Contractual Solidarity and Future Contractual Relations: A Comparative Legal Study

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ABSTRACT

Contractual solidarity is a familiar title and traditionally seems to be a stable and stable system. Still, the meditator finds that it raises critical legal problems, whether it is the harmonization between it and the general rules of the contract or the obligation to cooperate information and security, as a point of balance between the conflicting interests of contractors. It leads to the emergence of personal rights that guarantee the legal protection of the contract, which allows the legislator and the judge to intervene to ensure the effectiveness of its judgments? How can each party to the contractual relationship satisfy the legitimate expectations of the other party without harming the other party? Which means that everyone owes the other and owes society under the idea of solidarity? The analytical study of this subject in this research is a serious attempt to answer these questions. The parties' selfish interests before the contract's conclusion cease and disappear upon the execution of the agreement, through the dependence of the parties on each other for their common interests, the so-called contractual solidarity. The idea of solidarity is not the result of the moment. Still, its emergence has extended to varying periods, and on this basis, this research will be divided into two topics that address the concept of contractual solidarity. In the second, we will explain how solidarity and contract are compatible.

Keywords: Contractual Solidarity, Contractual Relations, Civil law JEL Classification: K20, K22, K23

INTRODUCTION

The general theory of commitments' stability has passed into history due to the movement of private legislation. While some have called for renewing this overview in light of the new approach brought about by this particular legislation, the

disagreement is over whether to continue or prejudice the general theory. This theory requires reform because it has the domain and competence to look at the general idea. We see an infringement, and thus this ideological issue that has characterized the theory and been refuted by special legislation must be reviewed; however, if we look at the mechanisms and techniques that carry it out, we see no infringement. We assert that special legislation is enrichment and renewal; hence, new protective contractual mechanisms must be incorporated; so, the research of this topic will be completed by investigating contractual solidarity and its definition. What role does it play in a contractual relationship?

LITERATURE REVIEW

Concept of Contractual Solidarity

Numerous arguments have been advanced in defense of the contractual solidarity principle. Faced with a dispute between advocates of the concept of free choice and advocates of contractual solidarity. It is necessary to remember that, according to the school of independence of will, contractors are the sole judges of the contract's fate and content? That the fundamental theory of individual liberty, inextricably linked to the concept of the social contract, is the essence of economic liberalism? The contract may be considered fair because it results from free negotiation between peers, hence the point of equilibrium between their opposing interests? That it results in the formation of self-rights, advantages guaranteed by nature to each individual's selfish satisfaction? That legal security can be ensured only by the binding power of conventions? Is neither the legislature nor the judiciary permitted to intervene in the contract except to verify the contract's requirements are effective? Contractual solidarity proponents claim that will and equality are falsehoods and deceptions when the contracting parties are unequally strong. However, since the late nineteenth century, we have discovered several contracts between a powerful and a weak party that was not balanced due to their lack of negotiation. The more vulnerable party forced contracts of acquiescence to benefit the stronger party. Proponents of contractual solidarity have criticized the self-right (Droit subjective) in the conventional sense, i.e., when exercised for personal inclination. To foster natural solidarity amongst human beings who are members of the social body. They have established or developed a plethora of contractual and pre-contractual responsibilities with the express intention of safeguarding vulnerable social groups. Certain areas of contractual flexibility, such as controlled leases and consumption contracts, have been prohibited entirely or in part by social security laws. These statutes have been enacted. The late nineteenth-century social climate in France also contributed to the emergence of the concept of contractual solidarity, as the industrial development of that era and the growth of individual capitalism, which ignored the wishes of the working class and concluded numerous contracts, will not be negotiated. Thus this research will be divided into two demands. The first criterion discusses the formation of contractual solidarity, whereas the second requirement defines contractual solidarity.

The Emergence of Contractual Solidarity

Increased industrial accidents and inadequate legal systems have led to this growth. After it sparked worker unrest, it established the legitimacy of governmental institutions. Thus began the period in which working-class needs were addressed, and a stance was taken that directly opposed the liberalism and individualism that dominate contractual relationships today. They came up with the idea of solidarity, which states that each person is responsible for their actions. Leon Bourgeois wrote a book named Solidarity in 1888, which had four articles titled "Messages on social movement, messages of solidarity," which were later compiled into a collection of essays. According to Leon Bourgeois, solidarity is the union of social-historical and contractual theses, resulting in a quasi-social contract. Each individual owes the

other and the entire society.

Therefore the concept of solidarity is a corrective of the principle of individuality [1]. However, while the Bourgeois did not develop the concept of solidarity, his thoughts about it significantly impacted its application and distribution. At the same time, philosopher Emile Durkheim believed that French society inherited France's Great Revolution. As a result, it needed to recreate itself by rearranging social reality and the planned future to embody the concept of solidarity in society better. Because human beings are by nature social animals, the School of Solidarity thinks that the notion of a person who is isolated and self-sufficient is a fabrication. The natural condition is not individual liberty but social cohesion and solidarity. The independence of will is no longer regarded as the optimal model of contractual choice, as the contract is a manifestation of solidarity between individuals in society. Thus its parties must assist one another in carrying out the contract while taking into account the other party's legitimate interests, mainly when the contractor, in addition to the simple obligation not to make the other party's commitment difficult or impossible, Contracts are the result of collaboration between individuals[2]. In 1904, the principle of solidarity with the republican political trend in France was consistent when bourgeois stated that the Democratic Republic is more than a political republic; it is a social state founded on the freedom and solidarity of all; the state's role is guaranteed; the law imposes the obligation of all toward all, and the initiative encourages all trade union and cooperative initiatives. In practice, this principle aims to Between 1933 and 1936. The concept fluctuated between attention and absolute erasure until 1981 when the concept of solidarity made a dramatic comeback[3]. Despite the phenomena of globalization of economies, modern thinking has enabled traditional thought, built on the notion of the authority of the will, to soften the harshness of the individual character in the decades before the current stage. Due to this phenomenon, massive contractual figures were produced, including dependence contracts, as they progressed through the supremacy of contractual powers to the present day. Due to the court's involvement to restore contractual balance in the case of an imbalance of interests between the parties involved in a contract under Article 1143 of the French Civil Code, the rule of contract, often known as "contract law," has grown more flexible. The excessive development of legislation and regulations culminated in consumer law. The idea of solidarity can justify the obligations on the intervenor as a strong party. Such commitments include the commitment to product security (Article (9-10), the commitment to product conformity (11, 12), the dedication to after-sales warranty (13-16), and the commitment to consumer information (17-18)[4] .

Concept of Contractual Solidarity

The autonomy of the will theory has been shaken severely since the beginning of the twentieth century. Modern French jurisprudence began searching for a new theory that could be the basis for contract law. Among these proposed theories was a new theory proposed by modern French jurisprudence, which is known as the contractual solidarity theory. This theory was born in France at the beginning of the twentieth century[5]. This theory adopted new ideas that make the contract more social, where cooperation and ethics prevail over the relations between the parties to the agreement. It called for replacing contractual freedom with contractual solidarity [6]. (René Demaugs) was one of the first to propose this modern concept and (Denis Mazud) one of its defenders. This theory makes loyalty, solidarity, and brotherhood a new basis for the contract. This theory consists of contract law's humanistic and ethical ideas on morality, respect, and cooperation. Everyone must work towards a common goal and achieve the ideal purpose of the Decade. Many contemporary jurists have attempted to define contractual solidarity. Most of these definitions have focused on two main components, contractual brotherhood and

goodwill, as one of the recent trends in determining this theory.

The concept of contractual solidarity under the idea of fraternity

Many French jurists have addressed the theory of contractual solidarity. Under this concept, the moral relations and bonds prevail in implementing the contract as if they were brothers. For the sake of the pact, each of them is concerned about the other's well-being. It is a kind of solidarity, rather the brotherhood, that unites them. The French jurist (Rene Demoges) saw that the contract is a small company that obliges the parties to cooperate to achieve common goals. This requires the creditor to facilitate the debtor's performance of his obligation, and sometimes he may sacrifice part of his interests to achieve this duty. He often cited the following section of his thesis as a starting point for contractual solidarity. He says that the contractors constitute a kind of microcosm. They are a small community whose members have to work together to achieve a common goal, as in commercial and civil society[7, 8]. Demoge likens contractual solidarity to the idea of the company and the duties it imposes on its parties, as it imposes on the two parties a positive obligation of mutual assistance during the implementation of the contract, where each of them must take into account the legitimate interests of the other party. Consequently, each of them is positively obligated to cooperate to achieve the purposes of the contract. In the end, the contract can be considered a place that brings together interests and brotherhood. Some of the supporters of this concept affirmed it as a sacred union [9] due to the positive commitment of the parties based on the duty of brotherhood and solidarity. The jurist (Jean Carbonet) criticized Demoges for saying that the spirit of cooperation was ideally present between the contractors, where he said: “It is surprising that at a time when marriage may often turn into a contract, some dreamed of transforming any contract into a marriage[10]. From its point of view, the contract resulted from hostile cooperation under the guise of cooperation. Each contract hides a latent conflict, and each party seeks first and foremost to satisfy its interests. There is no cooperation in the sense referred to by Demoge. We believe that Demoges' point of view is exaggerated, as the principle of solidarity is one of the flexible new concepts that form the ideal basis for contract theory. However, (Demoj) has exaggerated a fresh point of view by giving a romantic idea that may not necessarily exist due to the conflicting interests that each party seeks to achieve its interests on the other hand. The jurist likens (Demoj) the idea of contractual solidarity with the company. If the latter is the ideal environment in which it can appear for the intention of profit, which is the positive effect that all parties benefit from, the solidarity in its ideal form. However, according to our humble estimation, this is not imagined in all other contracts where each party stands as a peer to the other. As for what (Jean Caronet) went to, we also believe that there is no solidarity and that he has gone to the absence of it, even if the parties seek to achieve their interests. However, this does not prevent the existence of solidarity between them, as this idea may not ideally exist during the negotiation stage. Each party seeks to strengthen its interest in line with the duty of good faith. Still, solidarity can exist in the stage of contract implementation. Contractors can cooperate to achieve the interests that they have identified in the negotiation stage. Hence, the parties may bring together this common purpose of cooperation. The French jurist (Gregoire) criticized the parties for entrusting this duty, looking at solidarity in its binding force. Some scholars argue that it would be inconceivable, both in theory and in practice, to claim that contracting parties owe each other and have brotherly feelings. It is not permissible to impose brotherhood, just as it cannot be that the failure to perform this duty is an emotional and voluntary commitment with a privilege left to the other party's will, so there must be an obligatory force. In other words, it is not a matter of looking with mercy to the party who is in a weak position, but what is taken on his opinion from our humble point of view is that it has fallen into a clear contradiction. Sometimes he says that

fraternity is not imposed, and at other times he argues that fraternity must be organized with binding legal force. As for (Sappho), he went to distinguish between the conclusion of the contract and its implementation. Before implementing the contract, the parties can defend their selfish interests. But when the contract is implemented, these interests disappear to achieve common purposes. Still, a conflict of interest may return in the event of non-implementation of the contract, but it will then constitute an exception to the rule of solidarity. (SAFO) has made solidarity between the parties in degrees that vary according to different circumstances and the type of contract concluded between them [14]. Solidarity in compensation contracts differs from donation contracts, such as donation contracts. Some French jurisprudence has indicated that the solidarity bond can unite the contracting parties because when the contract is concluded, each party will take care of the interest of the other. Thus, the two parties depend on each other to achieve their common interest and thus unite in that bond [11].

1. The concept of contractual solidarity under the idea of good faith

Some French jurisprudence, led by Cordier, has advocated the concept of good faith. The idea that the parties to a contract must ensure their mutual interests while maintaining a minimum of transparency is known as the "contractual solidarity theory." During the execution phase of the contract, the liberal ideology of the contractual parties imposes certain duties such as a commitment to honesty, transparency, and integrity. Under the idea of good faith, these responsibilities come under the need to disclose any action that might hurt another person. As a result of this idea, individuals have the right to protect and defend their interests with the bare minimum of cooperation to guarantee that both parties adhere to their contractual obligations and respect the legitimate interests of the other. On the contract, the first is different from the latter. Social solidarity derives from outside the contract due to social solidarity between individuals. Still, contractual solidarity includes the solidarity of the contract, i.e., solidarity between contractors necessarily requires a contract because there is a correlation between the two. This association arranges a duty between contractors, which is called the duty of cooperation [12], which is the duty to facilitate the implementation of the contract and take within this purpose all duties dictated by transactions and good faith. In performance and this commitment to cooperation is imposed by the new developments of the contractual relationship, it is a relationship of collaboration and not a relationship of conflict of interest involved in a contract relationship does not prevent them from cooperating and solidarity to achieve the desired purpose to benefit all contractors, although the duty of cooperation may stem from the duty of goodwill, but a broad interpretation of goodwill can be counterproductive for the weak party in the contractual relationship and has now criticized (Cerio) by saying that loyalty, desire and sacrifice in favor of The other side and cooperation with him and facilitating his mission leads to a radical disturbance as the contract can not be a simple point of balance ending turbulent and conflicting negotiations between two people so that the contract becomes an area of friendship and cooperation so that each party tries to do justice to the other party and cooperate with him for the purpose of implementing the goals of the contract. .

Compatibility Between the Contract and Solidarity

The combination of contract and solidarity leads to establishing social order, making it possible to restore and strengthen social bonding away from contradiction. Solidarity is a means that cannot be achieved without competition, and competition cannot be conducted without assistance, nor competition without cooperation. Considering the contract is a form of solidarity, a contract is a tool for economic

exchange. The parties have conflicting interests, but the project for which the contract was concluded requires cooperation in a certain amount, which was evident in the partnership contract. For example, distribution contracts, concession contracts, and lease management contracts on the basis that the contract reflects the reconciliation of the conflicting interests of two persons, thus allowing a mixture of private interests and common contractual interests. It was impossible to combine solidarity and contract, but at present, it has become possible to combine solidarity and contract. Solidarity is present in and within the contract because the contract is internal in origin. The contract is considered a carrier of solidarity, which performs a solidarity function beyond the parties to the contract because it is also external [13].

The Solidarity within the contract

This acceptance of solidarity within the contract is now possible for two reasons. On the one hand, the nature of the contract favors solidarity, and on the other hand, the nature of contract law tends it.

In the past, solidarity came against the concept of a contract that was reduced to an instrument of economic exchange that was quickly implemented. Thus it leaves a more important place for the principle of solidarity. The new forms of contracts, like their unique functions, explain this increasing interference of the principle of solidarity in the contractual relationship, which led to the emergence of new forms of contracts in which solidarity emerges[6].

The contract is no longer reduced to the sales model of the Civil Code of 1804. Still, many long-term forms of contract have emerged. The exchange of contracts with the contract organization coexists (the typical example is the partnership contract or the community contract). In exchange contracts, the interests of the contracting parties are widely divergent, even if they are sometimes close. The regulation of contracts establishes a “cooperation between A and B.” Where they put everyday things that were hitherto their own and employ them in a joint activity in organizing Contract Interests are “structurally close, even if this does not exclude cases of difference. Besides the contract of exchange [14], the relational contract developed by the economist (Ian McNeill) also appears (the model could be the contract of required distribution, concession) [15]. The relational contract is inlaid with a genuinely social relationship. It includes a specific density in time, while the exchange contract is a temporary contract, which implies a blind exchange of services and disappears once its immediate usefulness is exhausted. In the same spirit, we find the distinction between the typical law exchange contract and the common interest exchange contract, where the hostility between the contracting parties is mitigated through one of them's interest in the other's activity (the delegation of common interest and the contract for the exchange of common interests). Publication contracts are the prominent examples of contracts of exchange

The culmination of this contract of solidarity, which retains its economic function, is the contract of cooperation. The contract of cooperation responds to an original structure and weaves between the obligations of the two parties an integrative bond ordered to link their convergent interests legally and under a practical commitment. One party provides means for another party to exploit, by a final obligation, in his interest[16] When these new forms of contracts are distinguished by their hybrid nature. As (Teubner), the philosopher of subjective formation sums it upright between the two organizational forms, the firm and the market, in which a whole range of hybrid agreements are developed: “Hybrids, networks, symbiotic contracts, golden handcuffs, and quasi-corporations, and then a third economic order emerges between contract and society.

The positive acceptance of the principle of solidarity cannot be justified only by new forms of contract as an economic instrument. But also with new jobs that go beyond just economic jobs.

Rhetorical function

The word contract is the subject of verbal inflation. He discovers the contractual discourse without strictness in the political discourse, which is a matter of a trust contract, a new social contract, a contract between generations, and a republican contract. This contractual discourse is not trivial. It stresses the incantatory power of the word contract. It is a symbol of freedom. Still, it is also a symbol of commitment, respect for the given word, dialogue, discussion, listening, and the closeness to the understanding that discourse, which aims to reconstruct the social bond, to strengthen the collective conscience. This contractual rhetoric can be used and abused to persuade the virtue of the measures taken. Then this legal language of the contract tends to merge with the language of everyday life in the terminology acquired from linguists. The contract is a word that no longer has “exclusive legal affiliation and is given a plurality of external meanings [17].

standard function

The second function of the contract is normative, whereby the contract fulfills a normative function. It is not only a question of the source of the contract for a contractual rule, in the clinic concept, but of a contract that can be, on the one hand, the source of the contractual legal system, and on the other hand, the place of meeting between several legal orders.

The contract will be a means of carrying out an economic process and a means of regulating and regulating an economic function by imposing standards of conduct and establishing a process of control and sanctions. Ultimately, this is the picture presented today by distribution networks established under distribution contracts. An initiator ensures that the members of this network comply with the code of conduct, the code of conduct, the values listed in the preamble to the contract, or the general conditions. A network is an organization that tends to create its standards, thus being a small independent and relevant legal system [18].

In general, today's contractual solidarity is inherited from the solidarity movement that passed in the late nineteenth and twentieth centuries, which intensified under the influence of the common, where solidarity is seen first and foremost as a feeling. During these years (1880-1910), it became an ideology. Contractual Solidarity became a current of thought that insists on the connection between social regulation and contract law and offers, at least in the late nineteenth century, the third path between liberalism and socialism, the contractors being above all social animals.

The contract is a microcosm, a mirror of the entire civil society, where there will be social contact, and the social function of the contract is put forward. Still, socialism does not prevail over the individual who stipulates it. It is about building a contract law based on inequality between the parties. In other words, think of the contract differently [19].

Thus, the goal is to combat the excesses of liberalism and market dictatorship by reducing the errors of contractual selfishness in favor of greater cooperation between the parties. It is necessary to use different techniques such as good faith, stipulated in the decree issued on February 10, 2016, in Article 1104 of the new Civil Code, The principle of contractual balance, the promotion of contractual sustainability, and above all, a more significant intervention by the judge in the field of contract. There are three forms of solidarity in ideological thought. In the extreme moral dimension, contractual solidarity merges with contractual brotherhood. Solidarity will join in an aim for brotherly love that demands that the party Contractor be treated as such in the moderate moral idea (A. Sirio) of solidarity. Contracts provide more than just responsibilities.

Nonetheless, the foundation of every contractual relationship is laid by rules of behavior and social and moral obligations that transcend the terms of the contract itself

(Mazeaud). According to the view of society that we hold dear Furthermore, brotherhood and solidarity are more closely related than you may think. The contract is a means of mutual aid, where the exchange of services must outweigh the competing demands of the parties. Then the contract is seen as serving the social bond e [20].

This solidarity philosophy of the contractual relationship, which must be recognized, limited to certain classes of contracts, can be based on several techniques of contract law. A topical example is the obligation to renegotiate in good faith based on Article 1134, paragraph 3, of the Civil Code, provided It is based on two rulings issued by the Chamber of Commerce of the Court of Cassation on November 3, 1992, and November 24, 1998 [21]. The oil company was condemned for not renegotiating the contract terms, which no longer allows the company accompanying the pump to offer competitive prices. However, good faith is not the only example of the "success" of solidarity thought Abuse of unilateral price-fixing, condition of proportional obligation in terms of guarantee and credit, subordination of reason Expanding the field of commitment to motivation will be many examples of a current of thought that is winding in its sails. In general jurisprudence and that of the court judges, sometimes it is more supplemented since the judges' intentions are expressed more clearly. It suffices, for example, to cite, for example, the “League of Law Professors” mentioned by the Paris Court of Appeal on February 6, 1998 [22], which The Court of Cassation resists in questions of unilateral price stabilization, arguing that it was influenced by the authors' adoption of a revolutionary concept of the contract. Above all, we must delve into the judgment of the Nancy Court of Appeal of September 26, 2007 .

The contract was closely related to environmental protection. This was an energy supply contract entered into in 1999 as Novacarb, a producer of carbonate and bicarbonate from water vapor, sourced from Socoma. This provides him with a cogeneration system that the customer can use freely. In other words, the first company will outsource steam production to reduce its consumption of greenhouse gases, and the second company will be responsible for manufacturing its water vapor through a process that reduces greenhouse gas production. The dispute between the two parties arose as a result of the enforcement of Law S 2004-237 of March 18, 2004, and Ordinance No. 2004-330 of April 15, 2004, which establishes a system of greenhouse gas allowance trading under which several allowances are allocated to the companies concerned by an administrative authority, i.e., a representative. The unit calculation of emissions equivalent to one tonne of CO2" can be transferred if there is a residue.

Conversely, an operator who does not have sufficient allowances must buy it back and maybe be penalized. In this case, the supplier could give up what had left him. According to the customer, since the contract makes him responsible for the costs associated with implementing the new legislation, he must also be responsible for these benefits. Otherwise, there will be a breach of the contract. In other words, the outsourcing company has made an unrequited effort because the change in Legislation now allows the only company that produces water vapor at a lower cost in terms of greenhouse gas production to take advantage of this market. In 2005, both parties tried to renegotiate the contract but were unsuccessful. Then Novacarb sued its supplier. On June 26, 2006, the Nancy Commercial Court rejected the request to review the contract, invoking binding force. This is why Novacarb, on appeal, argued only "interpretation of the contract by addition" while the defendant argued that judicial review was impossible. In terms of greenhouse gas production, "interpretation of the contract by addition" while the defendant argued that judicial review is impossible. In terms of greenhouse gas production in the face of the question of the possible interpretation or revision of the contract in an unexpected contractual defect, the Nancy Court of Appeal issued a ruling before declaring the right on September 26, 2007. Article 1134, paragraphs 3, and 1135 of the Civil Code impose a reinstatement of Negotiate the contract and reserves the right to control its failure. To support its

solution, it sets a “correction of a contractual flaw,” and this is not only due to an “unfair attack on certain interests” but also “in the public interest of reducing greenhouse gas emissions.” The relationship between the contract, the environment, and the public interest is clear to the person Solidarity is too. The motivation is incredible. The judge adopted a broader concept of contractual solidarity [23].

According to him, other than an unfair attack on SAS Novacarb's interests, which could justify a renegotiation of the agreement, the economy in the disputed contract and the concerted practices of the parties also have the purpose of reducing emissions of polluting gases. This benefits the public interest, not only at the national level but above all at the planet's level, at least in the case of scientific knowledge that is essentially approved. Therefore, the conclusion is that the contractual defect has been corrected “in the public interest of reducing greenhouse gas emissions [24].

Here, we see the internal solidarity between the two parties. Then, the judge turns casually to the external solidarity in the public interest from the open solidarity towards the interests of the other in the contract. Finally, the judge turns to the solidarity directed towards the interests of others in the contract of the third parties and society as a whole for the environment. But then we move from somewhat conservative solidarity that is difficult to impose in a general way in the contract to solidarity under the more dynamic contract and has many possibilities, especially in the environmental law. After the solidarity within the contract, solidarity comes during the contract.

Solidarity During The Contract

Solidarity, in its primary sense, according to André Lalande dictionary, refers to the stability, solidity, and strength of a social bond. From the perspective of globalization, solidarity is the backbone of any organized society. The contract, from this perspective, is in the service of this solid social bond. This is where Durkheim's formula takes its whole meaning: "everything is not contractual in the contract." However, we must beware of the malicious exploitation of the contract. The source of the solidarity contract sometimes hides a purely commercial ideology. If the contract is presented as a miracle in the service of solidarity, it can quickly turn into a simple mirage [25].

As a result of the dispersal of decision-making centers, and the transformation of the state, it is necessary to rethink the contract as a source of solidarity. The contract has become an interface between the private interests of the two parties and the public interest. It becomes a tool for cooperation. The parties to the contract cooperate for their benefit and the benefit of everyone. The contract function becomes vital due to a change in mind, so the man is caught in his environment. The contractor is a social and environmental animal. An inseparable link between the economic, social, and ecological is woven through the contractual tool. The source of this Solidarity Contract is a translation of the human solidarity described by some authors. This fusion between man and his environment is particularly noticeable in nature, biodiversity, and the environment [26]. In this respect, the source of the solidarity contract is more apparent. Man and his environment constitute an ecosystem, the organization, and balance that passes through an instrument of great flexibility.

Then the idea of a sustainable contract arises between the market and the environment and the link between private interests and the public interest. According to (Leanne Koenke), a sustainable contract is any contract that reconciles economic, social, and environmental aspects, and its implementation does not directly or indirectly violate human rights or the environment. In this respect, the source of the solidarity contract is more apparent. Man and his environment form an ecosystem whose organization and balance require a tool of great flexibility [27].

The sustainable contract, a tool for a new form of solidarity, is particularly evident in environmental issues. More specifically, Corporate Social Responsibility (CSR), a voluntary approach by companies in favor of human rights and the environment, finds a precious matrix in the contract. The binding force of the contract is placed in the

service of an environmental law that consists mainly of non-binding law and is primarily dependent on incentive policy [28], of which environmental law is the result of a fair balance between incentive and constraint [29]. The contract results from this coupling between institutional encouragement and voluntary commitment. This is an excellent example of what some have described as the phenomenon of positive contracting. This contract can be effectively put into service of environmental standards in two main ways [29].

In the first case, the contract intervenes in advance, allowing private actors to give specific environmental guidelines a binding character that they lack in principle. In this way, the contract contributes to an essential aspect of the joint and multiple responsibility solidarity. This is the case with those companies that include in their contracts with suppliers compliance with the Organization for Economic Cooperation and Development guidelines. This sixth point aims to protect the environment [30]. A company or public entity can also require its contracting parties first to sign a code of conduct, or a charter of behavior in a rationale that is sometimes more commercial than environmental, as contracts in public markets can sometimes be conditioned on respect for ecological values [31]. They are ratified by the Council of State and the Court of Justice of the European Union. Implicitly the directive of March 2004 transferred by Decree S. 2006-975 of August 11, 2006, of course for public contracts, there must be a link between the promotion of fundamental rights and the objective of the procurement contract public while respecting the principle of non-discrimination[32]. Nevertheless, it is still the contractual instrument that allows some companies to comply.

Likewise, some credit institutions make access to finance conditional on compliance with certain environmental principles, such as famous ethical funds. In the same way, specific insurance policies can only be obtained for the benefit of companies whose activities involve low-rate environmental risks [33].

In all these number cases, the contract is the vector of norms of behavior [34]. Such exclusivity zones in distribution contracts create an ecological zone, safety zone, or ecological solidarity zone. In this way, companies make, in the pluralistic sense of legal systems, a traditional legal system based on respect for environmental principles, especially utilizing clauses that can be described as practical environmental clauses of ecological law. These agreements increase their importance, creating a different legal system in regimes where the state is weak or authoritarian [35]. Different audiences' contractualism of environmental principles leads to various legal systems, as the state is only one system among other methods and matters[36] .

The second case imposes the binding force on the following parties to a plurality of hypotheses. The judge gives himself the critical power of a criterion from which he was a priori devoid.

Such is the case with the European Court of Human Rights case-law, which confer efficacy on principles found in national law, a priori devoid of binding force [45]. The basis for such a judiciary may be the existence of a contract or the technique of absorbing the contract, in some way, judicially adjudicated. Nevertheless, it is the basis on which a judge will turn a non-binding law into binding law.

The Court of Cassation sometimes uses the unilateral obligation basis of will to compel a party to respect its stated intention without necessarily passing through recognition of a natural environmental obligation. Others, as a basis for this contractual environmental right [46] This provision can be exploited against companies that promise to respect principles, which recall essential social duties, such as respect for human rights and protection of the environment, easily fall into the category of duties of conscience. 1100 may be the basis for the various actions taken against those firms claiming to have entered into an unlawful obligation. A quasi-contract, an umbrella concept, can be required to assert a responsibility against its holder that was, however, not subject to an actual probate agreement. To have made any real commitment but would have led to the belief that someone had won, one could blame the company for

having deceived a recipient into believing that it respected the environmental ethics it was supposed to adhere to [37].

The contract itself may give binding force to a not legally binding act, and the famous case where the parties entered into a formally qualified obligation may be cited here. However, it is a purely moral obligation, and this did not prevent the Court of Cassation from asserting in a surprising expectation that a moral obligation nevertheless has legal implications. A pure propaganda document can sometimes have to glorify the environmental qualities of a product, a brand, or an activity has a contractual value because, according to a ruling on May 6, 2010, Issued In other circumstances, the terms are accurate and detailed and specify the parties' commitment [38].

Among the primary obligations that translate into interfering with the contract are contractual obligations not expressly required by the parties, which constitute a form of standard public order. The information obligation occupies a prominent place. Ultimately, the right to information appears progressively in the service of the duty of vigilance. Article 7 of the Environmental Charter states that everyone has, under the conditions. Within limits established by law, access to information on the environment is held by public authorities, and this right to information is transferred to the courts. Thus, the judgment of the Court of Appeal of Lyon of October 29, 2008, ruled, in the Monsanto France case, that the advertising presentation made by Monsanto avoids the potential danger of the product. It is done through the use of reassuring words. It misleads the consumer by limiting the attention to precautions and prevention. It usually encourages poor consumption, resulting in the company being penalized for misleading advertising, a penalty confirmed by the Court of Cassation on October 6, 2009[39].

The contract is not merely a means of enforcing what usually falls within the domain, if not outside the law, at least inflexible rule only. It also makes it possible to spread horizontal commitments between partners, creating a solidarity zone. The contract becomes one of the main tools for creating a vigilance network or 'vigilance zone.' The specific area of this phenomenon is corporate law and CSR, and the contract is here placed in the service of a more obligatory joint and multiple responsibilities [40].

Finally, this search for a balance between the individual and society permeates the entirety of contract law and thus combines the two currents of solidarity and individualism. We may refer here to what Alexis de Tocqueville said of his time: “In democratic centuries, men seldom devote themselves to one another, but show general sympathy to all members of the human race. As a result, we do not see them causing needless evils, and when they can, without hurting themselves too much, to ease the pain of others, they take pleasure in it; are not uncaring, but they are kind” [41].

Therefore, the human being must be at the center of significant contract law reforms. In this humanistic concept, human rights will occupy a prominent place in the humanistic term. Preferably, personalism is a moral and social doctrine based on the individual's absolute value for more religious terms. It differs from individualism in that it emphasizes the collective and cosmic integration of the person. Humanity realizes, in the same spirit, that the law does not aim only to organize society, but rather to protect the human being, which becomes an end or value. Legal humanism is not just a transgression. From this perspective, the human being is considered a condition for the existence of law, justice, and human right as “a right legitimized by a value system ordered by the protection of human beings.

When the great crisis we are going through shows the phenomenon of increasing social exclusion and the economic dependence some individuals find themselves. The dangers of an economical fabric that ignores the harmful effects on the environment human values can be the basis for a new beginning of law in general and contract law in particular. However, it is necessary to avoid over-contractual instruments, a new

drive for the consensual public interest, not without risk. It is essential to ensure that the contractual miracle does not become a mere contract mirage [42].

In light of the preceding, the contract was previously based on contractual freedom. The person is free to conclude the contract or not under the legislation, public order, and public morals and based on the binding force of the contract that is based on inequality in the contract. There is no breach in the contract, while In the modern trend based on contractual equality, contractual balance and contractual solidarity are contracted guiding principles. Contractual solidarity is based on the idea of viewing the contract as a micro-enterprise in which the contracting parties cooperate to achieve a common goal. Hence, each party is obligated to consider, in addition to its own interest and the interest of the other party, to the extent of the possibility of sacrificing part of the private interest to prioritize the conclusion, implementation, and maintenance of the contract. Some texts of the French Civil Code explain fraud as a defect in consent (Articles 87 / 86). The contract must be executed in good faith Article (107/1), and the buyer must notify the seller of the claim of entitlement promptly Article (372/1). If he discovers a defect in the selling, he must inform the seller within a reasonable time (380/1). To prevent the landlord from carrying out urgent repairs necessary to preserve the eye Article (482/1), the agent must provide the client with the required information about what the agency's implementation has reached and submit an account on it Article (577). It is possible to justify the obligations that fall on the intervenor as a strong party, such as the commitment to product security (9_10), the obligation to conform to products (11_12), the commitment to warranty and after-sales service (13_16), and the commitment to consumer information (17_18) [43].

Suppose the contractual solidarity allows both parties to the contract to link together. In that case, each of them is subject to a request for performance to implement the contractual obligation towards the other party. And each of them has the right to it in full. Suppose the parties' good faith infers the contractual solidarity to the contract. However, there are obligations such as cooperation, information, and guarantee, which require reconciling the contract and solidarity openly and directly, otherwise it is considered a violation by one of the parties towards the other party in the implementation of its contractual obligation. Thus, it violates contractual solidarity. Perhaps this wastes the economic value of the contract and constitutes a dangerous tendency to destroy the value of contractual solidarity.

Contractual solidarity will always be in the creditor's interest in the contract. It will allow him to demand full performance from the debtor to implement his contractual obligation. Accordingly, the origin of contractual solidarity can be traced back to a far-reaching idea first developed in the French Civil Code in 1804. Thus solidarity achieves compatibility with the contract as it places the parties to the contract in a specific legal position. It is the obligation to cooperate, the obligation to inform, and the obligation to guarantee.

Nevertheless, contractual solidarity remains an idea that reverts to the ethical principles of the contract, which are concepts that defy the legal determination of the legislator and the judge. Perhaps this is what both (Demoges) and (Sappho) intended[44] . As if it relates to the self-formation of the contract, which aims at contractual solidarity at the outset.

However, this difficulty is removed through the concept of contractual solidarity, which was echoed in many judgments issued by the French judiciary. These provisions formed the first roots of contractual solidarity when the French judiciary sought to reconcile the contract and solidarity. And arranged legal effects are binding on the parties to the contract, whether solidarity within the contract or solidarity during the contract. Despite the complexity of economic life and contemporary technology, several issues were reflected in the compatibility of contract and solidarity within the bounds of the allowable balance necessary to preserve the contract in light of the concept of contractual solidarity. Perhaps this falls on the judiciary's duty to achieve this compatibility between the contract and solidarity.

CONCLUSION

The purpose of this study was to examine the concept of contractual solidarity in the context of its relationship to the reality of reciprocal duties between the parties to a contractual agreement. Under the concept of good faith and the maintenance of the economic life of the contract, as technology advances, the contract's financial life is extended. Thus we came to the following conclusion:

1- The emergence of contractual solidarity in successive periods was evident in the marriage between historical and contractual theses that produced the concept of contractual solidarity in various types of contracts.

2- The idea of contractual solidarity came as a real dedication to limit the dominance of contractual forces and reduce the individual scope in contracts.

3- We noted the positive role of solidarity in reducing the gap of inequality of knowledge between the two negotiating parties, especially in contracts where one of the parties is a professional producer.

4- The Iraqi legislator's endorsement of the principle of good faith in the phase of contract implementation without the negotiation phase, which we believe should include the pre-contracting stage for this to be a reason for establishing the responsibility of negotiation when violating the obligations required by the principle of good faith.

5- The adaptive function of the principle of good faith played an important role in restoring the economic balance of the contract by spreading the spirit of cooperation and solidarity between the contracting parties in a way that achieves the common interest of the contracting parties, in addition to performing the contract's intention to preserve his interest in the contract, and this is what he initially sought.

6- The intellectual role played by contractual solidarity through the link between social organization and contract law.

7- Achieving behavioral standards and social and moral duties within the framework of any contractual relationship is based on cooperation between the contracting parties in a manner that serves the common interest of both of them and the interest of society.

8- To highlight the idea of a sustainable contract between market requirements and the environment by reconciling the economic and environmental aspects without violating human rights or the environment.

9- Achieving the ultimate goal of preserving the solidarity and individual currents requires devoting general principles to serve the requirements of the common interest of the contracting parties.

10- The contract has become seen as an institution or a small company based on the cooperation of the contracting parties. This is the essence of the modern trend based on contract equality, contractual balance, and contractual solidarity.

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