

V.13. Human Needs, National Interest and World Politics: The Law of the Sea Conference*

PRIO-publication. No. 22--45.
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1. The Law of the Sea issues

One way of discussing the set of issues for the Third United Nations conference on the Law of the Sea would be to sketch, briefly, what the *worst* possible and the *best* possible outcomes might look like. Given such extremes one might then try to locate the *likely* and the *possible* outcomes between them; the likely being somewhat better than the worst, the possible considerably short of the best.

For this exercise the basic dimensions of the issue have to be defined. We take them to be that the oceans, including seabed and air column, are very rich in actual *resources*, food as well as mineral, and probably extremely rich in potential resources because of the possibility of cultivating ocean and seabed. Next, the oceans in a broad sense constitute an *eco-system*, partly together with adjacent land territories -- and the *balance* of this eco-system constitutes a vital factor for the survival of mankind. Finally, the oceans constitute an important medium for *transportation* (and to some extent for communication), of goods, but also of "bads" (means of destruction).

On the other hand, then, we have a mankind divided into have and have-nots by steep center-periphery gradients, running within and between countries. If there are resources available the first to benefit from them should be those most in need, the poor in the poor countries. Further, we have a mankind threatened by possible breakdowns in the eco-systems in the longer run; locally, some places, even in the shorter run. Finally, there is a mankind in whose interest it is that the oceans -- as a medium of transportation -- are used for the exchange of goods and not for war or warlike activities.

The rest is a problem of organization. No doubt there is some kind of process from the anarchic "freedom of the seas" -- meaning freedom for those who had the resources to do so to exploit the oceans, to upset balances and use them as a medium of transportation of goods and bads -- towards some kind of transnationalization, in which the projected International

Seabed Authority will be one, possibly the most important, component. Consequently the problem of organization can be discussed referring to the characteristics of an international regime; the key dimensions seem to be:

DOMAIN — over how much of the seabed-ocean-air column complex will the transnational regime have authority?

SCOPE — how many aspects will be covered, e.g., of the

economic cycle: exploration, research and development of technology, extraction, processing (including decisions as to in what direction raw materials should be processed, where, when, by whom, marketing, how to share the proceeds, reinvestment in the cycle, etc.

ecological cycle: research, monitoring, participation in earth watch systems, reporting, apprehension and adjudication of offenders, administration of sanctions, administration of measures to restore and improve balances; possible consideration of adjacent land territory.

transportation/communication: rules of transit, codes of conduct in general; possible consideration of military uses of seabed, ocean and air column.

AUTHORITY — how much power will the regime have; what will be the model organization, what will be added or subtracted? Obviously there will be Member States and some kind of transnational secretariat, but will decisions be taken by (weighted) majority or by some kind of consensus/veto system? Will there be an "upper house" of countries with particular interests (coastal states with fisheries, offshore exploitation of hydrocarbons, possibly also of minerals, shipping interests, navies, etc.)? To what extent will decisions be binding on Member States; which sanction mechanisms are there?

This list does not coincide with what is on the agenda of the Conference, a very rich agenda indeed, and it also includes some issues that are not on the agenda. The Third conference is not the last one, the process will go on so there is the need also to include possible future problems.

Obviously, domain, scope and authority are related. Since a transnational regime will be squeezing itself in where states have ruled the ground alone states are unlikely to give the regime authority unless they, the states, also increase their authority as a result of the process. Thus, *the smaller the domain given to the regime* (or in other words the more the states will expand their jurisdiction to 200 miles beyond straight base-lines, and over beyond that) *the more will they be willing to give full authority to the regime*, which will then preside over a small sea-bed at about 4000 meters depth, but with full power. The same holds for scope: *the smaller the scope given to the regime* (e.g. limited to the function of registering and filing licenses granted almost automatically upon application according to some rules), *the more authority will be given to the regime*.

One very simple reason for this lies in the composition of these conferences. Whereas the states of the world are well represented, there is no representation of the environment as such, of the poorest of the poor who would be most in need of the proceeds from the oceans, of a humanity against war — or of transnational interests as such. There are UN experts and observers of various kinds, but the right to make decisions lies with the states or rather their governments, more often than not representing elite interests of an economic, political and military nature. Technology is here on the side of the elites and the governments: fishing just off the coast could, like a small farm, be done by the local population; ocean harvesting, not to mention seabed mining, calls on the rich and the powerful.

And they follow the call to the point that the worst possible outcome of the present discussions is worse than the status quo. Thus, if national jurisdiction is followed to the extent indicated by the concepts of new, straight base-lines and the 200 miles exclusive economic zone at least 35% of ocean space would fall under national jurisdiction. If in addition some coastal states get their way and have the legal continental shelf redefined in such a way as to include the continental margin (which may extend far beyond the 200 miles) one may wonder whether anarchy is not to some extent preferable to organized colonization.

True, there is the argument that many poor countries are also among the coastal states that might benefit from such arrangements, particularly African countries that through the concept of a regional zone also open for the possibility of regional transnationalization. But first, there is a correlation between being poor and geographically disadvantaged in the sense of being *land-locked* (little or no coast line), *shelf-locked* (very deep water right outside the coast) and/or *zone-locked* (there is not space enough for full extension of the 200 miles zone — another country is in the way). And second, the poor countries may still be penetrated by the rich and technologically powerful who may acquire harvesting and mining rights in return for some fees. Through multinational corporations they may still control the economic cycles. And that has one very important implication by and large missing from the debate.

The fees paid to poor countries directly from companies in the industrialized world, or indirectly via a transnational regime may become like improved terms of trade: a bribe to ensure continued division of labor. Discussions about the size of the bribe should not conceal its nature as a bribe. For in accepting that the technologically most powerful should be the first both in transnational and national zones simply because they have the technology one not only foregoes the stimulus and challenge to develop some different technology of one's own, in other words to be self-reliant. One also opens for the possibility that sea-bed mining provides

the arms industry in the rich countries with more raw materials to produce arms that ultimately may be used against the poor countries themselves.

Thus, it is not only a question of production but of what is produced. If one wants the oceans to serve those most in need then no effort should be spared to convert the raw materials of the oceans directly into food, clothing, housing material, and things that can be used for health and education. The question to be asked to our technicians should be: *how can you convert what is extracted directly into what is most needed*. The glib answer, that economic rationality gives: "we do it indirectly by converting it into whatever gives highest profits on the market and convert the money into something needed for the poor" is not a good enough answer. For those benefits tend to stick with the rich, the raw material itself is used to increase the power gap in the world (e.g. through arms production), and the spin-off effects from the production accrue to the rich countries (although there may be some transfer of ready processed technology, but not of the challenge in making that technology, and not of the laboratories that made them) and the economic cycles set up are usually environmentally unsound.

It may now be argued that the corporations from the technologically powerful countries would do this also under conditions of anarchy, and that may be correct. However, what is to be feared is that the outcome of the Conference will nevertheless become a legitimation of this kind of system, in the name of economic and legal rationality. There is a difference between a corporation *grabbing* some part of the sea-bed and a corporation *given* access to that part for its industrialization and commercialization: it may be easier to mobilize political action against the former. Hence, the *worst* possible case would be some system whereby the transnational zone is reduced to a minimum (only the seabed and what is under it, only beyond the continental margin) where corporations representing rich country interests are operating over vast territories and for long periods of time, setting up economic cycles where both the production and the consumption are located in the rich countries themselves (under the pretext of know-how and effective demand), adding to the gap in all kinds of power, to environmental deterioration and to military confrontation (because either party will have to find out what the other one is really doing). The net effects for the poor countries may be *some* money that may be used for the benefits of those who need it most, but also certainly may *not*.

Contrast this with what might be the *best* possible solution.

First, as to *domain*: the 200 miles economic zone must be the absolute outer limit of national jurisdiction, and even in that zone some mixed jurisdiction must be instituted, e.g. with transnational regimes having a say over environmental and military matters. In other words, to the extent it is exclusive (nationally) it must only be so in economic matters. Further, as soon as

possible the transnationalization of the oceans and the air-space must be included, because of the need to transnationalize the most important sources for satisfaction of fundamental needs (and not only the unfortunate nodules at the bottom of the sea), and because of the need to have some kind of unified control over the total ecology.

Second, as to *scope*: transnational control over the entire economic cycle, including the right to decide the direction of processing. As much as possible this must be decided not by conventional and outmoded criteria of economic rationality, but so as to permit direct conversion into something that can be used for basic needs satisfaction, with both production and consumption taking place in the Third World countries so as to give them a maximum of the spin-offs from the production, and in order not to lengthen the distribution chains unnecessarily. For this reason it is unfortunate that so much attention has been focussed on the nodules that cannot be processed into food for empty stomachs. A much richer perspective for mankind opens up the moment one thinks in terms of ocean seeding and harvesting, of cultivating the sea-bed, etc., but it is characteristic of the economism of our time that the nodules have dominated the horizon.

The regime should also have considerable power over ecological matters and over transportation/communication. Thus, instead of giving in to the "security interests" of the big powers, particularly the superpowers, the fight should start already now to declare military-free zones, to close one passage after the other to military transit, and in general to open for the idea that the oceans may be free for everybody for transportation purposes; meaning regardless of the flag — but not for any kind of cargo. For the production, it is not only who decides over production and who benefits but *what* is produced that matters; similarly for shipping: it is not only who decide and benefit, but also *what* is transported. We would not accept the use of the oceans for the transport of slaves, why should we accept laying it open for the transport of arms?

Third, as to *authority*: the simplest model is still "one state one vote", accepting no veto power, and giving power to the many small and poor states in the world today. The principle of the economic zone should constitute more than enough guarantee for existing coastal interests; only few states have economic interests that should come under some kind of transnational supervision beyond that. This also leads to the idea of a relatively strong secretariat with ample facilities for research and development, gradually taking over more and more technical and economic functions from the corporations that will have to be called in in the first run. It is quite possible that the Norwegian model in exploring and exploiting sub-seabed oil and gas in the North Sea may be of interest here.

So much for the worst and for the best — what is likely, what is possible? *Likely* in the first run is something not too far from the worst — that we know perfectly well; one reason being the way the poor economic theory with which we are equipped distorts our visions towards the marketable rather than the needed. *Possible* would be some moves in the directions indicated. But, and that is the basic point, the Third conference is not the final say in these matters. Whatever comes out of that the process will go on, for there are many other points to be discussed than these on that very rich agenda. The extension to include the oceans, the general availability of all technology that serves mankind, the primacy of basic needs for those most in need — all these are pressing matters. Hence the struggle will go on and nobody should be confused by some tactical defeat to big state interests in the first run, for in the longer time perspective the prospects are not bad.

2. The need for transnational articulation in world politics

The basic issue is clear: how can the oceans and the seabed serve basic human needs, particularly of those most in need when national and economic interests stand in the way? Let us look at the facts.

UNCLOS which had a session in Caracas July/August 1974 and will reconvene in Geneva March/April 1975, is a conference of states, represented by governmentally appointed delegations. The heads of the delegations are usually senior diplomats, in some cases cabinet ministers; the members being other diplomats, technical advisers, representatives of national interest organizations (particularly in the fields of shipping and fishing), and some others. All members are there to represent *national* or *sub-national* interests, as different from clearly *transnational* interests (such as the interests of all poor people), or *supranational* interests referring to the world as a whole (the preservation of species, the protection against pollution and depletion, the need for supranational regimes). Needless to say, this is the logic of most intergovernmental conferences and organizations (ILO being a partial exception institutionalizing trade union interests), and also in the logic of the UN Charter: "Members are states. . .". For those who believe that the negotiated compromises between well articulated national interests (themselves negotiated compromises of well articulated subnational interests) is equal to the global interest, and that the stability of the international order is proportionate to the degree of satisfaction of national interest — particularly of those strong enough to upset any order to their disliking — this is satisfactory. Since these were always fundamental conservation beliefs, the system will tend to attract conservatives even if their way of articulating conflicts of national interest — particularly conflicts of interest between the weak and the strong — is formulated in radical terminology.

On the other hand, there is something special about the Law of the Sea conference. The "transnational factor", generally elusive, here takes a very concrete form, even commensurate with the basis of national governments; there is territory at stake. Regardless of what percentage of the 70% of the world's surface that eventually will become internationalized in some way or another, *this is territory*. The International Seabed Regime (ISR) — or even better, an International Ocean Regime (IOR) that would also include the water column superjacent to the ISR seabed territory, perhaps also the air column in order to include the total ecology — is also territorial. The only reason why it has not long since been appropriated by states is lack of knowledge of the resources available, lack of technology, low level of pressure on resources until recently, and a blissful lack of imagination more than the gentleman's agreement that national interests were, after all, best served through the Grotius 1609 doctrine about the "freedom of the seas". From being property vacuum for time immemorial it is now explorable and exploitable, and a vacuum of that kind tends to be filled.

For this there is one obvious model available: a race of states to establish rights to the seabed, somewhat like the way in which the "overseas", particularly Africa, was once considered a vacuum belonging to nobody, and to be filled. It was filled by the Western European powers now forming the European Community (with the exception of the Netherlands and Ireland, and with the addition of Portugal and Spain). The fighting was mainly against the "nobodies" found in the void, the Africans, not among the colonizers for they by and large managed to regulate the race through a series of conferences to divide Africa. The period of a free for all was very short, regulated division was the answer to the demands for exploration and exploitation, and the result was the many straight lines that still serve as borders on the African continent.

For the seabed the free for all was of a very long duration; and the period of a regulated race a short one. The parallel to the Africa conferences was, of course, the Geneva 1958 conference and convention, defining coastal states as the great powers by giving them inherent rights over the adjacent seabed and regulating the race, first through the 200 meters isobath principle, then through the slightly more diffusely formulated principle of exploration and exploitation (favoring those able to do that), limited by the median line. It served its purpose in "africanizing" the North Sea, however outdated it may appear today in the light of subsequent conferences.

Again the real fighting was not among the contending countries, but against the "nobodies", the natives — the fish and other species, the riches of the oceans. The ecologists of today, talking as they do of the protection of various species are the humanists of yesteryear who talked about the protection of the Africans; listened to in great seriousness but only taken seriously as long as

either the supply was so abundant that national interest was not threatened by some forms of conservation or so scarce that national interest clearly would be threatened through further unhampered "exploration and exploitation".

Why, then, is there now an other model for the seabed, an international regime model? As already mentioned, the Geneva 1958 model would have been, and was indeed, in perfect harmony with how one would expect a world of states to behave. The behavior of states at the Caracas conference (and preceding sessions and conferences) point in the same direction, not necessarily because all delegates *want* to behave that way; but because the game is structured in that direction.

Undoubtedly, some of it has to do with a timely articulation of transnational ideology and a felicitous formulation of a value, the "Common Heritage of Man" (CHM). Those three words provided the Caracas delegates with a shared semantic reference within which some transnationalism could be formulated, and the ISR technicalities served a similar function for supranationalism. But such ideas have been voiced before in human history — why was it somehow absorbed or at least co-opted into the parlance of an intergovernmental conference at this time? It is not enough to say that it came in through the UN machinery, for there are many ideas in UN documents yet to be absorbed.

The reason is probably less to be found in a positive attitude to transnational values and supranational, or at least international, administration than in the negative images that can easily be extrapolated from the Geneva 1958 model. First, it favors coastal states, giving nothing to the thirty or so land-locked countries. Second, among the coastal states it favors those with a very advanced technology for exploration and exploitation (the US and the Soviet Union) or with much money to invest (the EC and Japan). Third, among the coastal states it also favors some states not so high on the international ranking lists, such as the archipelagic states (Fiji, Mauritius, Indonesia, the Philippines, to mention some). Fourth, due to the scatter of small islands left behind by former colonial masters (partly because of the loophole in the tradition of international law that defines independence only for territories with an independence movement, or at least somebody non-metropolitan to administer the independence) a considerable portion of the seabed would accrue to these states. Fifth, there was certainly no guarantee that the sum of national ecological policies would add up to a sound global ecological policy.

But apart from the ecological argument, — that magnificent formula under which much progressive political thinking can be not only formulated but even argued — all this was also true in 1958. What is new? Simply the change of the international system from a system totally dominated by the Europeans (West and East) and the Americas (North and South) to a system which has

crystallized more and more after its explosive growth in 1960. This crystallization is particularly clear in the UN, and these issues have fortunately been handled by the UN and not by an *ad hoc* conference.

Nowhere could the impact of this be seen so clearly as in the First Committee of the Caracas conference, the committee dealing with ISR questions. The confrontation was between the United States supported by Western European countries in the explicit form of a statement from the European Community (minus Ireland) and the Soviet Union supported by Eastern European countries on the one hand and the Group of 77 (now 97) more or less developing countries (supported by China that seems to have acted as a moderator more than as a leader of the group) on the other. The rest of the countries were spectators or commentators. In other words, what we are saying is not that we got this confrontation in Caracas because of the ISR/CHM issues, *but that the common heritage of man as a value and an international seabed regime as its implementation are the natural consequences of this conflict formation* — which is increasingly found in the world in general, and in the UN system in particular.

More concretely, the alternative was clearly a pattern dominated by the technologically and economically strong and by the big coastal powers, and particularly by those who ranked high on all three criteria, and they happened to be the superpowers — known from some other contexts. To say that they are unpopular in the world as a whole is an understatement; but then being powerful rarely correlates with being loved. Some years ago — ten? maybe even five? — they would probably have ruled the game to the extent that no such formula strongly to their disliking (and a strong ISR is very much to their disliking) would have surfaced at the intergovernmental level. Today they are the victims not only of their own arrogance of power, amply demonstrated in internal repression and external intervention patterns, but — curiously enough — also of their "detente". Whatever is the structure and function of that detente there is clearly less danger of a war between them, or at least less belief in the danger of a war. Threat or perceived threats to that effect are no longer considered credible and that makes the superpowers less powerful simply because they are less interesting. Their detente becomes precisely *their* detente, a series of transactions, talks and conferences, more or less cryptic to the outsider (and probably to the insider as well). Unable to deliver a credible threat of a third world war, only able to deliver conventional repression and intervention and some scandals they wane in significance. And there is not much more willingness to give in to number three and number four in line, the EC and Japan.

But this does not mean that the other reasons given above are not also of importance. Although it has not been formulated very clearly, yet there

is something incongruous in the idea that how much one shall benefit from what used to be free for all, the oceans, shall depend on the geographical peculiarities of the country in which one happens to be born — the extent to which it is land-locked, zone-locked and/or shelf-locked. Of course, the same applies to the natural resources within the territory that carries the name printed on one's passport — and one day the world will have a fresh look at that problem too. It is only that this ocean issue is new, unfettered by a tradition of millennia of territorial ownership patterns. And again it would look as if the Geneva 1958 model would only aggravate the status quo, institutionalizing no compensation whatsoever for the geographically disadvantaged. Of course, that convention was negotiated almost exclusively by old states, with a lower proportion of the geographically disadvantaged than UNCLOS. It is a telling sign of how quickly the world changes that the whole pattern of thinking about these issues changed so much in such a short time. Although it certainly remains to be seen what the end result will be, the world has all reason to be grateful to those who provided us with the CHM semantics and the ISR ideas: essentially two persons, Elisabeth Mann Borgese and Arvid Pardo.

According to what has been said so far the carriers of transnational values and international institutionalization in this field should now be found among the non-aligned, the poor, and the geographically disadvantaged, and particularly among those who rank high on all three criteria. However, there are some cautions lest one draws too quick conclusions. First, there are many non-aligned and poor who are not at all geographically disadvantaged, and although they are to some extent kept in line through solidarity organizations (like the OAU), they may also break the lines. Second, there are those that are aligned and rich but not at all geographically advantaged, like many of the EC members — and they would be likely to press for more than their share through a factor that does not respect geography: capital investment. Third, these are confrontation patterns in an intergovernmental game (more than a debate, yet less than a fight), by and large pitting the weak against the strong. The weak may then use CHM/ISR arguments to bolster their own collective national interest position. As already mentioned this is not the same as a clear stand for a transnational position in other settings. For instance, a clearly transnational value would be to favor the idea that benefits from the ISR should accrue to the underprivileged, the poor wherever they are found, in Tchad and in the US. This is *not* the same as to ask a share for the countries that are geographically disadvantaged; it is not even the same as to ask a share for the countries that are poor — as is very well known. It may simply benefit the rich in the poor countries — and the metal in the nodules may end up in military hardware rather than serving fundamental needs, as mentioned in the introduction.

2. Articulation of the transnational factor

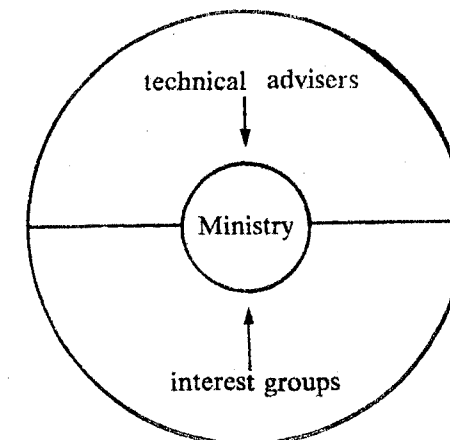
The problem can now be formulated: how is it possible, in an intergovernmental conference, to assure a proper representation of what above has been referred to as CHM/ISR — in addition to the possibility of *some* states taking a truly transnational stand. Three models will be examined, against the background provided in the preceding pages:

- articulation through national delegations
- articulation through intergovernmental representation
- articulation through nongovernmental representation

2.1. Articulation through national delegations

Each member of any national delegation is the individual carrier of a multitude of ideas and values; his role as a delegate limits his articulation (in the plenary, in the committees, in the corridors, in the delegation meetings and elsewhere) to only a few of these. Inside the delegation sub-national interests will be expressed and foreign ministry members tend to conceive of themselves as the arbitrators between conflicting subnational interests, in an effort to arrive at coherent, presentable national statement (often naively unaware of their own biases, among other reasons because only some selected subnational groups will get through the filter and articulate their views for that kind of governmental tribunal). Outside the delegation the delegate will be supposed to talk in the national interest; and the statements will generally be given by those whose task it is to express the "national interest": (foreign) ministry officials.

Thus our model of a delegation is something like this — strongly structured in a center and a periphery:



The periphery is the carrier of fragmented sub-national interests and fragmented professional competence; the center is supposed to integrate all of this and be the carrier of the national compromise. At the same time there are so and so many other delegations with the same or similar structures constituting the intergovernmental conference. This means that most members have their opposite numbers in many or most other delegations — and this is where the possibility of transnational articulation is located.

As mentioned above each member probably has some transnational strain in his thinking, undernourished by the atmosphere in which he breathes (I say "he", this was true for more than 95% of the delegates). Where this is compatible with national interest it will even surface, pass through the filters and become part and parcel of official statements; where it is incompatible it is likely to be stamped out as "idealistic", "not realistic", etc.

Imagine now that delegations suddenly started including members whose task it was to articulate supra- and transnational interests — as opposed to subnational and national; some liberal democracies might do such a thing. They would take their place in the delegation along with the representatives of the armed forces (particularly the navy), the shipping interests, the industrial organizations, the environmentalists, and so on. Their task would be to observe, report, articulate and exercise pressure on behalf of CHM/ISR positions just as the others do from their angles — inside the delegations. In doing this they would, of course, seek the company of their opposite numbers in the other delegations, just as the others do.

Now, leaving aside whether such delegates would be appointed (one day they probably will, and the environmentalists already are a step in the transnational direction for they cannot merely articulate national environmental values in a geographically cohesive world): will they be listened to inside the delegation and have a say in the formulation of policy, and will they operate effectively at a conference? The first is a question of delegation structure; the second of conference structure.

The general impression from the Caracas delegations (and from other similar conferences) after talking with members of many is that a delegation is run in a relatively feudal manner: information from periphery to center, orders from center to periphery. The center elaborates the statements in consultation with its home base, not in consultation with the delegation — sometimes in consultation with neither, very rarely with both. Of course, the instruction limits the latitude but not to zero, and since the periphery is often more aware of the day-to-day events in a conference the result is periphery frustration, which spills over into aggressiveness and/or apathy.

Of course, national policies should be formulated by democratically constituted bodies at home rather than by more randomly composed delegations at a conference — but one does not necessarily exclude the other. Moreover, a delegation usually has a life before and after the conference, in the form of preparatory meetings and reporting sessions, that would give ample opportunity to ensure democratic control in addition to the long distance telex control exercised during a conference. Hence there should be no excuse for not running delegations in a more democratic manner — less like an old-fashioned bilateral tutorial system and more like a modern seminar to express it in university jargon — drawing on the experience and dedication of all members. We mention this for only under this condition would the internal operation of a transnational member be anything like effective — in a perfectly feudal delegation structure he would only be an adornment, a luxury like so many others, a concession to pressure groups, with no substance.

On the other hand it is likely that delegations to such a conference will have to undergo internal structural changes, if for no other reason simply because the younger generation is not going to accept authoritarian patterns that came natural to their predecessors — even believed to be the only conceivable way of organizing things. They will refuse to be a marginalized periphery, on tap when called, and will demand a fuller share of participation — less respectful of formal ranking systems than used to be the case in diplomatic circles. We mention this at such length because it is an obvious condition for the use of transnational delegates within national delegations to have any impact.

The second condition is that transnational delegates can find each other during a conference, exchange information and views, and coordinate their action in the manner of any good pressure group. Again, the structure of the conference as an intergovernmental setting works against this. In Caracas anybody could certainly find his opposite numbers and exchange information according to the rules of any good gossip market (*do ut des*, I tell you something today so that you can tell me tomorrow; the price of the bit of information is indicated by how strongly I emphasize that "this is for you only, I really should not say this", and so on). The environment people found each other, the fisheries people, the shipping people, the military people, the researchers, and so on. But they did not form any *group* across delegations. Not even the environment people did this, although there was nothing to prevent them from doing so. They did not form any environment lobby although their cause is defined as legitimate. This may change when they become more professional, sharing conventional wisdom, have met each other more in a UNEP setting and in other environmental conferences, etc. But today it is still clear that the national delegation

constitutes a shield or even a cocoon around the individual member. The filter lets information in and out, but does not permit effective, coordinated action unless ordered by the delegation as such.

Given that they are paid by their home governments is this not both to be predicted and expected? In a sense yes, but it is also a sign of the immaturity of the system. In the parliamentary assemblies of the Council of Europe and the European Community *transnational* caucuses, along party lines, are commonplace. In a setting like UNCLOS one is still at the level of the *international* caucus of countries with similar interests, and even if the delegations were parliamentary the discrepancies between the party system (not to mention the one party and the no party system) are of such a magnitude that they impede effectively *transnational* caucuses on *that* basis. Hence the basis will have to be issue-oriented and/or professional, which does not guarantee in any way that the positions taken harmonize well, only that there is a shared concern and maybe a shared paradigm for articulating that concern. In doing so they will also bring in their *deformation professionnelle*, which may be an advantage if they are to argue, on a *transnational* basis, in a special direction.

The prediction would be that the environmentalists may be the first to come to this take-off point because they are developing a professional basis, and they do have an issue with obvious *transnational* implications. And yet *they are not it*, they are not the non-human environment, at best its spokesmen. Real spokesmen for the environment would have been some whales in the conference room, and they did not have to be that big for a little dash with the tail — when national delegates do not take species protection seriously enough — to have some impact. An obligatory exposure to contaminated water and air, not to mention some protein deficits in the foodstores and restaurants catering to the delegates — all attuned to their positions in debates, might also have a healthy impact. But the world is not structured that way: we humans are the “trustees” of the environment; for the less privileged among us, for future generations, and for the environment’s own sake. There are good trustees and bad trustees — and internationalized trustees are not necessarily among the former. They tend to represent the environment in the same way as adults represent children, men represent women, rulers their subjects, exploiters the exploited, whites the colored and so on. Nevertheless, the finiteness of the world will bring the issues of pollution and depletion ever higher on the world consciousness, and the patterns of articulation and mobilization for action will change accordingly.

The CHM/ISR complex, however, is considerably more than a question of ecological balance. It touches on such *transnational* concerns as poverty because of the supplies of protein, raw materials and energy held in storage

in the depths of the oceans. It touches on the possibility of a certain *supra-nationalization* of the world, pushing the borders of the states (geographically, functionally) away from their maximum extension, establishing a world central authority with independent sources of income — and this is the time when the less privileged countries are in the majority in the world bodies. In short, the range of *trans- and supra-national* concerns related to the law of the sea is considerable, which does not mean that there is a coherent *trans-national/supra-national* platform with a coherent, consistent doctrine — as is the case for some of the states. But on an inter-governmental and an inter-nongovernmental level such platforms are rapidly emerging, so we now proceed with the next two models to see what possibilities they offer for the articulation and pursuit of such views.

2.2. *Articulation of transnational interests through intergovernmental representation*

In Caracas, as at other such conferences, the UN system was richly represented, and not only as a technical staff, but as a source of information and ideas. This source is on tap *formally* in the form of background papers of a technical nature, in the form of presentations to the conference, and also in seminar form with questions and answers. (Of course, some delegations availed themselves of this to present counter-expertise, with conclusions more to their liking). The views presented in these papers can be characterized as within any reasonable definition of a *trans/supra-national* platform. In addition to that their *informal* presence was of great significance, not only because of their expertise — which was tapped in countless private encounters — but also because of their views that represented a different yardstick on which to measure the positions expressed by one’s own delegation. All this was important, yet far from effective enough: national delegations continued to perceive the whole matter in zero-sum terms (either I get it or somebody else gets it) and seemed in general both psychologically and structurally unable to rise above that level of thinking and acting. So, what can be done to improve on this?

There seem to be two formulas available, both of them considerably more easy to implement than working through the national delegations.

First, it would help considerably if the representatives of intergovernmental delegations were not only experts on tap, but also given a status in the conference that permitted them to talk and pursue an argument. This is not a question of having a right to vote, but having a right to argue. That right could be limited to certain issues, for instance within the range defined by background and position papers prepared by the UN and UN Agencies. Needless to say, this would also make the task of these organi-

zations more meaningful and make them attract even better people. As of today they are suffering, walking around in circles of frustration, in the periphery of a conference, listening to how some national delegates under the protection of their governments and the quid pro quo play among them are sometimes permitted to pervert issues, even to distort facts. Of course, "facts" do not constitute an uncontroversial category but precisely for that reason it is important to let other than governmental spokesmen have the right to argue their angles of the issues.

Second, there is the quantitative aspect: the people from the UN Agencies should be present in greater numbers and for a longer time. Of course, the Secretary General of the UN or the Director of the UNEP cannot be expected to stay for a longer period, but others may. Their off-conference seminars etc. could also be of longer duration.

If one now combined these two formulas we would already be some steps into the future, and there is no doubt that this would create a new balance of power in conferences. It would be resented by those who profit most from the present system, by and large the minority of the strong and rich. Since the UN people would to some extent be influenced by the majority of the UN Member States, this would increase their total power — some might say too much, but then there is no suggestion of any change in the voting formulas. Actually, these are very modest suggestions — but they might still be highly meaningful.

2.3. Articulation of transnational interests through nongovernmental representation

Then there are the numerous NGOs who were actually not present in Caracas in any great numbers, and most of them were national rather than international, representing a rather limited constituency however much their views might differ from the national delegations. At the UNEP conference in Stockholm June 1972, and at the population conference in Bucaresti August 1974, they played a very significant role, but not in Caracas. Why? Partly because of the location which made it prohibitively expensive for anyone not government supported (or funded by a rich INGO, particularly with multinational corporation interests backing it up) to travel, and stay for any period of time. Most of these organizations have their points of gravity in North America and Western Europe; Latin America being very poor in NGOs of this kind (and travel expenses inside the continent also being considerable). Thus, for next year's conference in Geneva higher participation is indeed to be expected.

But it may also have something to do with the issue. The ocean and the seabed have not caught on in people's minds as much as ecology and popu-

lation, probably for the very simple reason that everybody is directly engaged in the latter, very few in the former. Hence, it tends to be the concern more of experts and specially motivated and trained individuals than an issue with a broad popular base — except for the fishing zones in certain districts of certain countries. This should be changed, the whole issue should become one involving many more people, and the NGOs, particularly the INGOs, are the best media for this, reaching their members in a more profound manner than mass media are able to do. The relation between UNCLOS and people in general should be a two-way process, informing and engaging, involving people — and receiving inputs from people as to the correct line to pursue. The latter is only partly mediated through the governments that work with an *international* perspective; the UN Agencies might add a more *supranational* perspective; the INGOs could be the best conveyor belts for *transnational* values and ideas.

Here is one set of suggestions as to how INGOs could become more effective at such conferences, without overstepping the visible and invisible borderlines. But first some preliminary remarks:

There are INGOs and INGOs. Only a subset of them would be in any sense the harbingers of ISR/MCH type values; others could just as well be the conveyor belts of the status quo, top-heavy world dominated by the interests of the rich and strong in the rich and strong countries. Our concern is with that subset which probably has to be self-selected: it simply has to come together and define its position. Such a collection of INGOs could never hope to be representative in any proportionality sense of that term, but it could serve as a vehicle of communication for widely dispersed groups all over the world if some care is taken as to its composition.

Then, the goal of a group of this kind should not be to get all the rights of a governmental delegation, including the right to argue a position, and even to vote. As the world still is let the governments have their play and believe that they decide; the problem is how to influence, in an enlightened manner, their decisions. More precisely, the rights already granted the NGOs (to circulate freely around except for the closed sessions, to have offices and lounges very conveniently located, to circulate material, to hold seminars, even to some extent to present position papers in sessions) are already considerable, even generous. National bodies of deliberation, such as parliaments, would not be that generous. One should attempt not to forfeit these rights, considered excessive already by some governments, rather than to extend them.

Then, three very simple points as to strategy.

First, there has to be a *transnational platform*, roughly indicated already through the ISR/MCH symbolism. Formulated differently, if *lo transnacional*,

as it would be said in Spanish, were a state, what kind of position would it take in this type of conference? Obviously it would be as jealous of its territory as any state, and regard with great suspicion the suggestions for base-lines defining inland waters; what the archipelagic states (and states with off-shore islands) do in this connection; the economic zone concept and the use of islets in that connection — not to mention the use made by some coastal states with particularly broad coastal shelves to go beyond the economic zone limits, thereby turning the clock of history back in the Geneva 1958 direction.

We shall not elaborate this here; suffice it only to say that the similarity to states is considerable and *desirable* — it makes for an argumentation pattern that is well known. The difference, of course is that although there is a similarity where territory is concerned there is a basic dissimilarity when it comes to constituency: the transnational platform would be in the name of humankind as a whole, particularly the underprivileged. That brings its spokesmen into the strange position of speaking in favor of segments of the populations presumably adequately represented by their own governments. These governments might say: "the best way, the only reliable way of catering to our own population is to see to it that as much as possible of the ocean and the seabed is under our own control. Internationalization offers no guarantee!" Next to the spectre of Howard Hughes' Summa Corporation and Kennecott (with some Mitsubishi capital) scooping up the seabed the threat of a World Bank type constitution for the ISR was haunting the conference. Hence a transnational platform has to be able to convince the weak that this is in their interest — not only the strong that it will be against theirs — that is easy.

As mentioned a platform should be hammered out in advance, making use of the expertise and the excellent services of such places as the international Ocean Institute in Malta and the people behind it. Once the platform has been constructed the task is to make it known, to enter into dialogue with members in particular and people in general, to argue the platform in connection with the next session of the conference itself; always with an open mind to modification of the platform adopted, otherwise it is no dialogue.

During a conference session there are at least four ways of making the views known, and they certainly do not exclude each other. For all of them there are certain general principles. Thus, the transnational medium in the world today has at its disposal a very high number of experts of considerable repute and can often draw on their services more readily than governments would be able or willing to do. For one thing, a transnational group would never dream of exposing its members to the same discipline as exercised by the center of a national delegation — on the contrary, it

would almost be under an obligation to articulate different, even divergent, views. There should probably be some beforehand discussion to clear away unnecessary discrepancies that may lead to misunderstandings, but that is different from detailed control and stamps of approval.

In connection with this it should be remembered that there is a considerable market at such conferences for high level expertise. The delegates are undernourished, it seems, on three things; facts, a synthesis of where one stands and where the conference is leading, and some guidelines, some philosophy, some perspectives. Only transnational groups with a certain prestige would be in a position to offer these three. Any national government would be suspected of self-serving motives, and the UN and its agencies would often be prevented from doing it explicitly and quickly enough. There is a need for a clearly formulated philosophy, broad enough to encompass many groups, yet precise enough to take clear stands on some major issues; there is a need for an ever open source of factual information, and there is a need for a running commentary.

All this points in the direction of four simple ideas, the publication of a *news-sheet* from a transnational point of view before, during and after the conference, the systematic use of *seminars* (also before, during and after) along the lines drawn by the American Friends Service Committee in their seminars for diplomats, the use of *the INGOS themselves* to involve many more people, and the use of *mass media*. For all of them the language should be non-sectarian, sober, not too technical, informative yet filled with perspective. It should not deviate too much from the language used in the conference itself, except by being simpler, less filled with honorifics and empty phrases, sometimes less, sometimes more technical. Thus, a news-sheet of this kind would no doubt fill a need but great care should be taken lest it is abused for manipulation. Like the seminars it should be freely available to anybody, not by special privilege or invitation. From all of this a great wealth of material would accumulate that could then be conveyed to larger circles of people through INGO channels, and by means of press conferences and press release through the mass media.

3. Conclusion

Of these approaches the last can be put into practice any moment a sufficient number of NGOs and INGOS decide to do so; the second is more for the future. But they are not so futuristic as to be completely utopian. UN people seem to play an increasingly important role during such conferences, if for no other reason simply because they will now tend to outdo most national delegates in terms of professionally active seniority in the field. And younger people in many national delegations will, we assume,

increasingly tend to take transnational stands as long as these stands are in the direction of a more equitable world inter- and intra-nationally. Hence the formulas not only complement each other on paper, they may interact and interwine into an increasingly dense network for the articulation of the transnational factor.

And here the seabed issue takes on a special significance by being a concrete, even territorial, manifestation of what internationalization might mean, the issue itself pushes the world some steps in a more transnational direction. It is very clear how the old intergovernmental system reacts to this and the conclusion can only be one: more than ever before it is important to construct a consistent position from which the transnational perspective can be forcefully argued.

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[29] The basic point is the way in which payment depends on catch: no catch, no work; no work, no pay. As for early 1974 this is also the case for similar work in Norway, with her relatively strong trade unions, and the employees are, of course, usually women — with the rationalization that they can go home and do some housework in-between.

[30] Of course, as long as a small area like the project area accounts for as much as 20% of the export earnings many people can be drawn into it. But that is not the lasting condition, because of all the forces that will push in the direction of higher productivity, increasing the production, but at the expense of the number of people employed.

[31] The basic book about intermediate technology is E. F. Schumacher, *Small is Beautiful*, London, Blond & Briggs, 1937.

[32] Preferably that anti-expert should come from the local population in order

not to make the target areas for technical aid projects or development projects of the various kinds into battlefields among contending factions in "developed" countries.

[33] For some ideas about current Chinese policies in terms of economic cycle analysis, see Johan Galtung and Fumiko Nishimura, *Learning from the Chinese* (Oslo, 1974), mimeo.

[34] As mentioned in the text, this was actually one of the traditional methods in the area. As to smoking: the local wood seemed to leave a bad smell, which might be an argument for growing new types of trees.

[35] These terms are taken from Indian terminology, and refer to cooperatives designed for a specific purpose (e.g. marketing of fish) vs. cooperatives with a much more diffuse purpose, including general satisfaction of social and political needs. The answer is usually in terms of both-and rather than either-or.

V. 13. *Human Needs, National Interest and World Politics: The Law of the Sea Conference*

* This article is an outcome of participation, as an observer, in the Norwegian delegation to the Law of the Sea Conferences, in Caracas August 1974, and in Geneva April 1979. I am indebted to Mr Knut Frydenlund, Minister of Foreign Affairs during that period, for permission to participate. It was hoped that the conference would conclude before the volume had to be published so that a

more conclusive article could be written, but this was too optimistic: the conference outlived any delay in the publication of these *Essays in Peace Research*. The first part of the article was presented at the XXVth Pugwash conference in Madras 13-19 January 1976; the rest of the article was originally published in *Instant Research on Peace and Violence*, No. 4, 1974, pp. 185-194.

V. 14. *The Pugwash Movement as an International Actor*

* The present paper was given as a lecture at Women's International League for Peace and Freedom, Oslo, 1965; the appendix was written September 1968. I am indebted to friends and colleagues in Pugwash meetings, and particularly

to Professor J. Rotblat, the *force motrice* of the Pugwash movement for so many years, for discussions of the topics dealt with. The paper can be identified as PRIO-publication No. 24-6.