Chapter XIV Conceptual Constructions: The Right to Peace and the Right to Development

I. The Formulation of the Right to Peace in International Law

The search for peace, and the construction of the right to peace, have historical roots that become notorious with the projects of perpetual peace of the XVIIIth century, such as those of Saint-Pierre (1712) and of I. Kant (1795). Yet, such projects proved incapable to date to accomplish their common ideal, precisely for laying too heavy an emphasis, in their endeavours to restrict and abolish wars, specifically on inter-State relations, overlooking the bases for peace within each State and the role of non-State entities. It may appear somewhat surprising that the search for peace has not yet sufficiently related domestic and international levels, this latter going beyond a strictly inter-State dimension. Recent attempts to elaborate on the right to peace have, however, displayed a growing awareness that its realization is ineluctably linked to the achievement of social justice within and between nations.

1. Elements of the Right to Peace in International Law

The conceptual construction of the right to peace in International Law has antecedents in successive initiatives taken, in distinct contexts at international level, along the XXth century. Elements provided by Public International Law of relevance for the acknowledgement of the right to peace can be found in the 1928

1 The project of Kant (cf. I. Kant, *Sobre la Paz Perpetua* [1795], 4th. ed., Madrid, Tecnos, 1994, pp. 3-69) at least sought to establish a link between inter-State and the internal constitution of each State. On the insufficiencies of the classic endeavours to abolish wars *sic et simpliciter*, cf. G. del Vecchio, *El Derecho Internacional y el Problema de la Paz* (Spanish edition of the original *Il Diritto Internazionale e il Problema della Pace*), Barcelona, Bosch, 1959, pp. 51-52, 62-64, 67 and 121-123.


The 1974 Charter on Economic Rights and Duties of States in fact acknowledged the States’ duty to coexist in peace and to achieve disarmament. Other international instruments have done the same. It has been argued that the right to peace entails as a corollary the right to disarmament; attention has in this respect been drawn to the fact that limitations to, or violations of, the rights of the human person have often been associated with the outbreak of conflicts, the process of militarization and the expenditure of arms (especially nuclear weapons and other weapons of mass destruction), which have often led to arbitrary deprivation of human life in large scale. International Law, moved ultimately by

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Endeavouring to overcome the dangerous system of the equilibrium of forces by condemning war as an means of settlement of disputes and an instrument of foreign policy, and heralding the new system of collective security and the emergence of the right to peace; J. Zourek, L’interdiction de l’emploi de la force en Droit international, Leiden/Genève, Sijthoff/Inst. H.-Dunant, 1974, pp. 39-48.


Articles 26 and 15, respectively.

For example, references to the right to peace and disarmament can be found in the 1982 World Charter for Nature (preamble, par. 4(c), and Principles 5 and 20).