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ETHICAL ISSUES IN INTERNATIONAL LEGAL EDUCATION

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New ethical problems arise when new realities question the traditional answers, and when the established norms and principles show they are narrow when it comes to accounting for present and future challenges.

The reason why there is a preoccupation for the “must be” of society nowadays is that we are the end of an era, when an historical cycle ends and a different one begins, which necessitates an introspective reflection that will allow us to prepare for a change in direction.

In the introduction to the last volume of Cambridge Universal History the following question is introduced: Can the first half of the twentieth century be considered as a bridge between modern history in the eighteenth and nineteenth centuries and the so called contemporary age? After the coming to an end of the Cold War, the twentieth century as a whole should be considered as a transition stage still unfinished.

The magnitude of the change—comparable to the dissolution of the Roman Empire—accounts for the feeling of anonymity and the lack of self-confidence; the dissatisfaction experienced when, the utopia of the Eastern empire being over, the only things settled in the West are the principles of mass consumerism, competition, and liberty without any deep ethical connection.

Change produces a new way of thinking that is characterized by a duality: because of the information revolution, people live in both a local dimension as well as a planetary or global one.

* Senator, Congreso Nacional, Chile. This speech was given at the First Deans of the Hemisphere Meeting, convened during the Association of American Law Schools Annual Meeting at New Orleans, Louisiana on January 7, 1999.

The redefinition of the spatial-temporal elements brings about another way of perceiving phenomena. This way of living universally favors the emergence of a planetary consciousness. We feel we are members of a family, a region, a nation, or an area. At the same time, we feel that we belong to humanity and, therefore, that we are somehow responsible for its problems and destiny.

This ongoing globalization is faster in certain areas of society such as the economy, communications, religion, military strategy, and trends that young people follow. It is slower, however, in others such as politics, family habits, and agriculture. This lack of synchronism produces disarrangement and problems. Not all social groups have access to globalization in the same way, which also causes tension within societies. Along with this comes widespread uncertainty. With each scientific advancement, there is less certainty regarding the reality of the universe, which functions as a complex net of information fluxes. The latter switch in perspective causes increasing inquisitiveness regarding what the universe is, where it is going, where it comes from, and what laws govern its evolution. Uncertainty in the face of transition causes feelings of instability, fear, and anxiety.

Meanwhile, human beings are more aware than ever of their power to intervene in nature and with their own biology. And they are amazed at the effects their actions can have. In this context, the great challenges of humanity arise. Some of them are:

- A population explosion, a phenomenon that according to the United Nations can only be reversed in the year 2050, when the world's population will be ten billion people compared to the six billion that exist now. This growth entails the increase of massive population migration, the development of big cities beyond their capacities, and the aging of the general population.
- The structural unemployment aggravated by the mechanization of the industrial, agricultural, and service industries. The phenomenon is also accelerated by globalization. The dilemma cannot be either between the increase in the number of unemployed, or the gradual increase of the number of individuals who are underpaid.

- The environmental challenge in all of its forms, which demands regulations on the production of goods, as well as changes in consumer habits and lifestyles.
- The new forms of delinquency ranging from everyday violence in big cities to organized crime such as drug dealing, mob activities, and terrorism. This new form of criminality tends to acquire international dimensions and has ever more sophisticated and powerful tools.
- The political apathy that pervades society. The representative mechanisms have lost their efficiency, and the public has distanced itself from parties and institutions. A lack of communication is produced between the rulers and the ruled, a phenomenon that is stressed by the corruption cases continually unveiled. Individuals lose trust and interest in politics and seek solace in either themselves or by placing their fate in someone else's hands. This is the background that enables religious, ethnic, and national fanaticism.

This situation reveals, if not the lack of, at least the precariousness of political instruments to influence the course of events. World leaders regret the absence of corresponding factors between the available instruments and the present challenges.

We are in the midst of a discord that exists between national politics and the tendency toward globalization. This has several effects on the role and legitimacy of the States, but it also makes it difficult to govern the world's economy. The State is threatened by the integration processes when it transfers part of its sovereignty to supranational organizations, and by political decentralization in favor of regions and local entities. The idea that the central government is the most important part of the political system has become obsolete.

These are some of the challenges we have ahead whose solutions remain unknown. This is why strong ethical inquiry has arisen for the search of values that enable the elaboration of adequate answers. Unsatisfied with pragmatism, the younger generations especially introduce a strong demand for public ethics.

There are two problems that complicate the search for an adequate solution. First, as in no other previous period, we live in a pluralist world. In other periods in history, commerce and war allowed different civilizations to develop reciprocally, influence each other, and

even overlap. This coexistence usually took place within an order, as it happened in the Roman Empire, or within different influence spheres. That "empire" does not exist anymore, nor is it possible for it to take form in the short run, nor is there a clear boundary distinction. The world has become a "global village" where all tribes are encouraged to live together and share.

The ethical views of the different civilizations and religions are not very different or incompatible. If we analyze the existing great civilizations, we will find more than one shared value, although the ways to express them differ.

We can argue that contemporary human rights constitute an adequate expression of the value consensus that humanity has achieved, although any international meeting on the issue reveals no more than opinions supporting the positions regarding human rights. But no State can deny the validity of these rights, although many of them jeopardize them in practice. Aung San Suu Kyi, the Burmese 1991 Nobel Peace Prizewinner, claims that only the value placed upon human rights can make different nations and cultures form an authentic human community. One of the main tasks we have ahead is to develop an ethical consensus that is shared both at the local and global levels.

The second problem is that the State has gradually lost legitimacy. One of the main reasons is attributed to the fact that totalitarianism and despotic regimes were characteristic of the twentieth century. As such, the loss of legitimacy is owed primarily to the globalization process that has diminished the importance of the State.

In her novel, Marguerite Youcenar writes about the emperor Adriano, who has been lucky to be born in an era when the gods of antiquity had died and Christianity had not yet asserted itself as the official religion. According to her, humans now live in a period of greater freedoms. In making a parallel with contemporary society, we can say that the state apparatus as the objective of ethics is an irrelevant issue. Additionally, the international state authority system has not yet become a steady reality. So, we are going through a period in which the references to the objective of ethics are precarious.

It is probable for this situation to remain the same for at least the first half of the next century. On the other hand, it appears to be evident—although more time would be needed to demonstrate as

much—that the mere individual conscience is not enough to support ethical fellowship.

In different latitudes—in North America, in Russia, in Europe, and in Latin America—the world’s gaze turns to the commonly called “third sector” or community that restores value to the primary elements of human existence that the market economy and the modern State have left aside. Goods and values are communally embodied in social practices that need to be respected and recreated through freedom. It is not, then, about people being turned against the State, but about making authority and community compatible.

As a matter of fact, the hypothesis is that in the presence of decay—factors related to both the public and the State—and the precariousness of global factors lead societies to turn to the vernacular or community in the search for orientation and sense. Although they do not abandon modernity, they put it in contact with their tradition. This blend of dimensions will be one of the most characteristic features of the coming years.

The ethical reply facing the new challenges cannot, however, originate from the rejection of globalization in the name of community, but from the reflection that acknowledges the complexity of the ongoing process at their different levels, and that strengthens the values of liberty, equality, and solidarity. Politics should enhance solidarity with its capacity for social integration. It can do so by projecting it to institutions, as well as to the public, in an effort to balance the weight of monetary funds and the bureaucratic-administrative power. The solidarity displayed in everyday life must pervade social relationships in accordance with the law.

The fundamentals of ethics can be either religious or rational. The most important thing is that it be a solid and flexible principle system, capable of creating attitudes that are consistent and even heroic, open to new problems. It must be a system having as its focus the molding of the conscience through interaction and dialogue.

In the social field, there must be clear rules establishing a grading of the possible values. These rules should be capable of discerning what is perfect, good, desirable, possible, tolerable on the one hand, and what is to be repudiated and punished on the other. This is essential even when different ethical conceptions are involved.

Therefore, it is necessary to find the answers to the question: What is good for everybody in the same degree? More concisely, whether the value of justice can be defined socially if every individual decides what consists of "the good life." Justice is of a dimensional value that establishes equivalence and proportionality among behaviors.

If a fair society existed, it would be easier for individuals to obtain happiness. However, a reasonable level of justice, that which can be demanded from society, is one thing, and the possibility of happiness for every individual is quite another. The former is a political issue; the latter goes beyond the scope of politics.

The error of totalitarian ideologies is that they confuse justice, happiness, and politics. But at the same time, the idea that institutional well being is enough for democratic development to take place has been proven wrong. A society's government cannot do without society's degree of "goodness," for it bases its efficiency on the existence of important values: trust, solidarity, the capacity to sacrifice for the common well being, the sense of responsibility, and so forth.

The education of law students must depart from the context of problems that have been pointed out here. It does not take place in the void. The first objective is for students to understand the challenges they have ahead as "justice workers" in the world they inhabit. In so doing, they will acquire enough skills so as to constantly repeat that process of apprehension of an ever-evolving reality with its endless capacity to amaze us.

When getting in touch with social reality—which the law is part of—the need for an ethical reference pattern will arise, allowing the would-be lawyer, judge, or legislator to use, apply, or dictate the rules making up the basic institutions in society that would rule individuals' behavior according to a certain ideal. This is how the field of law estimation, the "better" law for a given situation, is achieved. To do so, as we have seen, one can make use of an important group of juridical principles, as well as norms of a general character that are commonly accepted. International human rights law may be the best example of the latter.

This confronts us with a future task: How can we create international institutions or modify existing ones to allow people to be subjects of international law? Large dimensions frighten us and the task

seems immense. We often forget that the empires of the past knew how to organize the worlds as they knew it, with means less adequate than those of today. But they were hierarchic and pyramidal. They never intended to democratize the decisions. The challenge now is to achieve an international order that must be democratic and respectful of people and their liberties.

The main problems of tomorrow are global in dimension: in the economic, commercial, financial, communications, environmental, health, and sometimes criminal fields. That is why meetings like this are so important and stimulating, where experiences are exchanged between those who are committed to the same task: educating the experts in tomorrow's justice.

Let us not live Law only as an expression of the wisdom gathered throughout history. Let us think of it as a challenge of the future knocking at our door.