The United Nations and human rights

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The following are some thoughts regarding the way human rights are approached within the United Nations. To begin with, let me state the obvious: there are some concepts that are readily understood and probably accepted by most UN members.

If we were to speak of "instincts," we could probably draw up a list of what we understand "instinctive behaviour or reflex action" to be. While this is common to all animals, in many mammals instinctive behaviour is overlaid by learned patterns. And here we would begin to discover differences regarding those "learned patterns." Most of us have some idea as to what we mean by the survival instinct, which is common to most animals. And this leads us to the question of security. In other words, the instinct to survive triggers the search for security.

Almost all animals appear to be concerned about their security, i.e., their survival. But only some, like beavers or human beings, can do something about it. The sources of insecurity are their habitat —the terrain, the elements, the availability of food and water, etc.— and other animals. Beavers can build dams in streams or rivers to ensure a safe

environment, but they cannot save their skins from hunters.

For human beings, nature also poses security threats, as natural disasters constantly and painfully remind us. But the greatest insecurity comes from fellow human beings. Like persons, countries are subjected to constant threats: military, economic and political. The key to security is respect for the rights of others. In the words of former Mexican president Benito Juárez, "Among individuals, as among nations, respect for the rights of others is peace." And peace is the ultimate expression of security: to be secure is to live (and develop) in peace.

Whether international, regional or subregional, security is indissolubly linked to peace. In this sense, the United Nations Charter is somewhat redundant when it speaks of "international peace and security." Moreover, today its Chapter VII is being interpreted in a much broader sense than its drafters probably intended in 1945.

Whose security is it, anyway? Are we talking about the nation-state, the government of a nation-state or the individuals who happen to inhabit the territory of a given state —or all three? In a country where there have been no elections for years, the holding of elections can pose a threat to the permanence, i.e. security, of its government. In countries that have

periodic elections, these are a source of security, i.e. stability. Again, "peace and stability," another redundant phrase.

Today we are told that haphazard economic growth is a source of insecurity; but it was not so when the Industrial Revolution began. How many governments fell because of that haphazard economic growth? Individuals —yes, they were affected. The health of coal miners is an obvious case. Now we are told that "sustainable growth," i.e. environment-friendly economic growth, is the right way to do things. The right way for whom? For the inhabitants of a certain region or for the inhabitants of another, quite different region?

Regional security in Europe, as certified in Paris in November of 1990, is often given as a model for the rest of the world. Cynics would say that the way to achieve security is this: grow industrially for almost two hundred years, pollute your rivers, destroy your environment, export your people massively to other regions, carve yourself overseas empires and exploit your colonies, wage many wars, including a couple of world wars with millions of victims, and then get vast sums of money to rebuild. Rule the waves and the airwaves, sell your manufactured products dear and buy commodities cheap, and, yes, stockpile the greatest concentration of weapons —nuclear, conventional and other— the world has ever seen.

Security, as stated in the 1985 United Nations study *Concepts of security*, "is a condition in which states consider that there is no danger of military attack, political pressure or economic coercion, so that they are able to pursue freely their own development and progress" (A/40/533). Countries the world over have been subjected to political pressure, economic coercion and military attack. Those are obvious security concerns.

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A less obvious concern is derived from the changing perception of the role of the nation-state.

Some countries are today placing greater emphasis on the preservation and enhancement of individual rights. A few have gone so far as to call for "humanitarian intervention" in order to protect human beings from their own national authorities. These are all ideas that seek to modify a five- or six-hundred-year-old order based on the nation-state. In theory, these ideas are derived from noble sentiments. But the United Nations is based on the nation-state and the maintenance of international security (i.e. the sum total of national securities) is what it is all about. And yet, at the same time, many of the UN's shortcomings can be traced to the nation-state.

The Charter embodies a fundamental tension between the human being and the nation-state: on the one hand, it urges the peoples of the world to defend and promote a series of universal principles; on the other, it recognizes and even broadens many of the rights which nation-states have arrogated to themselves.

For almost two hundred years the inhabitants of the world have based their professional careers and even their lives on the shared notion that, in one way or another, nations are distinct, and therefore differ from one another. Perhaps this trend would have overwhelmed us by now had it not been for the recurrence of military conflicts, especially the two tragic and sobering world wars during this century.

Caused by certain manifestations of exaggerated and threatening nationalisms, they gave rise, paradoxically, to a vigorous crusade for universal human values and international solidarity. The UN was itself the product of this renewed internationalism, inspired by our shared human goals which, for a moment, seemed to bury perceived national differences.

The UN founders, however, were unable to take the international organization that one final leg of the way: a world authority. That is the step we still have to take. The United Nations, it is ironic to note, was to fall victim to the very threats it was supposed to deter: the pursuit of parochial interests by the nation-state.

The history of the UN is, in a sense, the history of the conflict between nationalism and internationalism. Its saddest chapters have been the work of nationalists; its best pages have been written when its members have recognized their common dreams and aspirations. And the Charter is an example of that inherent contradiction: humanity's high aims are proclaimed in its preamble, while in one provision after another the rights and prerogatives of states are preserved intact.

Critics of the UN invoke those provisions; its defenders allude more often to the preamble. Debates within the UN have frequently reflected that dichotomy, which on occasion has resulted in tension and friction between the participants.
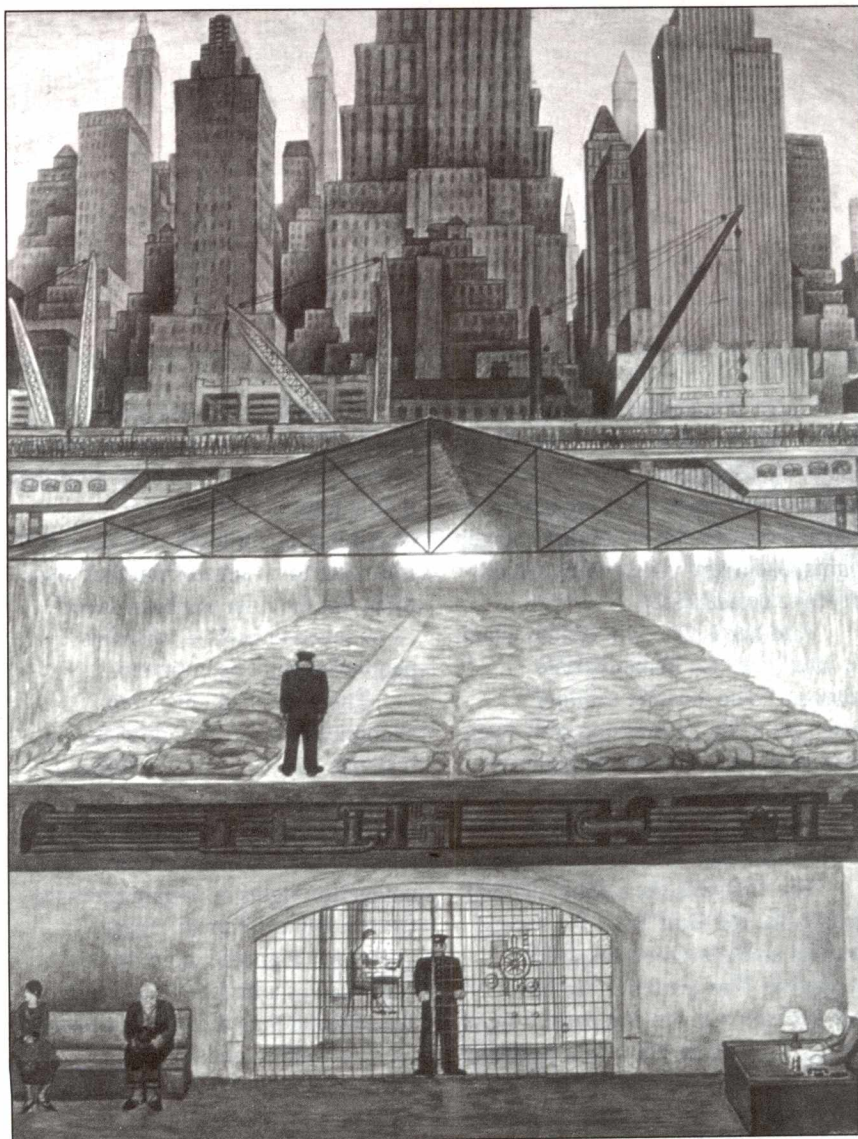
Human rights violations are a legitimate subject for debate in international forums.
Diego Rivera, Frozen assets, 1931.

The UN in the post-Cold War world

From the Korean War up until 1989, the United Nations Organization hung in the dangerous balance of the Cold War. The boundaries of its actions were defined by the conflict between the two military, economic and ideological blocs headed by Washington and Moscow.

With the disintegration of the Soviet bloc and the defeat of the Communist economic model, the United States saw the UN as one means to buttress its hegemony. The U.S. economically and diplomatically controls many UN agencies, among them the Security Council, whose resolutions paved the way for the military attack on Iraq as well as the sending of peace-keeping forces to the Balkans and Somalia.

The Iraq war was prompted more by the imperatives of domestic U.S. politics than the intent to promote international peace and security, while in Yugoslavia and Somalia the situation has worsened without the UN being able to act effectively. In Somalia the blue-helmeted UN force has become a menace equal to, or worse than, that represented by the "warlords."

The UN seems to be beating a dangerous retreat in terms of the world balance of power, making it increasingly unable to fulfill its mission of securing peace. The United Nations' "dove of peace" is becoming a kind of bird of prey, at the service of the interests, capital and armed forces of the powers emerging from the post-Cold War period: in first place the United States, followed by Germany and Japan, which seek to join the exclusive club of Security Council members and to show that they possess the money and diplomatic clout to impose their interests.

The UN is going through a dangerous phase, as there is no project for radical reform aimed at preventing the "majority of two" that was the United Nations from becoming a "majority of one" —or perhaps three great powers or three great economic blocs— which lacks the real capacity to preserve world peace.

Source: "Informe especial," *El Financiero*, July 31, 1993.

Cases of widespread or massive human rights violations are a legitimate subject for debate in international forums. Why some cases are ignored or papered over by the multilateral human rights machinery is a question which needs to be addressed.

Another is who will decide when to intervene "for humanitarian reasons." The massive military response to Iraq's invasion of Kuwait was sanctioned by the UN Security Council. But it is one thing to force Iraq out of Kuwait, and quite another to force Saddam Hussein out of Iraq.

The first was the public, official reason for the Gulf War; the second was its undeclared or unspoken objective. The results so far have been mixed. On the one hand, Iraq is out of Kuwait; on the other, Saddam Hussein is still the head of Iraq's government, a diminished government to be sure, but a government which is still in power.

This situation poses some interesting questions regarding the so-called right (some have even described it as a duty) to intervene for humanitarian purposes. The people of Iraq were to be saved from their own ruler, but the ruler has been saved —or saved himself— while his people have not been spared.

There are many historical examples of military action taken in response to a non-military threat to one's own security. Countries have resorted to force to ensure a supply of water or foodstuffs, to preserve certain navigation rights or to gain access to the sea. But can human rights violations in another country be construed as a threat to one's own security and thus provide justification for intervention under present international law?

What is there about the idea of humanitarian intervention that makes some of us uneasy? One source of

concern is, who decides when to intervene and where? The immediate answer is: the Security Council. Yes, let the new and improved Security Council decide.

But far from being "new and improved," the Council is rather outdated; its composition certainly does not represent (or reflect) the present international order. Moreover, in recent years, and specifically during the Gulf War (which is often cited as an example of the "new" Council), it did not act in conformity with the UN Charter.

In the first place, when the UN is asked to embark on military action, the pertinent decision has to be taken "by an affirmative vote of nine members [of the Council] including the concurring votes of the permanent members" (Art. 27, para. 3). And yet, decisions were approved in spite of the fact that one permanent member abstained. Secondly, one should remember that the Council

supposedly must act, not on behalf of its members alone, but of the members of the UN in general.

And for what so-called humanitarian reasons should the Council decide to intervene? In cases where atrocities are being committed? Well, it has yet to act decisively in the prolonged agony of Bosnia-Herzegovina. In cases where a government is behaving in a way that is flagrantly contrary to shared human values? Well, there is no clearer example of institutionalized discrimination than South Africa's apartheid regime, yet the Council has never contemplated an intervention there.

Examples of double standards abound. Here's one: after almost a century of colonial presence in Hong Kong, the British authorities decided, on the eve of withdrawing, that the colony was in need of certain democratic improvements. What took them so long to realize this?

Here's another example: the foundations of today's human rights are often traced to the 18th century. Indeed, the American and French Revolutions are the source of many of those rights. And yet the person who, in the U.S. Declaration of Independence, wrote that "all men are created equal" was himself a slaveowner.

And what about the right to self-determination and the right of a people to freely choose their government? Well, a few decades after pronouncing the three magic words —*liberté, égalité et fraternité*— that same people embarked, together with some other Europeans, on the colonization of Africa. What are we to make of these contradictions and double standards?

But it is to the 16th century that we must trace the beginnings of this so-called right to intervene for humanitarian reasons. Faced with a large population of Indians, the Spanish Crown struggled to find a justification for its invasion and conquest of America.

War was considered justified if it was fought to spread the faith.

And the "Catholic Monarchs" Ferdinand and Isabella found intellectuals who were ready to justify that conquest in spiritual and legal terms. The Kouchners of the early 1500s turned to the writings of Spanish jurists, especially Francisco de Vitoria. He was among the founders of international law and the laws of war; his treatises planted the seeds of today's so-called right of humanitarian intervention.

Vitoria wrote that conquest was difficult to justify, but that it was permitted if it was carried out in order to protect the innocent from cannibalism and human sacrifice. War was justified if it was fought to spread the faith. Moreover, war was not justified except as defense against aggression or "to right a very great wrong."

In the process of spreading the faith and protecting the innocent from cannibalism and human sacrifice, the Spaniards decimated the Indian population of America. In Mexico alone, the 25 million inhabitants in 1500 fell to two million by 1700.

Humanitarian intervention can certainly have its drawbacks.

No one advocates turning a blind eye to human suffering. And here we again encounter the question of instinct. Survival is pursued instinctively, whereas helping your neighbor is part of the "learned patterns" of behavior. We all have our dose of compassion and there is a good Samaritan somewhere in all of us. And yet as nation-states we are hard put to act in a selfless, compassionate manner.

On the other hand, few seek to justify repressive, undemocratic regimes. Nor can the leaders of such regimes seek refuge in the theory espoused by some characters in the musical *West Side story*, to wit, "I'm depraved on account of I'm deprived." The problem is indeed complex. But we shall not begin to resolve it as long as there are those who preach while following a double standard, and those who are preached to and attempt to defend themselves by invoking other standards **M**