1. OPENING REMARKS

Much has been written, in recent years, about the role of international financial organisations, particularly the International Monetary Fund (IMF) and the World Bank, in the field of human rights.¹

As regards the way in which this topic has, in the main, been dealt with, there are three aspects, in particular, to point out. First of all, much emphasis has been placed on the responsibility directly attributable to these organisations for human rights violations linked to their spheres of activity. This approach has often produced quite optimistic results, both as regards the identification of internationally relevant rules, and as regards the possibility, in the future at least, of effectively implementing them.² Conversely, much less attention has been paid to the responsibility of these organisations’ member States, despite the central role which they – particularly the “strong” States – play within them, and the important consequences that this circumstance has with regard to the theoretical framing of these organisa-
tions, of the IMF in particular. Finally, the issue of international responsibility, both of the organisations and of their member States, has tended to be broached in the context of broader analyses designed to shed light on all the legal instruments able, directly or indirectly, to ensure respect for internationally protected human rights. In other words, there has been a tendency to consider all the “practices” liable to have a positive influence in this regard, “practices” that, together with the international responsibility of the organisations and of their member States, have been regarded, generally and indiscriminately, as factors converging – together – in the direction of respect for these rights.

A different approach will here be adopted in examining the relationship between international financial institutions – specifically the IMF and World Bank – and respect for human rights. First of all, while acknowledging that it is possible, theoretically, to conceive of a direct responsibility of these organisations for violations of human rights, I will show that the attention usually paid to this aspect is very probably disproportionate, given the (considerable) difficulties related to the effective possibility of implementing this responsibility. I refer both to the lack of international human rights rules binding these organisations and to the difficulty of attributing them with the said violations on the basis of the relevant legal principles (section 2).

I will then immediately move on to the issue of the responsibility of the member States, seeking specifically to identify the obligations, for them, stemming from the United Nations’ International Covenant on Economic, Social and Cultural Rights (ICESCR), given the importance of these obligations – in principle at least – with regard to the activities of the IMF and the World Bank (section 3). Having thus outlined this issue, I will be able to highlight the greater legal significance this responsibility carries, if compared with the direct responsibility of the organisations, in spite of the obstacles that exist, also with regard to its implementation. Starting from the identification of these obstacles, I shall then consider the question of respect for ICESCR-sanctioned human rights within the

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3 This is the view according to which the fact that the IMF establishing treaty makes provision for “differentiated” participation of its member States – thereby modelling its “institutional” mechanisms on the internationally “prevailing social forces” (as seen, precisely, also in the case of the Bank, through its weighted voting mechanism, and the consequences that this can have) – means that it can constitute, in some cases at least, “an objective structure at the service not only of the group of States that have brought it into being, but of the international Community as a whole” (Picone, “Diritto internazionale dell’economia e costituzione economica dell’ordinamento internazionale”, in Picone and Sacerdoti (eds.), Diritto internazionale dell’economia, Milano, 1982, p. 31 ff., pp. 76-79).

4 As far as the World Bank is concerned, see the detailed information provided by Ghazi, cit. supra note 1, pp. 250-257 (an overview of the Guidelines adopted up until 2004) and pp. 257-263 (the Bank’s actions particularly with regard to the participation of the communities affected by the lending projects); therein, p. 272 ff., including a description of the actions adopted by the Fund, in particular the conditionality policies (pp. 273-274); on this point, in relation both to the Fund and the Bank, see also Darrow, cit. supra note 1, respectively, pp. 170-183 and 186-192.