

The common heritage of humankind should serve all humanity

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Abstract:

The right to life is a fundamental human right, and the main and indispensable for its implementation condition is a presence of necessary for the life of every human being means of existence, the main source of which is his labor for getting them and property in some form or another. Internationalization of public life, the growing education level of people, their awareness of the laws of nature and peoples lead to gradual awareness of, along with individual, group, community and transnational forms of ownership, and common property of all humankind. Contemporary international law recognizes this fact, but there is a necessity in finding ways, forms and mechanisms for the practical use of this common property for the benefit of all peoples of the Earth. This article suggests one of the possible variant of solutions to the problems of global importance.

Keywords:

Humankind, common heritage, human rights, international law, justice.

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Introduction. The Earth is common home of all peoples and humankind is one family. Do we aware of it or not, they play a huge role in life of every individual, especially in the field of the protection of his rights and freedoms, and this role will increase ever more. It is generally recognized that the international protection of human rights and freedoms so far has been the most effective and efficient. Indeed, just as a family has a duty to every member, and a society - to its members, the humankind has certain duties to all peoples throughout the world and each person individually, and it must comply with them.

The unquestioned for nearly all peoples of the Earth formula of "common home" contains an extremely important recognition. If the home is common property of the whole family, the Earth is the common heritage of all peoples living on it, and every nation and its representatives shall have equal rights to the enjoyment of this heritage. First of all these are land, air, water, and natural resources of the planet and the universe. "Here are all the herbs, God told them, that seed on earth, and all the trees, that carry in them the seeds of their own life, to be your food" [Genesis, 1: 29] - this is the basis for understanding the problem, fixed in different wordings in the Bible, the Koran and other "Sacred Books" of the peoples of the world. In addition, a wealth of bowels of the Earth, the seas and oceans, then still unknown fully to the authors of the "Holy Books", and become absorbed by the man in the next eras. All well-being of humankind is based on extraction and processing of natural resources and on artificial fabrication of the goods, similar to the creations of the nature.

What belongs to the individual, to their communities and to all the peoples of the entire world together as the rights to possession, use and disposal? People tried to find an optimal solution to the question since their appearance on the Earth. The right answers to them is possible to find only using the historical, logical, system and other methods of research.

At all times it was considered that the Earth and all living and growing on it were given by God to children of the man (Adam), i.e. to all inhabitants of the Earth together. At the same time, everyone has to have something that belongs to him personally. First, this is the labor of his body, and the work of his hands. As John Locke wrote out, "whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labor with, and joined to it something that is his own, and thereby makes it his property" [13, V: 27].

As a result of the evolution of life on the Earth and determined by that settling the planet, thousands of different ethnic groups, societies, nations and areas of their habitations, having, according to international law, the exclusive rights to their possession and use, formed. The right of every people to dispose of natural wealth and resources in the area of their habitats is recognized in the UN General Assembly's resolution of December 14, 1962, entitled "Permanent sovereignty over natural resources". It was repeated in the United Nations declarations "On the right to development" (December 4, 1984) and "On the rights of indigenous peoples" (June 29, 2006), and in other international agreements.

Land of the planet, equal to just over 29% of its surface, is divided between hundreds peoples in such manner that not all inhabitants have equal access to its natural resources. Their habitats differ from each other in terms of both quality and quantity. Some of them had been settled in areas with innumerable wealth, large tracts of fertile land, rich natural

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resources (coal, metals, oil, gas), and others - in poor, rocky, steppe or desert areas. In one countries many hundreds of people are inhabited on each square kilometer of land, in other – only units; some of them are rich with mineral resources, others have them in limited quantity or even absolutely deprived them. At the same time, it is well known, the land itself little that gives; only labor of human body makes it gold. Where there is a small population density, not all land processes and brings any desired fruits. As a result, some inhabitants of the Earth crave to have a piece of land to cultivate it and get vital for their livelihood, while in other countries a huge massive of the land are not processed at all because of a shortage of working hands. This is similar to the situation, which became the basis of the saying "dog in the Manger": The dog does not need it, but those to whom it is vital, it does not allow using with.

People have been always understood the injustice of such situation, and tried somehow to correct it or bring the injustice to the possible minimum. So, for a long time communal land used to redeploy periodically between its members with purpose all they could in turn to have as fertile and less fertile, irrigated and non-irrigated lands. Within societies and States, natural differences of living environment's quality were and are smoothing by imposing rents and tax revenues. The tax revenues allow the States to redistribute the incomes of its citizens about at the level of the medium, to provide social protection for low-income sectors of the population, contribute to realization of economic, social and cultural human rights, requiring essential public expenditures. Not casually, the Declaration and Programmer of action of the Millennium Forum [18] rightly appreciate the concerted action of redistribution of the wealth and lands of the countries and peoples as one of the most effective measures to overcome poverty. The challenge is to implement this practice in a global scale.

All living things in the world are inclined to move to places, where there are favorable conditions for life. Such are the laws of nature, determining the behavior of the human beings as well. Just as it is impossible to suspend and reverse the flows of rivers, the slow ebbs and flows of the oceans and seas, it is impossible to pause or turn the world human streams. This is the phenomenon approximately of the same order. However, people, as rational beings, regulate and manage migration flows for the benefit of all humankind, so that they were mostly to still virgin regions of the world. Displacement of people on the planet will last always. The countries and States, where the population density is lower than the global, must not create obstacles on the way of the people wishing to live in them. It is senseless and immoral to keep vast expanses of land, fresh water, and a lot more locked away from people, when billions of them are in dire need. The developed countries of the world, to which major flows of migrants are, have the right to regulate these processes, but to require from the persons, applying for a residence permit, the high level of education, presence of prestigious professions and so on, must be considered as immoral and condemned. Everyone should realize that the flow of migrants into developed countries would diminish only when countries, they run away, will achieve at least average for the world level of development. Therefore, the most effective way to protect countries, where streams of immigrants to, of fugitives and displaced persons is effectively contributing to the development of all countries of the entire world. Meanwhile, the current policy of 'brain drain' of these, the most backward countries, turning them into permanent raw appendages, on the contrary, worsens the situation.

We cannot expect any qualitative change of the situation with implementation of the rights of all peoples to the common property of humankind till the division of the world into isolated societies and States with protected by armed forces borders continues. Radically that might happen only after the formation of the great commonwealths across vast regions, and even better - the continents, and the formation of universal civil society. There are many additional factors, strengthening inequality of the peoples' possibilities to use a common property of humankind and the injustice of the terms of using. One of them is the fact that some societies and States have access to the seas and oceans, and, respectively, to their riches, while others do not have them. This inequality became the basis of other injustice: The coastal countries, agreeing among themselves, have monopolized the right to expand their borders and sovereignty on the high sea and ocean spaces. So, by the conventions on the law of the sea, adopted in Geneva in 1958 [10], and in Montego Bay in 1982 [17], they assigned themselves the right to zones of inland waters and territorial waters up to 12 nautical miles from the coast line. In add to, they received the right to the contiguous zones up to another 12 nautical miles, to exclusive economic zones up to 200 nautical miles and to the natural resources in areas of the continental shelf in 150 nautical miles beyond the exclusive economic zones. Landlocked societies, although the Law of the Sea recognizes their right to have access to the sea through the territory of the neighboring coastal countries, actually have no such rights and opportunities, what is not consistent with the fact that the human rights of individuals and the rights of the peoples, consisting from equal individuals, are equally universal and inseparable. That is roughly the same as the monopolization of the right by a man, home of which is located closest to a communal forest, lake, or to any open field to their privatization and exclusive use. Injustice and unreason of the Convention on the law of the sea were, apparently, so obvious that even such coastal States as the United States, Israel, Venezuela and Turkey voted against it, and the Soviet Union and 16 other countries had abstained.

The situation with the implementation of the rights of all inhabitants of the Earth to the common heritage of humankind should not change until the world continues to divide into isolated communities and States with protected borders. Radically this can happen only after the formation of the great commonwealths of the peoples across vast regions, and even better – the continents, and formation of universal civil society.

Some people try to justify that injustice by necessity to secure the interests of the coastal States. This argument could not be enough persuasive. Indeed, why intense activities of other, sometimes not very friendly neighbor States on their territories just a few meters away on the other side of the State border, including the presence of military bases, are considered natural, and the same many miles far from inland waters represent a threat?

Everything what is outside the boundaries of the States ought to consider as the common property of humankind, with equal access of all the peoples of the world to it, the incomes from exploitation of which, with the consent of universal civil society, are taxes using for the benefit of all humankind. Yes, perhaps, to avoid situations, that could give rise to tension in relations between peoples, would be sufficient to grant a priority right to use the border waters and their resources to coastal societies, but an exercise of this prerogative should be paid. Such societies should make annual payments to humankind's fund in the scope of a certain percentage of the income not only in the area of the shelf beyond 200 nautical miles, as provided for in article 82 of the United Nation Convention on the law of

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the sea, but in the whole area beyond the borders of the internal waters. It would be reasonable to prohibit any entrance of ships and aircraft of other countries with weapons on board into these areas.

A small consolation might be that the said above applies only to the lower part of the surface of our planet, and most part is not divided yet. It is so far less suitable for permanent residence and effective economic activities areas of permafrost, vast expanses of seas and oceans outside the territorial waters and the exclusive economic zones of the coastal States equal to about three-fifths of the entire surface of the planet. It also includes the oceanic bottom and the wealth there, the airspace above them and the international ether, having vital importance for every society individually and for all humankind as a whole. It is necessary to elaborate the terms of use them with an unconditional recognition of the equal rights of all peoples of the world to them.

Indeed, how to use practically natural resources in this part of the world for the benefit of all humankind? There are many decisions on this respect, including the codes of law of the sea, the air, on the use of electronic means of communication, etc., but any effective, bringing real benefits to humankind, and practical acts are not visible yet. Who and how much are paying, for example, for ships' sailing in international waters, planes' flying over international waters and for their pollution, for the use of the international ether? Manifestation of reasonableness was declaring all outside the States jurisdiction and resources belonging to the international community as a whole the common heritage of humankind (*res communis humanitatis*). However, first, the Convention on the law of the sea greatly extends the zones under State sovereignty. Secondly, the rules of common use of this heritage have yet to clarify, having in mind an unconditional recognition of the equal rights of all peoples of the world to it. In addition, the right answer to the questions "for what purposes the received funds could be spent – on maintenance of the concerned institutions themselves, or to solving of the most important global problems of humankind?" There might be many similar questions.

Until now the rule "who dare, he ate," continues to dominate in some countries. Millennial practice of expanding the boundaries already established areas of residence continues in all possible ways. Formerly this used to do by conquest of the neighboring peoples, and annexation of the lands where they lived, or turning the distant lands to colonies. Because in a civilized and ordered by the international law world it became impossible to do it openly, some States try to seek new ways to roundabout, using the lack of clearly established international norms of use remaining without national sovereignty areas of the planet. Humankind as the Commonwealth of Nations still rather badly understands and exercises its sovereignty over the whole planet. First, the issue is still not suitable for permanent living areas of permafrost - Arctic (from 21 to 27 million sq. km) and Antarctica (almost 14 million square kilometers) and the oceans and the surrounding maritime spaces, in aggregate equal to almost half of the surface of our planet. The attitude to them is still trying to determine at the discretion of the largest and most powerful States in the world, who, not content with their rights to territorial waters and exclusive zones, try to expand their territories even further by joining zones of the oceans, the Arctic and Antarctica.

Ones of the first Canada and the United States made claims to Arctic, proposing in 1921 and 1924, to divide it by the principle of sectorial areas in the form of triangles, which

base would be their coastlines, and the North Pole – upper point. The USSR picked up this idea and declared in 1926, the expanse its territory to the North from the coast to the North Pole. Later, Denmark and Norway, joined by Finland and Sweden, made similar decisions. Those States declared the entire Arctic Ocean, as well as the zones of the Atlantic and Pacific oceans north of the Arctic Circle territory of their economic interests and States security. They established the Arctic Council [13], which along with the elaboration of common rules of activity of the adjacent to the Arctic States in this vast and vital for the entire planet region looks for ways to divide the Arctic zone between themselves. Since the notion of the "continental shelf" is indefinite, it is difficult to set with precision where the shelf begins, and where it ends, several States pretend to the same area, what is not a factor, easing a solution of the problem. The researchers from the United States [1, 11, 20], Canada [3, 14], Norway [16], Sweden [12], Island [4, 15] and other countries [2, 13], reflecting on legal and environmental aspects of the issue, try, at the same time, somehow to justify specific claims and the politics of their governments in the respective areas of the Arctic. Meanwhile, the most reasonable and fair to be considered only including all the Arctic areas to the common heritage of humankind. The author of these lines, while not denying the specificity of the interests of individual States, seeks to look at the same problem from the standpoint of humanity as a whole as a united family of peoples, each with varying degrees of effect on the state of affairs on the Earth as a whole.

After the Second World War, some countries of the southern hemisphere have decided to follow the example of five countries of the northern hemisphere. Argentina and Chile, whom the Tierra del Fuego belongs to, made a claim to Antarctica. It is worth to remember that if the distance from Franz Josef Land (Russia) to the North Pole is 1080 km, from Svalbard (Norway and Russia)–1230 and 1255 km, from Alaska (United States)–2180 km, the distance from Tierra del Fuego to the Antarctic Peninsula is only about 1000 km. Later the United Kingdom, Australia, New Zealand and France with territories adjacent to Antarctica from the northeast claimed to Antarctica also. However, the United States and the Soviet Union, which had no grounds to claim to any part of Antarctica in case of its division, modelled on the Arctic, strongly opposed this and offered to announce Antarctica the common heritage of humankind. The Antarctic Treaty signed in 1959 in Washington and entered into force on June 23, 1961 did it.

According to the Treaty, "Antarctica shall be used for peaceful purposes only. There shall be prohibited, inter alia, any measure of a military nature, such as the establishment of military bases and fortifications, the carrying out of military maneuvers, as well as the testing of any type of weapon" [17, art. 1]. Only 12 countries have signed it and 12 countries acceded to the Convention for the next 55 years (until 2013). Thus, at present, only 24 of 193 United Nations Member States, as well as the European Union, are the parties to the Treaty.

In principle, the decision on Antarctica is the best and just, and the same treatment would be spread to the opposite pole of the planet - the Arctic, - having an equal significance for the fate of the world as Antarctica has. Otherwise, there will be notorious double standards with selection among the "sovereign equality" States of some "more equals".

The Treaty on Antarctica says that fishing in the area can be carried out only with the consent of the Commission established by the Treaty, which shall also have the right to inspect such vessels. However, who provides with the licenses, and under what

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conditions? Moreover, how to the best humankind's benefit is expected to use the natural resources in these areas of the common heritage and opening by them opportunities?

It would seem that the answer and the solving of the question are simple enough. Indeed, how were used the natural resources for centuries in areas of residence of certain people? In some countries, the right to grant licenses had been privatized by authorities or the procedure was centralized. In democratic countries, people, wishing to carry out extraction and processing of natural resources, apply to the institutions of society and the State, get a license on a competitive basis, organize production and pay the relevant societies established by their laws taxes on profits. Probably, the best way is when the people of the area with natural resources resolve the licensing issues democratically, and taxes and charges use in their benefit.

In the case of natural resources in the areas of the common property of humankind, the main user of them, and, accordingly, the manager must be all humankind together, universal civil society, in favor of which should be used all taxes and charges from incomes derived from the exploitation of the heritage. As it was said above, it is possible to guarantee a priority right to obtaining the licenses for the citizens of adjacent countries. Who should have the right to solve these issues on behalf of the entire universe? The correct answer to this question can be formulated only based on a presumption that the natural resources in their respective habitations belong to all living there peoples and their societies, but no way to their political institutions – the States. The latter only authorizes by relevant societies to arrange rationally their exploitation and use the revenues for the benefit of the society as a whole.

Similarly, the natural resources in the areas of the common heritage of humankind belong to all peoples of the world, to humankind as a whole, to universal civil society. It should establish a special institution or institutions with the authority to organize mastering of the being under his sovereignty natural resources and use the revenues to the benefit of all humankind. Alternatively, it may delegate this mission to several global institutions such as the United Nations and its specialized agencies, particularly the International Maritime Organization, the International Civil Aviation Organization, the International Telecommunication Union, etc. However, there is one aspect that ought to take into account obligatorily while making decisions here. All of these are inter-State and intergovernmental organizations, and the active participation of the State in economic life is not always justified, as it might have some negative consequences.

The humankind should have its own fund, independent from such of individual societies and States, and generated exclusively of taxes and charges on revenues in areas of common heritage. It would be just also to establish an additional rent on natural climatic conditions and natural resources of the societies, distributed among the peoples of the world, being in worse conditions. It is advisable also to establish certain taxes on transnational corporations for using the national and international markets. Due to this fund, the international community would be able to implement an effective policy of social protection on a global scale.

Solution of these challenges successfully and democratically could be possible only with the active participation and even dominance of the institutions of the universal civil society. Among operating in the world presently institutions the International

Parliamentary Union, composed of elected representatives of almost all the peoples of the world, appears to be the most suitable. Likely to be correct, if the right to become the Supreme representative body of the universal civil society, to determine the size of taxes and charges to the fund and to distribute it has delegated to it. Articles of the expenditures should be determined with exactness as well. Dominant among them ought to be the provision of cheap credits for societies in crisis, immediate assistance to peoples in overcoming the consequences of natural disasters (floods, droughts, earthquakes, volcanic eruptions, epidemic disease), many of which are the nature's reaction to imprudent human behavior. The laws passed by the Inter-Parliamentary Union, could execute the UN Economic and Social Council. The permitting and control functions could be entrusted to the specialized agencies of the UN.

The right to control over implementation of the jointly developed and accepted for execution commitments by its individual troops, the right to impose sanctions on them, and to demand compensation for damages done by the offenders are among the inalienable rights of humankind. While humankind has not learned to live in peace and harmony with all its parts of, all industrial activity in the Arctic and Antarctica, especially with the invasion to the nature of these, defining climate in the world regions, ought to be postponed.

Conclusion. There is much in the modern life of humankind that is both pleasing people and upsetting them. On the one hand, humanity is living in the third millennium after the birth of Christ, becoming more enlightened and civilized. A sufficiently effective system of human and peoples' rights, based on the recognition of their equal rights, have been formed. In a world increasingly democratic norms are approved. On the other hand, the use of many of what is given to humankind by the nature, - the oceans and seas, as well as natural resources located there, - continues to be exploited almost by the same methods and ways as a centuries and a millennium ago, depending on the strength and abilities of the individual societies and States. That is, the colonization of areas of the international waters and their bottom, by the very nature of which are the common property of humankind, continues. We consider such practices unjust and incompatible with the interests of humankind as a whole, and consider the issue to be solved to the benefit of all the peoples of the world. The Earth is a kind of a ship, and the humankind is its crew and passengers scurrying through boundless expanse of the universe. Here, everyone has to know what he can do and what can not, and must strictly adhere to the norms that ensure the stability of the operation and the flight of the ship. No one has the right to carry out on the board any activities threaten the lives and safety of all its inhabitants, and if anyone tries to take them – immediately and actively all should combat these attempts. Otherwise the flight will stop and the remains of the ship and its crew would be somewhere in the “ditch of the Milky Way” or on the deep ocean floor, called the universe. Alternatively, humankind will continue to live permanently according to social and political norms of the middle Ages.

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