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Right to Survival as Right to Life of Humanity

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Right to Survival as Right to Life of Humanity

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International law is by its nature mainly a state-centric, normative system, although, step by step, it begins to turn towards other social entities and individuals as such. Nevertheless, its norms, until recently, were concerned almost exclusively with rights and duties of states, state-like entities or intergovernmental organizations.

One of the basic rights of states, according to many international lawyers, is the right of a state to existence and self-preservation. Though contemporary international law does not contain such wording, the right of a state to existence is protected by such fundamental principles of international law as non-use and non-threat of force, non-interference in internal affairs, sovereign equality of states and others. Confirming the right to self-determination, international law protects also the existence and survival of people and nations.

Today, however, international law begins more and more to address the individual. In contemporary international law, one may find an increasing number of rules addressed directly to the individual. Often times, an individual not only has rights created by international legal documents but has direct access to international mechanisms which have been established in order to protect the rights of human beings.¹

One of the most important, one would even say, most fundamental of human rights is the right to life. This means that international law protects not only the right of states or the right of people to existence, but the right of every human being to existence, in other words, the right of people to life.

For example, Article 3 of the Universal Declaration of Human Rights and Article 6 of the International Covenant on Civil and Political Rights contain this right. Article 6(1) of the Covenant says that "every human being has the inherent right to life." Though other paragraphs of this Article speak mainly of the limitation of capital punishment and its abolition, the right to life is not confined to limitation or abolition of capital punishment. The right to life includes also, for example, the necessity to limit infant mortality, to fight against starvation, epidemics, killings by criminals as well as members of the police forces, and involuntary

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1. Procedures for the protection of Human Rights have been implemented in the U.N. Human Rights Commission, the Human Rights Committee, the European Commission and the European Court of Rights and other bodies.

disappearances.

It is very interesting and important to note that the Human Rights Committee, established under the International Covenant on Civil and Political Rights, has elaborated two general comments on Article 6.²

In the first of these comments, adopted in 1982, the Committee concluded that it is the highest duty of states to prevent wars, acts of genocide and other acts of mass violence, which lead to arbitrary deprivations of life.³

This means that under contemporary international law, war contradicts not only the principle of non-use of force, but the right to life as well. Hence, those who unleash aggressive wars violate not only the prohibition of use of force in international relations, but Article 6 of the Covenant on Civil and Political Rights as well.

In 1983 the Committee, adopting the second general comment on Article 6, further developed the understanding of the right to life. "Obviously, elaboration, testing, production and deployment of nuclear weapons presents one of the most serious dangers to life, which humanity confronts nowadays." The Committee concluded that "production, testing, possession, deployment and use of nuclear weapons should be prohibited and recognized as a crime against humanity."⁴

Hence, not only the use of nuclear weapons, which in any case is contrary to international law because of the so-called humanitarian law, but even its production, possession, testing and deployment should be regarded at least as a threat to the right to life. In this case, it is not a threat against the life of some individuals, but against millions of human beings. This is why one can conclude that in contemporary international law, there is appearing in embryo, at least, the right of humanity to life and to survival.

So, one can see that international law is turning, though slowly and insufficiently, not only towards individuals but also towards humanity as a whole. I think that such trends in the development of international law show that problems of these two extreme social subjects — those of every individual and of humanity as a whole — are acquiring special significance.

Indeed, a society where every human being is not free, where rights and freedoms of all men and women are not ensured, cannot be a free society. This means that protection of human rights is one of the global problems challenging all nations.

On the other hand, emergence of such global dangers as the threat of nuclear holocaust, environmental crises and intensification of the interde-

2. Article 6 is the only article to which two general comments are devoted.

3. International Covenant on Civil and Political Rights, G.A. Res. 2200 A (XXI), Add. 1, 21 U.N. GAOR Supp. No. 16 at 52, U.N. Doc. A/6316 (1966).

4. *Id.* at Add. 4.

pendence of people, makes the center of our concerns the protection of humanity as a whole.

International law does not reflect sufficiently these tendencies, especially as to the protection of humanity against global threats.

The threats of nuclear holocaust and of environmental catastrophe are challenging not only individual human beings but also entire states and their populations. Every human being is mortal. Many states and even populations have disappeared also from the world. Is it humanity's turn now? Has humanity lost its immortality?

An answer to this question depends mainly on the behavior of humanity itself, on its ability to realize its unity and to behave accordingly. Everybody, jurists especially, has to contribute in order to ensure not only the right to life and the right of states and peoples to existence, but also the right of humanity to survival. The right to survival is the "normative expression of the main shared value of humanity — life of every human being, of every nation and of humanity as a whole." This value must have priority over all other values and interests.

It is understandable that when the existence of humanity as a whole was not challenged by global threats, when natural disasters or wars in one part of the world did not affect other parts, there was no need for such a right as the right to survival. Legal protection is needed when there is a real threat to certain values or interests. There is no doubt that dangers to the survival of humanity do exist, and as a consequence of the emergence of threats, protection against them is needed. International law has its role to play in this protection.

The right to survival as a natural right of humanity is a result of the natural striving for self-preservation of human beings. For its implementation, it is necessary to have adequate rules in positive international law. As I have mentioned before, there are already certain norms in embryo but implementation of this right calls for radical changes, not only in the normative structure of international law but also in international mechanisms and procedures.

There are treaties on environmental protection, on the limitation of the arms race and disarmament,⁵ and there are prospects for concluding a treaty on the fifty percent reduction of strategic nuclear weapons of the USSR and the U.S. I would say that these domains of international law are less developed than most of the other branches, or at least, the level of development is not adequate to the importance of these fields of legal regulation.

These are global problems which pose a threat to all of humanity. For their solution, efforts by all of humanity are needed. I would like to emphasize — *by humanity* means not only by all states or governments, it means that all men and women, their national and especially interna-

5. Among them such an important treaty as the INF Treaty.

tional organizations and movements can and must make important contributions to the solution of global problems.

There are some rather influential nongovernmental organizations (NGOs) which are already contributing to the solution. For example, Greenpeace in the field of environmental protection and other movements of "greens." Amnesty International and other NGOs deal rather effectively with human rights questions. The International Association of Physicians has made an important contribution to the struggle against nuclear holocaust. Every one of us believes that our organization will do no less than the aforementioned NGOs.

As a member of the U.N. Human Rights Committee, I can assess the contribution made by NGOs in the domain of human rights protection. I would say that it is difficult to overestimate this contribution. Such cooperation between NGOs and intergovernmental organizations is needed in the solution of all global problems because these are problems and concerns not only of all governments, but of every individual person and all of humanity.

I am sure that in order to resolve all these global problems, including the elimination of thermonuclear weapons, a new vision of the world is necessary. No doubt, after the resolution of these global threats we shall face new ones.

In the contemporary world, the main social contradiction is not the contradiction between capitalism and socialism. The basic contradiction in today's world, which should become the main driving force in the development of the world society and in the creation of its unity, is the contradiction between global threats to humanity and its desire to survive. Of course this unity will not be without contradictions. It is necessary to get rid of old dogma posing the East against the West, socialism against capitalism. What is needed is not the search for differences but for problems and interests which are common to us. It is one of the main ideas of the new thinking in the Soviet Union. I believe *perestroika* in the USSR and in other socialist countries and the renovation of socialism will contribute greatly to the restructuring of the world society. Another condition necessary for the resolution of global problems is the openness of states and societies to each other. It is necessary not only to get rid of "iron curtains," but to work together to create a global civil society; as some international lawyers and political scientists call it — a coming global civilization.

In changing the world, states, NGOs and other social forces will elaborate necessary legal and political norms, create adequate international mechanisms and procedures which will ensure the resolution of global problems and guarantee the survival of humanity.

The road of radical progress in the elimination of nuclear weapons is blocked by the nuclear deterrence doctrine and its rather influential advocates. It is impossible to prove that this doctrine is correct. However, the practical proof of its insolvency is also impossible; for proving it

would mean nuclear disaster.

I do agree with E. Meyrowitz that the nuclear deterrence doctrine does not take into account the inherent instability and fragility necessary for nuclear deterrence.⁶ To follow this doctrine would mean a continuing nuclear arms race, lack of confidence between states and a much greater possibility of an unsanctioned nuclear conflict.

However, the people who do not believe in nuclear deterrence and who are trying to rid the world of this mass destruction weaponry should not limit themselves by demonstrating the weak points, immorality and lawlessness of the doctrine. We, lawyers from different countries following different ideological concepts, should jointly begin working out a positive and convincing answer to the advocates of nuclear deterrence, especially to those who candidly believe that the Third World War has not taken place due to the existence of nuclear weapons. If we are to find a convincing answer to the question which guarantees mechanisms and procedures that can make nuclear deterrence a senseless idea in the eyes of soberly thinking people, this should be done jointly by the lawyers of various countries. The combined efforts of not only lawyers, but of political scientists, historians, economists and representatives of other branches of knowledge are necessary.

A political and legal model of a nuclear free world should be the result of such efforts because it is impossible to just eliminate nuclear weapons without a radical restructuring of international relations. The world was nuclear free before 1945. It was the "pre-nuclear world" but it was not at all peaceful. Consequently, the post-nuclear world should be considerably different from the pre-nuclear world.

Taking into account the fact that political and legal models of a nuclear free world can be worked out only by joint efforts, I would like to share with you some ideas on the outline of such a world.

This is going to be a world where sovereign states will remain major actors in the international system. But the factor of their interdependence and the need to proceed from the priority of universal human values and interests over national or class interests while determining their policy should be manifested both in international law and, naturally, in the behavior of states. The world community progresses from the unilateral dependence of some states on other states to the universal interdependence of nation-states. In the classical international law of "civilized" nations, this was reflected in the norms of colonial dependence and right of states to war (*jus ad bellum*) via the struggle for independence. In contemporary international law, this fact is reflected in the principles of sovereign equality of states, the right of self-determination and other norms.

6. Meyrowitz, *Strategic Arms Negotiations: A Critical Reassessment Panel Discussion* — *Transcript Excerpts*, 16 N.Y.U.J. INT'L L. & POL. 673, 679 (1984).

In the present-day world, interdependence should manifest itself, in particular, in a voluntary limitation of the sovereignty of states based on reciprocity for the benefit of international mechanisms aimed at ensuring the considerations of universal human interests in the behavior of states. While exercising their sovereignty, the states should, for their own and mutual good, reciprocally limit their sovereign rights. At present, when states take international obligations upon themselves, as a rule, they are striving to remain judges in their own cases, most frequently unilaterally and ultimately solving the problems of interpretation and observance of obligations taken. In the future, various international control mechanisms preventing internationally wrongful acts and resolving disputes should become a natural accompaniment of the international obligations of states. In a nuclear free world, there should function powerful international mechanisms ensuring control over the observance of obligations taken by states. The mechanisms should be capable of contributing to the prevention of violations of the norms of international law. I would say that a strong preventive diplomacy based on norms of international law is needed. A greater role should be played by the obligatory procedures of peaceful resolutions of international conflicts.

Though states should remain the main actors of the international system, international NGOs should be active participants of the international legal process. Further democratization of international relations presupposes the unconditional right of every person to the free choice of their destiny without any external interference and the participation of individuals themselves in the international legal process through their representation in various public organizations.

Most world conflicts were not due to the ideological, economic or cultural differences between and among states, but rather to the efforts of some states to spread their ideological, economic or political systems to other states. I should add, that the Soviet state was also not free from such attempts; however, in the contemporary world, such attempts will be viewed as leading toward the annihilation of humanity. What is equally important, the diversity of the world, is not an obstacle to reaching its golden age. Quite to the contrary, its viability depends on its cultural, economic and even ideological diversity. Only in such a world is mutual enrichment of national societies possible. A genuine tolerance of other ways of thinking and living is needed.

Nuclear disarmament demands a much deeper cooperation in economic, environmental and humanitarian spheres. A higher degree of mutual trust should exist among states and nations. This means openness and predictability in both foreign and domestic policy, strict observance of the norms of international law, to say nothing of the inadmissibility of a violation of the obligations taken by states. States should resist using, allegedly in their interests (I doubt that this actually can be in anyone's interest), the vague and debatable provisions contained in the principles and norms of international law.

We, the organization of lawyers, can contribute to the elimination of

such vague provisions. The advisory opinions of the International Court of Justice should be used on a wider scale for this purpose.

Unlike previous epochs, World War I and, above all, World War II have determined that there are no victors in wars because often a victor loses as much as a loser. Even a conventional war in some regions of the world today (in Europe, for instance) could mean the end of civilization in such regions. The higher the development of civilization, the more interconnected is the world, and the more destructive for the world is any violence. However, this objective reality is far from being fully understood. From the point of view of norms, such an understanding should be reflected (e.g., in the acceptance of the principle of the non-use of force or threat of force in international relations as *jus cogens*). This claim, then, should never be admissible, under any pretext, for unilateral military action across national borders. Self-defense is admissible only in the case of a direct armed attack.

Some limitations imposed by international law (e.g., a prohibition on interference in the internal affairs of other countries or the use of force in international relations as well as other such regulations), are of great importance for the defense of sovereignty of the states whose internal affairs have been interfered with by another state. The observance of such a ban is also in the best interests of those states whose internal affairs have not been interfered with by another state as well as those states who are prepared to use force in the international arena. In the present-day interdependent world, a ban on the use of force by State A against State B secures not only the interests of State B but of State A as well. On the basis of reciprocity, it also bans the use of force against State A. This ban is for the benefit of State A as well because of the fact that it is blocking the way for international political escapades which are against the interests of any nation.

The elimination of nuclear arms is a difficult task. The road is blocked by political, economic, ideological and psychological factors. The realistic possibility of the establishment of a nuclear-free world is above all seen in the fact that there is no other alternative to such a world. The only alternative is totally inadmissible because it could ultimately lead to a nuclear disaster and the self-destruction of humanity.

