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FROM THE RIGHT TO ECONOMIC SELF-DETERMINATION TO THE RIGHT
TO DEVELOPMENT: A CRISIS IN LEGAL THEORY.

Anthony Carty

Various formulations of the right of peoples to pursue their economic development, whether they are found in the U.N. Human Rights Covenants, the 1970 Declaration on the Principles of Friendly Relations among States,¹ or the Charter of Economic Rights and Duties of States, to mention only three, present a common theme; a virtually obsessive repetition of the right of economic self-determination.² The right is seen as affording a framework for the struggle of developing countries to attain the economic independence which has not followed automatically upon the attainment of political independence. The survival of a legal concept must depend upon its usefulness as an analytical-critical instrument. Now it appears that, in practice, particularly at the United Nations, the claim which states make to a right to economic self-determination serves primarily as an ideological representation. Alongside the opposing 'Western' claims for the principle of acquired rights and for 'pacta sunt servanda', it expresses a real economic contradiction and serves as a banner to mobilize developing countries in the context of a North-South confrontation. Yet such an ideological use of apparently legal concepts does not permit them to function as positive rules of law.³

In my view the reduction of basic legal concepts to a purely ideological role is an indication of a crisis in legal theory which goes beyond the normal manipulation of law in diplomatic relations. The concept of economic self-determination has its roots in a Western tradition of legal voluntarism which cannot open the way out to either national or international economic or social transformation. It restates the basic Western concept of 'subjective right' and applies it to the state. In such a view of a legal order, the basic structure of law is subject/property/contract. The legal order begins with its subjects, proceeds to determine what they own, and delimits the circumstances in which the legal subjects may dispose of their property.⁴ The consequence is a language of state rights which restricts attention to the authority and power of the state, without reference either to the nature of the international economy or to the needs and aspirations of peoples.⁵ This is because the right supposes a purely formal perspective which reaches such a level of abstraction as to have no contact with material reality. The language of law and the language of the state are one and the same. However, much state organisation may constitute an irreplaceable framework for economic development, the fact remains that juridical language is unable to present an independent criticism of its performance.

One illustration of the nature of this process of abstraction may be afforded by some of the discussion of the alleged responsibility of

developed states for the historical consequences of colonialism. Article 16 of the Charter of Economic Rights and Duties of States refers to the duty to compensate for the economic consequences of colonialism. Benedek has pointed out⁶ that there is serious difficulty in giving any formulation to a right to compensation, especially within the context of the new claim to a right to development. The reason is simply that it is difficult to relate the responsibility of particular colonial states to their victims in a measurable way which takes account of the fact that the existing world economic system adversely affects many developing countries which were never colonized. The language of the subjective rights of states is inadequate. This tendency of law to abstract itself from history is also noted by Benchikh. The historical dimension of colonialism has, in his view, created a relationship of dependence on the part of developing countries towards developed countries, which is not properly taken into account in present aid and 'industry-sharing' policies towards developing countries. Because the constraining consequences of colonial history are ignored, resort is had simply to the language of solidarity among legally equal states. Regard is merely had to their present formal capacity, with perhaps an exhortation to moral solidarity thrown in for good measure.⁷ A formalist, a-historical approach to law means, in turn, that new states are supposed to be granted a legal capacity which takes no account of the actual extent of their economic independence or the closely related issue of their social and cultural cohesion. Indeed the argument is well known, particularly in the context of Latin American studies, that legal independence is supposed to be nothing more than a breakdown of European mercantilism and a preparation, or sine qua non, for the integration of new states into a liberal world economic order.⁸

Is it the failure of such a concept as the right of economic self-determination to open the way out to either national or international economic social and economic transformation which has led developing countries such as Algeria to slip almost imperceptibly from such legal discourse into the admittedly utterly vague language of the right to development.⁹ It is, in any case, precisely because of the banal fact that developing countries enjoy very little economic and social cohesion, that the whole problem of development arises? It would be foolish to suppose that the debate in the United Nations on the legal right to development has given rise to any consensus of viewpoint. However the 1982 and 1983 reports of the Working Group of Governmental Experts on the Right to Development provide numerous indications of a felt need to break out of the bounds of a formal international legal order. For instance, in considering means to realize the right to development, the call is made, at the national level, for the participation of everyone in the process of decision-making, itself with a view to permitting equitable distribution of resources resulting from development¹⁰ and, at the international level, for a means to ensure a just and equitable division of labour, an adequate industrialization of developing countries and a proper indexing of prices of exports and imports from developing countries.¹¹

The debate about the right to development marks a crisis in legal theory, because it encompasses a determined attempt to place material content before form and yet retain whatever advantages are supposed to attach to the use of legal language. Alston writes that "... the basic content of the right to development is the need for justice ..."12 He criticizes the 1979 Report by the U.N. Secretary-General on the Right to Development, because "... it places ethical considerations before relevant legal norms, although it fails to elaborate upon the link between the two themes ..."13 As he himself appears to suggest, this debate may be seen in the wider context of a recent tendency for U.N. 'discussion' (hardly action) in the field of human rights to move into a structural phase. So it is recognized "...that it is at least as important to identify and seek to remove the structural obstacles that lie at the root of many an injustice as it is to deal with their symptoms in the form of particular violations..."14

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The formal approach to law has at least two basic elements, consensualism and the concept of subjective right. The task of the jurist is seen as confined to tracing the course of each. This can be observed in some Western academic treatment of the issue of a right to development. For instance Israel draws attention to the imprecision of the right. It is supposed to be necessarily fluid. The expression of the right corresponds more to the affirmation of a principle than to the recognition of a 'true subjective' right. At present one can only outline its possible content by reference to the ideology of development and to the claims of developing countries.15 The basic difficulty is whether, in this context of a crisis of development, one can hopefully or usefully speak of particular developed states as having legal duties to perform towards particular developing states. The theory of subjective rights supposes that duties are undertaken voluntarily or as a result of specific failures of conduct such as negligence or fraud. The incongruity of this perspective is that Western jurists do accept the existence of the right, in accordance with the usual consensual criteria for the creation of positive law, and yet it appears that the right has no definite content. Benedek points out how the juridical conceptualization of the right to development does not mean that out of it arises concrete legal claims, but rather that one has reached a somehow juridical grasp of the question of development. The right, as a general principle of international law, is an abstraction of a general consensus of states at an international level.16

A first step away from this legal formalism is to appreciate its purely optional nature. That is to say, one might just as well not adopt it. By way of illustration one might consider Weil's recent defence of legal formalism. He opposes as condemned to subjectivism any juridical approach to a material concept of a law of international order. In the absence of international organs each state will give the interpretation it pleases to such a concept.17 This is perfectly true. Yet it is

simply a non-sequitur to argue, as Weil does,¹⁸ from the absence of an institutionalized international community to an insistence upon the priority of a voluntarist, contractual law. He supposes that his own concept of law as a coordination of the wills of equal legal subjects¹⁹ is somehow neutral, the true starting point, rather than merely a perspective which is itself optional and relative. It is another French jurist, Villey, who highlights the sense in which Weil's perspective is optional. The latter belongs to a legal tradition which goes back to the European Renaissance, to Occam and Hobbes, which simply chooses to take the individual as a starting point, rather than seeing him as a part of a wider social body.²⁰ The fact/law distinction upon which the formalists so strongly insist (perhaps as well expressed by the so-called is/ought dichotomy) is nothing more than a preference of a particular tradition to begin with the will of the individual subject, rather than with his social context. Those who prefer to accept that it is the latter which contains at least the outlines of the imperatives which a jurist has to recognize may simply take a different course from Weil's. So much of the language used in the development and new international economic order debate does point in this direction. For instance, Cristescu appears to believe that an imperative comes out of the very fact that '...countries possessing raw materials should be paid for them at prices commensurate with the work which goes into the exploitation of these raw materials and with their economic and social value...'²¹

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It is too much to attribute profound philosophical undertones to the United Nations debate on the right to development. A survey of the summary records of the 39th session of the Human Rights Commission in Geneva²² reveals a fairly repetitive reassertion of basic platitudes which are set out in Article (3) of the Technical Consolidation (of texts) of 20th June 1983, an explosion of laudable phrases unrelated to one another. It is possible to find stimulating references to new avenues of approach. The Colombian delegate insisted that development was a right of peoples, not of states, that economic growth had to harmonize with nature and that resistance had to be made to dehumanizing production processes. The Irish delegate said that the crisis of International law could only be overcome if it became a law of cooperation, in which case one would inevitably have new conceptual problems in searching for criteria to define relationships of assistance and solidarity.²⁴ However, such remarks have to be seen alongside numerous other reiterations of entrenched positions, liberal and marxist, both of which place the state at the centre of human rights issues, whether as promotor or as antagonist. The priority given to the state was clearly the intention of the drafters of the right to self-determination of states in the U.N. Human Rights Covenants.²⁵ The Technical Consolidation repeats, in its Article 3(2), that states have the primary responsibility to ensure development, both within their territory and internationally.

Nonetheless, it is clear that the issue of participation has become central to the Human Rights Commission discussions and its resolution 1983/14 requests the Secretary-General to undertake a comprehensive analytical study of popular participation. Special mention is made of the Yugoslavia International Seminar on Popular Participation.²⁶ Such a reference at least allows one to treat as relevant the issues raised at that seminar. For instance reference is made to the need to force the goal of economic growth to give way to an intergrated package, which includes popular participation as a means to the optimal utilization of human creativity, including the dimension of ecological balance. In this context, there was acceptance at the seminar, that state planning was a complex, technical process which ran the danger of administrative elitism, marginalizing democratic local activity. There was an accepted need for new guidelines on popular participation which would question a purely quantitative perspective towards development, measuring compliance and quota systems of production, rather than the more intangible factors just mentioned.

The Technical Consolidation of Texts does provide a framework to elaborate on these ideas. For instance Article 10 says that states should take appropriate action to provide a comprehensive framework for popular participation in development, and Article 2, while accepting that states have the right and the duty to formulate appropriate development policies, nonetheless allows that human beings have the primary responsibility themselves. States have, further, to respect the intermediate associations which individuals form. It might be said that any categorical insistence upon the integral place of human rights in any development process (or upon the equal status of political, civil, economic and social rights) is bound to lead to an abandonment of the positivist tradition that the language of the law and the language of the state are one and the same.

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The apparent prominence given to the concept of participation in the United Nations discussions of the right to development is merely a reflection of a wider uncertainty, even in radical third world circles, about a concept of economic self-determination which applies exclusively to states. Once the right is supposed to belong exclusively to the state, there is no way that it can be used to ensure either a critique of that state's own internal economic and social structures, or an identification of the nature of its ties of economic dependency. This is simply because the state as such is merely a formal concept which denotes a delimitation of competences, that is an arrangement or perhaps organization of particular territories and populations within an international legal order. In practice the traditional legal discourse on economic sovereignty has come together with a third-world nationalist ideology merely on the basis of a legal 'decisionism'. That is to say, a nationalist ideology is supposed to ensure a certainty of choice by a third-world state, which is not a reflection of any genuine certainty

about the problem of economic development. A recent illustration of this pattern may be seen in Article 9 of the Draft U.N. Code of Conduct on Transnational Corporations. It is confined to reiterating that transnational corporations must correspond to the host state's nationally set goals and priorities. Yet how does a state define these.²⁷

A prominent Algerian jurist, Mahiou, a member of the International Law Commission, says it is now obvious that only governing elites benefit from the existing world economic system. Only a policy of total mobilization of a country's internal resources towards auto-centred development can break the dominance of Western economies and values. In his view a direct connection has to be made between national and international politics, based upon an equitable and democratic order at both levels.²⁸ At the same time the 1983 World Development Report subjects the state to an equally severe critique from a perhaps more Western liberal perspective. Its main conclusion is that policy reform is relevant only if there is the institutional capacity to carry it out. The form of grand plans matters less than the substance of actions needed to achieve central goals. The implied rejection of 'blue prints' in tackling the complexities of development is accompanied by a stressing of the importance of building into every strategy and programme an effective learning process. At the field level this means officials looking outward, to serve clients rather than inward, to satisfy predetermined bureaucratic procedures.²⁹ This language of 'managerese' evidences the same institutional crisis as the radicalism of Mahiou.

It is remarkable how far the two approaches agree at an empirical level about the scope of the problem. Benchikh characterizes state-capitalist third world societies as emeshed in quasi-feudal bureaucratic conflicts, unable to launch an all-embracing programme of economic and social self-reliance, in a context in which they are out of touch with their populations.³⁰ The World Development Report identifies the problem of overstuffed bureaucracies, remote from the public they serve and not subject to effective external pressures within their societies, which frequently lack independent public opinion or opposition. Global reform from within these institutions is virtually inconceivable, given the vested interests involved, and the complexities of problems linked naturally to patterns of rapid economic and social change.³¹

Disagreement emerges, of course, at the level of analysis and explanation. The central relevance of the conflicting approaches, for the issue of a right of participation, is the insistence by dependency theory, that the basic feature of world capitalism is a transnational integration which is accompanied by national disintegration. The most important features of this process are identified by Snyder as the increasing marginalization of the mass of the population from a reasonable income and the disintegration of national social classes.³² Within this framework, Benchikh objects to third world demands for a new international economic order which are no more than state capitalist

demands for a greater quantitative share in industrial production without a change in the quality of an international division of labour, leaving decisive technological leadership in the West. Placing all authority in the state they may manage some measure of sectoral growth to increase the scope of exercise of state sovereignty. Yet, cut off from a proletariat which they distrust, with an absence of popular participation, they cannot imagine or fully express the right of self-determination of peoples. Benchikh traces this pattern of fragmentation to the detail of, for instance, technology transfer, where state officials prefer international contracts and Western assistance, introducing developed country patterns of production, instead of engaging in dialogue with workers, in a context in which both sections of society have been retarded by the history of colonialism.³³

The World Development Report subscribes fully to what Snyder characterizes as the ideology of developmentism, which supposes that knowledge (expertise) is cumulative and that experimentation and experience will yield objective procedures for the achievement of material development, especially of basic needs.³⁴ The Report considers the option of decentralization understood as devolution of political power, deconcentration of central government on a purely geographical basis, and delegation of government authority to public bodies, particularly state corporations. However its general conclusion is that decentralization has to be seen as not much more than the incremental building up of the capacity of organizations to assume greater responsibilities. It cannot of itself compensate for a general shortage of technical, administrative skills. The main thrust of the solution is to have fewer, better (paid) officials, controlling only what needs to be controlled. The latter objective could be achieved through a reduction in the level of state control, e.g. in the area of regulation of trade, and in the delegation of economic powers to public bodies more amenable to the market. Government needs to retain central control of budget and foreign debt so that perhaps the best scope for decentralization/participation is in such matters as delivery of rural and social services and dividing up tasks for rural managers.³⁵

Hence it appears that the language of a right to development, particularly with its emphasis on popular participation is very relevant to the politically radical, dependency analysis of international society, while fairly marginal to the modernization approach of the World Bank. Yet it can hardly be said that mere repetition of the concept of participation provides a serious answer to the crisis of third world civilization which Western modernization is causing. Benchikh proposes a societal introversion, based upon a more profound integration of the agricultural and industrial sectors of society, with a maximum local intermeshing and satisfaction of basic needs.³⁶ Yet a main thrust of his analysis is the inextricable linkage between developed and developing countries. He accepts that it is impossible to expect the former to integrate the social-cultural world of the latter into the shaping of their educational and scientific policies.³⁷ Indeed he believes it is

precisely the Third World demand for the international diffusion of scientific knowledge which will eventually necessitate, through internal education, a democracy 'at home' in developing countries.³⁸ In other words the depth of global intercultural penetration is beyond the grasp of either of the main North-South divides and it is hardly even possible to disentangle its positive and negative causes, however identifiable may be some of its end effects. While dependency theorists such as Snyder may wish to see research oriented towards how third world societies became integrated into the world capitalist system, he admits that, the causes of this original imbalance, going back in Wallerstein's view to the 16th Century,³⁹ are very much in dispute. It is by no means clear what economic anthropology, whether marxist or otherwise, can contribute in the way of social and cultural reconstruction.⁴⁰ So perhaps it might be better to consider approaches to law and the right to development, which assume that the crisis, from which developing countries appear to suffer most acutely, is common to both North and South. This crisis may have its roots in the culture which first separated the two, that of Renaissance Europe, a culture which has now come to a turning point.

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It is, in my view, arguable that the vacuity of the legal language of the right to development is attributable not to the concept of development itself, but to the nature of the Western concept of law. The latter is merely a part of a culture which supposes nature to be infinitely malleable and man to be capable of perpetually redefining himself. In this respect there is no significant difference between liberal and marxist perspectives on law. The starting point of all law is to suppose that the individual subject is outside any 'binding framework'. That is to say, individual freedom is not granted by any outside order. So legal obligation represents a consensual renunciation of a part of one's otherwise unlimited freedom.⁴¹ It does not matter whether the individual is a single person, a prince, the state or God. The essence of law is the purely formal delimitation of competences, or areas of jurisdiction, conceived of, at least at the end of the Middle ages when this view of law first arose, as a hierarchical delegation of powers. At least this is Villey's account of the process.⁴² Law does not have any 'necessary' material substance because the individual, however defined, does not exist in any 'necessary' social or natural, physical or biological, relationship to a world outside himself.

Arendt in her classical study, The Human Condition, asserts that the key form of Western alienation is not from the self, as Marx supposed, but from the world. It has its roots in a philosophy of physics which goes back to the early Renaissance. As is well known, Galileo's astrophysical world view presented a very serious challenge to the adequacy of the senses to reveal reality, indeed leaving us '...in a universe of whose qualities we know no more than the way they affect our measuring instruments...' ⁴³. This loss of the scientific self-evidence

of appearances affected all branches of knowledge at their common root, the traditional assumption that '...what truly is will appear of its own accord and that human capabilities are adequate to receive it...'44. The Cartesian way to return to certainty was to dissolve all 'real' relationships into logical relations between man-made symbols. In other words, Descartes reduces all experience, with the world as well as with other human beings, to experience between man and himself.45 However, in Arendt's view, the conviction that objective truth is not given to man, so that he can only know what he makes himself, breaks down, once it is applied to political theory. '...The idea that only what I am going to make will be real...is forever defeated by the actual course of events, where nothing happens more frequently than the totally unexpected...'46 It simplifies the history of ideas that both Villey and Arendt treat Hobbes as the key figure in the introduction of the new 'scientific' concepts into political philosophy. Since the intervention of Hobbes, all legal, and of course political, obligation has had to be traced back to the only possible 'self-evident' source of such obligation, the fact of a social contract or compact. One may vary the subjects of the compact, or the measure of consent which must really be present, but no obligation may exist which is not derived from a man-made, and for this reason only, self-evident starting point.

There is at least one perspective on the crisis of developing countries for which Arendt's history of the philosophy of science is not at all remote. In his now famous study, La Pauvreté, Richesse des Peuples, Tévoédjrè takes as a basic theme the abstraction of man from society and nature. He objects, above all, to a pattern of deductive, logical thinking, whereby those in the third world choose premises of reasoning outside of their societies, which then trap them into a series of inevitable consequences. They should, instead, employ a process of induction, beginning from the realities of their own societies, and based not on a hypothesis of a will to power, but on a 'good organization' of the life of human groups.47 Tévoédjrè's vision of an economy, based as far as possible on the principle of production of goods for direct use rather than exchange, is not a nostalgic appeal to dying social structures. He insists that the social reality, into which a new technology of production must be integrated, is one which encompasses the richness of a biological relationship between man and the natural elements, the richness of a feeling of belonging to a territory, of a consciousness of being part of a human and social universe.

This is the context in which Tévoédjrè rejects the foundations of an industrial capitalism which leads to such a specialization and centralization of knowledge and production, that the ideal of self-sufficient and locally responsible communities becomes a remote dream.48 It can hardly be said that he sets out to provide the detail of the vision which Arendt clearly considers necessary, but there seems no doubt that he believes that the crisis of development must include the dimension of philosophical-scientific inquiry. Despecialization and decentralization of knowledge and production can only come as part of an

assault on the authority accorded by Western culture to an abstract mode of thinking which is ostensibly indeterminate as to its starting point and which does not allow for any integrating framework.

So however uncongenial it may be for his professional self-assurance, the lawyer has to ask whether contemporary philosophy of science affords any support for a perspective such as Tévoédjrè's. One possible approach is suggested by the so-called systems view of life. Its basic principle appears very attractive to the debate on the right to development. It is supposed that every living organism is self-organizing in that its structure and function are not imposed by the environment, but are established by the system itself. At the same time, living organisms interact continuously with their environment. The systemic dimension of this biological theory is that each living organism is seen as a subsystem which, although relatively autonomous, is also a component of a larger organism, which is, finally, the eco-system of the entire planet.⁴⁹ In this perspective the individual is not supposed to be an isolated self, but should become aware of himself as an inseparable part of the 'cosmos' in which he is embedded. The systems view of life opposes the mechanical, supposedly Newtonian view of reality, as dominated by a linear process of cause and effect into which the isolated individual as an observer may assert his will with what Capra calls a cyclical pattern of events, known as a feed-back loop.⁵¹ The properties of the total system cannot be predicted from the sum of their parts. Every one of its tissues is linked to every other one and they are all mutually interdependent.⁵² The conclusion is the first political principle of ecology that man is part of a world which is an organic whole. He has first to understand himself as one organism in this whole, not merely supposing himself to be infinitely redefinable and the world infinitely malleable.

By way of conclusion it might not be without interest to look briefly at the contrast which Villey draws between pre and post-Renaissance European legal theory. He insists that the essential feature of the earlier tradition is that it did not take the individual as the starting point of juristic inquiry. Certainly consent is part of any system of law, but it has to be seen as no more than a part, just as the individual is no more than a part of the social whole. The concept of obligation may be central to morality, but it is only an aspect of law.⁵³ Drawing on an interpretation of Aristotle and of the Roman law juristic tradition, Villey claims that concepts of equity and justice must not be seen merely as moral qualities of persons, for instance to evaluate the quality of their actions (of will) in themselves, but rather as a measure or proportion applied to persons in their concrete social circumstances. In this perspective, the social world is not an inert material facticity, awaiting analysis. It has to be interpreted as a matter of what is a more or less complete representation of an idea or of a 'form' (e.g. the 'form' of a man is not simply the aging man or the child at play, but the adult reaching the summit of his 'development'). The task of the jurist is to discern these forms. Legislation may give them a more definite

general shape and the judge may adapt them to concrete circumstances. However it always remains the task of the jurist to indicate solutions based upon the widest use of dialectic, confrontation of opinion, and attention to concrete circumstance.⁵⁴

None of the argument of the present section can claim the rigour of the method of any particular discipline, least of all that of the history of ideas. However, in my view, there is a prima facie case that there is more to the crisis of legal theory relating to the right to development, than the impatience of developing country lawyers. Furthermore it appears that the crisis is not simply, as is virtually universally supposed, a political one. There is plenty of evidence that it goes to the root of Western culture. In this context it may well be an indication of hope that pre-modern Western legal culture was, possibly, more in tune with certain modern philosophical/scientific theories of the world, than is more dominant contemporary legal theory.

FOOTNOTES

1. U.N. Doc. G.A. Res. 2625/XXV.
2. See for instance, Ch. 5 of A. Cristescu, The Right to Self-Determination, Historical and Current Development on the Basis of U.N. Instruments, U.N. Doc. E/CN4/Sub.2/404/Rev. 1, 1981.
3. J.R. Henry, Mutations Du Droit International Du Développement, La France et L'Afrique. These, Université de Nice (1977), 12-19 drawing on the legal theory of C. Chaumont, first set out in his "Cours général de droit international public", R.C.A.D.I., Vol. 130 (1970).
4. See A.J. Arnaud, "Les Origines Doctrinales du Code Civil Français", and, by the same author, "Essai D'Analyse Structurale du Code Civil Français", Vols. 9 and 16 of the Bibliothèque de Philosophie de Droit, 1969 and 1973.
5. This line of reasoning is based on a criticism of pretensions of legal 'neutrality' made by M. Troper in 'La Relation Du Droit International Avec La Structure Economique et Sociale', Quatrième Rencontre de Reims, 15-16 Oct. 1977, 43-44.
6. An unpublished paper by W. Benedek, 'Das Recht auf Entwicklung in universeller Sicht und im Rahmn des afrikanischen Menschenrechtsschutzes', 25.
7. B. Benchikh, Droit International du Sous-Développement (1983), 191-192.
8. The point is made at various states by Troper, loc. cit., 24, 56 and 93. However it is a commonplace of the so-called dependency theory and its application to international law is outlined in T. Evers, El Estado en La Periferia Capitalista (1979), 96-107.
9. J.R. Henry, op. cit., 331.
10. E/CN4/1489 para. 35, also E/CN4/1983 para. 19 of the Preamble of the Project Declaration and Art. 7 of Part 1(i).
11. E/CN4/1983, op. cit., Part 2, Art. 12(d)(ii).
12. P. Alston, Development and the Rule of Law: Prevention Versus Cure as Development, Human Rights and the Rule of Law, I.C.J. (1981), 105.
13. Ibid., 102.

14. Ibid., 37.
15. J.J. Israel, "Le Droit au Développement" (1983), R.G.D.I.P., 5 at 27.
16. Benedek, loc. cit., 29.
17. P. Weil, 'Vers Une Normativité' Relative en Droit International (1982), R.G.D.I.P., 5 at 32-33.
18. Ibid., 24, 46.
19. Ibid., 16-17.
20. M. Villey, Seize Essais de Philosophie de Droit, Paris (1969) and La Formation de la Pensée Juridique Moderne (1968).
21. Cristescu, op. cit., 81.
22. E/CN4/1983/SR 17th-20th, 31st meetings.
23. E/CN4/1983/SR.19.
24. E/CN4/1983/20.
25. H. Reinhardt, Rechtsgleichheit und Selbstbestimmung der Volker in wirtschaftlicher Hinsicht, Die Praxis der Vereinten Nationen (1980), 64-65, also Alston loc. cit., 94 and R.F. Meagher, Wealth and Power, A Study of the Charter of Economic Rights and Duties of States (1979), 96-107.
26. A/37/442 22 Sept. 1982.
27. See Draft Code of Conduct on Transnational Corporations, art. 9. U.N. Doc. E/A/C/10/1982/6.
28. A. Mahiou, "Une Finalité entre le Développement et la Dependance", paper to be published in Les Sources du droit international du developpement (ed. Flory), Eds. de CNRS Paris (1984).
29. World Development Report, World Bank (1983), 126.
30. Benchikh, op. cit., 42-53.
31. World Development Report, 116-117.
32. F. G. Snyder, "Law and Development in the Light of Dependency Theory", 14 Law and Society Review, 723, 759.
33. Benchikh, op. cit., 151-163, 180.

34. Snyder, op. cit., 726.
35. World Development Report, 116-117, 120, 122-123.
36. Benchikh, op. cit., 60, 186 and 224-226, referring to the Lima Plan of Action and the Vienna Programme of Action on Science and Technology.
37. Ibid., 234-235.
38. Ibid., 233.
39. I. Wallerstein, The Capitalist World Economy (1979), 37.
40. Snyder, op. cit., 749, 753, 774-778.
41. Villey, Seize Essais...op. cit., 173-176, 194-201.
42. Ibid., 173-176.
43. H. Arendt, The Human Condition (1959), 237.
44. Ibid., 251.
45. Ibid., 230-231, 237.
46. Ibid., 266, 273-274.
47. (1978), 70-72.
48. Ibid., 32-33, 122-123, 138-139.
49. F. Capra, The Turning Point: Science, Society and the Rising Culture (1982), 307-309.
50. Ibid., 291.
51. Ibid., 287, 291.
52. Ibid., 308.
53. M. Villey, La Formation, op. cit., esp. 66.
54. Ibid., 39-46, 53-58.