The Fundamental Norms and Principles of the Law of Peace

(II[nd] part)

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(Continuing Chapter "C. Analysis on the contents of fundamental principles and norms of the Law of Peace")

d. States' equality in rights

d.1. The organization of peace in the world is inconceivable for States that are treated as unequal subjects; it could be seen as the synonym of the endorsement of the "right" of the strongest and the inferiority position of the weaker or, as generally said, the less powerful. Even from the XVI[th] century – as a reaction to the existing inequality and the arbitration of great powers – it has been demonstrated the need to recognize States' equality in rights. Hugo Grotius emphasized that the principle of equality among individuals also found its expression in interstate relations, while Pufendorf underlined that the equality of States was the expression of their sovereignty. Lately, a literature of high value on, States' equality in rights has been developed pointing out its significance[1] in the promotion of relations of good coexistence and understanding in the world. In the *Declaration regarding the principles of international law on co-operation and friendly relations* the States' equality in rights and the right of peoples to dispose of themselves in order to "enhance *friendly relations* and co-operation between States" are sanctioned (p. a al. 2, chap. IV).

d.2. The States' equality in rights is *implied by the very concept of Law of Peace.* The equal observance by all and for all, of generally democratic fundamental norms of international relations constitute an elementary commandment of these relations[2]. Starting from the need to found relations among States not on force but on reason, morality and law[3], it postulates equal respect for the dignity and the being of all States[4], essential attributes inalienable to States and presupposes the right, equal for all peoples, to self-determination[5] in conformity with their own interests and hopes. It has been already proved that equality in rights constituted a necessary condition and a guarantee given both by the right to freedom and independence of peoples, which had not constituted yet their independent status, as well as by the fundamental rights that sovereign States were entitled to. D.P. O'Connell rightfully showed that "judicial equality means not only the equality of judicial rights, but also equality in exercising these rights and protecting them"[6].

This principle does not exclude, but implies the factual elimination of privileges, discriminations and inequalities created by the actions undertaken by colonialism[7]. It is required to remark that equality in rights can not and should not be interpreted and applied against the need to establish equal rights among States and peoples, just like the interdiction of using force in international relations does not imply the incrimination of the war of national liberation – *a just war* – conducted by the oppressed colonial people in order to gain their freedom. Furthermore, developing countries – having been under colonial domination for centuries – shall enjoy certain advantages to reach real equality of conditions with other States[8]. Otherwise, the implementation of the principle of States' equality in rights would be necessary, against its finality, to turn a just principle into a source of injustice, according to the habit of the exploiting class, whose practice generated the appearance of the well known saying *summum ius, summa*

iniuria. In this light, the recognition of the advantages in favour of developing countries should be settled as an institution of contemporary international law[9], meant to contribute to the accomplishment of the principle of States' equality in rights.

d.3. As *an integrant part of the Law of Peace,* the principle of States' equality in rights implies the nullity of unequal treaties imposed by imperialist States to a weaker State, by using actually existing inequality between contracting parties. This is the reason why they require the observance, by all for all, of the principle of equality in rights of large, medium-sized or small States. Moreover, a firm position against any violation of the freedom of peoples should be taken, any form of aggression should be condemned, force for the pre-eminence of law in international relations should be repudiated and equality in interstate relations should be respected[10].

Nowadays, in the conditions of unprecedented technical and scientific development, of States' increasing independence, international problems evince more and more a universality vocation, that is to say that all States are concerned about them. It is unchallengeable that the principle of equality in rights of the judicial systems is a prerequisite to the co-operation of all the States of the world. Ignoring these concrete consequences of equality in rights – *de iure* and *de facto* – shows lack of realism as well as the absence of a moral, political and juridical grounds for any attempt of the States to deny – regardless their size or power – one of the rights devolved from the general, acknowledged principles of law and of international relations. Under the equality in rights – either absolute or functional – each State has an equal right to manifest, specifically or tacitly, its consent to the process of creating international norms, as the majority of States could not elaborate legal norms to impose on minorities[11], in the light of the desideratum according to which no State should be obliged to make effective a rule contrary to its will[12]. This proves the particular significance of effective equality in rights seen as a prerequisite and premise of the co-operation of States, of new-type relations between them, as well as a pledge for granting peace in the world.

e. The right of peoples to self-determination

e.1. The right of peoples to self-determination is an outcome of the struggle for abandoning the relations by means of which great powers have imposed for so many years to small and medium-sized countries a passive role, that of being the instruments and objects of international relations[13]. Lately, the efforts made to achieve the right of peoples to self-determination – a qualitatively fundamental progress in international relations – have been stressed. [14]

e.2. Gradually, this progressive concept made its way in peoples' moral, legal and political conscience. And provided the Pact of the League of Nations is not approaching yet the institution of colonialism – which, certainly, constitutes the extreme denial of any people's right to self-determination –, *the Charter of the United Nations* proclaims that one of the goals of its organization is "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" (art. 1 al. 2). Moreover, it specifies that with a view to 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, the United Nations shall consistently promote conditions of economic and social progress and development, economic, social, cultural and educational co-operation, universal respect for, and observance of human rights (art. 55). It is known that, today, the UN Charter does not condemn yet colonialism *expressis verbis.* Fifteen years after its adoption, in the *Declaration on the Granting of Independence to Colonial Countries and Peoples*[15] it is stated that: "all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social cultural development" (pt. 2); "the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation" (pt. 1). And it is ten years later – within the jubiliary (XXVth) session of the United Nations General Assembly – that it became possible to give practical effect to the *Programme of action with regard to the integral implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples*[16]; "the persistence of colonialism under all its forms and manifestations – as it is

shown in the programme – represents a crime" (pt.1). Moreover, the programme said reaffirms the national right of colonial peoples to fight oppressors and foresees the moral and material support of UN member States for the peoples of colonial territories fighting for their freedom and independence. It is indisputable that the right of peoples to self-determination constitutes, necessarily, the premise of all imperative norms of the Law of Peace applicable in the relations among all States. This explains the extremely great number of resolutions and other documents issued by General Assembly of the United Nations[17] in which the right of peoples to self-determination is firmly reaffirmed, as a fundamental principle of the Law of Peace, meant to promote worldwide peaceful relations.

e.3. The right of peoples to self-determination postulates both the intangibility of this very right and that of all sovereign prerogatives of States[18]. This is the reason why the right of peoples to self-determination is inalienable and indefeasible, thus excluding the possibility of invoking certain conquered rights against it. Moreover, following a colonial domination for hundreds of years – despite the provisions of some unlawful treaties imposed by imperialist powers on underdeveloped countries – it is always the people who is entitled to regain its liberty, to constitute its national, independent and sovereign status, while the State is entitled to claim its prerogatives, here included the right to permanent sovereignty on its natural wealth and resources.

e.4. At the same time, the right of peoples to self-determination is **illimitable** and **undividable**. This right is in a close dialectical relationship with national sovereignty and independence, equality in rights, non-intervention, non-aggression, renunciation to threat and use of force. The right of peoples to self-determination can be achieved provided the general commitment of all States towards all States to observe the fundamental principles of general international law. It sanctions rights liable to being – equally and with no exception – used and invoked by all States, either small or large. The widely given effective and authoritative approval to this principle in the UN documents, as well as in other international documents[19], eloquently shows that we are facing a *fundamental judicial norm,* and not only a principle of political or ethical character. Experience proves that, being closely related and interconditioned by the other fundamental norms of the Law of Peace, the right of peoples to self-determination plays an important part in the settlement of structures in position to organize and grant the development of worldwide peaceful relations.

f. The sovereignty and the independence of States

f.1. The sovereign equality of States represents that decisive link of the Law of Peace that polarizes the other norms and principles of this law and orientates and organizes peace structures, on the whole, that is to say, it maintains and enhances peaceful relations all over the world. National sovereignty and independence emphasize the contents of this fundamental principle of the Law of Peace. As well known, the fact that independence is an essential component part of sovereignty has become more and more acknowledged[20]. "...The idea of sovereignty – showed O'Connell – acquired the secondary aspect of unlimited capacity and equality in its relation to all States"[21], while Cl. Parry shows that "as long as all States are equal and they are equally States, sovereignty does not express only the idea of supremacy, but, lately, also that of independence"[22]. In the same respect, Oppenheim-Lauterpacht conclude that "sovereignty ... implies perfect independence inside the country and beyond its borders"[23].

Historical experience abundantly shows that respect for the principles of national sovereignty and independence creates necessary conditions for the development of international co-operation and the promotion of normal, peaceful relations among all countries. Therefore, all States are called out to bring their persevering and active contribution to finding solutions for the fundamental problems of present times, *to the prevention of a new world war and to peace defence* as well as to the extension of co-operation between peoples.

f.2. An analysis of the concept, of its major components and its interconnection make us understand why the sovereign equality of States is – necessarily – a fundamental principle, an essential link of the Law of Peace. Experience has demonstrated and is still demonstrating that *an edifice of peace,* efficient by its innermost

structures, as well as by its finalities, presupposes the organization of international relations among independent and sovereign entities[24].

Independence – as an aspect of sovereignty expressing the independence of the State in its relations with other States – confers to the national State that power of decision which allows it to harmonize its legitimate interests with those of other States. In fulfilling its functions, in establishing its internal or external policy, the State acts independently, without any dependence on the power of other States. Any interference from another State constitutes an act of violating sovereignty. By virtue of its independence, each State has the freedom to establish, starting from its own interests, its domestic and foreign policy. The independence of all States is asserted within those international relations which assure perfect respect for the sovereignty of States. It requires, at the same time, the consistent observance and application of the principles and norms of international law, meant to promote the achievement of international co-operation based on the respect for territorial integrity, non-interference in other States' domestic affairs, of perfect equality in rights of all States, the essential components of certain harmonious structures of the Law of Peace.

To better unravel the role of this principle in peace structuring, we specify that the political independence of a State requires an external activity of *defending* its existence, its legitimate interests, of materializing its aspirations for national advancement and development, by respecting at same time the independence of other States and the international obligations assumed by its free consent. The attempt to impose on a State a certain political ideology, exercising *pressures* of any kind in order to make it adopt a certain position or change its own policy according to the interests of other States, of foreign political, economic or financial circles represents acts of violation made on the independence of the given State, thus jeopardizing pacific relations among the given States and imperilling peace. No State *should be expected* to fulfil international obligations which have not been freely assumed. By virtue of its independence, a State may enter relations with other States, assuming and considering its own interests, by bi- or multilateral treaties and international duties.

Violating the independence of States represents one of the most serious forms of breaching international legality, of jeopardizing peoples' peace and security. Therefore, a State whose independence has been violated may, according to international law, request reparations or resort to other legitimate measures against the guilty State, as in international life they acknowledged the right of States to defend, individually or collectively, their independence and prohibit to everyone its violation. Assuring the political independence of States is closely related to their economic independence, by which it is actually conditioned. Each State is called to participate in international exchanges, in economic co-operation, to integrate in the world economic circuit, according to the potential and the specific nature of its resources. The worldwide circuit of values – both material and spiritual – contributes to the enhancement of international relations, the promotion of co-operation among peoples and peace in the world, provided sovereignty of States is not encroached upon. Meeting the requirements of political and economic independence could be conceived only within international co-operation founded on equality in rights and mutual advantage, on respect for the right of States to freely dispose of their natural wealth and resources, in accordance with their national interests, thus exercising an outstanding influence on the settlement of peaceful relations of understanding and trust among peoples.

f.3. Along with the formation of nations and national States, State sovereignty becomes national sovereignty, as well. It represents the right of the nation to decide upon the way of its development and to choose its social and state organization. National sovereignty finds its profound expression in the right of nations to self-determination, a right mentioned as being the principle of international law, within the first article of the Charter of the United Nations Organization.

The formation process of nations and national States instilled new elements to the contents of State sovereignty and determined those social and national conditions and specific features, in which the sovereignty of each State is achieved. The formation of nations has enriched social life, as well as the economic, political and spiritual life of society; it has created a new, national frame for exercising the sovereignty of the State.

History proves that the observance of the principles of national sovereignty and independence, of non-interference in domestic affairs and that of perfect equality in rights create a favourable climate for the dissemination of international co-operation and the promotion of pacific and normal relations between States. The structures meeting these objectives are those in which all States, either large, medium-sized or small, actively contribute to the solution of the fundamental problems of present days, to peace maintenance and defence, the instauration of international relations founded on social and national justice. Ideas concerning sovereignty and the independent development of peoples are to be mentioned among the conditioning elements of *the peace and progress of humanity.*

g. Co-operation

As it is stipulated in the *Declaration on the Principles of international Law of friendly relations and co-operation between States,* co-operation represents a major requirement for granting peace in the world. "States – it is sanctioned in this important international document – have to co-operate among each other in order to maintain peace and international security" (p.a al. 2, chap. IV).

g.l. Not long ago, it seemed that the maximum of international legality would consist in the respect of all States for the obligation to refrain from committing illicit acts, that is to say, obligations *in non faciendo,* to which it has been added further obligation *in patiendo.* They consisted in tolerating the actions of another State, provided they were necessary to the latter one, without causing any prejudice to the State concerned. The Law of Peace implies the need of co-operation, which – as it is demonstrated by the daily development of international relations[25] – confers a richer content to the international obligations of States, namely that of completing duties *in faciendo.* The admission of the obligation of co-operation of States tends to elevate international legality to a higher, superior level, where States, peoples and governments regard each other as associates in achieving common actions in common interests[26]. In several United Nations documents[27] as well as in other international documents[28] the principle of co-operation is insistently resumed, by statuting practical and concrete forms and modalities for the enhancement of interstate relations in the light of its exigencies. Thus, for example, in a resolution adopted by the General Assembly of the United Nations, in December 1965, it is stated, among others: "The General Assembly decides to continue focussing on measures and actions meant to promote good neighbourly relations and co-operation in Europe"[29].

It should be remarked that the principle of co-operation – as a mandatory norm of peaceful relations in the world – has not its contents definitively settled, so far. Therefore, it follows, along with the enhancement of international relations in the direction of force repudiation, that this content becomes richer and richer. However, the obligation of States to *co-operate* with one another with regard to maintain international peace and security is being considered as already unanimously recognized. It could be enunciated, in this respect: the right of States to collective self-defence, on the grounds of which any State may come and assist a State against which an armed aggression has been committed[30]; the Organization shall ensure that States which are not Members of the United Nations act in accordance with these principles enumerated in the *Charter* so far as may be necessary for the maintenance of international peace and security (art. 2 § 6). Nowadays, progressive forces and peace loving States tend towards a continuous extension and deepening of the contents of the obligation of international law to co-operate, which also implies the right to co-operate, the obligation of States not to impede this co-operation and international joint effort, but to facilitate them. It is extremely important, in this context, the right of States – whose interests are or could be affected by certain international treaties – to take part in their elaboration and conclusion, as well as to participate in the proceedings of international governmental organization, which by means of their constitutive act are called out to deal with international issues of general interest. It is known that – in the light of these theses – within *the Geneva session of the Specialized Committee of the United Nations for the codification of the principles of international law on friendly relations and co-operation between States,* it has been suggested[31] that in the codification of co-operation principle it should be priorly sanctioned that "all States, large or small, have the right and

the duty to co-operate with one another, with no discrimination for their political, economic and social systems the different spheres of international relations, based on the strict respect for sovereignty and national independence, equality in rights, non-intervention in the domestic affairs of others and reciprocal advantage to maintain peace and international security and to promote international economic stability and progress as well as the general wellbeing of nations"[32]. This initiative tended to: **1.** the enrichment of the initial text submitted to the Specialized Committee by the proclamation of the right – not only that of duty – to co-operate with all States; **2.** the specification that not all kinds of co-operation constitute a right and an obligation for States, but only such co-operation which is based on the fundamental principles of contemporary international legality[33].

In present times, all States find in external economic relations an indispensable and extremely valuable element for their rapid development, for the continuous increase of national wealth. Today, more than ever, each country, regardless its size, the wealth it possesses, the level of its economic and social development, its geographical position, is objectively determined to participate in the exchange of world values, to give and receive what human creation represents[34]. According to practice, international co-operation – as a principle of developing modern international life – presupposes *active* subjects *equal in rights.* Their actions on the plane of international relations have to be under the sign of good-will[35]. International practice demonstrates that it is not about a momentary co-operation, of exceptional title, for an isolated case, but it is about the need that the ensemble of international relations be founded on the co-operation and common efforts of all States, no matter their size, with no constraints, exceptions or discriminations[36]. Certainly, meeting these desiderata becomes possible only by means of negotiation, the conclusion, interpretation and application of international agreements – important instruments of international co-operation[37].

g.2. Reciprocal advantage – being in a close dialectical relation with other principles[38] and the fundamental norms of the Law of Peace – aims at the participation on reciprocally advantageous bases in the international circuit of material and spiritual values, the possibility of States to make up their proper effort by participating in this circuit. Mutual advantage constitutes a corollary of States' equality in rights as well as a practical modality to achieve their co-operation. In many international documents they use the expression "equality in rights and reciprocal advantage"[39], and "the co-operation of States on the grounds of mutual advantage". And it is natural that – in case that States are equal in rights – co-operation among them represent a profit *in equal measure to each of them.* Thus, to the idea of *equality,* they add the idea of *reciprocity,* thus obliging to the liquidation of all those tendencies to organize value exchanges only to the benefit of certain. Reciprocal advantage – in completing equality of rights – confers it richer democratic contents, suitable to our epoch[40]. This is the way the explain the fact that in nationalized documents, as well as in several international documents[41], mutual advantage is enunciated as a distinct principle of interstate relations, lying – besides the other principles and norms of international relations – at the basis of external policy and having an exceptional role in organizing and carrying on *pacific* relations in the world, as: **1.** it gives voice to reciprocal respect; **2.** it reflects the equal treatment of nations; **3.** it consolidates *trust* among peoples.

International practice demonstrates that it is absolutely possible – provided the existence of goodwill and good faith – to organize co-operation connections among States with different economic, technical-scientific, cultural and social potential to assure advantages to both parties. Nowadays, more and more frequently, in governmental documents the principle of mutual advantage is sanctioned. Thus, it is to be found in the Economic Declaration adopted by the Conference of the American States Organization[42], in the Declaration of the United Nations on the Granting of Independence to Colonial Countries and Peoples[43], in the Statute of the International Agency for Atomic Energy (23 October 1956), in the resolutions of the Economic and Social Council of the United Nations[44], in numerous treaties and other international instruments of States. Reciprocal advantage is applied to the co-operation relations between States in different fields, international documents – which proclaim it – referring both to the *economic relations* among States and *to those of cultural, scientific and technical nature.* "A vast network of equitable and reciprocally advantageous

exchanges – it is specified in the Final Act of the United Nations 1964 Geneva Conference for trade and development – assures a good basis for the settlement of good neighbourly relations between States"[45]. Moreover, it is specified that "the development of equitable and *reciprocally advantageous* exchanges may encourage the enhancement of higher living standards, the total use of labour power and a rapid economic progress in all the countries of the world"[46]. In the *UNESCO Declaration on the principles of international co-operation* it is said: "Cultural co-operation shall contribute to the establishment of stable, long-term relations between peoples, which should be subjected as little as possible to the strains which may arise in international life" (art. 9 – underl. en.).

Reciprocal advantage is to be found in top position, as being part in the thesaurus of moral, political and juridical values that continuously inspires peace and international co-operation policy. International practice consistently registers the fact that the observance of the exigencies of mutual advantage is *an indispensable condition for the realization of international co-operation,* in which the needs and interests of peoples intermingle – an eloquent expression of the interdependences of the contemporary world, which marks even more the interconditioning of humanist and democratic efforts of peoples[47] towards *building new peace structures* in the world in which we are living.

g.3. States meet each other in their effort of co-operation with: different levels achieved in other countries or areas[48]; limited possibilities of turning to good account their own products, as a consequence to, most often not loyal competition[49]; the unjust treatment to which the smaller and the weaker are submitted by the powerful[50]. The Law of Peace – from the perspective of relations based on fairness and justice – offers criteria of evaluation and appreciation and, when needed, of correction in achieving the reciprocity and correlativity of the exchange carried on, by taking into consideration the interests of all, excluding *a priori unequal* treatment, typical of colonial age. New based co-operation represents an important constitutive aspect of the general process of resettling contemporary international relations, as – concomitantly with each nation's and peoples' efforts – *pacific* development requires, at the same time, granting an unrestricted frame to international economic co-operation, on the grounds of just and equitable criteria[51].

g.4. Having in view the particular implications of international trade in the efforts of re-settling on a new basis economic relations between States, the promoters of democratic, just and equitable norms within international commercial relations have firmly acted against restrictive measures and practices, against hindrances of any kind. As a mirroring of these actions, in the *Charter of Economic Rights and Duties of the States* it is statuted that "all States have the duty to co-operate in achieving adjustments in the prices of exports of developing countries in relation to prices of their imports so as to promote just an equitable terms of trade for them, in a manner which is remunerative for producers and equitable for producers and consumers" (art. 28). The development of such norms tends to outline *an important chapter of the Law of Peace,* which – together with the other norms – is meant to turn the desiderata of peace and co-operation into *realities* of international life[52].

h. Disarmament

h.1. Peace structures, necessarily, presuppose the implementation of disarmament, which represents one of the fundamental principles of the Law of Peace. General and complete disarmament, and mainly, nuclear disarmament, became nowadays one of the primordial problems of international life[53]. The realization of disarmament is of vital importance in the removal of the threat of a devastating war, in assuring peace all over the world, so that peoples may sanction the efforts of development and progress and unabashedly carry on their entire activity towards a free life. Despite all the efforts made for achieving disarmament, huge human and material resources are concentrated, today, in the field of armament; new expanses are added to military budgets; armed effectives reach unduly high levels in time of peace; the accumulation of conventional weapons and the modernization of most destroying weapon types and systems is continued; scientific and technical progress in the field of nuclear energy, in electronics, in laser technique and in other fields are priorly used for the improvement and production of new

weapons; numerous military bases and troops are maintained on other States' territories. During the latest years, an unprecedented scope is conferred to nuclear arms race, the development, diversification and accumulation of nuclear armament totalizing a huge force of mass-destruction; it has been reached an accumulation of nuclear armament the destruction power of which is tantamount to tens of tones of conventional explosive for each inhabitant of the Planet[54].

h.2. The principle of disarmament has been imposed on the life of the Planet, presenting an *objective* determination. The essential factors outlining its contents and specifying its finalities are: **1.** the serious threats of arms race addressed to peoples' peace and security; **2.** the imperative of reconsidering and restructuring the existing equilibrium and the settlement of interstate relations not on the insecurity generated by the accumulation of the powder kegs of arms race, but on mutual trust and respect so much needed by the nations of the world; **3.** the decision of peoples of the world to put an end to tension and strain determined by the threat of weapons, and to build peace and security on the grounds of good understanding[55]. It has been imposed as an international law principle, provided that *granting* the right of peoples to existence, to life, implied the validation of all States' obligation to achieve disarmament, and above all, nuclear disarmament.

Translating into practice the requirements of this principle implies the immediate cessation of arms race and the adoption of measures meant to put an end to competition in purchasing, producing and improving weapons and in amplifying military devices. And this could be achieved by freezing and reducing military budgets – a prerequisite that conditions the initiation of the effective process of disarmament. It requires the establishment of a concrete programme of gradual reduction – in phases – of budgets, starting with those of large, seriously armed countries. Such a programme should foresee the criteria and proportions of phased-reduction of funds allotted to armament and also specify the duration of each phase. It is imposed, concomitantly, the reduction of budgetary funds destined to research made for military purposes, stimulating the technological competition of armament and leading to the continuous modernization of weapons as well as the creation of new arms systems of an increased destruction capacity. The principle of disarmament requires that the measures of freezing and reducing military budgets be effective and irreversible, while released resources be directed towards the achievement of pacific objectives.

h.3. The principle of disarmament – as a fundamental component of peace structures – is addressed to *all* States and peoples of the world, large or small, regardless their military force and the types of arms they detain. As a universal principle, it is addressed *erga omnes* that is to say, should a single State not make it valid, its efficiency becomes highly questioned. Moreover, this fundamental principle of the Law of Peace requires that in the negotiations for disarmament, in the debates and adoption of measures in this field, there should participate all States, by observing each State's right to defend, within any negotiation, its legitimate interests of security and development. Therefore, addressed to States and peoples all over the world, this principle implies, at the same time, the active participation and respect for the interests of all States in the process of its practical implementation, as the problems of disarmament, and mostly of nuclear disarmament, directly affect security and the life itself of peoples, who should know how to act in this respect in order to defend their own fundamental interests[56]. The principle of disarmament concerns, in an *objective* manner, all States and peoples, and it can be translated into practice provided the effective participation of all the States and peoples in the world, due to the fact that it has a decisive importance for their existence, for the free and unthreatened development of human personality, as well as for the fate of civilization on our Planet. For the nations of the world bear the harder and harder burden of arms race[57], they are called out to unite their efforts and act firmly to determine concrete and effective measures of disarmament, mainly nuclear disarmament. The materialization of the principle of disarmament – in the perspective of peace structure – implies the concerted effort of all social forces: political parties, public, national and international organizations, that of all citizens without distinction as to their political, religious or philosophical creeds. It is only by the joint action and will of all social forces in the world that inadequate structures existing today, will be abandoned, disarmament will be achieved and fragile peace – built on the menace and terror

of the ticking bomb of arms race – will be replaced by genuine peace, founded on the durable grounds of trust and mutual respect in the relations between nations and peoples[58].

i. Good-neighbourliness

Peace structures include – at the same time – good neighbourliness, which being an essential principle of the Law of Peace, represents a *necessary* component part of all peaceful organization of interstate relations.

i.1. Experience shows that many conflicts and disputes appearing in international life have their roots in the very existence of tensional states as well as in the misunderstandings between neighbour countries and they are determined by the political and military confrontation occurred between these States[59]. This is the reason why the settlement of good-neighbourliness relations constitutes an imperative need of international life, especially under the conditions on which world relations see a continuous deterioration. It is a consequence to failing to solve existent problems and the appearance of new conflict focuses in different areas of the world, to force and domination policy, to the more and more frequent resort to intervention and interference into domestic affairs, to the tendencies of world division in influence spheres as well as to the acceleration of arms race[60]. In most cases, these negative phenomena stimulate variance, distrust and suspicion among neighbours, worsening their relations. It is also known that colonial domination left as legacy to a great number of neighbour States, particularly complex problems, many of them referring to their territories. These are very delicate problems, which are often used to bring about tensional states and even conflicts, thus impeding the co-operation of the States involved and jeopardizing peace on the Planet[61].

i.2. Neighbourliness is – as it has been demonstrated in the literature of specialty[62] – an *objective* phenomenon of international relations and it finds its expression in the concrete domains it is materialized: land, maritime and aerial neighbourliness. Technical and scientific progress has generated new manifestations of neighbourliness, with multiple implications concerning relations existing between the given States.

Appeared along with the creation of entities, States as well as neighbourliness, represent an objective reality that mankind cannot change from a geographical point of view, as nations and peoples organized themselves in state entities on certain territories, thus integrating themselves into a system of neighbourliness relations consolidated over the years. This reality may be improved or worsened under a political, legal or moral aspect, according to the way that States approach this problem, and mainly, to the manner they act to solve the various concrete aspects it implies. This is the ground on which it germinated the idea of good-neighbourliness, which proves to be a necessary component part of peace structure as well as an essential principle of the Law of Peace.

i.3. The historical evolution of international relations has demonstrated and is still demonstrating that States can commit deeds and undertake actions meant to poison relations with their neighbours. Such facts and actions are of most various nature, in all areas and media that neighbourliness implies. Thus, **1.** on the plane of political-legal relations: acts of force and aggression, the occupation of other territories, manifestations of apartheid policy, colonialist or non-colonialist practices; **2.** on the plane of economic relations: discriminatory and protectionist practices, just like any other actions meant to harm the economy of neighbour States, **3.** in environmental fields: any action that might cause the deterioration of environment or the ecological equilibrium of neighbour States; **4.** hostile propaganda regarding neighbour States, the organization and development of their political and legal relations as well as concerning the living conditions of the given peoples. All these are to bring about most grave evolutions in neighbourly relations and they may very well jeopardize peace among neighbour countries, generating consequences for peace in the given area and in all other regions of the world. Good-neighbourliness – as a fundamental principle of the Law of Peace – presupposes *refraining* from committing any acts or deeds meant to poison relations between countries. The Law of Peace implies the elaboration and adoption of legal norms to *prohibit* acts meant to worsen neighbourly relations[63].

i.4. Good-neighbourliness – as a necessary dimension of peace structures – requires, at the same time, actions undertaken by neighbour States to assure the normal development of

relations existing between the given countries and the enhancement of friendship and co-operation on multiple planes among the States concerned.

Experience shows that the strengthening and dissemination of friendly and co-operation relations among neighbours represent a ground that encourages peaceful solution to all problems, by respecting the legitimate interests of all States, in the light of criteria defining the behaviour of States in our contemporary world, granting a climate in which peace and security may be well maintained and consolidated. Undertaking actions that lead to the normal development of interstate relations as well as to the enhancement of friendship and co-operation, became a vital need in a world of interdependences, in which numerous problems, of the most various and important nature for the life, wellbeing and civilisation of peoples on the Planet: should they be political, economic, cultural, technical, scientific or other kind of problems, they cannot be solved without a close co-operation implying the active participation of all States and peoples. There is an interconnection among the actions meant to encourage interstate friendship and co-operation and good-neighbourliness. Should all initiative meant to extend friendship and co-operation contribute to the consolidation of good-neighbourliness, at the same time, experience proves, that it is only in the terms of good neighbourly relations that fruitful co-operation can be developed, to which the countries concerned should bring their contribution for the benefit of other peoples, as well.

Actions meant to determine the strengthening and enhancement of good-neighbourliness, as well as mutual help and assistance in overcoming different situations, such as those generated by natural calamities or of any other kind, that might harm countries and peoples involved. Experience demonstrates that good-neighbourliness acquires new dimensions, it consolidates and intensifies in case that they undertake measures meant to do away with phenomena that might limit economic, cultural scientific exchanges between neighbours.

Thus, as an essential principle of the Law of Peace, good-neighbourliness presupposes refraining from all action liable for worsening relations existent between given countries. Moreover, it requires to undertake measures to ensure the normal development of interstate relations, to lead to the strengthening and consolidation of friendship and co-operation among neighbours.

Good-neighbourliness has a wide sphere of contents, presupposing – together with respect and the integral application of the fundamental norms and principles of international law – the settlement and implementation of specific norms, resulted from the position of the given countries in the same geographical area or region[64]. This is the reason why, good-neighbourliness represents a fundamental component part of peace structures as well as an essential principle of the Law of Peace.

j. Fulfilling assumed obligations by showing willing effort

j.1. Together with the other structural component parts, the principle of fulfilling assumed obligations by showing willing effort comes to complete a harmonious system of principles that grounds the contents of the Law of Peace. Centuries of challenges, confrontations and strain made possible to understand the basic truth, namely that "each country has the obligation to fulfil by showing willing effort the obligations it had assumed"[65]. In the configuration of the Law of Peace, it is also essential that each State complete "by showing willing effort the duties that are incumbent on it under the generally acknowledged principles and norms of international law"[66]. At the same time, this structural component part of the Law of Peace requires that every State should carry out "loyally the obligations that are incumbent on it, by virtue of the international conventions in accordance with the principle and norms generally recognized by international law"[67]. And undoubtedly, it is essential for world peace that good-faith guide all international actions undertaken by the States and peoples of the Planet [68].

The maintenance and consolidation of peace imply not only the elaboration and promotion of concrete measures, the assumption of certain commitments in interstate relations, but also their rigorous observance.

In concluding international treaties, conventions, agreements and ententes, States start from the need to solemnly stipulate the rights to peace and security, to the independent

development of their peoples and from the conviction that these solemn engagements shall be observed[69].

The diversification and multiplication of international relations, the more and more intense exchange of material and spiritual values, the extension of the co-operation of nations in the terms of the accentuation of contemporary interdependences, acutely emphasize the need to scrupulously respect all engagements assumed by the treaties, agreements and conventions having intervened among States[70].

j.2. While with earlier historical times respect for the obligations assumed *(pacta sunt servanda)* was founded on religious criteria and percept, the conclusion of treaties having been accompanied by certain rites, over the years, their obligatory force began to be deducted from the idea of good-faith *(bona fides),* as an obligation of honesty, as a duty of honour, of respect for keeping one's given word. Jean Bodin – underlining the imperative need to observe assumed obligations – showed that "fidelity and loyalty are the real bases of justice. It is not only the State, but the entire human community that is bound to them"[71]. Furthermore, Grotius and Gentilis proved "the sanctity of all commitments made".

As it is well known, Romanians have – always – considered that "keeping one's word represents the grounds for making good relations" (Callimachi); "the accomplishment of an obligation that you, yourself, have accepted" is "an elementary duty of all nations' co-existence" (Kogălniceanu). Nicolae Titulescu stated that "treaties should be considered as sacred by all States", it representing "an imperative of peace and security", while the infringement of freely assumed obligations meant "the violation of the law of the nation, contempt for the given word, for the sanctity of treaties".

It is an already demonstrated truth that the non-observance of assumed commitments prejudices not only the other party, the acting partner, by co-operation, but also other States, not only by the immediate consequences of economic nature, but also by legal, political and moral implications[72]. Today – as it has been well pointed out in the debates of the Specialized Committee of the United Nations of the principles of international law on friendly relations and co-operation between States-, "loyal respect for all obligations assumed, constitutes a major premise for developing international relations based on understanding and mutual trust, so needed, considering certain States' different social systems", by contributing to: **a.** the maintenance of international peace and security; **b.** the peaceful settlement of disputes; **c.** the enhancement of co-operation between states. Respect showing willing effort for assumed commitments has not only moral contents, but also a legal one, as it refers to the *way* and the *spirit* in which the obligation is fulfilled, as well as to the degree of scrupulousness and rigour at which the pledge made is carried out. It requires the implementation of its clauses to their letter and in their spirit – with no interpretation subtleties -, the more accurately possible. *Bona fides* – naturally – implies both reciprocal confidence in the given word and a scrupulous and appropriate conduct from the part of all concerned.

j.3. The attempts of justifying the violation of assumed obligation resist neither on an ethical nor on a political-legal plane. A new international order could be built only on equity and justice, on the respect and esteem of all. Loyal respect for all obligations assumed has been inserted in international treaties, inclusively in the Vienna Convention of May 1969, in declarations and numerous resolutions of the United Nations. They underlined that the development and the codification of international law, the promotion of the *pre-eminence of the law* in interstate relations required the achievement of mutual obligations. Respect for all assumed obligations is a fundamental principle of international law, whose translation into practice represents the essence of new relations making their way with regard to the democratization of interstate relations. In the *Declaration regarding the principles of international law on friendly relations and co-operation between States* it is settled that "each State is obliged to loyally carry out the obligations that are incumbent on it, by virtue of the international conventions in accordance with the principle and norms generally recognized by international law". By not only working directly and efficiently on the conception of international commitments, but also participating in their implementation in a spirit of accurateness and responsibility, all the States of the world – large, small and medium-sized – will contribute, this way, to the dissemination of new interstate relations to assure the entire humanity a secure

and peaceful future of co-operation and wellbeing. This is why loyal respect for all assumed obligations constitutes a major component part of international life, a premise of good co-existence, of the enhancement of co-operation of all nations on the grounds of equity and justice[73]. These represent significant meanings of the joint efforts made by the peoples of the world for a more ample, a more sustained, but also a more efficient co-operation, in a world in which the independent, free and sovereign development of every people is conditioned by the worldwide maintenance and consolidation of peace.

NOTES:

[1] See Grigore Geamănu, *op. cit.*, p. 170 and next. Also see idem, *The Fundamental Principles of Contemporary International Law,* p. 90 and next; Edwin Glaser, *The Right of Peoples to Self-determination,* in R.R.D., 1971, no. 10, p. 81 and next; Gh. Moca, *op. cit.*, p. 170 and next; Boutros Ghali, *Le principe de l'égalité des Etats et les organisations internationales,* in R.C., II, 1960; A. Bozovic, *Some Tendencies of the Right of Self-determination,* in Jugos, R.M.P., no. I, 1958; C. Eagleton, *Self-determination in the United Nations,* in A.J.I.L., Washington, 1953; M. Virally, *Droit international et décolonisation devant les Nations Unies,* in A.F.D.I., Paris, 1963, 1964; M. Beloff, *Self-determination reconsidered,* Confluence, Cambridge-Mass., 1956 etc.

[2] See Aureliu Cristescu, *Equality in rights – A basic norm of international life*, in "Lumea", 1971, no. 2, p. 8-9.

[3] *Ibidem*, p.9.

[4] See Sergiu Celac, *Towards the plenary assertion of the principle of States' equality in rights,* in L.C., 1971, no. 10, p. 81-83.

[5] See E. Glaser, *The Right of Peoples to Self-determination,* in R.R.D., 1971, no. 5, p. 110 and next.

[6] D.P. O'Connell, *International Law*, vol. I, London – New York, 1965, p. 344-345.

[7] See E. Glaser, *Tendencies of the progressive development of contemporary international law in relation to the abolishment of colonialism*, in S.C.J., 1962, no. 3, p. 532 and next.

[8] See, in this respect, the analysis made by the Special Committee regarding the *Implementation of the Declaration on the Granting Independence to Colonial Countries and Peoples,* A/52/L. 64 and Add, I of 10 December 1997.

[9] See E. Glaser, *op. cit.* and *loc.cit.*, p. 534.

[10] See Aureliu Cristescu, *op. cit.* and *loc. cit.*, p. 10.

[11] See Oppenheim-Lauterpacht, *op. cit.*, vol. I, p. 263 and next.

[12] See Nicolae Ecobescu, Victor Duculescu, *The Fundamental Rights and Duties of States,* Edit. Politică, Bucharest, 1976, p. 54 and next.

[13] See Alexandru C. Aureliu, *op. cit.*, p. 77-89.

[14] See *Universal realization of the right of peoples to self-determination,* A/52/643 of 12 December 1997.

[15] Resolution no. 1514/XV of 14 December 1960.

[16] Resolution no. 262 I/XXV of 12 October 1970.

[17] See for instance, art. I, drafts of pacts on human rights, Resolutions no. 637 of 16 December 1952, no. 1188 of 11 December 1957, no. 1314 of 12 December 1958, no. 738 of 28 November 1953; Resolutions no. 1603 of 20 April 1961 and no. 1742 of 30 January 1962 regarding the situation in Angola; Resolutions no. 1747 of 28 June 1962, no. 1952 of 11 December 1963 and no. 2038 of 22 October 1966 concerning the situation in Rhodesia; Resolutions no. 1898 of 13 November 1963 and no. 2145 of 28 October 1966 on the situation of South-East Africa etc.

[18] See *Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples by the specialized agencies and the international institutions associated with the United Nations.* A/52/622 of 10 December 1997.

[19] See the documents of the first Conference of independent African States (Accra, 1958), of the second Conference of Independent African States (Addis Abeba, 1960); the declaration of the heads of State and governments of non-aligned countries (Belgrade, 1961; Cairo, 1964) etc.

[20] See *Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes*, A/52/644/Add 2 of 12 December 1997.

[21] O'Connell, *op. cit.*, vol. I, p. 319.

[22] Cl. Parry, *The Function of Law in the International Community,* in Manual of Public International Law, New York, 1968, p. 13.

[23] Oppenheim-Lauterpacht, *op. cit.*, vol. I, p. 118-119.

[24] Aureliu Cristescu, *Declaration of the United Nations on the Principles of International Law of friendly relations and co-operation between States*, in S.C.J., 1971, no. 2; Dumitru Mazilu, *National Independence – Romanian Thinking and Action,* Edit. Militară, Bucharest, 1978; Gheorghe Moca, *op. cit.*, p. 121 and next; Boutros Ghali, *op. cit.*,; C. Chaumont, *Recherche du contenu irréductible du concept de souveraineté internationale de l'Etat. Hommage d'une*

génération de juristes au Président Basdevant, Paris, 1960; Bertrand de Jouvenel, *De la souveraineté*, Paris, 1955; M. Hagemann, *La souveraineté étique et l'ordre international*, in A.S.D.I., 1959; J.N. Hyde, *Permanent sovereignty over natural wealth and resources*, in A.J.I.L., vol. 50, 1956; also see Julie Marie Bunck, Ross Michael, *Law power and the sovereign State: the evolution and application of the concept of sovereignty*, Penn State, 1955, p. 8 and next.

[25] See V.A. Yoyce, *The Story of International Cooperation*, New York, 1964; Alexandru C. Aureliu, *op. cit.*, p. 205-235.

[26] See UN documents A/5746, p. 161-185; A/6230, p. 185-206; A/6799, p. 189-198; also see M. Fitzmaurice, *International legal problems of the environmental protection of the Baltic Sea,* 1992, Rev. by E. Frankx, Rev. Belge Dr. Intern 27, 94, p. 407 and next; See A. Quereshi, *International economic law*, Sweet & M., 1997; also see P. Craig Ed.; C. Harlow Ed., *Lawmaking in the European Union*, Sweet & M., 1997, p. 17 and next.

[27] See Resolutions no. 1904, of 20 November 1963; no. 1472/XIV; the Declaration on the occasion of the XXVth anniversary of the United Nations Organization, adopted on the 20th of October 1970.

[28] Resolution no. 1472/XIV.

[29] Resolution no. 2129/XX of 12 December 1965 (art. 4).

[30] See art. 51, the Charter of the United Nations. Otherwise, this article is nothing else but an application of the general principles of the Law of Peace; the right to collective self-defence belongs to all States, being or not the members of the United Nations Organization.

[31] The proposition said, has been made by the Romanian delegation, which underlined the particular significance of this fundamental norm in the promotion and maintenance of peace.

[32] Doc. A/6799, no. 122, p. 69.

[33] See E. Glaser, *The codification of the principles of international law on friendly relations and co-operation between States*, in S.C.J., 1968, no. 2, p. 318 and next.

[34] See Ludovic Takacs, *op. cit.* and *loc. cit.*, p. 104-107; also see Nicolae Ecobescu, Victor Duculescu, *op. cit.*, p. 61 and next; 99 and next.

[35] According to art. 2 § 2 in the UN Charter, "all Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter". This requirement is stipulated *expressis verbis* in many other international treaties and conventions. Thus, art. 26 in the Convention on the law of treaties (Vienna, 23 May 1969) foresees that: *"any valid treaty ...has to be completed ... showing good will"*. And examples might continue.

[36] See *Renewal of the dialogue on Strengthening international economic cooperation for development through partnership*, A/52/628/Add. 1 of 18 December 1997.

[37] See Gr. Geamănu, *op. cit.*, p. 218 and next.

[38] See E. Glaser, *Le principe de l'avantage réciproque*, in R.R.S.S., 1966, no. 2, p. 233 and next.

[39] See art. 1, *Romanian-French Cultural Agreement*, of 11 January 1965; *Declaration of the Cairo Conference of non-aligned countries* etc.

[40] See Alexandru C. Aureliu, *op. cit.*, p. 113.

[41] See *Relations commerciales entre pays avec systèmes économiques et sociaux différents. Conférence des Nations Unies sur le commerce et le développement,* TD/B/637, 2 November 1976, p. 233 and next etc.

[42] Buenos Aires, 1957.

[43] Resolution no. 1514/XV, of 14 December 1960; Resolution no. 52/73 of 10 December 1997.

[44] Resolution no. 916/XXXIV, of 3 August 1962; Resolution no. 52/185 of 18 December 1997.

[45] Doc. E/Conf. 46/L. 28, p. 3.

[46] *Ibidem*, p. 31 (underl. en.).

[47] See *Enhancing international cooperation towards a durable solution to the external debt problem of developing countries*, A/52/185 of 18 December 1997.

[18] See Mostafa Tolba, *The State of the Environment 1976, Report of the Executive Director*, UNEP, Nairobi, 30 January 1976, p. 3 and next.

[49] Guinee Bissau: *Tres anos de Independencia*, CIDA – C, Lisabon, 1977, p. 27 and next.

[50] See Guillermo M. Almeyra, *Development as an act of culture*, in "Ceres" no. 61, 1978, p. 23-24.

[51] See Resolution no. 52/186 of 18 December 1997.

[52] See *Enhancing international cooperation towards a durable solution to external debt problem of developing countries*, A/52/626/add.4 of 18 December 1997; Also see Resolution no. 52/186 of 18 December 1997.

[53] See *General and complete disarmament*, A/52/600 of 9 December 1997.

[54] See Olof Palme, *Common Security – A Blueprint for Survival,* Report prepared by the Independent Commission on disarmament issues, 1982, p. 5 and next.

[55] Javier Perez de Cuellar, *Speech made at the second special session of the United Nations, dedicated to disarmament*, doc. A/S-12/PV. 1/7 June 1982, p. 15 and next. "The existence of mankind is placed under the threat of an uncontrolled conflagration". "I invite the Assembly to make proof of the necessary political will to consider and treat the subject with the profoundness and firmness required by an emergency state".

[56] The negotiations on disarmament – stated the Secretary-general of the UN – are carried on by governments or by governmental representatives, who take part directly in negotiations. "Their activity is carried out on behalf of peoples – of all the peoples in the world". Therefore, they have a great responsibility "not only in front of governments but also facing the whole humanity" (Javier Perez de Cuellar, *op. cit.*, p. 28).

[57] See *Relationships between disarmament and development*, Resolution no. 49/75 J of 15 December 1994; Resolution no. 50/70 G of 12 December 1995; Resolution no. 51/45 D of 10 December 1996; Resolution no. 52/38 D of 9 December 1997.

[58] See *Transparency in armaments*, Resolution no. 52/38 of 9 December 1997.

[59] See Silovich, *Implementation of the Declaration on the strengthening of International security,* doc. A/C.1/36/PV.45, of 27 November 1981; Ion Diaconu, *Development and strengthening of good-neighbourliness between States,* doc. A/C. 1/36/PV.45, of 27 November 1981.

[60] *Ibidem.*

[61] Ion Diaconu, *op. cit.*, p. 7.

[62] See Iftene Pop, *Voisinage et bon voisinage en droit international,* Edit. A. Pedone, Paris, 1980; also see idem, *Good-neighbourliness – An important initiative of Romania at the United Nations,* in R.R.S.I., no.3 (59), 1982, p. 152 and next.

[63] See Gauci, *Speech made within the Ist Commission of the General Assembly of the United Nations,* 21 November 1981, doc. A/C.1/36/PV.45; also see Rossides, *Speech made within the Ist Commission of the General Assembly of the United Nations,* 30 November 1981, *ibidem.*

[64] See *Development of Good-neighbourly relations among Balkan States*, RES A/52/610 of 9 December 1997.

[65] Doc. A/XXV/2625, of 24 October 1970.

[66] *Ibidem.*

[67] *Ibidem.*

[68] See A. Verdross, *Die bona fides als Grundlage des Volkerrechts*, in *Gegenwartsprobleme des Internationalen Rechtes und der Rechtsphilosophie,* Hamburg, 1953; A.D. Mc. Nair, *The law of treaties*, Oxford, 1961; R.H. Fifield, *The five principles of peaceful co-existence*, in A.J.I.L., 1958; I.I. Lukasuk, *Ob obiazatelstvah iz soglaseniia o peregovorah*, in Sov. E.M.P., 1962.

[69] The non-observance of assumed obligations as well as dishonesty were qualified as acts against human co-existence (see E. De Vattel, *Le droit des gens aux principes de la loi naturelle appliqués à la conduite et aux affaires des nations et des souverains,* 1758, § 219).

[70] Grigore Geamănu, *op. cit.*, p. 285 and next.

[71] By H. Wehberg, *Pacta sunt servanda*, in A.J.I.L., 1959, no. 4, p. 775.

[72] See E. De Vattel, *op. cit.*, § 221.

[73] Dumitru Mazilu, *Public International Law*, Tome 1, Ed. Lumina Lex, Bucharest, 2001, pp. 232-233.

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