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**Necessary economic and
institutional basis for the
implementation of human rights:
the persisting need of a new
international economic order. The
role of China**

Introduction

- Proclaiming human rights is not enough, if the necessary machinery and the social economic bases for their implementation are not set. This is true, in particular for economic and social rights, which require a positive attitude by institutional and economic actors and not just them to abstain from the violation of the rights of individuals and groups.

Actuality of the idea of a new international economic order

- That of a new economic international order has been an ideal pursued by the emerging States of the so-called Third World during the Seventies. Nowadays someone has declared, may be too hastily, the definitive failure of the attempt to establish such a new order. However, we have to say that the need persists and became even more urgent, in the light of some general goals which are of interest of the international community as a whole.

Unity of human rights

- Putting our emphasis on social and economic rights doesn't mean overseeing the nexus existing among the different categories of human rights. In fact, the traditional divisions in different categories reflect the historical development of international human rights law but the analysis of the necessary bases for the enjoyment of human rights reveals in a very clear manner the connection existing among them.

Realization of human rights and clash of ideologies

- Even more, not only an institutional machinery is needed, but also a certain economic and social system. This is of course a scenario for the clash among different ideological and political visions. But such a clash is unavoidable. It has to be conducted on the basis of the experiences of the past, identifying which systems and which economic and institutional frameworks are the most apt to permit the fulfillment of human rights, particularly the social and economic ones.

The contents of New International Economic Order

- The Charter of economic duty and rights of States is superseded?
- **Chapter 1 Fundamentals of International Economic Relations**
- Economic as well as political and other relations among States shall be governed, *inter alia*, by the following principles:
 - Sovereignty, territorial integrity and political independence of States;
 - Sovereign equality of all States;
 - Non-aggression;
 - Non-intervention;
 - Mutual and equitable benefit;
 - Peaceful coexistence;
 - Equal rights and self-determination of peoples;
 - Peaceful settlement of disputes;
 - Remedying of injustices which have been brought about by force and which deprive a nation of the natural means necessary for its normal development;
 - Fulfillment in good faith of international obligations;
 - Respect for human rights and international obligations;
 - No attempt to seek hegemony and spheres of influence;
 - Promotion of international social justice;
 - International co-operation for development;
 - Free access to and from the sea by land-locked countries within the framework of the above principles.

Choice of economic system

- **Chapter II Economic Rights and Duties of States**
- **Article 1**
- Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever.

Rights of States

- **Article 2**
- 1. Every State has and shall freely exercise full permanent sovereignty, including possession, use and disposal, over all its wealth, natural resources and economic activities.
- 2. Each State has the right:
 - To regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investment;
 - To regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, cooperate with other States in the exercise of the right set forth in this subparagraph;
 - To nationalize, expropriate or transfer ownership of foreign property, in which case appropriate compensation should be paid by the State adopting such measures, taking into account its relevant laws and regulations and all circumstances that the State considers pertinent. In any case where the question of compensation gives rise to a controversy, it shall be settled under the domestic law of the nationalizing State and by its tribunals, unless it is freely and mutually agreed by all States concerned that other peaceful means be sought on the basis of the sovereign equality of States and in accordance with the principle of free choice of means.

The role of China

- Due to its history, international position and choices, China represents no doubts a very important actor on this scene, whose activities have to be scrutinized and valorized on the point of view of the development of international law and international cooperation.

Bases for the role of China

- We can identify three different bases for the role of China in promoting a new international economic order.
- A) Chinese Constitution
- B) China's identity as a developing country.
- C) China's identity as the product of an anticolonial struggle.

The Chinese Constitution

- **Article 1** The People's Republic of China is a socialist state under the people's democratic dictatorship led by the working class and based on the alliance of workers and peasants.
- The socialist system is the basic system of the People's Republic of China. Disruption of the socialist system by any organization or individual is prohibited.

China as a developing country

- China is at the same time the second largest world economy and a developing country.
- Following professor Yiping Huan, There's no debate that China is a developing country, given its per capita gross domestic product. There are more [Chinese people in poverty](#) than the entire populations of Thailand or England. China has all the typical features of a developing country, including relatively high proportion of agricultural population and relative low level of production technology.

China as a result of anticolonial struggle

- Modern China is the product of a deep and longlasting anticolonial struggle, which succeeded in expelling foreign powers and proxy regimes.
- The connection between anticolonial struggle and the new international economic order is self-evident, since this one aims at liberating the developing countries from neocolonial dependence.

Socialist globalization vs. neoliberal globalization

- It is true that each State pursues its own notion of good (Henkin). However, the challenges of globalization need a common language among States, which can be only that of human rights.
- There is a clash of ideals and proposals. Each system has to be judged on the basis of its concrete results. Neoliberal globalization failed in providing human rights. May socialist globalization succeed?