

THE RIGHTS OF SOLIDARITY – THE THIRD REVOLUTION OF HUMAN RIGHTS*

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Introduction

One of the most outstanding features of contemporary international relations is the dynamic, multidirectional and multidimensional development of human rights and their protection. This development finds its reflection, on the one hand, in a trend to strengthen and extend the established substantive legal standards with their implementation procedures, and, on the other hand, in a tendency to promote and draft new human rights. Both trends, particularly the latter, may be generally explained as a result of scientific and technological developments with their advantages and threats, increasing economic and social progress, emerging new human needs and aspirations, and globalisation (internationalisation) of crucial human problems. Against this background, one is faced, for several years, with attempts to promote different new human rights.¹

Within that group attention should be paid to a coherent concept of the so-called rights of solidarity or the third generation of human rights.² It tends to ensure the protection of human values of a more global character which are not comprised by the preceding generations or groups of human rights. As an attempt to establish new human rights, the third generation is considered to be complementary to, and in the continuance of, the existing human rights codified in legally binding instruments.

The substance and scope of the new human rights generation presupposes so vast and deep transformations of the international community, that it may be regarded as a revolutionary step. The leading purpose of this article is to assess whether, and if so to what extent, the concept of new generation constitutes a startingpoint of the next, third revolution in the field of human rights. However, before examining this contention, it seems desirable, for both substantive and methodological reasons, to recall briefly the main features of preceding generations of human rights.³

For purely classificatory purposes one may refer to the following generations and turning-points of human rights:

- 1) civil and political rights (jointly called classic rights) as a result of the first revolution.
- 2) economic, social and cultural rights (jointly called social rights) as a result of the second revolution; and
- 3) rights of solidarity as a projected result of the third revolution.

The civil and political rights are historically the first group of human rights which evolved principally as a consequence of progressive struggle, inspired by liberal traditions, against the injustice of feudal system. The economic, social and cultural rights, on the

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other hand, emerged under the influence of socialist, tradeunion and Christian movements and their socio-political ideas as a reaction to atrocious consequences of the imperialist stage of the capitalist system. Both groups of human rights had been initially recognised within national legislations, though historically in different epoques, and their internationalization started scarcely after the World War II by adoption of the Universal Declaration of Human Rights in 1948, two International Covenants in 1966 and a number of other instruments. In order to pass over from political and social rights to a new generation, it is advisable to refer to strictly legal criteria for the needs of our further considerations.⁴

The legal subject of both classic and social rights is the human being. Except from a few strictly collective rights (e. g. rights of peoples or minorities), they are in principle vested in everyone as individual rights. In the course of their application, however, they both imply to be, at least to a certain degree, of collective dimension because their enjoyment would not be effective in a social isolation.

The object of classic and social rights is essentially different and refers to civil and political ideals and freedoms, and to economic, social and cultural needs, respectively. The classic human rights protect fundamental human values which are the foundation of justice and democracy. The social rights, on the other hand, extend the scope of legally protected human values to include basic economic, social and cultural demands in terms of minimum standard rules. Hence, the second generation constitutes an attempt to adapt and apply the principles of equality, democracy and justice to the sphere of socio-economic human needs.

Human rights of both generations are equally opposed, that is to say, addressed as claims to states (governments) but there is a major difference as to the ways of enforcing them. The civil and political rights are often described as rights-attributes (*droits-attributs*), respect for which requires abstention by states from violating and infringing them. This feature of passive or negative approach by states is to some extent a simplified explanation because abstentive conduct should be, undoubtedly, supported by active policy of states to ensure also the efficient infrastructure for realisation of civil and political rights (e. g. institutional and other guaranties).⁵ Nevertheless, that predominantly abstentive conduct of states may be successfully applied to show that social rights as rights of credit (*droits de créance*) require, on their part, prevailing active and positive steps by states to ensure their enjoyment to the extent determined by available national resources. This basic difference explains manifestly why classic rights, if alleged to be violated, may be, in a democratic society, exercised by resort to mainly judicial remedies, whereas this is not usually the case for social rights which may be claimed to be implemented by other means.

Having briefly outlined the features of both generations, it may be concluded that they demonstrate some similarities with respect to their subjects and opposing character on the one hand, and essential differences concerning their objects and ways of implementation, on the other. Further examination of solidarity rights will be discussed below with reference to the same criteria.

Basic Assumptions of the Third Generation

The idea of the next generation of human rights has been launched as a theoretical concept by the distinguished French lawyer Karel Vasak. He has developed the idea during several

years from a basic concept to an advanced conception. The idea of a new generation is to serve not only purely theoretical purposes but also, as closely related to the latest progress in international relations, it tends to be a synthesis of new human aspirations and an attempt to define desirable directions of the human rights development.

The first outlines of the concept of solidarity rights were formulated, as it seems, in 1972⁶ within a proposal to recognise the international law of human rights as a separate branch of international law.⁷ In a form of more integrated and advanced conception it was presented in his inaugural lecture at the Tenth Study Session of the International Institute of Human Rights in Strasbourg in 1979.⁸ In his original version of this concept a new category of human rights was proposed to be called as the rights of solidarity. In a later period a notion of the third generation of human rights was introduced following a proposal of the Director General of UNESCO A.-M. M'Bow.⁹

According to K. Vasak, the rights of solidarity express a new conception of national and international life of the human community. Their realisation presupposes common and solidary efforts of all the actors of our social life. These goals and their determinants are reflected by the contents of new human rights. The initial Vasak's proposal comprised the right to a healthy environment, the right to pure water and pure air, and the right to peace.¹⁰ There are sufficient reasons to suppose that subjective and objective features of the right to peace and environmental rights gave a foundation and inspiration for the very concept of solidarity rights. In his Strasbourg lecture he further extended the catalogue, based on his latest research and ideas, and proposed the following human rights of solidarity:

- 1) the right to development (le droit au développement),
- 2) the right to peace (le droit à la paix),
- 3) the right to environment (le droit à l'environnement),
- 4) the right to property over the common heritage of mankind (le droit de propriété sur le patrimoine commun de l'humanité),
- 5) the right to communicate (le droit de communiquer).¹¹

The human rights of the third generation have not yet been internationally established in terms of binding legal rules, however, some have found clear recognition in international instruments, amongst which the most advanced state represents the African Charter on Human and Peoples' Rights of 1981, which is not yet in force. Before examining individually the law-making development of new human rights, it should be recalled that K. Vasak suggested, in his initial comments, that future codification of solidarity rights might be easier than those of the preceding generations. He assumed that, as a result of apparent preference of the Western countries for the classic rights, and of the socialist states for the social rights, both categories of human rights were of a strong "political coloration". In his view, the rights of solidarity are free from political implications as demonstrating basic requirements of social life, and their political substance is therefore strongly reduced.¹² As far as the assessment of political background of the new generation is concerned, there has also emerged a view that rights of solidarity seem to be particularly supported by developing countries who attempt to find in this way new channels for realisation of their vital aspirations.¹³ These views seem, however, contentious to be shared entirely, but any final verifications and conclusions must be preceded by more detailed consideration of the rights in question.

To sum up it may be concluded that solidarity rights manifestly prove their differences in comparison with preceding generations. These dissimilarities involve mainly the structure of subjects and objects which by their very nature determine the specificity of their opposing character and means of implementation. Consecutive generations of human rights lay special emphasis on different human values. The first generation reflects rights of freedom, the second one rights of equality and the third one rights of fraternity and solidarity.¹⁴ According to K. Vasak, this attractive reference to the ideological triad of the French Revolution remains in conformity with the United Nations' conception of indivisibility and complementarity of all human rights.

The right to development

The human right to development belongs, no doubt, to the most dynamically promoted rights of new generation. Sociologically speaking, the sources of the rights to development are deeply rooted in the political, economic and humanitarian argumentation accompanying the post-war process of decolonisation. However, despite considerable progress in the decolonisation, it has been proven that disparities between the developing and developed countries are still increasing. Thus, attention has been turned towards broader than solely domestic reasons of underdevelopment and backwardness of newly independent states. Against such a background, demands to establish a more just international economic order have emerged. The right to development itself is an attempt to adapt the development questions in their not only economic but also political, social and cultural dimensions to the system of international protection of human rights. The right to development as a human right, inspired to some extent by modern concept of the international law of development, may not be identified with the latter.¹⁵

Theoretical concept of the right to development had been proposed by the distinguished Senegalese lawyer Keba M'Baye in his lecture at the International Institute of Human Rights in 1972.¹⁶ According to him, the right to development refers subjectively to collectivities and through them to individual human beings, whereas objectively it covers development questions as a whole on both national and international planes. Among advocates of the right to development there is a difference of opinions concerning the legal basis. Some are convinced that the right to development may be deduced from several international instruments, and thereby it already exists as a valid rule of international law.¹⁷ Opposite view held by others is that the right to development is a "binding" rule but of an ethical character and nevertheless should be recognised in the legal sense.¹⁸

Basic arguments of the advocates representing the first group of views are traced back to the provisions of the United Nations Charter on the international economic and social co-operation (chapter IX). Under Art. 55, this co-operation strives for the "creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples". To achieve these goals, the United Nations shall promote "higher standards of living, full employment, and conditions of economic and social progress and development", "solutions of international economic, social" and other related problems, and "universal respect for, and observance of, human rights and fundamental freedoms for all". For the accomplishment of these interdependent purposes, the UN members "pledge themselves to take joint and separate action in co-operation with the Organization" (Art. 56). The substance of these provisions emphasizes close links between peace

and socio-economic progress on the one hand, and universal observance of human rights, on the other. Nevertheless, these rules establish programmes and objectives to be achieved through international co-operation rather than a separate human right. Therefore, chapter IX is not sufficient legal basis to proclaim the right to development.¹⁹

Closer links of development and human rights reflects the Universal Declaration of Human Rights of 1948 even more. That leads to two observations: first, the Declaration reaffirms the obligation of respect for human rights as an essential prerequisite of the free and full development of human personality (cf. Art. 22, 26 and 29); second is that the Declaration may be recognised as a first symptom of approach which is typical of new generation. Namely, Art. 28 of the Declaration provides that: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized". Consequently, this provision not only implies that full realisation of human rights depends upon the global environment described as "social and international order", but it goes further and establishes, in fact, a new human right ("Everyone is entitled to . . .") as a kind of "supra" right.

Some essential elements of the concept of the right to development can also be found in the International Covenant on Human Rights of 1966. A particularly important aspect of the Covenants is recognition of the principle of self-determination in a strict connection with human rights.²⁰ Both Covenants in Art. 1 provide that: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development". It is thus beyond any doubt that self-determination is a fundamental condition of development, and the right to development constitutes a natural extension and exemplification of the right to self-determination. Reference should also be made to a large number of provisions reflecting more detailed aspects of interdependence between development and human rights (e.g. Arts. 4, 6, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights). As a part of positive international law since 1976, the Covenants contribute successfully to a view that the right to development might be interpreted, though not deduced from them, as a synthesis of a few already established human rights.

A new stage of human rights promotion was initiated by the International Conference on Human Rights held in Teheran in 1968. The Proclamation of Teheran declared the principle of indivisibility of all human rights and pointed out that progress in their implementation "is dependent upon sound and effective national and international policies of economic and social development" (para. 13). The ideas of the Teheran Conference had a profound impact on the Declaration on Social Progress and Development, adopted by the UN General Assembly in 1969. Recalling the fundamental human aspiratio of achieving a just social and international order, the Declaration has linked this objective with the need to accelerate social and economic progress which are "the common concerns of the international community" and should supplement national efforts by "concerted international action" (Art. 9). Several other detailed provisions afford creative grounds for promotion of new human rights with regard to development, peace, environment, information and common heritage of mankind.²¹ This leads to a conclusion that the Declaration is one of the significant political and ethical inspirations for a new generation of human rights. It may be concluded that the inspirative role of the Declaration on Social Progress and Development for the promotion of solidarity rights will prove to be similar to that of the Universal Declaration of Human Rights.

Controversies on the legal basis of the right to development divided members of the UN Commission on Human Rights in the course of the debates on the question of realisation of the economic, social and cultural rights. At the thirty-third session of the Commission in 1977 several speakers deduced from certain international instruments "the existence of a specific right to development". As this attitude met with strong polemics it was agreed, however, to invite the Secretary-General to undertake a comprehensive study of the right to development.²² The study, published in 1979, takes the contentious position that "there is a very substantial body of principles based on the Charter of the United Nations and the International Bill of Human Rights and reinforced by a range of conventions, declarations and resolutions which demonstrates the existence of a human right to development in international law".²³

This report was next submitted to a discussion at the Commission's session in 1979 and had found a generally favourable reception among the members. Most speakers agreed that it was required that man should be the subject of development and not the object. There was also a majority on the objective scope of right to development, including components of political, socio-economic and cultural character. It was also stated that the right to development should be applied to both individual and collective holders. This discussion led to the official recognition, though in terms of soft-law only, of the right to development by virtue of Resolution 5 (XXXV). The Commission has reiterated that "the right to development is a human right and that equality of opportunity for development is as much a prerogative of nations as of individuals within nations". In addition, by Resolution 4 (XXXV) the Commission has stressed "the duty of all member States of the international community jointly and severally to create the necessary conditions for the realization of the right to development". And moreover, Resolution 4 requested the Secretary-General to follow-up his report with a study on the regional and national dimensions of the right to development.²⁴

This study emphasises a wide and diversified range of obstacles for implementation of the right to development on national and regional levels, taking into account particularly the barriers encountered by developing countries in their efforts to secure material and non-material aspects of that right. Among many detailed conclusions of the study, it should be pointed out that the militarization and arms race have been recognised as essential obstacles for successful realisation of the right to development, and the high importance of the popular participation of individuals and collectivities in that process has been acknowledged.²⁵

The promotional action of the UN Commission on Human Rights with respect to the right to development has been significantly strengthened by resolutions of the General Assembly, thereby reinforcing and attaching to them more universal and greater importance. This is the case of, for example, the General Assembly Resolutions 34/46 of 1979 and 36/133 of 1981 which declare moreover the right to development as in "inalienable human right".

A new stage of promotion of the right to development was initiated by Resolution 36 (XXXVII) of the Commission of March 1981 under which the Working Group of Governmental Experts had been set up to study "concrete proposals for implementation of the right to development and for a draft international instrument on this subject". During the course of the initial debates, the Working Group considered the scope and content of substantive components with the aim to identify them as the basis of final drafting. There was

a striking degree of consensus on the advisability of preparing a declaration, however this should not preclude the possibility of drawing up a more binding instrument at a later stage.²⁶ Having decided upon the guidelines, the Working Group submitted to the Commission the first draft which only registered different, sometimes contrary, proposals by the experts. Such a compilation of draft provisions, the absolute majority of which was placed in square brackets, reflects deep divergencies of experts' attitudes.²⁷ Nevertheless, considerable progress has been demonstrated by the Working Group which reached a useful consensus by preparing, in 1983, on the basis of its previous draft, a "technical consolidated text".²⁸

The latest draft shows a clear progress by defining the holders of the right to development. The compilation draft of 1982 reflected a priority to the collective dimension of the right to development, whereas the consolidated text avoided such a danger and attempted to redress balance between collective and individual dimensions. But there is an even more fundamental turn to be emphasized, namely that the consolidated text has deleted the regrettable proposals of the compilation draft providing that within collective dimension the holders of the right to development might also be states.²⁹ If one is to follow reasonably the idea of the right to development as a human right, then placing states as subjects introduces a great confusion. Attempts to qualify states as holders of human rights are highly controversial and inconsistent, as it weakens and undermines generally accepted vertical relations between individuals with their collectivities and states in the exercise of human rights. States are to be the entities towards which claims are addressed. That possibility would be seriously reduced when states themselves would be placed as holders of human right to development which, as a synthesis of some established human rights, might open doors to putting human beings on an equal footing with states in this respect. The right to development should remain a privilege of human beings while determining relevant duties of states. Without any prejudice to these critical comments, it seems however necessary to recall that states enjoy the right to development but as a right of a state, and not as a human right.³⁰

The consolidated text affords progress also in defining the objective elements of the right to development. However, two points should be raised. First, the object is broadly referred to by different aspects of human development in their national and international dimensions. Secondly, the substance of the right to development has been drafted in closer connection to both preceding generations of human rights which, if not observed, constitute obstacles to the right to development. This concept of an "inter-generational bridge" should admittedly be of an extreme importance in order to avoid any isolation of new human rights from the system of international protection of human rights as a whole.

The latest version of the draft declaration provides for rules concerning measures to be adopted for realization of the right to development. However, an apparent deficiency of the consolidated text is the absence of any implementation clauses. One can therefore expect that it would be remedied. Although the declaration is drafted as a non-binding instrument, it is conceivable to have provisions requiring periodical reports of states and international organizations relating to progresses and obstacles of the implementation process of the right to development.

In parallel to promotion of the right to development on the universal plane, significant developments have occurred within certain regional systems. The first deserving mention is the adoption of the African Charter on Human and Peoples' Rights in 1981 which in Art.

22 provides: “All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind” (para. 1) and “States shall have the duty, individually or collectively, to ensure the exercise of the right to development” (para. 2).³¹ It should be observed that the Charter has given clear priority to collective dimension of the right to development (“All peoples . . .”), thus unbalancing the subjective formula to the detriment of individual dimension. However, it is too soon to say what will be the practical results of that preferentially collective approach within the implementation procedures of the Charter. A particularly important aspect of this treaty is that states have been excluded from substantive notion of holders, and their position is manifestly described as duty-bearers of the right to development. Another striking element is a broad formulation of the object of that human right. These brief comments lead to the conclusion that the Charter has been conceived in a spirit which can generally be commended, especially that this instrument will play, and already plays, a piloting role in the further promotion of the right to development.

The second regional organization in the framework of which attention has been paid to that matter is the Council of Europe. The Council has considered and expressed its conducive attitude, though not without reservations to the promotion of the right to development, and established the guidelines of policy-conduct within the general question of development and human rights.³²

In summary it may be said that the right to development has been formally recognised by resolutions of the UN Commission on Human Rights and, then, of the General Assembly, and on a regional plane by the African Charter. According to the UN instruments, the right to development has not been established by them but merely reiterated as an inalienable human right. However, it remains unanswered whether such reaffirmation, based partly on valid treaty rules, is tantamount to the binding character of the right to development. Whatever doubts may arise, the right to development requires further efforts to elaborate it precisely. The consolidated text, submitted to the Commission on Human Rights at its 1984 session, seems to be a step in the correct direction.

The Right to Peace

Peace is one of the most fundamental and universal human values. Maintaining international peace and security is a crucial purpose of the United Nations. The inter-relationship of this aim with universal observance of human rights is enhanced in Art. 55 of the UN Charter. The Universal Declaration of Human Rights and International Covenants also remain under the influence of these interdependences. Meaningful emphasis on that link is one of the contributions of the 1968 Teheran Conference which recognised peace and justice as “indispensable to the full realization of human rights and fundamental freedoms”. The Declaration on Social Progress and Development further emphasizes this point (preamble and Art. 3).

Another kind of argumentation for a concept of the right to peace is deduced from interpretations of the right to life which has been reaffirmed by Art. 3 of the Universal Declaration and Art. 6 of the International Covenant on Civil and Political Rights.³³ According to this way of thinking, peace is recognised as a fundamental condition of exercising the right to life, and contrary – armed conflicts are the main threat to this right.

For these reasons, the right to peace is sometimes expressed as the right to live in peace or in peaceful conditions.

The connection between peace and human rights, though universally accepted, is apparently insufficient to proclaim the right to peace as such, and therefore, it is necessary to determine its components precisely. Some are incorporated into international law already, for example, the prohibition of use of force in international relations (Art. 2 para. 4 of the UN Charter), the recognition of war propaganda as crime against peace, and others. But the concept of peace, particularly from the viewpoint of human rights, requires not only identification of its negative aspects (prohibitions or restrictions of conduct) but mainly its positive components.³⁴ This assumption is a direct consequence of a generally accepted conviction that peace has not merely a negative connotation of an absence of wars but it also implies dynamic and creative approach of international community to establishing a new world order, in which peaceful infrastructure and awareness would be dominant factors.

The concept of peace in terms of human rights was underlined by the Istanbul Declaration of the Twenty-first International Conference of the Red Cross in 1969 which declared that "Man has the right to enjoy lasting peace". This convergence was raised in discussions on the programme of future activities of the UN Commission on Human Rights in 1975. Representatives of socialist states supported the idea "that human rights had to be viewed in the context of international peace and security" and that they "could not be divorced from the fight against aggression and colonialism and the unlawful occupation of territory by foreign Powers". Such views met, however, with serious objections on the part of some other delegates who pointed out that human rights and "the question of international peace and security were not always linked", and that not all violations of human rights were the result of wars.³⁵

During the next session, these objections were supplemented by an argument that the primary responsibility of the Commission was in the field of human rights and not in the field of international peace and security which fell under the competence of the Security Council and the General Assembly. Despite these divergent views, some agreement was reached in the course of further discussions and Resolution 5 (XXXII) was passed. Paragraph 1 of this Resolution lays down that "Everyone has the right to live in conditions of international peace and security and fully to enjoy economic, social and cultural rights and civil and political rights".³⁶

Consequently, Resolution 5 has become, as it seems, the first international soft-law instrument of the United Nations recognising the right to peace as a human right. During the following years, this question has not been discussed by the Commission as a separate item of the agenda but it has been recalled in connection with such issues as the right to life or the influence of scientific and technological development on enjoyment of human rights. However, closer references to the right to peace have been indicated in the course of discussions on the right to development. This tendency reflects, among others, the Report of the Secretary-General of 1979, Resolution 4 (XXXV) of the Commission on Human Rights and consecutive reports and drafts of the Working Group of Governmental Experts on the Right to Development. Hence, it may be concluded that in the UN Commission on Human Rights the right to peace has almost been relinquished and is slightly promoted without deliberate regularity in the background of, and within, the right to development, which has been given a definite priority to the detriment of the former one.

A significant step contributing to substantive enrichment of the concept of the right to peace is the Declaration on the Preparation of Societies for Life in Peace, adopted by the UN General Assembly on 15 December 1978.³⁷ As a constructive demonstration of establishing the positive components of the right to peace, the Declaration also strengthens the legal basis of this right, as it has been adopted, unlike the Commission on Human Rights, by the principal UN organ, and having received nearly unanimous vote in the General Assembly. The right to peace is expressed by a broad formulation of Art. I/1 which reads: "Every nation and every human being, regardless of race, conscience, language or sex, has the inherent right to life in peace". It is thus evident that under the Declaration the right to peace is drawn up in a wording typical of the new generation, and especially as an individual and collective prerogative.

The subjective and objective dimensions of the right to peace have been slightly modified in the African Charter on Human and People' Rights by referring to more collective entities and including national aspects of peace. Art. 23 of the Charter provides that "All peoples shall have the right to national and international peace and security". However, in view of Art. 2 emphasising the individual character of rights and freedoms enshrined in the Charter, a threat of enhancing the collective dimension of the solidarity rights seems to be, at least partly, reduced.

Nevertheless, the future promotion of the right to peace depends on progress to be achieved as to the precise definition of the subjective and mainly objective components as well as the channels of implementation of that right.

The Right to Environment

A relatively new phenomenon has emerged, linking the ecological questions with the system of human rights. It has contributed to recognition of the environmental protection as an essential prerequisite of respect for, and observance of, human rights, and to the emergence of a right to environment in terms of human rights. The latter is put forward either in a form of detailed environmental rights (e.g. the rights to clean air, water, soil or landscape) or as their synthesis (e.g. the right to healthy and descent environment, to ecological balance, to co-existence with the nature or, generally, the right to environment).

According to some experts, the right to environment belongs to the most developed rights of the third generation.³⁸ This assumption is motivated by the inclusion of that right to several constitutions and its recognition within the United Nations. The number of constitutions proclaiming expressis verbis the human right to environment is not too numerous. Among these one should mention the Constitution of Poland (Art. 71), Spain (Art. 45), Jugoslavis (Art. 192) and Portugal (Art. 66).³⁹ However, the majority of constitutions dealing with environmental matters avoids obvious formulation of the right to environment as a human right focusing mainly on general statements about the need of environmental protection as either one of the functions of state or as a duty of all citizens and state organs. This demonstrates that legislative process striving to establish the right to environment within domestic legal systems might considerably improve the position of individuals, provided that national laws would be able to define precisely the substantive scope of that right and its effective procedural remedies. So far, the struggle for recognition of the right to environment within national legislations has brought less than modest results but, on the other hand, it has significantly contributed to formation of environmentally orientated social awareness and attitudes in this question.

Apart from the national endeavours, the second level of promotion of the right to environment is the international system of human rights, from which origin the idea of this right has penetrated into domestic legislations under the influence of the Teheran Conference and particularly, the Stockholm Conference on the Human Environment of 1972. Recognising positive results of scientific and technological developments for effective application of human rights, especially of social ones, the Teheran Proclamation expressed the possibilities of certain dangers for human beings and their rights and freedoms (e.g. for the right to health and to privacy). Ecological motivations have found their firm reflection in attempts of re-reading international instruments in order to deduce the existence of the right to environment from their substance. Within that tendency, reference is usually made to the right to life as the fundamental human right.⁴⁰ Links between human rights and environment are also raised in the context of the rights of everyone to an adequate standard of living, to the enjoyment of just and favourable conditions of work, to the enjoyment of the highest attainable standard of physical and mental health or other rights provided for by the Universal Declaration and the Covenants.

A common denominator of such endeavours is argumentation that polluted, devastated or unbalanced environment is incompatible with the established human rights, and especially with the rights to life and to health. The very existence of that natural interdependence seems, however, to be insufficient for proclamation of the right to environment as a human right. Nevertheless, the dynamism of these interpretative trends has afforded some remarkable achievements of a promotional character. Thus, the interpenetrations of human rights and environment have been reflected unequivocally in numerous United Nations documents, among which particular importance of the Declaration on Social Progress and Development should be stressed (e.g. Arts. 13 and 15). A threshold value in this respect became the contribution of the United Nations Conference on the Human Environment held in Stockholm in 1972. The right to environment has been proclaimed as the first of 26 principles of the Stockholm Declaration, which reads: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations".⁴¹ Establishing the right to environment as a prerogative to conditions of life in an environment of adequate quality, the Principle 1 implies in fact the need to define a vague notion of "environmental quality" which may be generally understood as a set of minimum quality standards of respective ecological components.

A very promising approach to a concept of the right to environment has been initiated within the Council of Europe. The European Conservation Conference, held in 1970, passed the Declaration proposing to draw up a protocol to the European Convention on Human Rights, guaranteeing the right of every individual to enjoy a healthy unspoiled environment.⁴² The idea of a protocol including the right to environment has come up against some serious difficulties. Attempts to draft the right to environment, within such an advanced and sophisticated system of human rights protection like the European one, have raised controversies whether such adaption, if any, should be applied to the European Convention of 1950 or to the European Social Charter of 1961. The point is not whether the right to environment might be substantively qualified as a political and civil right or as a social right. The difficulty is closely connected with different systems of implementation applied under the Convention and the Charter. In the course of preparatory works aiming

at the extension of a list of human rights protected by European instruments, an option has prevailed to include the right to environment into a draft additional protocol to the Social Charter. One quite striking aspect is that the right to environment has been proposed to be drafted as a sub-right of the right to health.⁴³ However, latest developments prove that the right to environment has not been given neither priority nor special concern. Hence, regional elaboration of that right within the Council of Europe is still at an early stage of development. Another regional approach to promotion of the right to environment represents the African Charter which provides that: "All peoples shall have the right to a general satisfactory environment favourable to their development" (Art. 24).

As mentioned above, there have been certain apparent achievements within national legislation and regional (European and African) systems but it should be noted that on universal level the concept of the right to environment has been practically abandoned. There should be no doubt that both national and regional steps, whatever their present effectivity, must be supplemented by more active implementation of the Stockholm Declaration.⁴⁴ The need for new impetus to a universal action is particularly necessary with regard to, at least, those environment components which are beyond the national jurisdiction (open seas, space, etc.) and to those within it which require concerted international co-operation (e. g. international rivers). Nevertheless, in order to achieve any further success in the promotion of the right to environment in all its dimensions it is required to define both the ecological components and the counterpart procedural remedies.

The Right to common Heritage of Mankind

The idea to link human rights with the so-called common heritage of mankind is based upon increasing recognition of the latter concept in international law. According to the original formulation of K. Vasak, that right has been called "the right to property over the common heritage of mankind" and as such it seems to be unprecise and substantively unjustified. Its formula refers closely to the Roman law concepts of "res omnium civium" and "res communis omnium" as common property of all people which are more relevant to relations within private law. As for the idea of common heritage of mankind, it should not be limited to a question of "property" but to a more comprehensive set of public law principles concerning the use of areas to be qualified the common heritage. As such, they are available for the benefit of all and there should not be access to ownership by claimants. Therefore, to avoid this ambiguity, the term "right to common heritage of mankind" seems to be more adequate.

The right to common heritage of mankind as a human right is in its embryonic stage of development. This is due to the fact that the very concept of common heritage of mankind, as a relatively new idea, has encroached upon international law with serious difficulties.⁴⁵ Following the well-known Maltese proposal within the United Nations in 1967, this concept was reflected in the Declaration of Principles Governing the Sea-Bed and Ocean Floor. The idea was a response to justified fears of unilateral actions of states to appropriate sea-bed areas and their resources for exclusively national use. For these reasons a regime of common heritage of mankind, to be applied to the sea-bed beyond the national jurisdiction, has been proposed as a kind of internationalisation for the benefit of mankind and reflected international solidarity versus egoism of states. Finally, the IIIrd Conference on the Law of the Sea accepted the concept of common heritage of mankind as

to the principle but several detailed questions had become the object of disputes. The Convention on the Law of the Sea, adopted in 1982, proclaimed that "The Area and its resources are the common heritage of mankind" (Art. 136), and consequently "All rights in the resources of the Area are vested in mankind as a whole, on whose behalf the Authority shall act" (Art. 137). In fact, adoption of this principle in the Convention means its international recognition. And moreover, advantages of the conception of common heritage of mankind afford inspirations to promote its extension to other areas beyond the national jurisdiction.

This tendency was reflected in the Agreement Governing the Activities of States on the Moon and Other Bodies adopted in 1979.⁴⁶ In Art. XI para. 1 it lays down that the Moon and other celestial bodies and their resources "are the common heritage of mankind". More controversial are attempts to apply the concept of common heritage to environment as a whole because it would be manifestly incompatible with the principle of sovereignty and territorial integrity of states. This approach should not be, however, unconditionally rejected as it is conceivable to modify it flexibly without menacing sovereign rights of states. Complementary to this reservation may be a remarkable contribution to the idea of common heritage of mankind introduced by the UNESCO Convention for the Protection of the World Cultural and Natural Heritage in 1972. The objects of outstanding universal value (e.g. monuments, architectural works, natural sites etc.) which are qualified under the Convention as the cultural and natural heritage constitute "a world heritage for whose protection it is the duty of the international community as a whole to co-operate" (Art. 6). These principles further oblige full respect for the sovereignty of states on whose territory the cultural and natural heritage is situated and without prejudice to property rights provided by national legislation.

In consequence, the concept of common heritage of mankind has already achieved international recognition with respect to the seabed and celestial bodies, despite the fact that both treaties are still expected to come into force. The world cultural and natural heritage, now based on binding rules, is a modified and functionally limited version of common heritage but nevertheless a very advisable and useful solution.⁴⁷

The expansion and increasing recognition of the principle of common heritage of mankind in its different dimensions has encouraged to cross a bridge between it and the system of human rights. This has been manifested by at least three tendencies. The first is expressed by the emphasis of interdependencies between realisation of human rights and common heritage of mankind. Such an attitude represents the Declaration on Social Progress and Development (e.g. Art. 25b) and the Charter of Economic Rights and Duties of States (e.g. Art. 29). The second is an attempt to entail the common heritage of mankind by the substantive notion of the right to development, with certain indirect references to the rights to peace and to environment. This kind of approach can be identified within promotional activities of the United Nations, and particularly of the Commission on Human Rights. The third presupposes the establishment of a separate human right to common heritage of mankind, as proposed by K. Vasak. The latter tendency has not yet been put into treaty rules. The African Charter of 1981 as the only international convention providing for the common heritage of mankind in terms of human rights demonstrates preference for the second approach. Under Art. 22, the right to development is to be exercised by all peoples with due regard to their freedom and identity and "in the equal enjoyment of the common heritage of mankind". Whatever the future developments of these concepts,

it is not justified to underestimate at least their promotional significance for emphasizing the close links between human rights and modern demands represented by the concept of common heritage of mankind.

The Right to Communicate

The right to communicate has been proposed within the new generation of human rights as a result and continuation of a struggle for freedom of thought and conscience, freedom of expression and press, and freedom of information,⁴⁸ which have been reaffirmed in the basic instruments on the protection of human rights. Deriving from the same sources, the right to communicate is to involve new aspects of communication between human beings at national and international levels.

New inspirations to freedoms of information has brought a concept of the new world information order launched in the seventies with the aim to replace the “free flow of information” by a “new, more just, balanced and efficient flow of information”. It is often argued that the world system of processing and distributing information, mainly based on market patterns, is probably the exclusive domain of a few national and supranational corporations. This has inspired several countries, particularly developing ones, to link their aspirations to strengthen political independence and to preserve cultural identity with efforts to establish a more balanced and equitable distribution of information. These new tendencies presuppose that on the international plane an approach based on policy of “laissez-faire” should be abandoned or reduced.⁴⁹

Questions of the new information order became the subject of official examination within the UNESCO which set up International Commission for the Study of Communication Problems under the chairmanship of Sean MacBride. In 1978, 1979 and 1980, the Commission elaborated and published its reports which provoked a series of polemics.⁵⁰ However, in the course of promotion of new approaches to communication problems, a slight compromise was achieved by, among others, adopting the Declaration on Mass Media in 1978 by the UNESCO General Conference. Although there are still several matters at issue, it should be recalled that from the very beginning of discussions on new information order its substantive aspects have been correlated with human rights both as a contribution of effective realization of the established information freedoms and as an attempt to proclaim the right to communicate. The latter was enunciated by Jean D’Arcy in 1969 and emphasised by, inter alia, the regional intergovernmental conference convened by UNESCO in Costa Rica in 1976, which supported the idea to establish the right to communicate.⁵¹

The final report of the MacBride’s Commission rightly points out that the right to communicate should serve for the benefit of individuals, collectivities and the whole world community. This right is an extension of the continuing advances towards liberty and democracy. In terms of human rights of solidarity, the right to communicate tends to be both a synthesis of several human rights and a tentative to go beyond the traditional information rights. The Commission admits the right to communicate, as being a far from well-established principle and “has yet to receive its final form and its full content”.⁵² Whatever the future prospects, the right to communicate necessarily requires universal respect and observance of fundamental human freedoms in the sphere of information.

Rights of Solidarity – Tentative Conclusions

Having briefly outlined the evolution of human rights of the third generation, one can draw up some remarks in summary and to return to the preliminary assumptions with the aim of verifying them.

First of all, it should be noted that specific subjective, objective and implementational features of the new human rights present basic difficulties of qualification strictly under the traditional concepts of human rights. This leads to a fundamental question whether the rights of solidarity should be really referred to and recognised in terms of human rights. It is sufficiently obvious that protection of values being the object of the solidarity rights might be, more or less successfully, promoted outside the traditionally defined system of human rights. Nevertheless, there are certain obvious reasons to opt for linking the rights of solidarity with human rights, although with reservations.⁵³ The new generation tends to protect some basic values of global character (peace, development, environment etc.) which cannot be preserved on a national scale. The struggle for such universal values is carried on for the benefit and in the interest of each human being and the whole of mankind.

These aspirations are strongly reflected by modern anthropocentrism of international law and relations, according to which the human being is placed at the centre and as the centre of the international concern and law-making process. Two additional points may be raised. Firstly, contemporary international law is more and more faced with the tendency to encroach continuously on matters directly affecting the position of human beings, whereas traditional law of nations was mainly focused on typical aspects of interstate relations. Secondly, the preservation of such universal values like peace, environment, communication and other is no longer an exclusive area of governments and thus should be supplemented by pressures of human community.

It is probably just a human reaction to insufficiency of governmental activities that the protection of these values is now being adopted in the human rights perspective. Therefore, the rights of solidarity as human rights can be recognised as one of the dimensions, though not exclusive one, of a struggle for realisation of these universal values. There are grounds to assume that channelling that trend through the human rights system may appear even more effective than maintaining traditional ways, as it has arisen with respect to humanitarian law.⁵⁴

An option for solidarity rights as human rights is not, however, absolute and unconditional. Historically speaking, the rights of the third generation are to be a next step in the dynamic development of human rights but as such they should remain compatible with the basic principles governing that branch of international law. There are objections that rights of solidarity might contribute to the inflation and depreciation of existing human rights.⁵⁵ These serious threats should be kept in mind and avoided in the course of promotion. On the other hand, such dangers should not be overestimated because each of the human rights generations was a kind of inflation of legal rules determining the position of human beings. All generations required long-lasting and vast efforts to establish them and to ensure their effective observance and implementation. This was, for instance, the case of social rights which from the initial stage of promotion had been criticised from this a viewpoint. And nowadays they are not, in principle, refused qualification as specific but human rights. The new generation seems to be now in a similar position to all difficulties typical of an early stage of development. However, in order to be promoted as human rights it is necessary, on the one hand, to modify flexibly the traditional canons of human

rights to adapt them to new international challenges but, on the other hand, the rights of solidarity should follow, and not deny, the fundamental principles governing the human rights system. These are the ways which, if respected, might ensure the avoidance of inflation and depreciation of human rights or even splitting their system of protection from the inside. Having that in mind, it is necessary to examine relevant elements of new human rights and their future prospects.

The subjective formula of new human rights is of multifarious character. The subjects of solidarity rights are individuals, local and regional collectivities and the international human community. Such a multi-level concept of subjects seems to be a response to an idea of new generation as rights of synthesis. Therefore, diversified subjective formula will depend upon the dimension of implementation. The existing progress of promotion demonstrates that, at least hitherto, some of the new rights are being developed with emphasis on either individual subjects (e.g. the right to environment) or both (e.g. the right to peace and to development). These tendencies can be recognised as complementary because they contribute to genuine ideas of the generation placing both individuals and their collectivities and globally as a last resort the world human community as subjects of solidarity rights. Hence, the concept of human community should not exclude or prejudice the subjectivity of its components. The need to define precisely the subjects of solidarity rights in their multiformity is far from being a purely academic question. Precisely established subjects are the starting-point to define entities being duty-bearers and thus having responsibility for realisation of new human rights. For this and other reasons considered below, it is extremely important to exclude states from the group of subjects of solidarity rights if the latter are to remain human rights.

The object of new human rights involves values of international or internationalised character. They indicate desirable objectives requiring gradual transformation of world order. Preservation and protection of such values as peace, development or environment is not exclusively the matter of isolated national or even regional solutions. The very nature of these values determines implicitly a strong need of vast and deep international co-operation inspired by a strong sense of international solidarity. It presupposes, however, that states, not relinquishing their sovereignty, should self-restrict mutually a part of their freedoms in favour of mankind as a whole. The just and equitable world order cannot mean unrestricted freedoms of states but should be a compromise of equality and freedom.

The obvious consequence of defining the subjective and objective formula should be the identification of channels of opposability and implementation of new human rights. Like the preceding generations, the rights of solidarity are opposable and thus addressed to governments. But unlike these generations, they go beyond state limits much further and are addressed as claims to regional and universal international organisations according to the degree of their established responsibility. As a consequence of multi-level subjectivity, new human rights might be directed to either governments concerned individually or to organised groups of States (e.g. United Nations and other international organisations). Systems of implementation of new human rights are doubtless their weakest point. However, any progress in this field requires more precise definitions of subjects and objects which are to be protected. Nevertheless, to achieve satisfactory results, one should once again refer to and elucidate a question of particular importance. Any attempts placing states in a position of new human rights subjects are detrimental because they impair the

typical verticality of human rights. The position of states as subjects of human rights would mean horizontalisation of the human rights system and such a threat ought necessarily to be avoided. Beyond any doubt, the governments are the most persistent violators of human rights. The same risk faces new human rights generation. That is why the efforts to specify means of their implementation in parallel to precise identification of subjective and objective scope of solidarity rights are so important. At the actual stage of their promotion it seems possible to predict that transmissions of social aspirations manifested by solidarity rights would probably assume a shape of multi-level measures addressed to relevant "authorities" (national or international) by means of both judicial and non-judicial ways.

As a follow up to the preliminary remarks, the assumption whether the third generation is really a manifestation of vital interests and support of developing countries should now be examined. As described briefly above, the promotion of each solidarity right confirms this assessment partially. In fact, this is the case of the right to development, to communicate and to common heritage of mankind principally. On the other hand, the right to peace is particularly promoted by socialist states, whereas the right to environment has found relatively stronger support in Western countries. On the contrary, there are grounds to conclude that Western states are still very reticent with regard to the new generation generally, while the socialist and developing countries oppose or raise some doubts to certain substantive aspects of the solidarity rights.⁵⁶ These political preferences and reservations are not, however, exhaustive explanations of all tendencies but rather suggest a complexity. Nevertheless, this affords sufficient basis to conclude that political background of the new generation is reflection of a very complicated and crossed geopolitical environment. This also leads to the supposition that K. Vasak's suggestion on strongly reduced political substance of the new generation cannot be reaffirmed, and furthermore, development of solidarity rights would certainly follow the atmosphere of increasing political disputes. In essence, it is regrettable as numerous cases prove that any exaggerated and inconsistent politisation is frequently detrimental to human rights. A threat that new generation would be used for tactical purposes by different political blocs should therefore be considerably reduced.⁵⁷

The human rights of the third generation are still at a very early stage of their progressive development.⁵⁸ The intensity of their promotion is very diversified; some are in statu progressionis, others in statu nascendi. On a regional level, namely under the African Charter of 1981, they have achieved reflection in treaty rules. On the universal level, the most advanced promotion has obtained the right to development and the right to peace. In legal terms, however, these rights are promoted by instruments of "soft-law". It seems reasonable to follow that direction, as new human rights are not sufficiently ripe for codification in "hard-law" rules. Declaratory instruments should play a role of official proclamation and identification of solidarity rights but to be established in binding rules they ought to be precisely formulated. Therefore, it might be even more useful not to codify new human rights in their general formulations as binding legal rules. While reaffirming the solidarity rights in this way, special attention should be drawn to progressive development of particular aspects of new human rights as their "sub-rights". The following rights might serve as examples: within the right to development – a right to supervision of supra-national corporations; a right to development of minorities and indigenous people to protect their own identity; a right to assistance for developing countries; a right to a peaceful

and balanced use of the sea-bed, space and polar areas, etc.; within the right to peace – a right to peaceful education; a right to reduction of sales of weapons; a right to abolition of nuclear tests, etc.; within the right to environment – a right to be informed and consulted on projected modification of environment; a right to non-exportation of polluting industries, etc.; within the right to communicate – a right to restrictions of censorship interventions; a right to access to mass media by independent groups of individuals and associations; a right to a democratic supervision over governmentally controlled media, etc.

In order to promote new human rights systemically, it must be recalled that their future depends to a great extent upon respect and observance of all established political and social rights. They are all indivisible, complementary and closely related. Hence, any attempts to isolate new generation from its human rights' roots as well as reducing the importance of any generation is a vital menace to human community. The way to the new generation leads through realisation of classic and social rights, and on the contrary, the rights of solidarity can essentially contribute to strengthening the observance of other human rights. Satisfactory progress in the field of respect for all human rights would be impossible without widespread human solidarity. The human rights of new generation as "rights of world human community" imply the establishment of the new world order, and thereby constitute a real challenge to the third revolution of human rights.

NOTES

- 1 For further information on different new human rights see J. Galtung, A. Wirak, *Human Needs as Human Rights. A Theoretical Approach*, Bulletin of Peace Proposals (hereinafter cited as *BBP*) 1977, No. 3, p. 251; and the lectures of J. Rivero, T. Van Boven, F. Rigaux, A. C. Kiss and G. Brodsky, in *Résumé des Cours. Dixième Session d'Enseignement*. Institut International des Droits de l'Homme, Strasbourg, 2-27 juillet 1979 (hereinafter cited as *Résumé*).
- 2 In my earlier article on that subject in Polish /Cf. K. Drzewicki, *Trzecia generacja praw człowieka, Międzynarodowe (International Affairs)* 1983, No. 10, pp. 81-98/, the notion of the solidarity rights has been, contrary to my wishes, deleted from the title, and in the text put into quotation marks by the Editor. It is a clear demonstration how far the very term solidarity is still a taboo in the country where Solidarity trade union has been borne and then dissolved arbitrarily by the authorities.
- 3 Referring to generations of human rights in this article, one should share the objections that they ought not to imply, in any way, an idea of chronological succession, by which new generation replaces the preceding ones. However, the core of the matter is not in a terminology as such, which apparently has been widely accepted, but in its correct interpretation according to the principle of indivisibility of human rights. Cf. Statement by Mr Peter Leuprecht, Director of Human Rights of the Council of Europe to the United Nations Commission on Human Rights on 24 February 1982, Council of Europe, Strasbourg, 1 March 1982, H(82) 3, p. 5.
- 4 See remarks on human rights criteria – J. Rivero, *Le problème des "nouveaux" droits de l'homme*, *Résumé*, op. cit., pp. 1-3; and H. Danelius, *Mänskliga rättigheter*, Stockholm 1975, pp. 144-145.
- 5 More on "costs of implementation" – P. Sieghart, *The International Law of Human Rights*, Oxford 1983, pp. 125-126.
- 6 P. Alston, *A Third Generation of Solidarity Rights: Progressive Development or Obfuscation of International Human Rights Law?*, *Netherlands International Law Review* (hereinafter cited as *NILR*) 1982, Vol. XXIX, No. 3, p. 309. The author refers the roots even to a year older state.
- 7 K. Vasak, *Le droit international des droits de l'homme*, *Revue des Droits de l'Homme* (hereinafter cited as *RDH*) 1972, Vol. V, No. 1, pp. 43-45; and K. Vasak, *Le droit international des droits de l'homme*, *Recueil des Cours de l'Académie de Droit International* (hereinafter cited as *RCADI*) 1974, Vol. IV, pp. 344-345.

- 8 K. Vasak, Pour les droits de l'homme de la troisième génération: les droits de solidarité. Leçon inaugurale. Dixième Session d'Enseignement, Strasbourg, 2-27 juillet 1979, pp. 1-7.
- 9 K. Vasak, A 30-Year Struggle. The Sustained Efforts to Give Force of Law to the Universal Declaration of Human Rights, The UNESCO Courier, November 1977, p. 29.
- 10 K. Vasak, Le droit . . . , RCADI, op. cit., pp. 344-345.
- 11 There are, moreover, suggestions to expand that catalogue by including, for instance, the right to international humanitarian assistance - Cf. UNESCO. Symposium on the Study of New Human Rights: The "Rights of Solidarity", Mexico, 12-15 August 1980, Doc. SS-80/Conf. 806, Paris, 9 July 1980, p. 11.
- 12 K. Vasak, Le droit . . . , RDH, op. cit., pp. 45-46.
- 13 Cf. H. Ounadjila, The Rights of Solidarity, Forum. Council of Europe (hereinafter cited as Forum) 1980, No. 1, p. XIV.
- 14 K. Vasak, Pour les droits . . . , op. cit., p. 3. A particularly important contribution to the principle of complementarity was offered by the European Court of Human Rights which pointed out that "there is no water-tight division" separating the sphere of economic and social rights from the field of civil and political rights. Eur. Court H. R., Airey Case, Judgment of 9 October 1979, Series A, No. 32, pp. 14-15.
- 15 See more on that interpenetrative relation: J.-J. Israel, Le droit au développement, Revue Général de Droit International Public 1983, No. 1, pp. 9-10. Cf. also remarks on a "structural approach". T. C. Van Boven, The Right to Development and Human Rights, The Review. International Commission of Jurists 1982, No. 28, pp. 50-53.
- 16 K. M'Baye, Le droit au développement comme un droit de l'homme, RDH 1972, No. 2-3, pp. 503-534.
- 17 Cf. K. M'Baye, Le développement et les droits de l'homme. Rapport introductif, Revue Sénégalaise de Droit 1977, No. 22, pp. 47-51; and Commission on Human Rights. Report on the Thirty-Third Session (7 February-11 March). Economic and Social Council. Official Records; Sixty-Second Session, Supplement No. 6, New York 1977, p. 11.
- 18 In a wider context of legal basis for development this view is shared by M. Ganji, The Realization of Economic, Social and Cultural Rights: Problems, Policies, New York 1975, p. 306.
- 19 For opposite views see Seminar on the Effects of the Existing Unjust International Economic Order on the Economies of the Developing Countries and the Obstacle that This Represents for the Implementation of Human Rights and Fundamental Freedoms, Geneva, Switzerland 30 June - 1 July 1980, United Nations, ST/HR/SER.A/&, pp. 23-24. Interesting attitude on the right to development as a principle of law represents K. De Vey Mestdagh, The Right to Development, NILR 1981, No. 1, pp. 38-42.
- 20 Cf. Robin C. A. White, Self-determination: Time for a Re-Assessment?, NILR 1981, No. 2, pp. 148-49 and 162-170.
- 21 A more comprehensive conclusion has been proposed by A. Michalska who recognises the Declaration as a first step to formulation of a new human right - the right of societies and individuals to progress - Cf. A. Michalska, Prawa człowieka w systemie norm międzynarodowych (Human Rights in the System of International Rules), Warszawa 1982, p. 59.
- 22 Commission on Human Rights, op. cit., pp. 11-12 and 74-75.
- 23 The International Dimensions of the Rights to Development as a Human Right in Relation with Other Human Rights Based on International Co-operation, Including the Right to Peace, Taking into Account the Requirements of the New International Economic Order and the Fundamental Human Needs. Report of the Secretary-General, doc. E/CN.4/1334 of 2 January 1979, p. 42.
- 24 Commission on Human Rights. Report on the Thirty-Fifth Session (12 February-16 March). Economic and Social Council. Official Records, 1979, Supplement No. 6, New York 1979, pp. 26-27 and 106-109. The Commission has also requested the Secretary-General to pay special attention in his report to several suggestions listed in Resolution 7 (XXXVI) - Commission on Human Rights. Report on the Thirty-Sixth Session (4 February-14 March 1980). Economic and Social Council. Official Records, 1980, Supplement No. 3, New York 1980, pp. 164-166.
- 25 The Regional and National Dimensions of the Right to Development as a Human Right. Study by the Secretary-General, Doc. E/CN.4/1488 of 31 December 1981, pp. 121-123. To discuss the question of popular participation the Secretary-General, acting upon the General Assembly resolution 34/152, convened a seminar which was held in Yugoslavia in May 1982 - World Social

- Situation. International Seminar on Popular Participation. Report of the Secretary-General, Doc. A 37/442 of 22 September 1982, pp. 2-15.
- 26 Report of the Working Group of Governmental Experts on the Right to Development, Doc. E/CN.4/1489 of 11 February 1982, p. 12.
- 27 Report of the Working Group of Governmental Experts on the Right to Development, Doc. E/CN.4/1983/11 of 9 December, Annex IV, pp. 1-17.
- 28 Report of the Working Group of Governmental Experts on the Right to Development, Doc. E/CN.4/1984/13 of 14 November 1983, Annex II, pp. 1-6.
- 29 Controversies on that subject were discussed in: Seminar on the Relations that Exist between Human Rights, Peace and Development, United Nations Headquarters, New York, 3-14 August 1981, Doc. ST/HR/SER.A/10, pp. 18-21.
- 30 Both aspects of the right to development are discussed widely by K. De Vey Mestdagh, *op. cit.*, pp. 48-53; and J.-J. Israel, *op. cit.*, pp. 21-41.
- 31 More on human rights in the Charter and on its implementation system - U. O. Umzurike, The African Charter on Human and Peoples' Rights, *American Journal of International Law* 1983, Vol. 77, No. 4, pp. 902-912.
- 32 See Recommendation 962(1983), in: Parliamentary Assembly, Thirty-Fourth Ordinary Session, Texts Adopted, Strasbourg 1983, Council of Europe, pp. 1-5; and Report on that question - Parliamentary Assembly, Documents. Working Papers, Strasbourg 1983, Vol. VII, doc. 4997, pp. 1-49. In addition to it, and Ad Hoc Committee of Experts on Human Rights in Relation to Development (CAHDD) has been set up to discuss and co-ordinate a position of the members of the Council of Europe in the course of drafting the UN Declaration - Council of Europe. Human Rights Information Sheet No. 14, Strasbourg 1984, p. 36. Cf. also comments of A. Eide, Development and the Categorical Imperative of Human Rights, *Forum* 1983, No. 2, pp. III-IV.
- 33 On these interdependences see B. G. Ramcharan, The Right to Life, *NILR* 1983, No. 3, pp. 307-310.
- 34 See S. P. Marks, The Peace-Human Rights-Development Dialectics, *BPP* 1980, No. 4, p. 339 and following.
- 35 Commission on Human Rights. Report on the Thirty-First Session (3 February-7 March 1975). Economic and Social Council. Official Records. Fifty-Eighth Session, Supplement No. 4, New York 1975, pp. 27-28.
- 36 Commission on Human Rights. Report on the Thirty-Second Session (2 February-5 March 1976). Economic and Social Council. Official Records. Sixtieth Session, Supplement No. 3, New York 1976, pp. 23-26 and 60-62.
- 37 More on that subject - A. Lopatka, The Right to Live in Peace as a Human Right, *BPP* 1980, No. 4, pp. 361-367; H. J. Sokalski, Si vis pacem, para pacem. The New Meaning of an Old Axiom, *La Comunita Internazionale* 1979, No. 2-3, p. 1 and following.
- 38 K. Vasak, Pour les droits . . . , *op. cit.*, p. 5.
- 39 On constitutional regulations see A. C. Kiss, Le droit à l'environnement, in: *Résumé*, *op. cit.*, pp. 3-8.
- 40 Cf. B. G. Ramcharan, *op. cit.*, 310-311.
- 41 Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972, New York 1973, p. 4.
- 42 Declaration on the Management of the Natural Environment of Europe by the European Conservation Conference, Strasbourg, 9-12 February 1970, p. 3. See moreover comments on those attempts - P. Gormly, Human Rights and Environment: The Need for International Co-operation, Leyden 1976, pp. 74-120; and F. G. Jacobs, The Extension of the European Convention on Human Rights to Include Economic, Social and Cultural Rights, *The Human Rights Review* 1978, Vol. III, No. 3, pp. 176-177.
- 43 Council of Europe. Steering Committee for Social Affairs, CDAS (78)26, Strasbourg 21 August 1978, p. 11 and Corrigendum to para 36 of that document, of 19 September 1978, p. 1.
- 44 Cf. P. Kromarek, Environment et droits de l'homme, *Enseignement des Droits de l'Homme* 1982, Vol. iii, pp. 30-31.
- 45 K. Vasak, Pour les droits . . . , *op. cit.*, p. 5 and F. Rigaux, Le droit de propriété sur le patrimoine commun de l'humanité, *Résumé*, *op. cit.*, p. 1 and Addendum, pp. 1-9.
- 46 See more detailed considerations by D. Goedhuis, Conflicts in the Interpretation of the Leading

- Principles of the Moon Treaty of 5 December 1979, NILR 1981, No. 1, pp. 14-29; and A. Gorbiel, "Common Heritage of Mankind" Concept in the Space Law - Doctrine and Codification Words of the United Nations, *Il Diritto Aereo* 1981, No. 77-80, pp. 59-70.
- 47 Cf. A. Kiss, *The Emergence of Mankind as a Legal Entity*, *Orwell Colloquy "1984"*. Myths and Realities, Strasbourg, April 2-4, 1984, Documents, Council of Europe, pp. 1-7.
- 48 K. Vasak, *Pour les droits . . .*, op. cit., p. 5.
- 49 Cf. T. Varis, *World Information Order*, *Instant Research of Peace and Violence* 1976, Vol. VI, No. 6, p. 143; and *Droits de l'Information et de la Communication*. Notes et Documents, par P. Trudel, Montréal 1984, pp. 16-19.
- 50 Cf. for instance J. Breman, *The McBride Report: A Study in Escapism and Hypocrisy*, *Forum* 1980, No. 1, pp. 10-11 and S. McBride, *An Exercise in Distortion and Imbalance*, *Forum* 1980, No. 2, p. 12.
- 51 See more in a comprehensive study *The Right to Communicate: A New Human Right*, ed. by D. Fisher, L. S. Harms, Dublin 1983, pp. 1-229; and *The United Nations and Human Rights*, New York 1978, p. 65.
- 52 Cf. *Many Voices One World*. Report by the International Commission for the Study of Communication Problems, London 1980, pp. 172-174 and 265-267. As it might have been expected the concept of the right to communicate has been found implausible for the Soviet delegate in the Commission (*ibid.*, p. 172).
- 53 On some other arguments see S. P. Marks, *Emerging Human Rights: A New Generation for the 1980s?*, *Rutgers Law Review* 1981, Vol. 33, No. 2, pp. 451-452.
- 54 After many years of standstill, the international law of armed conflicts has been quite considerably recodified and progressively developed within the branch of humanitarian law (e. g. the Additional Protocols of 1977 to Geneva Conventions). It was, among others, a result of amounting pressures to link it with the sphere of human rights. See numerous UN General Assembly resolutions on "respect for human rights in armed conflicts" adopted under apparent influence of the Teheran Conference of 1968.
- 55 Cf. J. Rivero, op. cit., p. 3; and R. Pelloux, *Vrais et faux droits de l'homme*. Problèmes de définition et de classification, *Revue du Droit Public* 1981, No. 1, p. 68. The latter estimates also that inclusion of solidarity rights to human rights is a dangerous imperialism, and that new human rights express out-dated political thoughts.
- 56 Cf. *supra* note 52; and discussion on political preferences of political blocs - Panel on the Relations between Western Europe and the United States of America, 29-30 June 1981, Strasbourg 1981, pp. 118-119 and 123-124 (contributions of Prof. J. Huntzinger and Prof. J.-P. Jacque).
- 57 That menace of "favourite" concerns of main geopolitical blocs for the new generation was expressed by reference to a very pertinent caricature of "Uncle Sam, looking like a bear, but dressed only in a Gandhian loin cloth" - P. Alston, op. cit., p. 322.
- 58 See critical and pessimistic remarks on the desirability of drafting new human rights - A. H. Robertson, *Human Rights in the World*, Manchester 1982, pp. 193-197; and T. Opsahl, *The Protection of Human Rights in the Council of Europe and in the United Nations*, *Annuaire Europeen/European Yearbook* 1978, Vol. XXVI, p. 93 (note 4).