

100 juristas clamam pela adoção de um *Pacto mundial para o meio ambiente*

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No dia 10 de maio de 2018, a Assembleia Geral da ONU adotou, com uma importante maioria de votos, uma resolução que inicia o processo de negociação de um Pacto Mundial para o meio ambiente. Este tratado internacional reuniria em um texto único os grandes princípios jurídicos relativos à ação ambiental. Há mais de trinta anos a comunidade internacional de juristas solicita que os Estados adotem um texto dessa natureza: desde o relatório Brundtland de 1987, passando pelo projeto de Pacto da UICN de 1995, e agora o projeto elaborado em 2017 por um grupo de experts composto por uma centena de juristas advindos de 40 países do Sul, do Norte, cobrindo todas as tradições jurídicas.

Em 2015, a adoção dos Objetivos do desenvolvimento sustentável e do Acordo de Paris relativo às mudanças climáticas criou uma nova dinâmica mundial com vistas à proteção do meio ambiente. Tais textos contêm avanços fundamentais. Contudo, os danos ao meio ambiente persistem e são de uma gravidade sem precedente. Os anos de 2017 e 2018 foram marcados por temperaturas recordes de calor. A biodiversidade está se perdendo em alta velocidade. Chegou a hora de começar uma nova etapa. Para além da questão climática, um texto universal fixando os princípios diretores da governança mundial do meio ambiente se faz necessário.

Com o Pacto Mundial para o meio ambiente, a comunidade internacional se dotaria pela primeira vez de um tratado internacional de caráter geral, cobrindo o conjunto dos setores do meio ambiente. Pedra angular do direito internacional do meio ambiente, o Pacto constituiria um texto guarda-chuva (« *umbrella text* »), favorecendo a criação de conexões entre os diferentes tratados setoriais existentes (clima, biodiversidade, resíduos sólidos, poluição, etc.). O Pacto não pretende se substituir a esses textos. Pelo contrário, ele visa a completa-los e a facilitar a implementação desses textos já existentes. Ele poderia consequentemente preencher as lacunas que eles contêm ou ainda se aplicar cumulativamente, quando não houver incompatibilidade, com vistas a torna-los ainda mais efetivos e eficazes.

Em relação ao seu conteúdo, esse novo tratado refletiria os princípios compartilhados na maioria das constituições no mundo e consagrados em certos textos internacionais importantes, mas que não possuem uma natureza obrigatória, como a Carta mundial da natureza de 1982 ou a Declaração de Rio e 1992. Todos os atores da governança ambiental seriam beneficiados por este tratado, visto que ele reuniria, de maneira sistemática, disposições internacionais e nacionais (constitucionais ou infraconstitucionais) que já existem na maioria dos países, em um único instrumento, constituindo uma base mínima de proteção do meio ambiente. Em cada Estado, o legislador encontraria as referências para a adoção de leis ambientais mais protetivas. As cortes superiores encontrariam uma inspiração comum para consolidar, no âmbito do diálogo dos juízes, os fundamentos de um direito global para o meio ambiente. Os cidadãos e as ONGs teriam seus direitos ambientais fortalecidos. As empresas seriam beneficiadas com essa harmonização das regras ambientais no plano mundial, que favoreceria uma maior segurança jurídica e condições de concorrência mais justas e igualitárias.

Na ocasião da celebração de setenta anos da Declaração universal dos direitos humanos de 1948, e após cinquenta anos da adoção dos dois Pactos internacionais de 1966 relativos aos direitos civis e políticos e aos direitos econômicos, sociais e culturais, é chegado o momento de iniciar uma nova etapa na história do direito internacional. Por esta razão nós clamamos pela adoção de um terceiro Pacto consagrando uma nova geração de princípios fundamentais: os direitos e deveres relacionados à proteção do meio ambiente.

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