

Appello di 100 giuristi per l'adozione di un *Patto mondiale per l'Ambiente*

Paris October 9, 2018

Il 10 maggio 2018, l'Assemblea generale delle Nazioni Unite ha adottato a grande maggioranza una risoluzione aprendo la strada alle negoziazioni per un Patto mondiale per l'Ambiente. Questo trattato internazionale raggrupperebbe in un testo unico i grandi principi giuridici che guidano l'azione ambientale. Da più di trent'anni, la comunità internazionale dei giuristi esorta gli Stati ad adottare un testo di questo tipo, dal Rapporto Brundtland di 1987 fino al progetto di Patto dello IUCN di 1995 e al progetto elaborato nel 2017 da un gruppo di esperti, il quale riunisce un centinaio di giuristi di 40 paesi del Sud, del Nord e di tutte le tradizioni giuridiche.

Nel 2015, l'adozione degli obiettivi di sviluppo sostenibile e dell'Accordo di Parigi sul clima ha creato una dinamica mondiale nuova a favore della protezione dell'ambiente. Questi testi rappresentano un importante passo avanti. Tuttavia, i danni causati all'ambiente persistono e sono più gravi che mai. Gli anni 2017 e 2018 hanno battuto ogni record in termini di temperature. La biodiversità continua a peggiorare a gran velocità. E' dunque necessario fare un nuovo passo avanti. Oltre alla questione del clima, è necessario un testo più ampio, che stabilisca i principi guida della governance mondiale dell' ambiente.

Con il Patto mondiale per l'Ambiente, la comunità internazionale sarebbe dotata per la prima volta di un trattato a carattere generale, che coprirebbe tutti i settori dell'ambiente. Pietra miliare del diritto internazionale dell'ambiente, il Patto costituirebbe un « *umbrella text* » permettendo di creare un legame tra i vari trattati settoriali esistenti (clima, biodiversità, rifiuti, inquinamento, etc.). Il Patto non intende sostituirsi a questi testi. Anzi, punta a completarli e facilitarne l'attuazione. Potrebbe così sia colmare le loro lacune sia essere applicato congiuntamente a loro, quando non esiste incompatibilità tra loro, per dargli maggiore effettività ed efficacia.

Riguardo al suo contenuto, questo nuovo trattato rifletterebbe i principi condivisi dalla maggior parte delle costituzioni nel mondo e riconosciuti da testi internazionali di grande importanza, ma privi di valore giuridico, come la Carta mondiale della natura del 1982 o la Dichiarazione di Rio del 1992. Questo Patto sarebbe utile a tutti gli attori della governance dell'ambiente, raccogliendo sistematicamente come base minima le disposizioni internazionali, costituzionali e legislative già esistenti in molti paesi. In ogni Stato, il legislatore troverebbe riferimenti per l'adozione di nuove leggi, più protettive nei confronti dell'ambiente. Le corti supreme lo considererebbero come una fonte di ispirazione comune per consolidare, nel contesto di un dialogo fra i giudici, le basi per un diritto mondiale dell'ambiente. I cittadini e le ONG vedrebbero rafforzati i loro diritti ambientali. Le imprese trarrebbero vantaggio da questa armonizzazione globale delle regole del gioco, che promuoverebbe maggiore certezza del diritto e condizioni di concorrenza eque.

Mentre si celebrano i settant'anni della Dichiarazione Universale dei Diritti dell'Uomo del 1948 e cinquant'anni dopo l'adozione dei due Patti Internazionali del 1966, uno sui diritti civili e politici e l'altra sui diritti economici, sociali e culturali, è giunto il momento di fare un nuovo passo nella storia del diritto internazionale. Per questo motivo, chiediamo l'adozione di un terzo Patto che sancirebbe una nuova generazione di principi fondamentali: i diritti e i doveri legati alla protezione dell'ambiente.

Signatories:

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