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Sommario

Abstracts

Politiche per l'infanzia e nuove esperienze di monitoraggio dei diritti e del benessere dei bambini
Policies Advocating for Children and New Monitoring Experiences with the Rights and Welfare of Children
Valerio Belotti

In the past two decades, especially since the adoption of the CRC in 1989, there has been a progressive diffusion of testing monitoring activities on the social condition of children, based on certain social indicators. These are studies and experiences which have originated and have been consolidating in the different contexts of the planet, and are driven by four main factors: the emerging of awareness that the child is a competent subject in relation with others in actual «generational structures»; the asserting of the child as a subject of law; the recognition of childhood as a permanent structural element of society; the «politicisation» of childhood and the consequent development of new dedicated services and interventions.
This essay reviews some of the most significant experiences and emphasizes the need of placing side by side these experiences with the traditional institutional monitoring activities provided for in the CRC.
What is at stake is the construction of new instruments which may contribute to increasing the reflectivity of the actors who realise interventions in favour of children, and sustaining the reflections of the political decision-makers who are attentive to the need to rethink welfare whether in gender or generational terms.

Percorsi di facilitazione e di mediazione per le garanzie dei diritti dei bambini e delle bambine
Facilitation and Mediation Paths to Guarantee the Rights of Children
Lucio Strumendo

For their concrete actualisation, human rights – and in particular the rights of children – need active policies and subsidiary institutions which guarantee effectiveness.
The Recommendations repeatedly expressed by the International Bodies, since the adoption of the Convention on the Rights of the Child (United Nations, New York, 1989), move towards this direction.

A significant and innovative role among these subsidiary institutions is played by the «Ombudsman for Children» whose specific responsibilities include: cultural promotion, intended as preventive action and educational communication; hearing children's needs; training voluntary guardians for children without parental care.
The Veneto is among the first Italian regions to have set up the institution of the Ombudsman for Children. The essay presents the initial outcome and indicates some prospects of work.

La tutela legale: l'esperienza dell'Ufficio del Pubblico Tutore del Veneto
The Institute of the Guardianship of Minors: The Ombudsman for Children of Veneto Region Experience
Chiara Drigo

The article's intention and aim is to stimulate the debate regarding the institute of the guardianship of minors and the legal guardian's role, starting from the experience carried out by the Ombudsman for Children of the Veneto Region and based on the commitment as guardians of private citizens.
Civil Code articles concerning minors guardianship are being nowadays interpreted in a different way and filled with new significance – although they have not been formally modified – thanks and due to the development and improvement of national and international laws on children rights and to the change of the general social and cultural context.
In particular, children care and representation have become less formal and require now a full assumption of the office by motivated and competent guardians.
This is therefore the reason why there is an increasing interest towards social voluntary citizens that could, and in fact did in the Veneto Region, represent an important resource, as far as certain conditions are guaranteed and granted.
Among them and first of all, the presence of a public institution charged of promoting a specific project giving training, support, acknowledgements and legitimating the voluntary guardians.

European Union, Human Rights and International Politics. The Case of the Durban Review Conference (2009): A Lost Opportunity?
Unione Europea, diritti umani e politica internazionale. Il caso della Conferenza di Revisione di Durban (2009): un'occasione perduta?
Georgios Kosmopoulos

L'articolo analizza il processo politico-diplomatico che ha condotto alla Conferenza di Ginevra che, nell'aprile 2009, ha aggiornato e sottoposto a revisione il documento finale della precedente Conferenza mondiale di Durban 2001 sul razzismo. Quest'ultima ha rappresentato, come noto, un pas-

saggio estremamente difficile per la comunità internazionale e il movimento mondiale che si batte per i diritti umani, avendo evidenziato l'esistenza di profonde fratture tra gli Stati intorno ai temi della lotta al razzismo, nonché tentativi di manipolazione del discorso antirazzista. La Conferenza di revisione di Ginevra rischiava pertanto di riprodurre, a otto anni di distanza, le stesse divisioni, aggravate oltretutto dall'eredità dell'11 settembre.
L'autore evidenzia in particolare il processo con cui i Paesi dell'Unione Europea hanno cercato di pervenire a una posizione condivisa sui temi della Conferenza di revisione, nonché il ruolo giocato dall'Unione per rendere produttivo l'appuntamento di Ginevra. A Ginevra, fattori interni ed esterni (tra cui l'intervento del Presidente iraniano nella giornata inaugurale) hanno messo a rischio l'esito costruttivo del confronto, indebolendo il «fronte comune» che i Paesi dell'Unione avevano faticosamente tentato di costruire. La Conferenza è riuscita tuttavia a produrre un documento finale condiviso, nel quale le istanze europee e quelle caldeggiate dagli organismi per i diritti umani sono state accolte. La Conferenza di Ginevra ha pertanto mostrato l'esistenza di un concreto spazio per lo sviluppo di un dialogo interculturale fondato sui diritti umani, opera in cui l'Europa può svolgere un ruolo di primo piano.

Durban Review Conference: A New Defeat for the Concept of Defamation of Religion?
La Conferenza di Durban: un'altra sconfitta per il concetto di diffamazione della religione
Sandrine Platteau

L'articolo tratta del controverso tema della legittimità delle misure di contrasto alla diffamazione della religione alla stregua dei principi internazionali sui diritti umani, attraverso l'analisi del dibattito che sul tema si è sviluppato intorno alla Conferenza mondiale contro il razzismo, la discriminazione razziale, la xenofobia e le relative forme di intolleranza (Conferenza di Durban, 2001) e della sua Conferenza di revisione svoltasi a Ginevra nell'aprile del 2009.
Dopo aver illustrato le basi normative internazionali dell'incompatibilità tra la proibizione della diffamazione della religione e, in particolare, la libertà di religione e di espressione, l'articolo ripercorre le accese controversie che hanno contrapposto Stati occidentali e Paesi appartenenti al mondo islamico (ma sono numerose le posizioni diversificate adottate dai diversi attori internazionali) tra il 2001 e gli ultimi anni, facendo particolare attenzione al dibattito sviluppatosi negli organismi delle Nazioni Unite ed evidenziando inoltre i tentativi di convergenza che sono stati elaborati. Il documento finale di Ginevra condanna la formazione di stereotipi negativi e la stigmatizzazione delle persone sulla base della loro religione o credo. La formula adottata rigetta l'idea della diffamazione (o della stereotipizzazione negativa) della religione come pratica per sua natura contraria ai diritti umani e tale da giustificare una compressione delle fondamentali libertà di religione

e di espressione, e concentra piuttosto l'attenzione sulle conseguenze a carico delle persone che possono derivare dagli attacchi portati alle religioni.

Un mondo libero dalle armi nucleari: le iniziative dei protagonisti della bomba 1944-1946
A World Free of Nuclear Weapons: The Undertakings of the Protagonists of the Bomb, 1944-1946
Alessandro Pascolini

The April 1 London declaration by the Presidents of Russia and USA has reintroduced in the international agenda the long-honoured concept of «nuclear free world» as a politically attainable goal. This brings to the highest operative level a renewed interest of scholars and politicians on the global nuclear disarmament triggered by Henry Kissinger, George Shultz and William Perry, with their January 2007 article in the «Wall Street Journal». The present paper considers the first attempts of preventing the nuclear arms race made between 1944 and 1946 by a few scientists involved in production of the first atomic weapons. Besides reconsidering important historical events and exploring the genesis of the very concept of freeing the world from nuclear weapons, we aim to understanding the reasons behind the positive results and failures of these initiatives, in order to learn from them lessons for today actions towards nuclear disarmament.
The cases considered start from the bold actions of Niels Bohr and his objective of creating an «open world» in order to prevent an atomic arms race between Soviet Union and the Western powers. He believed that the current organisation of the world could not cope with the atomic bomb, and this made him consider the bomb as an opportunity to make necessary for states to cooperate, providing the basis for a new approach to international relations. His ideas and suggestions were not accepted by Churchill and Roosevelt, but created, directly or indirectly, the conceptual background for the proposals, which appeared in the following.
The necessity of an international control on atomic energy was stressed to the US government by Vannevar Bush and James Conant, who were the civilian leaders of the atomic project and consultants of Roosevelt and Truman on atomic policy. They accepted the views of Bohr, and made clear to War Secretary Stimson the impossibility for US to keep the secret and the monopoly of nuclear energy and to control the raw materials, the risks of further weapon developments and suggested the constitution of an international scientific office to control atomic energy all over the world. In the fall of 1945 Bush convinced the US and UK leaders to propose to Stalin the creation by the United Nations of an Atomic Energy Commission (UNAEC) to study how atomic weapons might be eliminated and atomic energy applied to peaceful uses.
Bush and Conant were also influenced by the lively discussions among the

scientists of the Met Lab of Chicago on the future of nuclear research and the political implications of nuclear weapons. The concerns of the scientists are expressed in the November 1944 Jeffries report, which calls for an «international administration with police powers which can effectively control at least the means of nucleonic warfare». The subsequent (June 1945) Franck report looks to international control, but also takes up the question of the use of nuclear weapons against Japan in relation to post-war international agreements on nuclear energy. Its conclusion is that an actual unannounced use of the bomb against Japan is unadvisable for the blame it would have put on US for introducing such indiscriminate weapon and the subsequent difficulties in reaching an international control system to ban the bombs. The report stresses the view of the bomb as a problem of long-range politics rather than a military expediency. The report saw also the contributions of Eugene Rabinowitch and Leo Szilard, and after the end of the war became a «manifesto» for the US scientists' movements aiming to a civilian control of atomic energy internally and to an international agency to prevent nuclear weapons. Additional initiatives were attempted by Franck and Szilard to prevent the bombing of Japan, but proved fruitless.

The various strains of thoughts on preventing a nuclear race and controlling nuclear energy – the inspiration of Bohr, the analyses of the Jeffries report, the thesis of the Franck report, the ideas of Bush shared with Conant – all flow together in the Acheson-Lilienthal report on «the International Control of Atomic Energy», prepared in March 1946 for the US Secretary of State in view of a plan to be submitted to the UN Atomic Energy Commission. The aims of the report, largely due to Robert Oppenheimer, were twofold: the prevention of atomic weapons and the promotion of civilian uses of nuclear energy. The report first details the characteristics of an adequate system of safeguards and controls for security, to recognize the impossibility of creating such a system if every nation is allowed to develop independently nuclear energy. Therefore it suggests to create an international independent Atomic Development Authority to own and control world supplies of uranium and thorium, construct and operate reactors and separation plants, develop active research in nuclear fields, and license and inspect peaceful non-dangerous activities in individual countries.

The actual plan proposed to UNAEC by the US delegation, led by Bernard Baruch, modified the Acheson-Lilienthal, with conditions unacceptable to the Soviet Union, and after its approval by majority of UNAEC members, the Soviet veto ensured that the Security Council would not endorse the Commission's report.

Finally we consider the reasons for the failure of these first efforts to bring atomic energy under international control and avoid the nuclear arms race, underlining the critical role of the political context for nuclear disarmament and the need of a common conception of the world and how it might develop.

The proposals by the scientists were brilliant technocratic, rather than

political, approaches to dealing with international politics, and proved necessarily inadequate. Suggestions for the present situation are consequently derived.

La sentenza della Corte europea dei diritti umani per l'omicidio Giuliani: prima condanna per violazione del diritto alla vita pronunciata contro l'Italia
The Case Giuliani v. Italy before the European Court of Human Rights: First Condemnation of Italy for Violation of the Rights to Life
Paolo De Stefani

In the case *Giuliani and Gaggio v. Italy* (judgment of the Fourth Section of the European Court of Human Rights, delivered on 25 August 2009), the Court found the Italian government non responsible for violation of Article 2 of the European Convention on Human Rights on grounds of excessive use of force and for violation of the positive obligation to protect life. Italy was however condemned for violation of Article 2 in its procedural aspect, because, among others, «the investigation was not adequate in that it did not seek to determine who had been responsible for [the] situation» which led to the killing of Carlo Giuliani, a demonstrator involved in the riots erupted in the city of Genoa during the G8 Summit of July 2001.
The case decided by the Court has been the object of intense debate and deep controversies in Italy. After eight months of investigations, the Italian prosecutor decided in 2002 not to prosecute the Italian *carabiniere*, Mario Placanica, who shot at Carlo Giuliani. Agent Placanica was considered to be acting in self-defense, and no further judicial investigation was carried out in order to clarify the responsibility of any other high ranked police officers for shortcomings in the organisation of the anti-riot measures. An inquiry into the same facts conducted by the Italian Parliament did not come to a shared conclusion and any successive attempt to set a full-fledged inquiry commission has failed.
The judgment of the Strasbourg Court shares the conclusion of the Italian judiciary as to the claim of self-defense. Considering the «positive obligations» of the concerned state, it reiterates that states have a duty to plan and carry out police operations in a way that fully respect the fundamental right to life of any individual. Italy has not committed any infringement of the obligation to protect the life of Carlo Giuliani during the Genoa clashes, but it has nonetheless violated Article 2 of the European Convention in that the criminal prosecutor had not properly managed the autopsy procedure and, more importantly, the investigation focused only on Placanica's role. The author envisages a possible contradiction between the two prongs of the verdict.
Quite surprisingly, the judgment was received with complacency by the part of the government, in spite of the fact that it constituted the first condemnation of Italy for violation of the right to life. The applicants have announced they will appeal the decision at the Grand Chamber.

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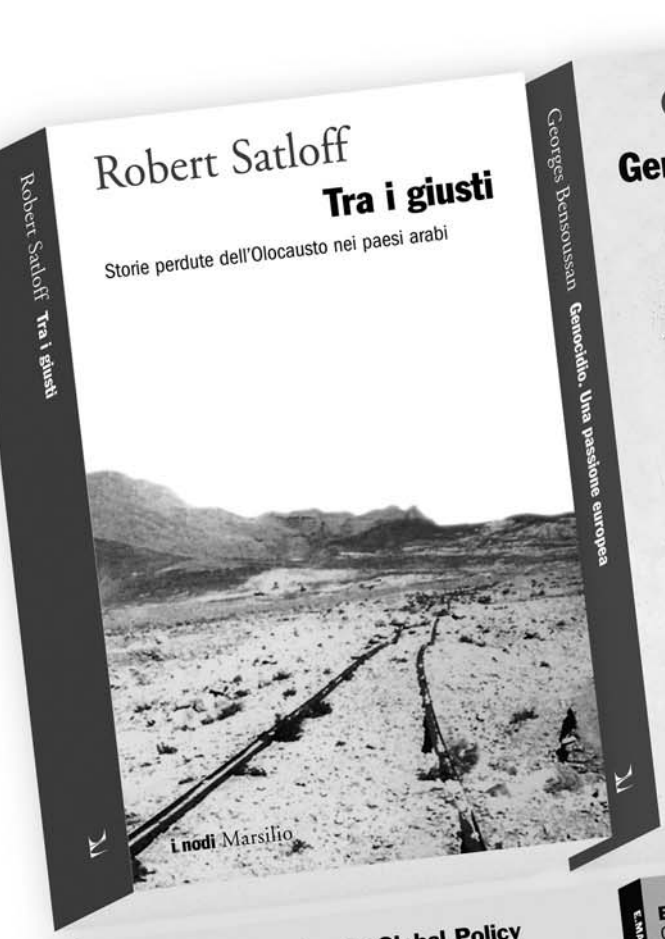

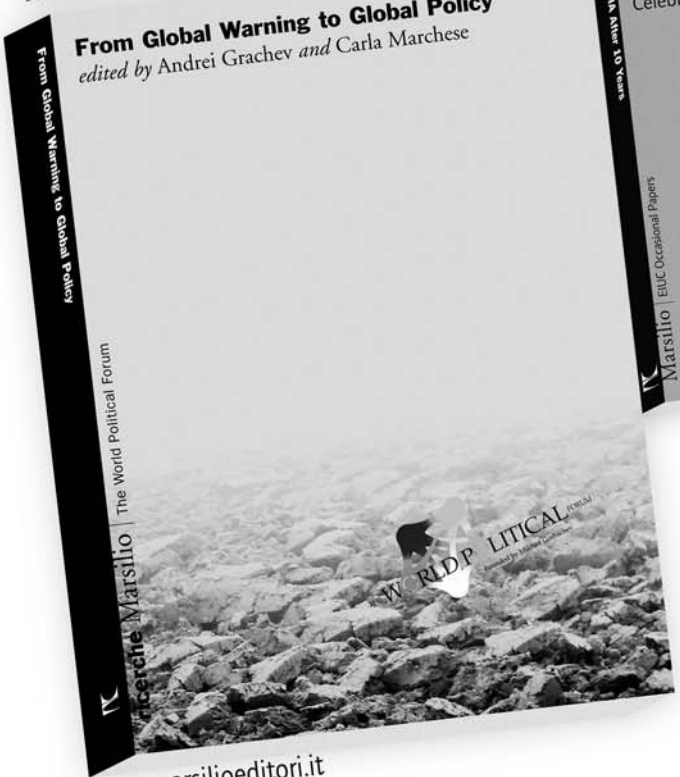

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