THE PHILOSOPHY OF OCEAN GOVERNANCE

Webster's Dictionary defines "governance" as "the art, manner, function, or power of government." The Club of Rome has given a somewhat different meaning to this term. In its literature a distinction is made between "government" and "governance" -- a distinction that is difficult to reflect in languages other than English. "Government" is the governance of the State. "Governance" comprises far more. It includes the ways families are organized, or businesses or schools or churches are run. It includes custom, tradition, culture. It is rooted in philosophy and, in the last analysis, depends on the vision we have of the nature of human beings, which determines the relationships they will have with one another and with the rest of nature

In this address I will try to identify the main concepts of the "philosophy of ocean governance," drawing on the Law of the Sea Convention, the Brundland Report and the documents emanating from the Rio Summit of 1992.

These concepts have institutional implications, among others; and I will then try to describe the system of "governance" that would accord with these concepts. Bits and pieces of this system are already emerging in all parts of the world, at the local, national, regional, and global level. What is needed now is an "architecture," or "vision" to make the system consistent among all its parts and with the rest of nature.

It is curious how, quite consistently, the way we see nature and treat nature, we see, and treat, ourselves, and one another, or the other way round. We project on nature the concepts we hold about our own nature Thus Bertrand Russell, one of the greatest philosophers of this past century, wondered, how come that animals, whether rats learning to run a maze, or chimpanzees challenged to problem solving of some sort -- when studied by a British scientist, these animals

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learn by trial and error; when studied by a German, they learn through profound cogitation and analysis, inducing the right solution...

If we believe that human beings are basically non-cooperative, competitive, combative, and unequal, we will develop governments and forms of governance that are coercive and authoritarian, businesses that are exploitative, and families which may be brutal. We then are also likely to believe that might is right and that we have the right to exploit not only the weaker among us, but nature as well and that evolution is determined by the survival of the fittest. We will also be convinced that these our believes are the only correct ones, that we are the centre of the universe, and the rest does not count.

If, on the other hand, we believe that humans are fundamentally cooperative, that they are all born with equal rights, that the long-term driving force of evolution is cooperation, not competition; that humans are part of nature, then we will develop governments and forms of governance respectful of human rights as well as of nature. These may take different forms in different places at different times, nurtured by different cultures.

I think all cultures have been fluctuating between these two poles of philosophic thinking: Humans are basically non-cooperative; or humans are basically cooperative. The first school of thought has run its course and could lead to the extinction of the human race -- which one day, sooner or later will disappear anyway, because everything that has a beginning has an end.

The second one is gaining strength. If it prevails, it may prolong human life on earth by a few thousand years. We are lead toward it by a number of circumstances, some presenting new challenges, some posing threats to our existence, some being ambiguous..:

- Changes in our perception of science: the emergence of a new scientific paradigm;
- the development of science-based post-modern High Technology, threatening to

accelerate the extinction of humankind,

- whether through increasingly sophisticated arsenals of weapons of mass destruction,
- or through pollution poisoning the air we breathe, the water we drink, the food we eat
- or through "globalization," sapping the ethical foundations of social relations while, on the other hand, making it more difficult to insist on self-centred certitude about the exclusive rightness of our own beliefs.

To meet these challenges and threats, the emerging "philosophy of ocean governance" is based on a number of new concepts and visions. The most seminal of all of these is probably

The common heritage of mankind

As elaborated by Ambassador Arvid Pardo of Malta -- and I had the privilege of being very much involved in this elaboration -- and as eventually articulated in the Law of the Sea Convention, the Common Heritage of Mankind (1) cannot be appropriated by any State or person: It is *non-property;* (2) it must be *managed* by an Authority representing the world community, for the benefit of mankind as a whole, with particular consideration for the needs of the poor; (3) it is reserved for exclusively peaceful purposes; and (4)it must be conserved for future generations who also a part of Mankind. Thus it has an *economic* dimension -- the Common Heritage must be *developed;* it has an *environmental* dimension -- it must be *conserved;* it has a *peace & security* dimension -- it is reserved exclusively for peaceful purposes; and it has an *ethical* dimension -- benefits are to be shared *equitably, with particular consideration for the needs of the poor.*

The integration of these four dimensions in one concept implies a *holistic* approach which

links this first basic concept of the Law of the Sea Convention to the second one:

the close interrelationship of the problems of ocean space which must be considered as a whole.
Many provisions of the Convention, due to political compromise, in fact, contradict this concept.
To separate the peace/security dimension of the Common Heritage concept and to turn it over to
a completely different body -- the Disarmament Committee in Geneva -- was certainly
inconsistent. The economic and environmental dimensions are inseparable from the
peace/security dimension.

They must be considered as a whole by an institutional arrangement capable of comprising
both. Equally inconsistent, and probably unsustainable, is the separation of the international sea-
bed from the rest of the ocean system by postulating that the Common Heritage concept is to be
applied only to the deep sea-bed, with no effects on the rest of the system which is to remain
subject to the ancient regime of freedom of the high seas and sovereignty over coastal waters. It
will be the task of the next generation to resolve these contradictions. They will be aided by the
remarkable fact that the two concepts, that of the Common Heritage of Mankind and that of the
close interrelationship of the problems of ocean space which must be considered as a whole are
indeed enshrined in the Preamble to the Convention which has become part of International Law.

Sustainable Development
The Brundtland Report *Our Common Future* carries the basic concepts of the Law of the Sea
Convention one step further, with the new emphasis on sustainable development.

Sustainable development comprises the economic and environmental dimensions of the
Common Heritage concept. The *ethical* dimension is maintained by the emphasis on *equity* and
the eradication of poverty as a condition for making development sustainable. Only the

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peace/security dimension is left out, remains unmentioned, although it is self-evident that neither economic development nor the protection of the environment can be pursued in the absence of peace and security..

Just as in the case of the Common Heritage concept, the integration of the various dimensions of the sustainable development concept implies an *integrated, trans-sectoral and interdisciplinary approach*. This has generated the concept of

Integrated coastal and ocean management

spelled out particularly in *Agenda 21* and assumed as a precondition for the implementation of all the conventions, agreements and programmes adopted by the Earth Summit in Rio, 1992, or derived from it ("the UNCED Process").

The "coastal area," at the interface between land and sea, is seen as a *highly complex system,* and this gives rise to two further basic concepts underlying the philosophy of ocean governance:

Uncertainty and the Precautionary Principle

Uncertainty is a concomitant of the new "science paradigm" that has been emerging since the end of World War II. Spearheaded by Heisenberg's Quantum Theory, postulating that the motion of individual atoms is unpredictable, it was further elaborated by Prigogine, who showed how complex models, with their ever more intricate chains of bifurcation of options and possibilities, will eventually induce *chaos,* out of which, at a still later phase, a new order may arise.

Generalized, the "new science paradigm" tells us that the accumulation of more and more data may generate uncertainty rather than certainty and that the behaviour of complex systems cannot be predicted through linear projection but is inherently unpredictable.

Since coastal areas are highly complex systems, where land and sea and atmosphere, living resources and their physical and chemical and meteorological environment, human activities and natural developments, all interact, uncertainty is "structural." It is therefore meaningless for the coastal manager to postpone decisions and remedial action until the day when all data are accumulated to "prove" a certain development, for this day will never dawn. The coastal manager has therefore to act on the basis of the *precautionary principle*. In other words he/she has to take decisions and act in the absence of scientific certainty.

This, of course, entails a slew of new problems, the biggest of which is the extreme variability of interpretations of the concept. A recent article published by *Science*[1] mentions 14 different interpretations given in various Treaties and Declarations, ranging from the strictest, which would prevent the adoption of any new technology, to the loosest which call for decisions in the absence of any scientific evidence at all: A 1990 declaration on the protection of the North Sea calls for action to be taken even if there is "no scientific evidence to prove a causal link between emissions of wastes into ocean waters and effects."

In any case, Uncertainty and the precautionary principle change the nature of decision-making. In a sense, this signifies a return to "commonsense;" it also *suggests* listening to the voices of ancient and indigenous cultures and people who knew about conservation and sustainability of natural resources and the environment long before we began to study them with our advanced scientific means.

Risk

Uncertainty begets risk, and the greater the uncertainty, the greater the risk. Risk can be reduced

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[1]SCIENCE,, Vol. 288 No.5468, 12 May 2000

by assessments and calculations. It also can be reduced by *cooperation.* Competition, inherent in our present economic system, increases risk. *Risk management* should become an integral part of integrated coastal management. While *environmental impact assessment* -- already recognized as an essential component of integrated coastal and ocean management -- addresses risks to the environment, risk management and risk reduction, including legislation, building codes as well as community based training for disaster preparedness and mitigation, enhancement of insurability and the introduction of community-based mutual mini-insurance schemes, addresses the reduction of human suffering.

The emphasis on *cooperation,* which underlies all the basic concepts of the philosophy of ocean governance which have been reviewed in these pages, in turn, rests on the assumption that human beings, and living beings in general, are fundamentally cooperative and that the driving force of evolution is indeed cooperation, as was observed by Kropotkin and the school of ecologists that followed him. Of course conflict exists, and will always exist, but in a broader perspective, it is episodic and short-term. In the long term, it is cooperation that prevails, or else we still would be a loosely dispersed mass of single-celled protozoa. There would be no metazoa, no organization, there would be no families, no tribes, no cities, no nations, all of which are based on cooperation.

Cooperation, not conflict, also determines the fundamental relationship between humans and the rest of nature. The philosophy of ocean governance considers *cultural evolution as a continuation and acceleration of natural evolution.* It considers human beings as a part of nature, not its overlords. It sees continuity between all parts of nature and finds the roots of intelligence, of art, of technology, of religion and ethics, in the animal kingdom. As we treat nature, we treat ourselves, and vice versa. If we destroy nature we destroy ourselves.

The model of ocean governance that I see emerging is in harmony with this philosophy. It

rests on the belief that human beings are fundamentally cooperative, a "social species," and that, in spite of all the horrors we have seen especially in the twentieth century, which has been the bloodiest in all recorded history, humans can be motivated to identify self-interest with the common good.

This model of ocean governance begins with the local coastal community. This is where people are actually involved in marine activities; this is where they are directly exposed to the ravages of nature and the deadly impact of pollution. It is at this level that we see new forms of cooperation and organization emerging. These new forms are adumbrated in the Brundtland Report[2] and spelled out in Agenda 21, adopted by the Rio Earth Summit in 1992. This model is called "community-based co-management, and is being realized in many countries, especially developing countries."Community-based co-management." means both "horizontal integration," i.e., the participation of ocean users (fishing organizations, harbour masters, tourist organizations, consumers, NGOs, scientists, etc,) in local decision-making, as well as vertical integration, i.e., fora for joint decision-making between local, provincial and national organs. It goes hand in hand with the decentralizing trend in contemporary management theory, which would give the local managers of multinationals a much freer hand to participate in local planning and decision-making and keep them closer to local interests and participation. A lot of problems baffling us at the macro level can in fact be solved much more efficiently at the local community level.

Community-based co-management should now be extended also to coastal megacities which also must be integrated in "integrated coastal management. This is a mst challenging task, but there are precedents for solutions, especially in Japan. The system of disaster preparedness in

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[2]World Commission on Environment and Development, *Our Common Future,* Oxford: Oxford University Press, 1987.

Yokohama, for instance, grafting high technology on ancient social forms of social organization may hve lessons to teach.

The need for horizontal integration is as pressing at the national as it is at the local level, and indeed we see States in all parts of the world experimenting with new governmental mechanisms to facilitate integrated ocean policy making. The most promising form of these mechanisms appears to be a combination of inter-ministerial Councils involving all Ministries and Departments that deal in one way or another with the oceans, combined with the establishment of Parliamentary Committees on the Oceans and of Advisory Councils representing all users of ocean space and resources, including the local communities..

Proper linkages must be built, and are being built, not only with national but also with international institutions. Here, again, the marine sector is in the lead. The most advanced example of a linkage between local communities and a regional intergovernmental body is the Mediterranean Commission on Sustainable Development where local communities, together with industries and NGOs, once elected, have *the same rights as the Representatives of States Parties, including the right to vote!*

Recently, the Regional Seas Programme has assumed a major new responsibility, that is the implementation, at the regional level, of the Global Programme of Action to prevent pollution from land-based activities. This really has triggered a revitalization of the Regional Seas Programme, an expansion of its scope and institutional arrangements, including the establishment of a sort of Assembly comprising not only the States Parties to the Regional Seas Convention but also other regional bodies, such as Development Banks, regional Economic Commissions, the regional offices of the UN Specialized Agencies and the "major groups" of the nongovernmental sector, representing "civil society."

Regional organization is an essential component of the emerging system of ocean

governance. The regional level is the optimum level for the solution of many problems which transcend the limits of national jurisdiction but are not necessarily global in scope. Many aspects of pollution as well as of fisheries management are best resolved at the regional level. New ways of enhancing technology development and transfer or of integrating sustainable development and human security — essential for the effective implementation of all the UNCLOS/UNCED generated Conventions, Agreements, and Programmes — can most suitably be introduced at the regional level.

At the global level, the very vocal and active participation of the "major groups," including local communities, in the discussions of the CSD and other UN organs is also encouraging. This really is another way of enhancing the process of democratization of international relations.

A so-called "United Nations Open-ended Informal Consultative Process on the Ocean (UNICPO) has been established by the General Assembly of the United Nations, on recommendation of the CSD, to

> to facilitate the annual review by the General Assembly, in an effective and constructive manner, of developments in ocean affairs by considering the Secretary-General's report on oceans and the law of the sea and by suggesting particular issues to be considered by it, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced.

This "Process" will meet every year for one week to deal with the oceans. Until now, the General Assembly had only one day a year to deal with the oceans, and this was blatantly insufficient. .This "Process" which is open to the participation of all members of the General Assembly, all the Agencies of the UN dealing with the oceans, and the "major groups" is another very important building block in the structure of ocean governance we see emerging It has just completed its first session in New York: rather successfully, and is forwarding its

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report and recommendations to the General Assembly, which never before had such good material to base is decisions on.

Thus a system of ocean governance is taking shape that is consistent, coherent, participatory and bottom-up. The coastal community is best suited to deal with sustainable development improving livelihood. National government, in cooperation with local communities, must be the regulator and legislator; Fisheries management, enhancement of the marine sciences, technology development and transfer, monitoring surveillance and enforcement, integrating sustainable development with regional security — all this is best handled at the regional level, through he cooperation of States, regional institutions, and "major groups." Highly migratory stocks, global shipping, climate change, ozone depletion, inter-regional issues, and the coordination of the whole system, require global action at the level of the General Assembly

Borrowing from Gandhi, I like to call this emerging form of "ocean governance" "the Oceanic Circle." As it reaches from the individual to the local community to the nation to the region to the United Nations General Assembly. Gandhi described his idea on the global social order in a famous passage:(*India of my Dreams*):

> *In this structure, composed of innumerable villages,*
> *there will be ever-widening, never ascending circles.Life will not be a pyramid*
> *with the apex sustained by the bottom.*
> *But it will be an oceanic circle*
> *whose centre will be the individual,*
> *always ready to perish for the village,*
> *the latter ready to perish for the circle of villages,*
> *till at last the whole becomes one life*

composed of individuals,

never aggressive in their arrogance,

but ever humble,

sharing the majesty of the oceanic circle

of which they are integral units.

Therefore, the outermost circumference will not wield power

to crush the inner circle

but will give strength to all within

and will derive its own strength from it.

What he describes is a system where, as in the Brundtland Report, the boundaries between the individual and the community, between the local community and the State, between the State the international community, become translucent, in a non-hierarchical order that is participatory, bottom-up, not top-down, consistent and comprehensive. For Ghandi, this was the ideal order for the world as a whole; in dealing with the world ocean, which is so different from the land that it forces un to think differently, to think anew, we are coming closest to this ideal order, although, of course, we will never reach it, but the way is the goal.