I. Prerequisites of Statehood Revisited

Traditional International Law devoted much attention to the concept of territory, to which it ascribed a central and key position among the prerequisites of statehood. The territorial State was, in fact, regarded as the cornerstone of the juridical construction of the international order which emerged from the peace of Wesphalia in the XVIIth century, and evolved ever since. It is thus not surprising that the chapter pertaining to territory was one of the most overworked in the past. Of the prerequisites of the State as an international juridical person, it was certainly the one which was more extensively dwelt upon in the past. But as time went on, it became apparent that such an outlook was bound to become not fully satisfactory to the demands of contemporary international life, with a shift of emphasis onto the conditions of living of the population everywhere.

In any case, no one would question that respect for State territory and its frontiers is and remains crucial for the maintenance of international peace. State territory, once established or consolidated, came to be regarded as standing \textit{erga omnes}, thus giving foreseeability and stability to the conduction of international relations. But nor would one question, in a distinct line of thinking, that control by means of the territorial jurisdiction of the State has been much reduced by the impact of scientific and technological developments, and nowadays issues susceptible of strictly territorial solutions have tended to diminish.\footnote{L. Dembinski, “Le territoire et le développement du droit international”, 31 Annuaire suisse de droit international (1975) pp. 121-152.}

The current revitalization of the foundations of International Law, with the emergence of new concepts (such as that of universal jurisdiction, among others), seems to make abstraction of classic spacial (territorial) solutions, shifting the emphasis to the pursuance of common, universal goals (such as the realization of justice), to the benefit of human beings everywhere. This in no way erodes the norm of general international law whereby each State member of the international community is under the duty to respect the territorial integrity of the other States.
This duty counts on judicial recognition, and, as correctly recalled by J. Barberis, the norm it ensues from “does not derive from the legal nature of the territory of the State”, being rather a general norm of the law of nations itself. But while in traditional doctrine considerable attention was devoted to such aspects as acquisition and loss of territory, the fate of the populations living therein did not received equal treatment or care. Only in the XXth century, with the creation of the minorities and mandates systems (in the League of Nations era), and of the trusteeship system (at the beginning of the United Nations era), attention was gradually drawn also to the condition of the populations inhabiting those territories.

In the light of such new developments, – e.g., under chapter XI of the U.N. Charter, – in the mid-XXth century Charles de Visscher referred to “les fins humaines du territoire”, in pursuance of human interests and aims. In identifying the “fins d’humanité” of the territories placed temporarily (until independence) under the trusteeship system, he thus referred to the passage from the colonial past to the new ideas of emancipation, of the XXth century:

“Non seulement le territoire n’est ici susceptible d’aucune appropriation étatique, mais il est inséparable de la mission qui justifie l’autorité tutélaire (...). Le mandat (...) a été créé dans l’intérêt des habitants du Territoire et de l’humanité en général, comme une institution internationale à laquelle était assigné un but international: une mission sacrée de civilisation”.

Attention was gradually being turned not only to State territory, but also to the population, living not only within States but also in territorial entities other than States. It gradually became clear that the State was not a permanent entity in international intercourse, as there were other forms of international or internal organization that the international order took cognizance of. The aforementioned minorities and mandates systems much contributed to shifting attention to the rights of persons and peoples emanating from the law of nations.