a long-term and secure financial perspective. The federal state principle enshrines the constitutional principle of solidarity between each other. On this basis, the Federal Government has supported the new German States, including Berlin, since reunification in order to reduce the special burden of sharing and to fill the infrastructure gap vis-à-vis the West German States.

Fond "Deutsche Einheit"

(1990-1994): This Fond was an immediate solution to the inclusion of the new federal states in the compensation mechanism that already existed among the old ones; it created unpredictable risks and additional burdens for them due to the considerable differences in the financial capacity of the

68 In 6. October 1969 (BGBI. I S. 1861) modified by Article 269 der Verordnung vom 31 August 2015 (BGBI. I S. 1471). The designated Areas implemented by "Der Koordinierungsausschuss der Gemeinschaftsaufgabe".

69 Grundgesetz für die Bundesrepublik Deutschland Art 91a, b

70 Germany's federal government agreed a "Solidarity Pact" with the federal state governments to support the eastern German states financially and lift them to economic parity with the former West. That pact expired at the end of last year – 2019.

71 1107/2. c. TREU: „aid granted to the economy of certain areas of the Federal Republic of Germany affected by the division of Germany, in so far as such aid is required in order to compensate for the economic disadvantages caused by that division”.

72 In November 2019, the German Cabinet approved near-complete abolition of the Solidarity Surcharge for 90 percent of taxpayers from 2021. The solidarity tax introduced as a special tax in 1991 for infrastructure development and projects in eastern Germany after German reunification in 1990. The charge currently levies an additional 5.5 percent income tax or corporation tax after a certain level of earnings. In 2018, the solidarity surcharge contributed EUR 18.9 billion to the federal budget. For 2019 the Federal Government expected EUR 19.4 billion and in 2020 EUR 20 billion.

73 Grundgesetz Art 106 (2020) Link 29.

new and old states at the time. The Unification Treaty, therefore, provided for transitional arrangements in the area of financial compensation.

Solidarity Pact I (SP I)

(1995 - 2004): Since 1995, the new states and Berlin have been fully and equally involved in the overall German financial compensation scheme. The new federal states and the capital received special assistance from the Federal Government in order to overcome the consequences of the German division, in addition to the normal transfer mechanism for financial compensation: tax equalisation, state financial equalisation and federal supplementary allocations, for example measures to improve economic infrastructure.

Solidarity Pact II (SP II)

(2005 - 2019): The 2001 Memorandum of Understanding on the SP II directly linked to the SP I put the new federal states and Berlin on a secure footing in the long term. The SP II reflects the shared belief of the Federal Government and the states that the East German states need a long-term and secure perspective and demonstrates state-level solidarity. The SP contributes 156 billion euros to the development of a self-sustaining economy in eastern Germany. The SP II consists of two parts, the so-called "Basket I"⁷⁴ and "Basket II"⁷⁵.

New rules on financial relations between the Federal Government (FG) and the states for the period from 2020

74 Basket I: During the period, the Federal Government allocates special needs-supplementary allocations (SoBEZ) to the East German states under the Financial Compensation Act amounting to EUR 105 billion in annual steps to eliminate fragmentation-related backlogs in the infrastructure as compensation for the weaker financial capacity of the local authorities compared to the local authorities of the old states. The amount decreased each year.

75 Basket II: The new states received around EUR 51 billion from the disproportional funds of the Federal Government; this is relatively more than the budget for the old states. The funds from basket II decreased every year parallel to reducing the remaining structural weaknesses and inherited liabilities. The Federal Government and the East German states agreed in 2006 on specific policy areas for using this Basket. In addition, these states received support from the EU structural funds to promote economy and infrastructure during the Solidarity Pact II. The FG paid in the period from 2005 to 2012 a total of EUR 40.3 billion for Basket II. This means that the Federal Government has already fulfilled approximately 78 % of its obligations under Basket II of Solidarity Pact II. The East German states report once a year on the use of Solidarity Pact II funds and on their progress in closing the infrastructure gap through the "Progress Reports on Building East". In its comments on these progress reports, the Federal Government explains the nature and amount of its services under Basket II.

In 2019, the legal provisions on federal-state financial compensation, including Solidarity Pact II, and other financial provisions between the federal government and the German States, expired. The current legislature includes a new system of federal-state financial relations, since the most important political principle is the principle of equal living.

The discussion between the Federal Government, and the states and the coalition agreement also provide for the establishment of a federal financial commission, involved representatives of the municipalities. Two points are particularly important for the eastern German states in order to fulfil their constitutional tasks and continue to stimulate growth: the division of tasks between the Federal Government and the states, and the future financial resources so that the less well-off countries get enough financial compensation. These financial flows are of considerable importance for improving the financial situation of the eastern German states.

According to experts, the Solidarity Pact focused only on the states of the former German Democratic Republic (GDR). However, inequality issues remain, not only between the new and the old federal states, but also between the regions and districts within the federal states. In Germany, there are several less developed regions compared to the other part where the new member states are. Economic growth is still faster in the old federal states and slower in the new ones; however, with 37 %, “Landkreis Südwestpfalz⁷⁶” has the lowest level of gross domestic product (GDP) per capita and the highest is in Wolfsburg⁷⁷, with 385 %. The German Parliament decided to finish the Solidarity Pact and to extend the former law in the frame of the Coordination “Gemeinschaftsaufgabe” (i.e. ‘joint task’) and ensured for all federal states the same conditions for getting financial support. Due to this decision, the German legislation has changed the former law (1969/2015). The common regulations, put into force on 1st January 2020, focused on current challenges such as decarbonisation, digitalisation, innovation, and demographic change⁷⁸.

⁷⁶ Rhineland-Pfalz

⁷⁷ Niedersachsen

⁷⁸ People to job or job to people

A few thoughts on the eviction procedure

Nowadays, morality loses its importance. Moral behaviour, religion have become a matter of choice. In the rule of law, however, the law and its enforcement are not about choices or preferences. Obeying the law is mandatory for all people without exception – as is also set out in The Fundamental Law of Hungary.

The functioning of society, after all, is not determined by only one set of norms, but several. Moreover, their relationship is determined by several connections because legal standards are included in moral concepts. There should not be any doubt about the relationship between morality, law and religion. Law must prevail by interacting with other social norms. Law must be applied, and it should be linked closely to moral rules, despite the fact that those are at a higher level – and they are even supposed to be at a higher level – concerning, that merely based only on moral rules, a society cannot be framed of legal and be regulated by it. What is more, legal norms are compellable. It is good to have a moral foundation of law since while applying enforcement, equity should also be applied at the same time.

Implementation is an excellent example of how law and the ethical aspects can appear in solidarity. Enforcement procedures are determined by a set of laws, but by drafting legislation - on the procedures under a State of Emergency -, many forms of solidarity may be manifested in their practical application.

Everyone must have heard about people being evicted due to non-payment of their mortgage, from the media if not from elsewhere. This is how most people hear about court bailiffs, and the activities they carry out, which seem to be not very popular. The Hungarian Judicial Executive Faculty has tried – in vain - to strengthen and safeguard public confidence in the judiciary by 'enforcing the right to a fair trial'.⁷⁹

It is true that there is a long way from the beginning of the enforcement procedure to the end of the auction, the closing element of which is the possession of the auctioned property by the purchaser.

⁷⁹ 35/2015 (II.25) Ministry of Justice Decree.

Under the Hungarian legislation in force, apart from special cases, there is an eviction moratorium from 15 November to 30 April.

However, the duration of the moratorium does not always provide unfailing protection, since exceptional cases arise here as well.

For example, the ban does not apply to those who have arbitrarily re-entered, (since they moved in without any title, such as breaking into an apartment and moving into it without the owner's permission), or if the debtor has previously been subject to a fine.

There is also no moratorium on those whose property is auctioned by the judicial officer for the termination of joint ownership.

Furthermore, the court instructs the bailiff to carry out the eviction if the debtor or a person living in the same household with him is entitled to use another residential property which can be moved into, instead of the residential property to be vacated.

There is no place for deferral, even if the claimant arranges for the accommodation of the debtor for the duration of the deferral, or the party requests enforcement, where the party is likely to have his or her housing without taking possession of the dwelling property to be vacated is not provided.⁸⁰

As shown above evictions can result from many circumstances. From the foreign currency crisis, through arbitrary squatters, and non-payment of the rent of municipal dwellings, to the arrears in rent or even overheads, to taking possession of properties purchased at auction with sitting tenants. Before learning about the process of possession, some concepts relating to the sale need to be clarified, given that the court bailiff has the possibility to take possession only regarding immovable property.

With regard to an auction of real estate, it is therefore important to distinguish between a property in the status of 'vacant' or 'occupied' The term 'vacant' may be misleading, since in many cases someone lives in the property during the auction. From a legal point of view, however, the very fact that someone lives in the property does not mean that the property is auctioned in ad.

The property usually must be sold in a removable state, which means that, after the successful sale of the property, the new owner can take possession of it if the legal conditions are met, regardless of whether the auctioned or in debt or in debt.⁸¹

⁸⁰ Act LIII. of 1994. § 182/A.

⁸¹ Act LIII. of 1994. § 141 (2).

It should be stated as a fact that, unlike relocation, uninhabitable immovable sales result in a decrease in the starting price. The success of the auction can be greatly affected, so it is not indifferent to auction buyers to buy the property in an uninhabitable condition.

Properties are usually auctioned in residential areas.

According to court practice, the person who remains in the dwelling - during the real estate sales - cannot be considered an unjust user of the dwelling, so the new owner cannot make the resident move. The remaining residual person shall have the same rights as a tenant. If the residual person is not in the property by virtue of a right of usufruct, this may mean that the residual person will have to pay a user fee for the use of the property – to the new owner. It should be stressed that the new owner may not exercise the right of 'normal' termination in such a case.⁸² The buyer must have known, at the time of his intention to buy, that he had acquired the property from the general rights of ownership by limiting the exercise of the right of possession and use.⁸³

A situation may arise where the immovable property is not exclusively owned by the debtor, i.e. jointly owned immovable property is sold, subject to the provisions of Civil Principal Decision. 2010/2142

According to this decision:

„With regard to the price-control of the jointly owned immovable residential property on the grounds of a cash debt, it is necessary to examine whether the immovable property is occupied, i.e. whether the 'non-debtor' co-owners are living in the immovable property”.⁸⁴

The Judicial Enforcement Act of 1994 at certain stages expressly obliges the bailiff to transfer the auctioned property to the Auctioneer.⁸⁵

In Hungary, auctions, take place differently to those in Austria or Germany regarding the obligation to move out.

⁸² 364/2004 Court Decision

⁸³ Pfv.III.23.162/1998/3 Mansion Principal Decision.

⁸⁴ 2010/2142 Civil Principal Decision.

⁸⁵ Act LIII. of 1994. § 154.

In Austria and Germany, the debtor must move out of the property before the property is auctioned, and the bailiffs are subordinated to the court (In our country they work under the supervision of the court, which makes quite a big difference).

On the other hand, in Hungary, the obligor must leave the property within 30 days, counted from the end of the auction, along with his possessions.

Of course, the obligation to move out is affected by many different circumstances, enshrined in legislation, which we have no opportunity to discuss in this article, unfortunately.

As we mentioned before, after the implementation procedure has been opened, if it takes place at all, there is a long way to the sale of the debtors' property at auction, in the event of non-compliance. Practice shows that people, until the very last moment, do not even believe that the procedure can reach this stage; moreover, they almost do not even realise the gravity of the consequences.

Therefore, in many cases it could easily happen that the obligor really has nowhere to go after the eviction, or just starts thinking about where to go. This is the moment when solidarity would be needed during the procedure and to which legislators have not found a solution yet.

How can solidarity appear by the actions of bailiffs?

Solidarity appears at several points during the enforcement procedure, starting with Act LIII of 1994 on Judicial Enforcement (hereinafter referred to as Vht.). It is, therefore, appropriate to refer to certain pieces of legislation, from the Fundamental Law of Hungary to various government measures.

Throughout the enforcement procedure, the bailiff must bear in mind the principle of graduality.⁸⁶ In particular, the amount managed by the payment service provider and the debtor's wages should be implemented and the debt recovered. If, as anticipated, the debt is not recovered from the salary or the amount held in the debtor's account within a relatively short period, proceedings shall be initiated on movable or immovable property. It is important to note that the enforcement of immovable property can only be performed upon a request for enforcement!⁸⁷

⁸⁶ Act LIII. of 1994. § 7.

⁸⁷ Act LIII. of 1994. § 139 (1).

The bailiff shall defer the judgment debtor's payment obligation in equal monthly instalments under the conditions set out. An enforcement procedure is pending against the judgment debtor for the recovery of a money claim not exceeding five hundred thousand forints or not exceeding one million forints, and a mortgage is registered in the real estate register on the judgment debtor's residential property in security of other claims as well

That means above: If the amount of the capital claim to be recovered does not exceed five hundred thousand forints or not exceeding one million forints, and the claim is also pledged, the auction may only be set up if the debtor has not complied with the payment of the instalment arrangement to be made to him. ⁸⁸

In a special case, the debt to be recovered itself arises from a legal relationship in which the debtor was obliged to pay a sum of money in instalments with the consent of the party seeking enforcement, since in this case the claimant himself decided to pay it to accept the service in instalments. In this case, that is also a condition for granting the opportunity to pay part of the debt; the law also specifies this in principle: an amount, which, if the relationship had been maintained, corresponds to the amount due by the date of payment. ⁸⁹

Hungary shall strive to provide social security to all its citizens.

Hungary shall implement social security for the persons listed in Paragraph (1) and other people in need through a system of social institutions and measures. ⁹⁰

Hungary shall strive to provide every person with decent housing and access to public services. ⁹¹

As described above, the Government has initiated many important measures to help debtors to escape seemingly hopeless situations.

⁸⁸ Act LIII. of 1994. § 52/B.

⁸⁹ Act LIII. of 1994. § 52/A (6).

⁹⁰ The fundamental law of Hungary A. no 19.

⁹¹ The fundamental law of Hungary A. no 22.

I choose from these measures those that were of great importance during the enforcement.

a) **The Act on the debt settlement of natural persons** ⁹² entered into force on 1 September 2015. Under Act CV of 2015, "private bankruptcy" was introduced into the Hungarian legal system as a new legal institution. The provisions of the act are implemented in a cascading way. The purpose of the debt settlement procedure is to restore the solvency of the individual using the individual's assets and income, while at the same time obtaining a full or partial return to creditors. Bankruptcy protection can be used by all those who have usable wealth and income, as well as a willingness to pay, but lack the ability to pay. At the end of the successful procedure, the debtor is exempt from paying his additional debts after having fulfilled the expected level of his debts.⁹³

B) In 2011, a piece of legislation was created on **the provision of housing for natural persons who are unable to fulfil their obligations under the credit agreement**

The programme seemed to be successful, in that with the help of the National Asset Management Programme, 155,000 people escaped a multi-million-dollar debts while still staying in their homes. Nine out of 10 former foreign exchange authenticators in distress have bought back their homes. As a result of the repurchased properties, NET Zrt.'s real estate portfolio has been significantly reduced and its task has been transformed. The review of the company's operations has become opportune. As a result, the draft law submitted proposes the repeal of the NET Law and thus the termination of NET Zrt. The remaining tasks of the company, such as the purchase of instalments and the management of the remaining approximately 4600 leases, are planned to be carried out by the Hungarian National Trust Ltd. in the future

c) In 2018, another law was created on **ensuring the creation of homes for natural persons participating in the National Asset Management Programme**⁹⁴.

⁹² Act CV of 2015.

⁹³ Csődvédelem (2020.) link 30

⁹⁴ Act CIII. of 2018.

- d) Creating Act XXXVIII of 2014 on the Resolution of Questions Relating to the Uniformity Decision of the Curia Regarding Consumer Loan Agreements of Financial Institutions tried to help debtors as well.

„According to the Curia, the non-disclosure of the exchange rate risk was unfair ("unclear, incomprehensible") and, therefore so was, the provision of the contract according to which the exchange rate risk was borne by the consumer.”⁹⁵

Given that these laws mean that the debtor may only get rid of his loan in respect of claims secured by mortgage law and if his/her property is purchased by the National Asset Manager. All the other cases will continue towards repossession and eviction, except those.

From one point of view, this regulation can serve as a quick solution to those people, who have difficulty with payment, but from another point of view, people can quickly be put on the streets. We stress that the participation in these programmes⁹⁶ must be subject to compliance with strict rules on several points, but unfortunately, we have no opportunity to explain these criteria in this publication, although it would be worth taking the time to.

However, those legislative measures have indeed been considered as part of solidarity to help the situation of debtors, it could be said that, at some level, debtors who comply with their obligations to pay on a timely and regular basis are marginalised.

The number of enforcement procedures, auctions and subsequent evictions does not seem to reduce year by year.

Although the measures discussed above provide some temporary solutions for debtors, they are very far from enough and, in many cases, provide only makeshift solutions for their problems instead of real ones.

Unfortunately, in Hungary, enforcement procedure is not connected with social workers, though would be necessary.

Solidarity can be diverse if we really would like to find a solution via judicial enforcement.

⁹⁵ Civil Rights Resolution 2/2014.

⁹⁶ Act XXXVIII of 2014

As we have seen, solidarity can appear in many forms throughout the procedure, but we must not forget the fact that the process is only viable if there is cooperation from the debtor's side, too. The legislation provides discounts; we try to help debtors with various debt settlement programmes, but their cooperation in this regard is also needed.

- e) From the moment The State of Danger was announced on 11th March 2020, we have been flooded with news about the spread of the virus, and casualties; moreover, about all the necessary measures and new regulations adopted by the Government in order to help people in this situation. Solidarity plays an important role as the novel coronavirus – also known as COVID-19 – continues to spread across the globe and has been classified as a pandemic by the World Health Organization (WHO).

As we all know, the outbreak started in the Chinese city of Wuhan on 12 December 2019 and swept across all the countries without exception.

The implementation of judicial enforcement has also been heavily affected by the measures taken by the Government, published in the Hungarian Gazette on March 23, 2020 at night. From the day after Government Decree No 57/2020 (III.23.) was published, and will be in force for 15 days⁹⁷, it radically reshaped the work of court bailiffs in Hungary.⁹⁸

The provisions on immovable property and evictions have been amended as follows:

Having jurisdiction in the place in connection with eviction from properties may only be taken after the State of Danger is terminated... (The earliest date when it can be carried out again is on the 15th day after the State of Danger is terminated)

If the 15th day that follows the end of the State of Danger, falls between 15th November and 30th April, the time limit shall be restarted on the 15th day that follows 30th April. That means the moratorium becomes 15 days longer than it was before.

⁹⁷ Fundamental Law of Hungary A. no 53.

⁹⁸ 57/2020 Government Decree (Extended by 73/2020 Government Decree).

No auction shall be held regarding the natural person's immovable properties during the period. If properties are already under auction, they are allowed to be sold if the auction had come to an end successfully, except for those properties of which auctions are already given continued auction notice.

Germany plans to introduce similar measures in the area of evictions, but they enter into force only on 1st April 2020. Unlike in Hungary, the German measures are only put in place to prevent evictions from rental dwellings (tenant evictions). Foreclosures are left unchanged in several other countries, notably The United States of America.

The German federal government wants to protect tenants from eviction during the outbreak. Ministry spokesman Rüdiger Petz said: „We work to make sure that no one loses their home.” According to reports by the ministries of justice, home affairs and economy, tenants shall not be notified of their termination due to rental debt during the period of the virus, from 1st April to 30th September. In principle, however, the tenant remains liable for paying the rent.

Johannes Fechner, a legal expert for the German Social Democratic Party, said: "In the case of residential and commercial rents, rents are deferred for the time of the epidemic [...] No one has to worry about losing their apartment just because the Corona crisis prevents them paying the rent.”⁹⁹

“This special housing compensations has to be applied to those cases where people ended with a huge loss of income, are in need and are otherwise unable to pay.” said Daniel Föst, the spokesman for building and housing policy of the Free Democratic Party.¹⁰⁰

In Germany, the Senate Department for Justice announced that the Berlin District Court, which is responsible for all enforcement measures, had issued the appropriate decrees, and so did the other courts. The Köpenick District Court, for example, recommended that judicial officers are not allowed to have jurisdiction in the place and must avoid any contact with debtors or creditors. Pre-arranged venues have also been cancelled after consultation with creditors. Even those, who have fallen short of paying their gas, water or electricity bills will also benefit from these measures. As

⁹⁹ Manager-magazine (2020) link 31.

¹⁰⁰ Oldenburger onlinezeitung (2020) link 32.

we can see, the measures taken by the Germans leave the foreclosures in virtually unchanged form; they only limit on-the-spot procedures.

In Hungary, under the new regulation, tax enforcement has been suspended. As a result, enforcement actions cannot be carried out in cases that were transferred to the court bailiffs by the tax authorities.

In contrast, tax authorities do not stop enforcement procedures in Germany. “Continuous income is important for providing liquidity and maintaining the functioning of the community.” Therefore, the collection and enforcement procedures of the Berlin tax offices are not terminated.

However, according to the Senate Treasury Department, federal and state governments have adopted tax measures because of the Corona crisis. “This will make equity measures such as deferral or tax relief easier for those people who were directly affected by the outbreak of the coronavirus.”¹⁰¹

We believe that several measures are really needed to be taken, given that enforcement is already considered a sanction; still it remains an important part of the legal process. As Frank Ignatius put it: “It would be in vain to hold a tribunal if the sentence had not been enforced.”¹⁰² However, in some respects, preventing new auctions from being held, as regards the residential property of natural persons, may not have too many benefits in the long term if we put the interests of debtors first.

Now, of course, it could be a solution, but if we look at the amendment to the eviction moratorium, it is practically irrelevant whether the property is sold, since the debtor does not have to leave it. Thinking about it further, if their property were to be sold, the amount raised could be recovered, or at least interest would be greatly reduced. There will therefore be no reduction in interest rates, however, after the end of the State of Danger; the procedures will continue in the same way with regard to claims with accumulated arrears. If the current trend continues, and the current crisis will continue to ripple, which is for sure in 2021, debtors could face a serious increase in repayments.¹⁰³ The above measure, although it requires out-of-power performance from the State, in my view, can only provide an interim solution to the problem.

¹⁰¹ RBB24.25.3.2020.

¹⁰² Frank (1846) 277.

¹⁰³ Pénzcentrum (2020.) link 33.

Another problem is that there has been no differentiation in the procedures we refer to, in the title of the claims. We are referring here to the case where the procedure was for child support, which is at the top of the sequence of satisfactions.¹⁰⁴ Consequently, it is the child who does not receive the amount due to him or her. It must be seen that foreclosures cannot be limited solely to foreign currency loans or claims purchased by factoring companies; the process is much more complex than that.

In my view, the government's actions, as underlined in the present paper, are intended to show solidarity with those people who have fulfilled their potential obligations relating to repayments in the first place but, due to the measures put in place to prevent the spread of the epidemic, they have lost their jobs, and now have financial difficulties.

People who did not make payments before the health crisis will not do so in future either. Our experience shows that, it seems to aggravate the situation even further between them and the bailiffs, which is evident from the tone of their letters and their demeanour during the phone calls. As I see it, in order not to have a complete anarchy in terms of procedures in the country, in many cases the policies of the surrounding countries should be followed, and it may not be necessary to ensure the same benefits for everyone.

What else could we do? (Ideas that might offer a solution)

Having adequate housing and shelter is a fundamental human right and a basic human need. A solid financial background is a basic need for everyone to be able to do their work, to be able to build financial security for their family and to make a decent standard of living. For these people who have lost their homes, it is a great challenge to return to everyday life, and it often seems hopeless in their adverse circumstances. It takes an extraordinary effort for every person and family to create a new home because it is not so easy to overcome vulnerability and the feeling of humiliation. It therefore can be seen in many cases that without having a proper home and assistance, the problem will only continue to worsen. If there is no financial backing, the standard of living will decline; the absence of one fundamental human right is the cause of becoming marginalised. We

¹⁰⁴ Act LIII. of 1994. § 164.

should just think it over, if the parent's or the parents' social situation deteriorates that will jeopardize the mental, physical wellbeing of the children raised in those families. Problems generate problems. Something has to be done and there is an urgent need to intervene.

The literature distinguishes four European models of state engagement, Mediterranean, Scandinavian, Anglo-Saxon and continental. The differences are mainly caused by the various degrees of taxation, state redistribution and state intervention in market processes. (The essence of the Anglo-Saxon model is a state that is neutral in relation to low tax levels, low state redistribution and market developments.)¹⁰⁵

The countries with the Nordic model include Sweden, Finland, Denmark and the Netherlands. These countries are characterised by extremely high levels of taxation and significant social redistribution, with high levels of social benefits and public services. Another feature of the Scandinavian model is the high level of social care and high level of public sector.

Unfortunately, in Hungary, social workers still have not been involved at all in the area of implementation, despite the fact, that there is often a lack of awareness and total desperation among the members of this segment of society, which could be improved with the help of the right measures. Lack of information always creates problems to be addressed. Above all, it would be important to inform people properly, to identify problems, to raise awareness of the consequences.

Building a completely new social model always involves substantial costs; problems need to be addressed, and it cannot be expected to derive only from exclusive public funding.

In my view, what is would and could be necessary to create is a solidarity-based social network - linked to the implementation procedure.

Given that we work in the field of implementation, we see several opportunities to build a system resting on a social basis built around on solidarity.

Unfortunately, in the context of this article, we are unable to explain the systems it would create for a longer period.

However, we would like to mention that several systems have already been built up, only those need to be developed, redesigned and the funds needed to re-allocated, and that way the system might work, without the government's extra financing expenses.

105 ATV (2020.) link 34.

The aim, in the implementation procedure, is to redress the housing problems of working families having only one item of residential property and of single persons, and to promote their independent livelihoods.

The State, the Hungarian Judicial Executive Faculty, together with the Ministry of Justice, the Court of Justice, the Notaries, the Employers, the Judicial Officers and even the Debtors all strive to create a real social care system backed by financial contributions.

Conclusions and summary

Solidarity is also known as the power of humanity. Solidarity has many meanings with so many people living on our planet today. We are different; we do not have the same opinions on certain topics, and that is the way it has to be! However, there is one thing that every one of us has in common: we are all human beings.

In the social teaching of the Church, the values of freedom and responsibility, justice and solidarity strike a balance between individuals and community, which frees man from the effects that hinder physical and spiritual existence. This harmonious state of development is called the public good of Catholic social teaching.

According to Habermas, "the social integration power of law ultimately defines the sources of social solidarity."¹⁰⁶

Protection should be given to everyone so that everyone is protected from forced evictions, so that no people or even families with children can be deprived of their homes without providing them again with adequate housing.

As I have already said, having adequate housing is a fundamental human right and a basic human need.

Without enough financial support and cooperation, unfortunately, the fates of the evicted people may be sealed in numerous cases.

¹⁰⁶ Habermas (1992) 282.

The principle of solidarity as a normative social principle is, above all, a principle of law, emphasises Nell Breuning.¹⁰⁷ Therefore, the social ethics principle requires that solidarity is incorporated into the rules, the framework provisions, applying it to those in need in everyday life. By linking the social ethics principle to individualism, which is reflected in personal morality, in my view, an institutional structure of solidarity could be created.

However, using the resources at our disposal and creating a solidarity-based funding system, social funds can be provided for people in need and for cooperation. (in this article “social fund “would be a new point of the procedure, because in Hungary, there is no connection between the social workers and enforcement procedure...)

„True morality is not a simple “you” relationship, but a complex “we” relationship”.¹⁰⁸

Please, let us allow a quote to finish our article:

„Someone said me once

On a lonely day

Live your life as you will but

In every circumstance

Do not forget about giving hands since

A billion and more people

Relying on each other

In the belief of

The power of humanity like

You are one of those who do care about solidarity.”¹⁰⁹

107 Anzenbacher (2001) 188.

108 Birher - Homicskó (2020) 9.24.

109 Youthreporter (2020) link 35.

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