Digital Solidarity and Human Rights: A Conversation with the Outgoing UN Independent Expert on Human Rights and International Solidarity

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Yohannes Eneyew Ayalew, Karin M Frodé and Dr Christopher Yaw Nyinevi in conversation with Professor Obiora Chinedu Okafor (October 2023)

Professor Obiora Chinedu Okafor, Edward B Burling Chair in International Law at Johns Hopkins School of Advanced International Studies, is completing his six-year period as the third UN Independent Expert on Human Rights and

International Solidarity, this month. Already in his first report to the UN Human Rights Council ('UNHRC') as mandate-holder, Prof Okafor included technology and innovation as one of the priority areas for the mandate (at [48]).

In July 2023, Prof Okafor presented a revised version of a document which has formed a key part of the mandate's work since its establishment in 2005, namely the Draft Declaration on the *Right to International Solidarity*. This document defines international solidarity as 'an expression of unity by which peoples and individuals enjoy the benefits of a peaceful, just and equitable international order, secure their human rights and ensure sustainable development' (draft art 1(1)). It goes on to specify that both individuals and peoples have a right to international solidarity, meaning 'a right of individuals and peoples to participate meaningfully in, contribute to and enjoy a social and international order in which all human rights and fundamental freedoms can be realized' (draft art 4(1)). The Declaration outlines a number of corresponding duties, one of which is the state obligation to 'to take steps within their respective capacities to facilitate the protection of actual and virtual spaces of communication, including access to the Internet and infrastructure, in order to enable individuals and peoples to share solidarity ideas' (draft art 8(3)).

In this post concluding the Special Symposium '*You're Not Alone*: *Normative Debates on (Digital) Solidarity in International Law and Policy*', we hear Prof Okafor's reflections on a variety of themes concerning the intersection between the digital sphere, human rights and international solidarity in light of the above work and beyond.

Q1: Congratulations on recently presenting the Revised Draft Declaration on the Right to International Solidarity to the UNHRC following an extensive process of consultations on a global scale. The definition of the right under draft art 4(1) reminds us of art 28 of the *Universal Declaration of Human Rights*. Of course, in 1948 there was no digital sphere impacting upon the international and social order. To what extent does the digital sphere contribute to the make or break of such an order in today's digital world and economy?

A: The digital sphere contributes immensely in that regard. The digital sphere has become a primary constitutive element and segment of our social and

international order. It is difficult to imagine such an order bereft of or outside the digital world. The digital sphere creates, distributes and re-distributes value and wealth, and does so in massive amounts and with great consequences for the nature and quality of our social and international order. Indeed, it is near impossible today to optimally enjoy “a social and international order in which all human rights and fundamental freedoms can be realized” without meaningful access to the Internet and digital technologies. One’s educational rights would be very difficult to enjoy without such access. And increasingly this applies to the enjoyment of such rights as the rights to adequate health and freedom of expression.

Q2: As you mention in your explanatory notes to the revisions, draft art 8(3) quoted above concerning ‘the topic of facilitating digital solidarity actions’ was one of the new additions to the Draft. Please tell us more about the background to and meaning of this revision.

A: This is one of the provisions that were added to update the draft declaration and align it with the character of our current global circumstance. After taking advice and consulting widely, I realised that the draft declaration did need to include such a provision, given the great importance of the digital sphere to social, economic and political life in our time – something that is likely to intensify in future. I also realised that the digital sphere was important both as a site for the expression of solidarity across the world and efforts to either detract from it. It is in addition a particularly attractive site for those who wanted to express hate and division, and extreme right-wing populism, and advance their “de-solidarity” arguments and campaigns.

The new provision basically encourages states to take active steps to protect the digital sphere as a site where individuals and peoples share their solidarity ideas and express solidarity one with the other. However, it recognizes the jurisdictional and practical limitations that most states face in governing activities in this sphere.

Q3: The COVID-19 pandemic erupted during the course of your mandate and put international solidarity to the test. Your report on this topic mentions a variety of challenges for the digital sphere as a solution to some of the challenges that followed, such as school

closures and the need for contact-tracing. Could you please elaborate on some of the conclusions that you drew from the digital responses to COVID-19 by states and non-state actors and how they impact(ed) upon international solidarity?

A: Vaccine uptake was severely reduced around the world due in large measure to digital misinformation and disinformation leading to vaccine hesitancy and challenges in vaccinating members of certain population groups (such as those who are immobile and unable to leave their homes). While vaccine hesitancy was not unique to the COVID-19 pandemic, its impact has been felt globally through the avoidable persistence of the pandemic and a large-scale death toll that could have been much lower, in particular among the unvaccinated. Despite expert assurances as to the safety of COVID-19 vaccines, global vaccine hesitancy rates remain significant. There has been a serious breakdown in public trust in many societies enabling the propelling of false and misinformed theories on (COVID-19) vaccines and their effects. Owing to limited time and resources, Governments – especially those of low-income and lower-middle-income countries – have been unable to fully implement communication strategies to build optimal public trust in COVID-19 vaccines. Tackling digital misinformation and disinformation remains essential going forward for the proper tackling of this and any future pandemic. This is a key international solidarity issue, as such health emergency situation in one country will usually have serious implications for that in other countries around the world.

Q4: Some critical scholars like Antony Anghie argue that 'solidarity has always been associated with the Third World' (at 81). While digital solidarity undoubtedly presents opportunities to bridge divides and asymmetries, there are said to be structural issues that perpetuate digital inequality, mainly rooted in colonialism, and neo-colonialism. To what extent does your mandate consider critical and decolonial approaches to address these structural challenges and tap into the promise of digital solidarity?

A: The international political economy and its (re)distribution of value and wealth is deeply rooted in colonial history and praxis. And it has for a very long time structured our world toward socio-economic, political and many other forms of inequality, including within and in respect of the digital sphere. My

work as the mandate holder in the area of human rights and international solidarity has always been framed in part and shaped by this realization. As such, I have taken account of the digital divide, and the structures that produce such divides, in conceptualizing and executing my mandate. However, time and other constraints did not allow me to venture as deeply as I wanted into this question, especially as it relates to the digital sphere.

Q5. Of the three regional human rights systems, the African Human Rights system is the one with the most elaborate treatment of collective or solidarity rights. To what extent, in your view, has the African Charter on Human and Peoples' Rights contributed to the development of the concept of solidarity in international law? How has it informed your work during your mandate?

A: Drafted from the 1970s (if not earlier) and adopted in 1981, the African Charter's contribution in this regard is immense, if grossly underappreciated. Against the mainstream, the grain, it articulated powerfully the concept of solidarity and how it expresses or could be expressed in international human rights law. In so doing, it drew deeply from the thought and praxis of many African peoples and their societies. It was in the result able to present an alternative to the prevalent and then even more dominant, largely atomistic understanding of human rights. It is no wonder that it contains explicit references to solidarity obligations and even a duty of solidarity to the international community. It is no wonder too that it contained the first legally binding provision in an international human rights treaty on the right to a healthy environment. Indeed, it could be seen as the leading contributor to the concept of solidarity in international law. The African Charter and its ethic have been fundamental to my understanding of, and praxis in relation to, international human rights law as a whole. As such, it could not but have played a similar role as I discharged the mandate at issue. Indeed, it did play such a role.

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