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SOME UNDERLYING IDEAS OF THE CONCEPTUAL FRAMEWORK
OF THE RIGHT TO DEVELOPMENT

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1. The right to development is part of a dynamic, multi-dimensional concept of modern international relations. It is a human right, a prerogative of nations, individuals within nations as well as of the whole of mankind. As in the case of the effective exercise of all human rights, its enjoyment implies a reign of peace. But peace is not absence of war alone. Real world peace, lasting and durable peace - not armed peace as the one at present - can come about only as a result of an evolutionary process, activated by détente, disarmament and development, all these components being conceived in their mutual interrelated connection. In a longer historical perspective none of them can survive on its own. This is why it is so important that first comes political détente among States and an atmosphere conducive to lasting trust and understanding among nations. To be stable and effective, political détente must be followed by appropriate measures in the military sphere; for, as long as the arms race goes on unabated, there can be little hope that peace may become an irreversible quality of life. In conditions of peace alone one can really think of improving the living standards of those in need; raising the status of the underdeveloped and bridging the wide gap between the haves and the have-nots. Hence, the main problem the world is facing today is not so much the one between the so-called rich North and the poor South, a division which in itself is inaccurate and historically misleading.

1.1. Far from belittling other important factors, the crux of present day international affairs and of chances for a universal peace rests with East-West relations. Paramount among them is the state of Soviet-American relations. This is an objective fact that cannot be replaced by any political or strategic considerations, especially if advanced out of expediency or for the sake of short-lived political advantages. The sacred axiom to be constantly kept in mind is that every threat to peace, increase in international tensions or

intensification of the arms race has both direct and indirect repercussions on human rights, by contracting - at the very least - the scope of economic, social and cultural rights which represent one of the major components of the right to development. Armaments do not promote stability in the world. They never did. As a distinguished American President put it, "every gun, every warship, every airplane, rightly viewed, is a theft from those who hunger and are not fed". Accumulated to over-kill proportions, armaments just lead to frightful wars. Whereas peace is the supreme embodiment of human rights, war is their total denial. War no longer jeopardizes, but may well consume the right to life itself. This also includes the human right to development.

1.2. The over-all political setting today unfortunately remains extremely complex. In particular, it affects directly the search for the realization of the economic, social and cultural rights. It is also bound to curtail civil and political liberties. For, indeed, as it was once said, "there are certain parts of the world where there reigns such a misery that no one knows what freedom is any more". Therefore, the first task for all States at the present juncture is to be ready to contribute a share of renewed mutual trust and intensified political dialogue; to refrain from taking steps that might further complicate the situation. Only a revitalized international dialogue and rapprochement can really put into motion the external means and mechanisms of full and uninhibited realization of human rights on a global scale.

2. The right to development is a product of progressive evolution of the scope and content of the comity of nations in recent decades. Substantively, it rests upon the universal recognition of the right to life in peace as a basic human right. Methodologically, its consideration has to proceed from the existing United Nations record of accomplishment in codifying the main principles of human rights. In both instances, reference must be made to the fundamental United Nations instruments and documents, having direct relevance to the subject at hand:

- (1) Charter of the United Nations,
- (2) Universal Declaration of Human Rights, General Assembly resolution 217A(III) of 10 December 1948,
- (3) Declaration on the Granting of Independence to Colonial Countries and Peoples, General Assembly resolution 1514(XV) of 14 December 1960,
- (4) International Convention on the Elimination of All Forms of Racial Discrimination, General Assembly resolution 2106(XX) of 21 December 1965,

- (5) International Covenant on Economic, Social and Cultural Rights, General Assembly resolution 2200(XXI) of 16 December 1966,
- (6) International Covenant on Civil and Political Rights, General Assembly resolution 2200(XXI) of 16 December 1966,
- (7) Declaration on Social Progress and Development, General Assembly resolution 2542(XXIV) of 11 December 1969,
- (8) Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, General Assembly resolution 2625(XXV) of 24 October 1970,
- (9) Declaration on the Strengthening of International Security, General Assembly resolution 2734(XXV) of 16 December 1970,
- (10) International Convention on the Suppression and Punishment of the Crime of Apartheid, General Assembly resolution 3068(XXVIII) of 30 November 1973,
- (11) Preservation and further Development of Cultural Values, General Assembly resolution 3148(XXVIII) of 14 December 1973 and successive General Assembly and UNESCO resolutions on the subject,
- (12) Declaration on the Establishment of a New International Economic Order, General Assembly resolution 3201(S-VI) of 1 May 1974,
- (13) Programme of Action on the Establishment of a New International Economic Order, General Assembly resolution 3202(S-VI) of 1 May 1974,
- (14) Charter of Economic Rights and Duties of States, General Assembly resolution 3281(XXIX) of 12 December 1974,
- (15) Declaration on the Deepening and Consolidation of the International Détente, General Assembly resolution 32/155 of 19 December 1977,
- (16) Final document of the Tenth Special Session of the General Assembly, General Assembly resolution S-10/2 of 30 June 1978,
- (17) Declaration on the Preparation of Societies for Life in Peace, General Assembly resolution 33/73 of 15 December 1978,
- (18) Convention on the Elimination of All Forms of Discrimination against Women, General Assembly resolution 34/180 of 18 December 1979,
- (19) Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms, General Assembly resolution 35/174 of 15 December 1980,
- (20) Declaration on Prevention of Nuclear Catastrophe, General Assembly resolution 36/100 of 9 December 1981.

2.1. It is true that, in strictly legalistic terms, the aforesaid documents carry different juridical weight; some of them representing duly ratified or acceded to international instruments, others being of a recommendatory nature. At this stage, therefore, it should be borne in mind that they fall into two categories of basic sources: the ones which proclaim human rights, in the form of General Assembly resolutions and declarations, and the ones which establish human rights, in the form of the relevant covenants and conventions. Whereas there may be little difficulty in obtaining recognition for the binding force of the instruments establishing human rights, opinions differ concerning the validity of General Assembly resolutions and declarations. Yet, it should not be denied that the latter can greatly contribute to establishing new binding norms. The Assembly itself recognized in resolution 3232(XXIX) that "development of international law may be reflected, inter alia, by declarations and resolutions of the General Assembly". Also the Legal Counsel of the United Nations has confirmed that

"while it is clear that a General Assembly declaration does not have the force of law by the mere fact of its adoption, it is possible that in the course of time such a declaration, if it reflects the legal conviction of States, may acquire the force of customary international law through State practice".

One of the indications of the "legal conviction" of a State is the non-dissenting vote its delegation casts in the Assembly. Thus, there is a direct link between political goodwill of States and the force of law of General Assembly resolutions. It is not accidental either that the Secretariat of the United Nations lists all General Assembly declarations in a special annex to its records, together with duly ratified treaties and conventions. All this adds significantly to the organic relationship between the proclaimed and established human rights. Consequently, the right to development as a proclaimed human right, has been lastingly embedded in the active process of codification of the principles of progressive international law.

3. The right to development as a principle of contemporary international law is most adequately reflected in the right of peoples and nations to self-determination. The notion of the right to development is neither economic growth nor development alone. While the former is a basic factor of development, the latter is a basic, but not exclusive, factor of the realization of the right to development. The right to development means more than just economic growth or development per se. What distinguishes it from the other two is the totality of means required to ensure its effective enjoyment. On a global plane, development of a comprehensive peaceful and equitable international co-operation is an important dimension of its realization. It is, therefore, a global task, with peace as its vital precondition.

3.1. The nature of that right implies that:

- (a) the right to development is an inalienable human right,
- (b) the right to development is an indivisible and interdependent right,
- (c) the right to development is an evolutionary concept which progresses and transforms along with new strides of civilization in all fields of human endeavour,
- (d) the dynamic concept of the right to development should be approached and examined globally, taking into account both the over-all context of the various societies in which it presents itself as well as the need for the promotion of the dignity of human beings and the development and well-being of the society,
- (e) as a direct descendant of the unprecedented emancipation of nations, the right to development is a multifarious notion,
- (f) maintenance of international peace and security as well as the realization of a new international economic order represent essential elements of effective promotion of the right to development.

3.2. The quality, scope and content of the right to development should be examined on two planes: vertical - in its political, economic, social, cultural, legal and ethical aspects, as well as horizontal - as a vehicle inspiring genuine development and social progress on a local, national, regional and global scale.

4. The political aspect of the right to development is covered in a comprehensive manner by the newly codified concept of international relations - the preparation of societies for life in peace, as spelled out in General Assembly declaration on the subject, of 15 December 1978. Its guiding substance is based on the following premises:

Firstly, peace is a precondition of life and survival. It is made, not found, which implies preparation and training for peace of man's will and intelligence. Peace and human solidarity spring from the mind of man, where they have to be forged into thoughts, habits and a dynamic mentality of positive action before they can lastingly and effectively enter world politics. A broadly conceived preparation for peace can bring mankind to a new era of progress and goodwill among peoples;

Secondly, confidence-building certainly derives from but cannot be confined to the sphere of military security. One shall not mobilize the will of mankind for disarmament and peace in a psychological atmosphere that breeds hatred, hostility and violence. The struggle for disarmament and international security must be accompanied by a teaching of peace, a culture of peace and international friendship pervading the instruction programmes;

Thirdly, an aroused and enlightened public opinion is in itself a catalyst for dedicated effort to secure results from which all would benefit.

4.1. In terms of an educational phenomenon, preparation of societies for life in peace is meant to make all at the same time subjects and objects of one process, students and teachers - individually, as persons, citizens of one earth; collectively, as States, members of the same world community. In terms of the existing political realities on our globe, it has its strong roots in the following principles:

- (i) every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace;
- (ii) a war of aggression, its planning, preparation or initiation are crimes against peace;
- (iii) States have the duty to refrain from propaganda for wars of aggression;
- (iv) every State has the duty to promote all-round, mutually advantageous and equitable political, economic, social and cultural co-operation with other States, notwithstanding their socio-economic systems, with a view to securing their common existence and co-operation in peace, in conditions of mutual understanding of and respect for the identity and diversity of all peoples, and the duty to take up actions conducive to the furtherance of the ideals of peace, humanism and freedom;
- (v) every State has the duty to respect the right of all peoples to self-determination, independence, equality, sovereignty, the territorial integrity of States and the inviolability of their frontiers, including the right to determine the road of their development, without interference or intervention in their internal affairs;
- (vi) a basic instrument of the maintenance of peace is the elimination of the threat inherent in the arms race, as well as efforts towards general and complete disarmament;
- (vii) every State has the duty to discourage all manifestations and practices of colonialism, as well as racism, racial discrimination and apartheid, as contrary to the right of peoples to self-determination and to other human rights and fundamental freedoms;
- (viii) every State has the duty to discourage advocacy of hatred and prejudice against other peoples as contrary to the principles of peaceful co-existence and friendly co-operation.

5. The economic aspect of the right to development boils down first and foremost to the restructuring of international economic relations on an equitable and democratic basis, which inter alia, entails:

(1) elimination of discrimination and any artificial obstacles to international trade, eradication of all manifestations of inequality and exploitation, abolishing unjustified economic sanctions and restrictions based on political expediency;

(2) restructuring world economy and international trade to promote their future balanced development and, especially, to speed up the industrialization of economically underdeveloped regions and raise the living standards of all peoples;

(3) consolidation of the national sovereignty over natural and economic resources;

(4) modification of the existing inequitable machinery of international economic relations towards a greater democratization of supporting institutions.

6. Hardly any goal of the right to development is achievable unless the societal setting is duly taken into account. This, in turn, implies that:

(a) every society is in some kind of a process of development - an axiom which lies behind the indispensable partnership between the developed and developing countries in pursuing the goals of the right to development;

(b) neither an individual nor a nation should develop in such a way as to hamper the development of others;

(c) every concept of development must take due account of the social context in each specific society;

(d) every country should pursue socio-economic and cultural objectives which correspond to its own system of values;

(e) the real yardstick of the process of development is the extent to which it satisfies the social and cultural needs and aspirations of individuals and communities on an egalitarian basis;

(f) no single aspect of the right to development can stand in isolation, but can be properly understood only in terms of their multiple interaction and close interdependence.

6.1. On a national plane, one of the most important questions is that of progressive socio-economic reforms and full mobilization of the internal resources. Here, too, development is inseparable from social progress, which in contrast to pure economic growth, by definition implies a qualitative change. By way of analogy, efforts to achieve greater equity among States in the realization of the economic, social and cultural rights, in order to be effective have to be coupled by wide-ranging measures towards a greater equality also within respective societies. In that latter respect, the concept of the right to participation takes on an added significance.

7. One of the false approaches to the realization of the right to development is the deceptive concept of the so-called basic needs as a long-term strategy of development, especially as seen against the backdrop of the spiralling arms race. Put together, these two phenomena clearly depict the long way the world still has to go to bridge the gap between poverty and the negative ramifications of armaments.

7.1. The "basic needs" strategy involves certain tasks towards self-evident goals, such as nutrition, housing, medical care, etc. It is rightly believed by some that apart from the difficulties involved in defining the basic needs, such a "charity scheme" entails the risk of creating an "anthropological garden" where the poor, as the vast majority could be maintained just above the physical survival line, while the affluent minority could preserve their privileges at little cost. A satisfaction of needs like this would be neither indigenous nor authentic, and serving as a pretext for non-development, it could be easily perpetuated.

8. The many-sided aspects of the right to development, as exercised in the world community, ought to be particularly viewed in the light of two vital considerations:

- a country may be economically or technologically poor or underdeveloped, but rich and developed otherwise, notably in cultural values and artistic creativity;

- the peoples of developing countries in most cases, at one time or another, were brutally deprived of their perception of their own history. They can reconstruct the unity of their historical process precisely by way of discovering their own historical heritage, based upon their old cultural and ethical values.

8.1. In the light of the foregoing, preservation and further development of cultural values as well as the realization of the right to education are essential parts of the enjoyment of the right to development. For, only if the various peoples are genuinely rooted in their own precious cultural milieus can they acquire the confidence and motivations necessary for the innovation called for by development. In fact, cultural values constitute the very fabric of societies. Therefore, cultural policies have to be seen in a wider context of national policies and be integrated in the over-all educational process. As such they should also be part of expanding international co-operation.

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8.2. Any discussion of the cultural dimension of the right to development is bound to bring out the fundamental role of what has come to be known as "mass communication" and the New International Information Order. The media of mass communication should be seen as promoters of mass culture, as tools to shape it, as channels to convey cultural contents. It is here where students of the subject conceive of them as a two-headed problem: potentiality and threat.

8.3. Their potentiality is indeed tremendous in terms of encouragement of indigenous styles of development, stimulation of creativeness, in both individuals and groups of people, encouragement of participation by the people at large in cultural life and their contribution to it, to say nothing of a wider and fuller participation in national affairs in general, which is a school of citizenship and an important extension of democratic practices.

8.4. Their threat, however, can be equally impressive on the negative side. In specific conditions, commercialized mass media can reduce the public to indiscriminating, passive and fundamentally bored recipients. They can be used for the transmission of messages and content that in practice might become serious obstacles to the harmonious development of the countries involved. Their constant impact from foreign countries having quite different cultural backgrounds, may bring about an erosion or degradation of indigenous cultural values and national cultures.

8.5. As far as the right to education is concerned, it should be noted that the General Assembly of the United Nations has recognized measures to be taken by Member States, at the national and international levels, for the effective implementation of this right, as part of the application of the International Development Strategy for the Third United Nations Development Decade. It has been officially reaffirmed that the full exercise of the right to education is not only a moral imperative, but also a prerequisite for social progress and economic growth. The major benefits of the full enjoyment of the right to education include, inter alia, literacy training programmes, the teaching of science and technology or technical and vocational instruction, unrestricted access to education at all levels and free-of-charge schooling systems.

9. Effective implementation of the right to development can be obtained only in external and internal conditions propitious enough to advance unhampered progress by all countries, in all fields. They cannot be considered in isolation from the generally applicable standards of proper environment for the enjoyment of human rights by developing and developed countries alike. These include, in the first place, such external factors as the quality of the international atmosphere, the prospects for a positive and mutually satisfactory outcome of what is now called Global Negotiations, the elimination of focal points of tension as well as the amount of political goodwill States are prepared to manifest, in order to create a really auspicious climate in which the purpose and principles of the Charter of the United Nations can find their adequate embodiment. Outside pressures aimed at

destabilizing or changing a socio-political system, vestiges of colonialism, neo-colonialism, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity, apartheid and all forms of racial discrimination - regrettably, offer little promising prospect for the right to development to receive the universal recognition it deserves.

9.1. On the internal plane of the enjoyment of the right to development, the State ought to be the primary guarantor of its realization. For, just as there can be no State without citizens, there can neither be national, civil, economic or other rights without a state which would ensure and safeguard them. In order to do so effectively, it has to be strong, ruled by law and just. Other elements of sound internal conditions for the right to development to be progressively advanced, are:

- national liberation,
- social revolution,
- development proper,
- level of civilization.

Those are also the main areas of obstacles encountered by nations, in particular the developing ones, in the exercise of the right to development. The four elements should be seen as interacting at the level of both theory and action and always conceived through a nation's social entity and social personality or identity.

10. Finally, the right to development has both an individual and collective dimension. The latter should be viewed, in any international discussion, as pre-eminent, on at least two accounts:

- first, only through the realization of States' right to development can that right be implemented with regard to individuals;
- second, in contemporary jurisprudence consensus is possible only with regard to the State, and not the individual, being the subject of international law.

10.1. The foregoing is not meant to deny that there is probably no human right which is either exclusively individual or exclusively collective. What is generally referred to as collective human rights differs from individual rights by the very nature of their subject. Hence, the subject of individual rights is the individual, the human being, which actually makes little difference, since individual rights can only be exercised by a group of people, to mention only the right to assembly, the right to take part in cultural activities. On the other hand, the subject of collective rights is not the individual but a group of people. These rights do not belong to the individual, although the fate of the members of the group depends on these rights being individually enjoyed. Thus, there is a feed-back relationship between individual and collective rights. Yet, differences of opinion prevail on numerous aspects of the enjoyment of human rights by individuals. Approaches have to differ, since the very philosophies behind them are poles apart, exhorting as they do maxims from "to everyone according to his needs" to "the survival of the fittest".

10.2. As far as the right to development is concerned, one would be inclined also to accept an interesting formula of three beneficiaries of human rights: individuals - peoples and nations - humanity, coined at the Third Annual Armand Hammer Conference on "Peace and Human Rights - Human Rights and Peace", held in Warsaw, Poland in July 1980.