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Forward

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Foreword

Fausto Pocar

The main attractive feature of this symposium—admirably planned and organized by the Global Center for Business and Development of the McGeorge School of Law—lies in the novelty of the methodology employed in approaching human rights issues. By coupling a consideration of the impact of human rights norms at both the international and the domestic level—and a discussion of the multifaceted problems of their implementation—the symposium was able to focus on a number of human rights norms in a concrete perspective, which took into account the scope of each right as defined by its essence as well as by its limitations, and its interaction with other rights and interests that deserve their own protection. As constantly reflected in legal literature as well as in numerous declarations of fundamental rights and in all resolutions aiming at their implementation adopted by the United Nations during the decades following the Universal Declaration of 1948, human rights are to be regarded as interdependent—mutually supportive of each other and at the same time suffering limitations because of the existence of other rights. Such an interdependence impacts the rights' scope of application, and is particularly relevant and raises issues at the stage of their implementation, as the debate on the several areas examined during the symposium eloquently showed.

Within the variety of subjects taken up by the panels in which the symposium was articulated, speakers generally and correctly avoided the discussion of implementation within a specific category of rights—civil, political, economic, social, and cultural—as is frequently done following the traditional distinction proposed in the two International Covenants or in subsequent international instruments. Rather, the accent was particularly put on the interrelationship between rights belonging to different categories in each of the areas under consideration, and their impact—or desirable impact—on the rules and principles governing the said areas. Thus, by way of example, the discussion of human rights and corporate governance implied a consideration of both economic rights and the civil rights of the corporation and its owners, as well as of third parties, associated with the corporate responsibility to respect them. The same applied to the discussion of human rights in relation to labour law in the Latin American context, where the appreciation of the scope and impact of individual and collective human rights of workers had to be assessed in light of competing goals, including the search for economic integration and a greater flexibility of laws requested by employers in developing countries. But the same also applied to areas where this interrelationship at the implementation stage may appear less

evident—as in the field of intellectual property—where the analysis led to discussion *inter alia* of whether intellectual property law is adequate to ensure rights like access to knowledge, to medicine, and to food.

A discussion of the relationship of different categories of rights in the implementation process inevitably led to stressing the other element of human rights norms—i.e. the duties that not only states, but corporations and individuals, must equally respect in order to make the rights effective. Besides the areas mentioned above, the field of environmental law shows in a clear way how the “duty” component is an essential element of human rights norms at all these levels. If the presence of diffused rights in this sector underlines the obligations of governments, international organizations, and private corporations, it is undeniable that a satisfactory protection of environmental rights also includes individual behaviour and responsibilities.

These few examples of some of the implications of the issues discussed during the symposium are but a partial indication of the thought-provoking debate which developed during two days of intense sessions. The proceedings collected in this volume will be a further testimony to the substantial significance of the terms of such debate and, no doubt, a reference for its continuation in the years to come in academic and international circles.