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**"THE VIEWS OF THE SWISS FEDERAL DEPARTMENT OF
FOREIGN AFFAIRS AFTER THE VIENNA WORLD
CONFERENCE"**

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Human Rights: A New Form of Colonialism?

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SASE. Human Rights: A New Form of Colonialism ?

Universality of Human Rights. The views of the Swiss Federal Department of Foreign Affairs after the Vienna World Conference on Human Rights, June 1993

Can it be that human rights, an ideal whose universality Switzerland and very many other states proclaim, are no more than an underhand means of influencing the policies of other countries, in particular those of the third world? People who see human rights as a **new form of colonialism** use several arguments:

- human rights, they claim, are a purely "western" concept
- applied artificially to other cultures, in a way that is sometimes harmful,
- unjustifiably foisted on sovereign states.
- By their very nature, these individual rights sometimes clash with collective rights: the general, vital interest of a state, and
- urgent and necessary economic development.

These allegations raise questions touching the universality and indivisibility of human rights. Before dealing with them, I should like to quote remarks made by **René Cassin**, one of the fathers of the Universal Declaration of 1948, in that year:

Agreement among human groups of such different civilisation and beliefs, and leading such different economic and social lives, would have been inconceivable if each had wanted to

insist on his point of view or on one-sided doctrines. It is very difficult, not to say impossible, to get all to agree on mankind's ultimate purpose or first origins (...) The violations of human rights at stake in the last World War have made it both possible and necessary to achieve an "accord d'idéalisme pratique."

The parties to this *accord d'idéalisme pratique* were the states which made up the **United Nations** at the time, and considered that they could speak in the name of all mankind. It is true that countries decolonised after 1948 took no part in formulating this text - nor did Switzerland, since it is not a member of the UN. But the idea underlying this *accord d'idéalisme pratique* of 1948, that of human dignity, is so simple that it can rightly be considered universal. Hegel put it like this: *Man commands respect because he is man, not because he is a Jew, a Catholic, a Protestant, a German, or an Italian...*

This principle of the **equal dignity of all men and women**, whatever their political, social, ethnic, linguistic or religious group, is underpinned by the sciences and has solid foundations in terms of philosophy, ethics, international law and also the great religious traditions. The way in which differing disciplines and differing civilisations converge on this issue shows the concept of human dignity to be a permanent and universal truth.

The formulation of human rights in a Declaration was by no means an easy matter, as René Cassin said, and as the present secretary-general of the United Nations put it at the World Conference in Vienna, in June 1993:

The human rights that we proclaim and seek to safeguard can be brought about only if we make a conscious effort to find our common essence beyond our apparent divisions, our temporary differences, our ideological and cultural barriers.

The Vienna conference was marked by **strong tensions**. The texts that emerged were **a compromise constituting a consensus** on human rights which is binding for all states at the political level. To quote Point 5 of the Vienna Final Document:

All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.

The Swiss view on this issue was expressed a few weeks ago in a speech by the Swiss Minister of Foreign Affairs, Mr. Flavio

Cotti. He pointed out that *human rights were raised quite deliberately to being the principal objective of our foreign policy. (...) The fact that cultural , social and economic differences between states can lead to differences in interpretation (...) does not affect the universal importance attaching to the fundamental rights of every human being. It is a fact that certain fundamental rights are unlimited by history, culture or religion: they are an integral part of human dignity. Switzerland wishes to be a guarantor of these principles, even if internationally - as we all know - this approach may sometimes throw a shadow for a while on relations with certain states.*

Whether they come from the north, the south, the east or the west, whether they are local or international, **the non-governmental organisations** concerned in defending these principles speak in the same terms as we do, and put forward demands similar to ours. This consensus in civil society on basic values must never be underestimated. It is an important indicator of the universality of the fundamental values highlighted by the Declaration of 1948. Those who put forward the specific character of a culture as an argument for rejecting the universal application of human rights always come from governing circles in states which find themselves in the firing line. Rather than defending a culture threatened by what are labelled as western values, is it not more a matter of justifying grave violations of fundamental rights? Of protecting those who hold power, and the political and commercial interests of

certain groups? Can it really be the universality that leads to the oppression of a boy-soldier, a child-prostitute or a tortured dissident?

Moreover to take special factors into account is to illustrate and apply universality, not to restrict it. **Universality does not mean uniformity**: the more the promptings and cultural references of each civilisation are emphasised and associated with the application of universal rights, the more that application will be effective.

Human rights can be related to the great religious and social systems which underlie mankind's civilisations. All these systems have an ethical foundation sufficient to guarantee respect for at least minimal humanitarian standards. Accordingly, rather than trying to promote an abstract concept of human dignity, it is both wiser and more "human" to look at mankind's traditions, starting perhaps with one's own: the all-embracing compassion advocated by the Buddhists, and the cosmic harmony and respect for life of the Hindus are no less a foundation for the concept of human dignity than the Bible's assertion that God created man *in His image and after His likeness*. We should look too at past civilisations; they have lessons to teach which are relevant for all. Such openness, transcending pure pragmatism, even independent of any

personal attachment to a system of values, is the best bulwark against the ever-threatening barbarism which overcame some of the most "civilised" of the great nations of Europe and Asia during the Second World War. And it would be hard to forget the genocide in Cambodia, or more recent events in Rwanda and the Balkans.

Against the background of such tragedies, identifying ethical sources is not enough if human rights are truly to take root. A deliberate step is required; and **rights must be incorporated in legislation**. Human rights were given international roots - though in one region only - by the European Convention on Human Rights, drawn up in 1950, and its supplementary protocols. Standards exist in Europe which combine demanding requirements with highly developed machinery for their application, reinforcing those which exist world-wide. America and Africa have also concluded international agreements complementing those of the United Nations.

International customary law recognises certain **absolute rights** which every state must respect at all times. Many of these have been codified as contractual rights. No cultural or economic pretext, no state of emergency or of armed conflict can be held to justify derogation from such absolute rights. Nonetheless, violations of this hard core are still common, the most heinous examples being:

- summary, arbitrary or extra-judicial executions;
- forced or involuntary "disappearances";

- torture;
- prolonged detention without trial.

Racial discrimination, modern forms of slavery and the crime of genocide are all violations of fundamental rights that are in principle sacred. Almost all states in ratifying the *Geneva Conventions* have expressly committed themselves to respecting a "hard core" of rights of this sort, as formulated in the Article 3 common to all these conventions. Rather fewer have ratified the *Covenant on Civil and Political Rights*, whose Article 4 codifies those rights that are absolute.

Human rights as such, whether civil, political, social, economic or cultural of course go beyond this strict framework of absolute rights. Some people even argue that recognition should be extended to **collective rights**, so-called third-generation rights; the western countries have expressed reservations about this concept.

At Vienna the supporters of the universality of human rights got what they wanted on that essential issue but were obliged in return to recognise a right of this type: **the right to development**. They were able to limit this to the individual level, by stating that *the human person is the central subject of development*. The states concerned were able also to specify that *while development facilitates the enjoyment of all human rights, the lack of development may not be invoked to justify the abridgement of internationally recognized human rights*.

Any phrase of this sort is of course frequently quoted by partisans of human rights, in government or outside it.

If this point had not been spelled out in Vienna, the risk was that objection could have been maintained to the universal application of human rights on grounds of overriding **collective interests**: the urgency and imperative necessity of social and economic development, or the safeguarding of political stability or of other vital interests. Governments which take this line can be answered by referring to the universal consensus at Vienna, which amounts to a political commitment by all states. It would of course be wrong to sweep real problems under the carpet. But a certain number of questions can be put to those who speak in these terms: how does the exercise of fundamental liberties actually damage the economic interests of the community? Does defence of the common good justify contempt for individual dignity? Is it the common good that is being defended, or the interests of groups holding political or economic power?

In its final document, the Vienna Conference set out, for the first time at the universal level, an absolutely key statement: ***"democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing.***

The concepts of the common good and of human rights are indissolubly linked; together they comprise conditions essential

for the maintenance of peace and security in any state. On the other hand, by definition arbitrary conduct flies in the face of stability and predictability, and brings with it behaviour which affects not only respect for personal liberties, but also respect for commercial agreements. At a time when for the sake of economic advantage western governments are more and more inclined to overlook breaches of human rights, we need to remind ourselves of the importance of respect for the law in every field. Apart from the pressures from public opinion or the international community, all states have an interest in seeing human rights, democracy and development in operation everywhere, for they are essential conditions for peace and security.

Soon after the Vienna conference, **Switzerland** defined the **main objectives** of its foreign policy for the current decade. The first is of course *the safeguardung and promotion of security and peace*. It is immediately followed by *the promotion of human rights, democracy and rule of law*.

In the light of the universality of human rights Switzerland believes it has the right to discuss this question with countries throughout the world, and does not confine itself to any particular geographical area. This ties in with two axiomatic principles linked to Swiss neutrality: the **solidarity** and the **universality of our international relations**. Switzerland aims for contacts all round, not only on the multilateral level, within international groupings, but also in bilateral dialogue with

countries on various continents involving in particular regular exchanges between delegations of human-rights experts. Such contacts make it possible to develop further the *accord d'idéalisme pratique* which recognises the universality of rights linked to human dignity.

Universal application of the hard core of human rights, Switzerland's aim, would represent decisive progress in the history of mankind. But the pursuit of this limited yet noble objective must not lead to other rights being neglected. Swiss development cooperation aims to contribute to the promotion of all human rights, whether they are social, economic and cultural or civil and political.

Since economic development and respect for human rights are indissolubly connected, it is right to encourage both, making use of possible synergies. At the very least, adopting economic and commercial policies advantageous to developing countries - including debt-reduction and financial support - ought to be compatible with Swiss human rights policies. It is hard to imagine **durable development** unless essential democratic principles and respect for the law are observed. Per contra, taking up civil and political rights with a given state would quickly be seen to be without effect if it were not matched by economic commitment in support of that state's economic development.

I believe that the 1993 world conference will be remembered for the explicit expression of a **consensus** on the universality and indivisibility of human rights; and for the affirmation of the interdependence of democracy, development and human rights, and their mutual reinforcement. To conclude I should like to quote an extract from the speech of the Swiss Minister of Foreign Affairs on the occasion of the World Conference on Human Rights:

In every state, whether it belongs to the south or to the north, to the east or to the west, whatever its political, economic or social system, where the fundamental rights of human beings are concerned whether as individuals or as members of the collectivity, human dignity is sacred. Those rights include in particular the right to a way of life that is decent in material terms, and the right to the peaceful expression of political or other opinions, without arbitrary imprisonment, summary execution or torture. In our view special national or regional characteristics with a basis in culture or religion, rather than qualifying the concept of human rights should contribute to the reinforcement of their universality, their indivisibility and their interdependence, for instance in the context of regional organisations for the protection of human rights, and so contribute to the security of the region concerned and thus to world peace.