

Democratic World Law

The Philosophical Foundations

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Seven Criteria for Authentic Democracy

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Our main sin today is that we do not ultimately accept our human destiny.... This demand made upon Man seems to be superhuman, and yet it must be accepted. It is what the great philosopher Kant called: the dignity of Man. We are looking for something petty, something practical, something to give us shelter. We must realize that our present situation is very advanced and by no means petty. It brings us to the awareness that Man is greater than he thinks.

Eric Gutkind

Democracy is a system of government most fundamentally premised on the recognition of human dignity. "Dignity" means high regard, worthiness, immeasurable value, and self-respect. Hence, each individual is valued as "sovereign" with equal rights to all other citizens, and has inalienable basic rights simply by virtue of the fact of being human.

One may conceive of human dignity in a Lockean manner by identifying certain pre-existing inalienable rights such as life, liberty, and security of person (as the U.N. Universal Declaration of Human Rights puts it) as fundamental. Or we may conceive of this dignity in the manner of Rousseau and Kant in which such rights derive from a social contract in which the *a priori* dignity of human rational freedom is raised to a morally binding agreement among all members of society. Finally, we can express this dignity in the non-metaphysical terms of Habermas or Gewirth.

Democracy can be conceived in various ways and the issues here are not primary for our purposes. In Chapter Seven, we maintained that human dignity is attendant upon our being rational agents for whom the human rights of freedom and well-being are necessarily presupposed. This logically leads to the idea of a "community of rights" that is the basis for law. Legitimate law is that which protects and enhances political freedom and well-being for the community. The important principle here is the widely held understanding *that to the degree these rights (or the human dignity on which they are based) are violated, a government loses its moral legitimacy*. The only morally legitimate governments are democracies because they alone are founded upon human dignity and human rights. Kant, Habermas, Gewirth, Nelson, and Dewey all agree on this.

In the history of Western thought (and there is a similar history within the development of Eastern thought), the idea of human dignity slowly but steadily began to take root in human affairs. (There are, of course, complexities and difficulties in the philosophical dialogue concerning democracy that I will not enter into here.) Traditional Western scriptures (Jewish, Christian, and Muslim) understood human beings as being made in God's image. Human beings had a dignity that was shared by nothing else in creation. In traditional Eastern scriptures, the sacred infinite or cosmic oneness was found within human beings, giving us a similar inviolable dignity.

As Western thought developed, we saw, human dignity became linked with the concept of natural law.

This concept developed through a broad range of thinkers beginning with the ancient Greek Pre-Socratic philosophers and developing into Roman Stoic philosophy. Natural phenomena in the universe were observed to follow what today we call scientific laws. These laws were believed to come from God's creative power or, in the case of the Stoics, to inform the divine universe as the *logos* of all things. And human life was thought to follow this same *logos* or reason, given to us by God to inform our proper development and serve as a guide for human action. This natural law set us apart from the rest of creation and reflected our dignity as children of God.

The Gospel of John uses this concept to describe the eternal Christ "through whom all things were made" (John 1:1-2). And Saint Paul says that "the law is written on the human heart" (Romans 2:14). In the flowering of the Christian tradition in the thirteenth century, Saint Thomas Aquinas understood natural law as the moral law given to us by God that reflects our human dignity and our status as children of God. Even those who have never heard of the revelation given in the Bible know the natural law. This natural law is also the guide and limit for the authorities who make laws in society. According to Aquinas, any decree that violates natural law from God is not a legitimate law.

In the modern era, thinkers such as John Locke in the seventeenth century began to speak of "natural rights" and of a god-given reasoning power that understood how society must organize to protect these natural rights. "The people" were understood to be sovereign and the ultimate authority over the legitimacy of government. The U.S. Declaration of Independence clearly expresses this idea of natural rights and the sovereignty of the people. Governments derive "their just powers from the consent of the governed." Human beings have a dignity that is inviolable and premised on their inalienable rights. "Whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it and to institute new government" in order to protect their human dignity and human rights.

In the twentieth century, with the definitive recognition of the multicultural nature of the world and its multiplicity of religious and moral traditions, the idea of God-given rights has evolved into the broader conception of universal human rights as "natural rights," expressed, for example, in the U. N. Universal Declaration of Human Rights. This document begins with the powerful words: "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world."

The idea of human rights and human dignity can be derived from all the great religious and cultural traditions of the world, from Chinese philosophy to Islam to Hinduism and Buddhism to Christianity to secular humanism. It has culminated in the understanding of inalienable "human rights" as establishing the foundation for democracy and legitimate government. Article twenty-eight of the U.N. Declaration of Human Rights states that "everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized." Under the current world-system, this is clearly an impossibility.

In Chapter Seven, we examined why these rights are not simply cultural or metaphysical formulations of various traditions but rather are attendant on our very humanity as purposive agents and why they require a democratic "community of rights" for their embodiment. Democracy, premised on the equality, freedom, and inherent dignity of all persons, is, therefore, the only legitimate form of government. It also serves as the foundation for genuine communities, from the local to global levels. The following

seven principles identify fundamental characteristics of democracy.

(1) The first principle of authentic democracy *is the dignity of all persons as human beings*. This means persons cannot be manipulated, dominated, deceived, or dehumanized as if they were mere things. Torture is prohibited, as is imprisonment without proper due process of law, as are lying and deceit to the population. The deceitful use of people to achieve ends to which they are not a party is prohibited to any government that approximates genuine democracy. All these kinds of activities dehumanize people, turning them into mere things to be manipulated, and violate our inherent human dignity. This inherent dignity must be institutionalized in concrete systems of rights, due process procedures, and other democratic protections.

(2) The second principle of democracy is the idea that *all people have human rights that are inalienable*. This derives from our inviolable human dignity. It does not necessarily mean a Lockean idea of *a priori* attributes that somehow inhere in an individual from birth. It means, rather, that constitutions must specify those rights that are beyond the power of government to touch. The specific philosophical derivations are of secondary importance to the recognition of the inviolable dignity of persons through recognition of inviolable rights. Democratic freedom is not worth much if government can suspend or alter fundamental protections of persons through the passage of laws or suspension of due process requirements.

This means that there are certain specifiable rights that every form of government must protect such as freedom of speech, thought, press, religion, rights to privacy, due process of law, and habeas corpus. A political constitution may specify these rights or it make speak of "recognizing" them. When these are understood as consequent on an original social contract as in Rousseau and Kant, rights are understood as derivative from an inherent freedom and dignity which is not subject to government alteration. Hence, rights deriving from this dignity will need to be specified in any founding constitution, and any properly formed political constitution will list them carefully and explicitly. They are recognized as inalienable rights, expressive of human dignity, and reflective of ultimate sovereignty that lies with the people.

(3) The third principle of democracy *is universal political equality within a context of reasonable economic equality*. This is implicit in the first two principles and means that democracy cannot function unless all adult human beings, who are subject to laws and decisions that affect them, have a right to a basic political equality of voice allowing them to participate in this decision-making process. In cases of large populations, this participation often takes the form of voting for representatives who make decisions on behalf of the population.

However, with the development of computer technology and the internet, much more participatory and direct forms of democracy may well be created. A society is not a democracy if its laws allow a few persons to have a hegemony of political voice or power that is not easily available to the rest of the population. A society of social managers, who control information and perceptions in the name of social order or the good of the nation, is not a democracy.

Neither can there be democracy when there are large concentrations of wealth that give some persons a significantly greater voice in the affairs of the republic than others. When persons have millions of dollars

in excessive wealth at their disposal, they can lobby representatives, give favors or campaign donations far exceeding the average, publish their views widely, create think-tanks or propaganda machines for their point of view, etc. All of these factors hinder democracy. Together they substantially undermine it.

The public space of reasoned discourse is colonized by propaganda. Consent of the governed is manipulated and distorted until it is no longer free consent but predicated on an ideology perpetuated by the rich on their own behalf. The ability of people to exercise citizenship in a community of rights and responsibilities is diminished as people see that decisions and actions of the government are in the control of the few who are wealthy in ways that diminish the reasonably equal effectiveness of all the others.

(4) The fourth principle of democracy is the existence of a *public space necessary for genuine communication*. The free exchange of ideas and the development of a genuinely communicative dimension are essential to any idea that the people are the source of legitimate authority in government. Communicative public space is to be distinguished from the early-modern liberal democratic idea, promoted by John Stuart Mill and others, of a "free marketplace of ideas." Ideas do not fit well into the capitalist model of supply and demand, and their truth or wisdom certainly is not a matter of the whims of popular consumption and taste. Communicative public space requires institutionalized forms of communication that are free from dog-eat-dog political competition and sloganeering. The capacity for reasoned discourse and debate, intimately connected with our human dignity, must find ample space within any society claiming to be a democracy.

If a government is permitted to favor the political party that placed it in power, for example, excluding others from having an equal voice, or if the rich are allowed campaign contributions that give them undue influence over those elected, or if the media are controlled by narrow interests that distort the free flow of information and free exchange of political ideas, then such governments are not democracies. If all the public places where people usually meet are the "private property" of giant corporations that prohibit political speech on their property (as in the shopping malls of the United States), then democracy is inhibited.

If a large portion of the population cannot afford a computer, the leisure for communication, transportation to meetings, or enough surplus to contribute to associations or causes they hold dear, then democracy is inhibited. An authentic democracy will institutionalize sufficient economic and political equality to give every competent adult the ability to influence the decisions that affect him or her, from the local to the planetary levels. But without genuine public space within which to exercise their citizenship, such equality is of little value.

Democracy necessitates a framework of free inquiry, debate, and nonviolent dissent without which there can be neither political equality and participation nor free consent of the governed. When huge media corporations control the means of communication, democracy is a sham. Hence, communications must be democratized so that a sphere of genuine public discourse can be activated. The "manufacture of consent" in the U.S. political system, described by Noam Chomsky and Edward Herman (2002) and many other media analysts, disqualifies that system from being called a legitimate democracy. When consent is engineered or manipulated by private or governmental interests then, as Mahatma Gandhi (1957) pointed out, the violence of domination and exploitation is being covered up, for a system based on nonviolence and peace (which, according to Gandhi is what legitimate democracy must be) has no need

of lies, manipulation, or deception.

(5) The fifth principle of democracy is the idea that *government only functions legitimately with the consent of the governed and active participation of the governed in formulating the laws under which they live*. Governmental authority to legislate and enforce laws is predicated on an unforced consent to these laws by the population. This means that consent must not be "manufactured" or engineered through government propaganda, intimidation, pressure to conformity, a corporate controlled propaganda system, or any other method, but must be the product of free exchange of ideas within a democratic framework. As this is sometimes expressed, ultimate sovereignty belongs to the people, and only their free consent can create legitimate political obligation to respect and obey the laws. The people have the right to withdraw allegiance from any government that violates their dignity, equality, or human rights.

(6) The sixth principle of democracy is the existence of *citizenship within a community of rights and responsibilities*. When democracy exists in human affairs, the persons whose dignity, rights, equality, and consent are thus institutionalized are transformed from mere individuals forced to obey arbitrary laws by police or military authorities to *citizens* morally responsible to one another and to the society as a whole. A community of rights emerges that is a very special form of human association.

To be part of an institutional framework that recognizes one's human dignity is to be politically recognized as a *citizen*, not merely a subject. Our rights embodied in a democratic political framework necessarily engender moral duties to society. We become co-participants in the ongoing development of events and morally responsible to our fellow citizens and the common good. Loyalty to a genuine *community of rights* becomes a living force that binds the consent of the governed together. Democracy not only recognizes our inalienable dignity as human beings, but it raises us to an even higher level of dignity by making us responsible to society and to our fellow citizens within a community of rights and duties.

Some theories of liberal democracy assert, with Henry David Thoreau, that "that government is best which governs least." These theories derive, we have seen, from the early modern paradigm that fails to recognize the holistic principle of *unity in diversity* that functions throughout nature and society. In these theories, the rights of individuals are often opposed to the idea of the common good because they believed, like many eighteenth century compatriots of Thoreau, that government had little to do with their unrestrained, pioneer-like enterprises. There was thought to be some degree of contradiction between these two concepts, and indeed, in practice there are often difficult questions and decisions to be made by governments with respect to the tension between the rights of individuals and the good of the society.

Nevertheless, such liberal theories of democracy leave out the reality of community and government as a representative of the community that develops when democracy is activated. As citizenship is activated, the citizens rapidly reach a new level of human maturity in which the common good, and the good of others, becomes ever-more significant in their considerations. The puerile doctrine of capitalism in which individuals are considered as atomistic units of rational self-interest bumping against one another is rapidly transcended. The common good and greedy individual self-interest are no longer irrevocably opposed.

(7) The seventh principle of democracy is *representation of the common good of the whole*. Within a framework of freedom, citizens soon develop a loyal community of rights and duties in which the common good of the whole becomes a matter of utmost importance. Democratic government that represents them must embody this concern. The notion of the common good of the whole logically includes the idea that the good of future generations must be taken into account. Legitimate government does not represent the interests of a segment of the population. Concern for the environment, for the prosperity of citizens, for preservation of resources for future generations, and for protecting the rights and political voice of all citizens equally are understood as representing the common good.

We have purposefully not included in this account of the fundamental features of democracy those features, like the transformed and ideal forms of community described by John Dewey or Masao Abe, that might place democracy beyond the limits of what is immediately possible in human affairs. Creating the institutions of democratic world law will initiate a process of transformation in human relationships that will likely rapidly develop our human potentialities for peace, freedom, and community beyond anything hitherto imaginable. However, these seven criteria for authentic democracy are fairly rapidly realizable only if we establish them as democratic world law.

All seven of these features of legitimate democracy interpenetrate and mutually imply one another and together indicate a common good at the heart of the democratic concept. Protecting the human dignity of all is in the interest of all. Establishing inalienable rights beyond the reach of government is in the common interest. Political equality and reasonable economic equality are in the common interest if that interest is a free, just, peaceful, and prosperous society.

The maintenance of public space for communication raises concern for the common good to a significant level of awareness. The consent of the governed, if they are raised to mature participants in the society by the framework of democracy itself, will likely be consent to the government's protection of the common good. And citizenship will involve the same dynamic of the actualization of a loyal community of rights in which people see the good of others and the good of the whole as simultaneously their own good. Democratic responsibility increases human maturity.

Together these features of democracy form the foundations of legitimate government for the twenty-first century. Together they recognize the sovereignty of the people in whom inalienable rights reside and whose consent is the ultimate source of legitimate government. Together they spell out the foundations for that liberty expressed in the 1789 French Declaration of the Rights of Man and of the Citizen: "Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good. The aim of all political association is the preservation of the natural and imprescriptable rights of man. These rights are liberty, property, security, and resistance to oppression." Only today have we realized that the human foundations of political association are also the *foundations of the community of humankind* as a whole.

We can understand from this list of the common sense features of democracy how far we live from authentic democracy anywhere in today's world. This nexus of principles that constitute authentic democracy cannot exist in a society in which there are vast disparities between economic classes. Extreme wealth gives immense political power as well as immense economic power to manipulate arrangements in one's own interests. The framework of the common good is lost as government

is colonized by powerful interests. Human dignity and rights are sacrificed as government allows ever-greater freedom for economic exploitation and domination.

It becomes necessary for government to cover up the fact that it does not represent all the people equally. Free consent of the governed is violated as government finds it necessary to manage public opinion in order to keep the loyalty of the population. Free consent is destroyed if government needs to manufacture enemies in order to command the loyalty of the population. Public space is destroyed as the rich colonize the mass media in the service of their own interests. Under today's conditions, very few governments have sufficient economic equality among their populations to qualify as democracies. Hence, most governments are illegitimate, and none are fully legitimate. They do not represent the people of their respective countries, but primarily the wealthy classes and corporations. They must be exposed as the oligarchies they truly are and transformed into authentic democracies.

Neither can this nexus of democratic principles be realized within the framework of militarized, so-called "national security states." Militarized societies that claim to be protecting the people from internal or external enemies are necessarily societies contaminated by massive secrecy and deception. When a war mentality colonizes a major portion of government, the military strategies of suspicion of devious enemies, preparations against surprise attacks, manipulation of public opinion in the service of the war-like strategy, and secret planning for war-like eventualities becomes a major element in governmental considerations. In addition, significant wealth is drained from the society to support extremely expensive military preparation and planning.

The net result is the destruction of democracy, which cannot exist when the government is no longer transparent to the people. Free consent of the governed again must be manipulated and managed. Public space for communicative action is destroyed as the citizens do not have access to the secret planning and information of the government and are impotent to participate in its operations in an effective way. Human rights and dignity are sacrificed to "military necessity" in a dangerous world.

Security measures trump the inalienable rights of citizens to privacy and autonomy. Participatory citizenship becomes meaningless within the national security state in which citizen input is excluded from the immense undemocratic powers of a military-industrial complex. Militarized states cannot function as democracies and are illegitimate according to the only criteria (democratic ones) for assessing the legitimacy of governments in the modern world.

All this would change under democratic earth federation where there would be no need for militarized national-security states. In his book *World Federation?* (1993), philosopher Ronald J. Glossop writes:

The main job of the world government will be to maintain law and order. If successful in this task, the world government would end all war. It would even do more than that. It would change the whole nature of international relations. The present international system in which conflicts are ultimately resolved by force or threats of force (a war system) would be replaced by a political and judicial system (a peace system) where votes are taken and judges decide whether particular individuals have violated international law. It would no longer be necessary for nations to maintain armies to protect themselves against possible attack from other nations. National governments would no longer build up their military forces in order to try to intimidate their enemies. Military spending would be reduced to zero. (p. 21)

All of these seven principles, moreover, are embodied in the *Constitution for the Federation of Earth* in a careful, practical, and reasonable way as we will see clearly below. The *Constitution* prohibits the Earth Federation from having a military, and requires all nations joining the Federation to demilitarize. "Military spending would be reduced to zero," freeing up immense sums of money for education, health-care, sustainable development, water-systems, sewage-systems, and all the other legitimate functions of government directed toward the common good.

The *Constitution* creates a parliamentary system of three houses in which the authority of the federal world government resides. This pluralism built into the *Constitution* also carefully prevents the World Executive or the Enforcement system from becoming a threat to democracy as has happened, for example, in the United States where the Executive branch of government dominates the rest and destroys the famous system of "checks and balances" embodied in the U.S. Constitution. Under the *Earth Constitution*, the World Executive may not suspend the *Constitution* for any reason, nor dissolve any of the houses of Parliament, nor refuse to implement the budget allocated to it by Parliament.

Each of the four branches of government under the authority of the World Parliament (the World Judiciary, the World Executive, the World Enforcement System, and the World Ombudsmus) operates independently of the others and is directly responsible to Parliament. None has the power to suspend the *Constitution* through declaring a "state of emergency;" none has the power to refuse to spend the budget allocated by Parliament. The office of Ombudsmus is directed precisely to protecting human dignity and human rights, including protecting these from violation by the Earth Federation itself. The *Constitution* gives two bills of rights (Articles 12 and 13) that outline in detail the political, social, and economic rights of all citizens of Earth and the due process procedures by which these rights are to be protected.

The *Constitution* also carefully protects elections from undue influences of the rich, of corporations, or of any group that would manipulate democratic processes in their own interests. It initiates principles (specified throughout, including within its second bill of rights, Article 13) that transform with world economy into one premised on the reasonable prosperity of all. It transforms the present global system of exploitation of the poor by the rich into a regulated market system directed toward reasonable universal equity. It addresses global poverty, hunger, and disease through a combination of governmental guarantees and local market initiatives directed to solving the problems of ordinary people rather than satisfying the investor needs of the rich.

The processes by which the *Constitution* is ratified (Article 17) ensures the initial explicit consent of the governed, and its procedures for continued democratic governance ensure the continuing consent of the governed. A global public space is created through which the people of Earth can participate in the making of the laws by which they will be governed. The *Constitution* fulfills the requirement of Article Twenty-eight of the Universal Declaration of Human Rights that "everyone is entitled to a social and international order in which the rights and freedoms set fourth in this Declaration can be fully realized." The entire content of this book lays out in detail the foundations for genuine world democracy and freedom deriving from the *Constitution*. It lays out an opportunity to create freedom and justice on planet Earth that is unprecedented in human history, for legitimate democracy can only fully exist at the planetary level.

The *Constitution* also does what no constitution of a sovereign territorial nation can do. It provides the political and conceptual framework for *the community of humankind* as a whole. It actualizes the above seven principles, all of which are inherently universal, to political universality for the first time. In doing so it simultaneously raises the maturity-level of ego-centric individuals by politically assigning them (what is already inherent in their humanity) responsibilities as world citizens who now must be concerned with the future of humankind as well as with the effective democratic government on the local and regional levels.

Just as Habermas understands that that autonomy and responsibility are posited for us from the very beginning through the structure of language, so autonomy, responsibility, and authentic community are implicit in our humanity but are only fully activated in us from the inception of democratic world law. We ascend to our true destiny in which the freedom of each is a condition of the freedom of all. As Eric Gutkind affirms in the quotation at the head of this chapter: "Man is greater than he thinks."

International Law and the U.N. System

Reform or Revolution?

Glen T. Martin

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In the popular mind, even among relatively informed people concerned with international issues, there is something called "international law" that has developed in the world over much of the twentieth century. This includes the multiple Hague Conventions, the Geneva Conventions, the U.N. Charter and many treaties and agreements concluded under the United Nations. It is thought by such people that the central issue is how to get nations to obey international law.

This may take the form of "educating" nations concerning the need to respect international law or the related question of how to "enforce" international law properly. Part of the problem of chaos, war, and human rights violations in the world, it is thought, is that nations do not properly respect and

obey international law. Part of what must be done, it is thought, is to create an international culture and ethos of respect for law so that nations (and corporations), big and little, more and more conform to its requirements. The 1995 report of the prestigious blue ribbon Commission on Global Governance, for example, took this approach.

When the dominant institutions that determine people's lives are so pervasive that they appear everywhere in the background of daily life, and when these dominant institutions go unquestioned by governmental officials, civic leaders, and the dominant media, then such institutions become virtually invisible. They become the "normal" and "natural" unquestioned background within which life is lived. Such is the case with the concept of the "sovereign nation-state" examined above. The concept goes unthought and unexamined. As such it accrues tremendous power over life precisely because it is accepted as "normal" and "natural."

The concept of "international law" follows directly from the unexamined concept of the "sovereign nation-state" and itself remains largely unthought and unanalyzed. This is true not only with respect to the popular mind but also with respect to professors of international law, international lawyers, and the staff of the United Nations' International Law Commission. Thousands of people spend their careers involved with "international law" in connection with world trade, the United Nations, or prominent NGOs and never seriously reflect on the concept or its implications with respect to our world order and its future.

In the light of this, the concept of "international law" deserves sustained analysis and criticism in the form of penetrating books and articles, far more than is possible within the limited space of this volume. As a corollary of the concept of "sovereign nation-state," confusion regarding this notion is as dangerous and catastrophic as the nation-state itself, armed with weapons of mass destruction or a militaristic foreign policy and legally accountable, according to the internal logic of its concept, to no one but itself. "International law" is a dangerous and deadly misnomer. It is a concept intrinsic to the illegitimacy of the current world political system and deeply implicated in the ever-growing cataclysms we are experiencing on this planet.

The history, development, and content of "international law" can now be studied conveniently on-line, for example, in the comprehensive collection of documents found at the "Electronic Information System for International Law" website. All the fundamental documents are there. With a little insight, one can see there the immense internal contradictions between any viable concept of "law" and the elaboration of "treaties" and "conventions" that are referred to as "international law."

From the Charter of the United Nations itself (riddled by these same contradictions), to the "Charter of Economic Rights and Duties of States" (that serves as a cover for global economic exploitation of the weaker states by the stronger), to the "Draft Declaration on the Rights and Duties of States" (as if largely unaccountable fictitious entities rather than persons could have rights and duties), it is not difficult to discern the spurious nature of the concept of "international law" that is itself a direct derivative of the unexamined and unquestioned system of "sovereign nation-states."

Burns H. Weston, Richard A. Falk, and Anthony D' Amato have produced a massive textbook entitled *International Law and World Order: A Problem-Oriented Coursebook* (1990), designed for use in law schools for the teaching of international law. Chapters in the book cover the range of issues and

problems often associated with international law: the concept of international law, the sources of international law, the application of international law, problems in environmental protection, problems in economic well-being, problems in socio-political justice, problems in war prevention, the world order challenge, the normative challenge, and the professional challenge. The book is intended to be a comprehensive examination of the issues, as well as a support for both the concept and the continuing development of international law.

Their first chapter on "The Concept of International Law" argues that the traditional definitions of international law "as a standard of conduct for states" have been superseded by "a wider, more behaviorally responsive, perspective" that reflects "the expanding complexity of international life and... a growing sophistication about law and legal process." One of the traditional definitions offered proclaims that "international law is largely based on custom, e.g., on practice, and whereas certain customs are recognized as obligatory, others are in retrogression and recognized as nonobligatory." Another traditional definition says that "contemporary general international law can be defined as the aggregate of norms which are created by agreement between states of different social systems....and are secured, when necessary, by coercion effectuated by states individually or collectively" (p. 12).

The authors of this text argue that the concept of international law is no longer a direct corollary of the system of sovereign nation-states but has developed in practice into a larger framework of regulations, customs, and practices that certainly include, but go beyond, the relationship between sovereign states. Indeed, these larger patterns of regulation (often connected with the World Bank, the International Monetary Fund (IMF), the World Trade Organization (WTO), and the practices of powerful, private transnational corporations) have evolved in an *ad hoc* manner in response to the development of globalized trade, financial interactions, communications, and travel that has outpaced the ability of the system of "sovereign" nation-states to efficiently handle.

In popular parlance, this expanded role for "international law" is often termed "governance." What has emerged in the world to supplement the international laws by which sovereign nation-states are said to operate is "governance," which involves rules applying to trade, finance, communications, environmental practices (like "emissions trading"), etc. The 1995 *Report of the Commission on Global Governance* puts the matter explicitly as follows:

Contemporary practice acknowledges that governments do not bear the whole burden of global governance. Yet states and governments remain primary public institutions for constructive responses to issues affecting peoples and the global community as a whole. Any adequate system of governance must have the capacity to control and deploy the resources necessary to realize its fundamental objectives. It must encompass actors who have the power to achieve results, must incorporate necessary controls and safeguards, and must avoid overreaching. This does not imply, however, world government or world federalism.... It is a broad, dynamic, complex process of interactive decision-making that is constantly evolving and responding to changing circumstances. (p. 4)

The Report ignores that this increasingly formalized *ad hoc* system of "global governance" (it is very clearly not "government") is directly derived from the inherent weaknesses and absurdities of the system of sovereign nation-states. In other words, the developing system of "global governance" only exacerbates the absurdities, injustices, and weaknesses of this system. It does nothing to move the world forward toward authentic democracy, justice, or good government. Just the reverse. It is taking the world down a path toward imminent destruction.

Their expanded, more "behavioral" definition of "international law" is presented by Weston, Falk and D' Amato through quoting several authors who argue that "law" is larger than what governments decide. As one author (Weston) puts it:

Law does not live by executives and legislators alone. It lives also by individual human beings such as ourselves, pushing and pulling through reciprocal claim and mutual tolerance in our daily competition for power, wealth, respect, and other cherished values. To turn a phrase, law is legitimized politics by a Hydra-headed process of social decision, involving persons at all levels and from all walks of public and private life who, with authority derived both explicitly and implicitly from community consensus or expectation, and supported by formal or informal sanction, effect those codes or standards of everyday conduct by which we plan and go about our lives. (p. 15)

Another author (McDougal) argues that "international law be regarded not as mere rules but as a whole *process* of authoritative decision in the world arena, a process in which authority and control are appropriately conjoined and which includes, along with an inherited body of flexible prescriptions explicitly related to community policies, both a structure of established decision-makers and a whole arsenal of methods and techniques by which policy is projected and implemented" (p. 16).

What these extremely broad and vague descriptions of "international law" apparently account for is phenomena like the growing control of the World Bank and IMF over so-called "sovereign nations," the creation of World Trade Organization rules in top secret meetings of transnational corporations and First World governments, and independent practices of global corporations operating almost autonomously within Third World countries often weaker than themselves. What is not stated by the authors, but is implicit in their account (which attempts to legitimize "international law" and defend it from critics who claim that it is not "law") is that much of the "process" of authoritative decision-making, "supported by formal or informal sanction" is profoundly undemocratic.

What is not stated is that the emerging "process" of international law is defined, not by some euphemistically characterized "community consensus" but by the strong dominating the weak in a vicious and amoral world of exploitation and oppression, an imperfect, but equally deadly, mirror of the system of "sovereign" nation-states from which it derives. International law mirrors the lawlessness of the system of sovereign nation-states, examined above. It consists of "rules" and "customs" created by the strongest agents in a lawless world to coordinate among themselves the processes of domination and exploitation of humanity and the Earth.

There are many excellent volumes that analyze today's international system in detail. A number of them are cited in the bibliography. Together they show that what is called international law amounts most basically to a set of rules evolved by nation-states and global capital to facilitate their rape of humanity and nature in the name of power and wealth for the few. We recommend that the reader examine the books in the bibliography by William Blum, Noam Chomsky, Michael Chossudovsky, Chalmers Johnson, David Korten, Michael Parenti, James Petras, John Perkins, Vandana Shiva, J.W. Smith and others. These thinkers collectively reveal the nightmare of a world disorder operating according to "global governance" under an enhanced conception of international law now designed to facilitate the "free trade" of global actors.

Whether "international law" is defined as the relations between nation-states or as these relations plus

the multiplicity of actual practices that become "custom" as actors struggle for "power, wealth, respect, and other cherished values," the net result of international law is the same: a system in which the strong prey upon and dominate the weak and make their own rules in the process, grubbing for evermore power and wealth. As the Editors of Monthly Review Magazine put the matter:

Capitalism is by its very nature a globally expanding system geared to accumulation on a world scale. Since its beginnings in the fifteenth and sixteenth centuries it has been a world economy with an international division of labor ruled over by competing nation-states... From the outset, the leading capitalist states engaged in an outward, imperialistic movement. Precapitalist societies in the Americas, Africa, and Asia were pillaged, their populations enchained, and the plunder sent back to Europe. Wherever possible, noncapitalist societies were destroyed and transformed into colonial dependencies....

Wealth extracted from these colonial domains flowed into the coffers of the center capitalist nations, enriching them and enhancing their power. British hegemony over the world economy came under increasing challenge in the early twentieth century, particularly from Germany, and collapsed as a result of the First and Second World Wars, to be replaced in the aftermath of the Second World War by American hegemony as the United States rose to dominance over the world capitalist system.... U.S. multinational corporations seized control of whole economies in the third world and, although doing so on the basis of so-called "free trade," were backed up in their economic operations and interests whenever necessary by U.S. military power. (Jan. 2005, pp. 1-2)

Weston's metaphor of a "Hydra-headed process" is more apt than he perhaps intended. For the consequence of today's international law is indeed a monster that is uncontrollable under the current world system (i.e. lack of enforceable world law). When you cut off one head of the Hydra (through making adjustments in the system of "international law" to deal with the often disastrous consequences of these practices), another instantly grows, equally hideous and equally disastrous for the poor, the victims, the environment, and the future of the Earth. The problem is not bad international laws. The problem is the system itself, and the entire conceptual framework that sees the failed system of "sovereign" nation-states and its derivative in "international law" as legitimate.

Subsequent chapters in Weston, Falk, and D' Amato's massive volume bear out my claim. This system of international law must be studied and enhanced, these authors claim, but it is nevertheless legitimate law. They quote with approval one author (Jenks) who states that "the imperfect development and precarious nature of the organized world community is reflected in the early stage of development of the law, but does not invalidate the basic conception" (p. 13). Indeed, perhaps not.

However, their book goes on to devote entire chapters to certain "problems" under this system, that, taken collectively, show the system to be unjust in the extreme, unworkable, impractical, and absurd: Chapter Four: "Problems in Environmental Protection" (an elegant way of stating that the planetary ecosystem is collapsing), Chapter Five: "Problems in Economic Well-Being" (another euphemism for ever-growing hellish poverty among the bottom sixty percent of humanity), Chapter Six: "Problems in Sociopolitical Justice" (i.e. worldwide terrorism, human rights violations, massive displacement of populations, disease, lack of clean water, and social chaos), and Chapter Seven: "Problems in War Prevention" (just a small problem in which there have been some 150 wars since the advent of the U. N. system of "international law" with some twenty-five million war-related deaths, ninety percent of whom were civilians) (Sivard, 1996).

This conceptual framework (designed to legitimate the concept of "international law") fills their 1300

page book and amounts to a refusal on the part of these and similar authors to commit themselves to *the greatest legacy that the modern world has bequeathed to the twenty-first century: the concept of democracy as the only legitimate form of government, articulated above*. Here is where their false analogy with law within functioning national legal systems again becomes apparent.

It is indeed true that law is not solely a matter of coercion within functioning legal systems. But in the absence of genuine world law democratically legislated by a World Parliament, the result is not legitimate law but the rules made by constellations of unaccountable power and wealth resulting in a world order of domination and exploitation that is rapidly destroying the common good of present and future generations.

What Weston, Falk, and D' Amato want to legitimize as genuine "international law" fails by all the criteria set forth above that define the differences between effective democratic government and all forms of governance that cannot supply the governed with a reasonable degree of social stability and good order, security and safety of citizens from external or internal threats, assurance of widespread prosperity for citizens, maintenance of environmental integrity and proper management of resources, or popular enfranchisement and maximization of the role of citizens in governing. *None* of these criteria for legitimate government (and legitimate law) applies to what these authors call "international law." Indeed, the last criterion (popular enfranchisement) states just the opposite of the trend in international law in which tiny elites of the superpowerful, behind closed WTO doors, make decisions determining the fate of millions of their fellow human beings. Similarly, *none* of the seven moral and five effectiveness criteria for legitimate law and government identified in the last chapters applies to "international law."

In the Third World, even supposedly "democratic" governments have the destiny of their countries and the will of their people taken out of their hands through the domination of the World Bank, huge transnational corporations, an ever-declining environment, and imperial First World governments. Decisions about what is "international law" are indeed defined in the doing, as these authors claim, but the "doing" involves extremely undemocratic forces hungry for power and wealth that destroy security, prosperity for the masses, the environment, and popular enfranchisement in governing. These forces are out of control precisely because international law is written largely by them (rather than democratically) and because even then it is unenforceable (with few or no negative consequences for its violation).

Weston, Falk, and D' Amato attempt to address the criticism that international law is unenforceable through a misleading analogy with the processes of obedience to law within functioning national states. They argue that a court order within a nation may compel, for example, the executive branch of government to obey without having to do this through use of the police or military. They give examples of when courts within the United States have assessed penalties against the executive branch, and the executive branch has complied (pp. 24-28).

This analogy is misleading in three ways. First, *no* law is enforced within functioning national legal systems by the direct use of force, so to speak, "at the point of a gun." Most law is obeyed because of the possibility of the use of force (for arrest and prosecution) in the relatively distant background of behavior. Most people feel a duty to obey the law and one function of enforceability is that it reinforces their sense of the legitimacy of the law. Yet enforceability remains a key component in their recognition of the law as valid law, worthy of obedience.

Second, and perhaps more important, the courts in a functioning legal system are part of a complex set of governmental relationships, one component of which is the capacity of the state to use force to ensure compliance with its dictates. Courts in the United States, for example, often have an entire branch of the police force, the Sheriff's Office, at their disposal to serve summonses, protect the court from disruption, and otherwise enforce compliance. When courts order state or local governments to pay a penalty, eventual use of force does lie in the background. Courts may order the arrest of recalcitrant government officials or hold them in contempt of court. Continued failure to comply may result in the government officials getting deeper and deeper into trouble leading to eventual jail time. None of this "getting deeper and deeper into trouble" would be possible if it were not for the eventual threat of enforceability.

Third, functioning national law applies to individuals, even when governmental agencies are named in court judgments. If a financial penalty is served on a city government, for example, those in charge of the government at the time, whether elected or appointed, may be held legally liable for dealing with the court judgment. As mentioned above, they can be held in contempt of court, a warrant can be issued for their arrest, additional penalties can be assessed for noncompliance, etc. An attack on the entire people of a city is unthinkable under functioning legal systems. A court would not dream of ordering the military to bomb a city for failure to pay a penalty it had assessed. Nor would it dream of economically blockading an entire city to punish it for noncompliance with court orders by its officials.

Yet both of these absurdities apply to international law defended as genuine law by Weston, Falk, and D' Amato. Under the U.N. system of "sovereign" nation-states, states themselves (and to a growing extent, multinational corporations), not persons, are the "individuals" subject to international law. Hence, if a nation-state violates some international law, the only options (enshrined in Chapter VII of the U.N. Charter and elsewhere) are economic sanctions and, if this fails, war. An entire people, most innocent, none protected by due process, must be attacked because of the absurdity that international law applies to states, not to individuals.

Corporations, operating under World Trade Organization "rules," are often promoted and protected by their home base nation-states, as we have seen. Holding them responsible for the disastrous human and environmental consequences of their operations is notoriously difficult (Korten 2001, Shiva 2001). The system of sovereign nation-states today is protected and maintained in part because it provides a perfect cover for the rape of the world by private corporate entities who can operate outside the rule of any genuine laws.

This immoral and absurd premise of "international law" is reflected in the innocuous sounding definition quoted above: "the aggregate of norms which are created by agreement between states of different social systems....and are secured, when necessary, by coercion effectuated by states individually or collectively." To enforce norms by these forms of "coercion," is a criminal act, reminiscent of the Nazi policies of collective punishment of social groups under their domination. Under the nation-state system, entire peoples are economically punished or militarily attacked for the suspected crimes of a few.

Meanwhile, the crimes of the multinational corporations slip through the cracks, invisible within a system that pretends to focus on collective entities called "nations" as the primary accountable actors. These forms of criminal behavior follow directly from the premises of "sovereign" nation-states and their derivative

in "international law."

The emerging International Criminal Court created by the Assembly of States Parties (and strenuously opposed by the U.S.) is an attempt to address this absurdity by holding individuals accountable for their crimes. However, as we will see further below, the Rome Statute of the International Criminal Court is hamstrung by this system of so-called "sovereign" nations (even when supplemented by *ad hoc* patterns of "governance") to the point where the ICC can only "request" evidence from nations or "request" arrest of persons suspected of crimes. No legitimate court "requests" these things. Courts, under enforceable, legitimate law, order arrest, issue warrants, subpoena witnesses, etc.

In their misguided desire to strengthen international law, Weston, Falk, and D' Amato, therefore, create an analogy that is entirely misleading and false in response to those who argue that genuine law must not only be enforceable, but enforceable over individuals. They claim that no law is enforced directly by police or military, so to speak, "at the point of a gun." And they ignore the fact that the real issue is whether international law applies to individuals. But this is surely and obviously a straw man argument.

No critic of the unenforceability of international law is claiming that law must be enforced directly by police or military. A large function of all viable police work is gathering evidence, not the threat of force. It would be absurd to make such a claim about any genuine law. And the real issue is not only the role of enforceability, but the fact that real law is enforceable over individuals. By so distorting the argument of the critics of international law, these authors distract the reader from the real issues and attempt to make the critics of international law look ridiculous.

The truth of the matter lies with the second point above. Genuine law involves a complex set of relationships between political will formation, democratically legislating bodies, courts, bureaucratic procedures, public recognition, due process arrangements, and enforceability. Weston, Falk, and D' Amato use this complex set of social relationships as evidence that the essence of law does not need to include enforceability. But this itself is a misleading argument. The issue is not whether enforceability is only part of a network of social relationships comprising legitimate law. The issue is whether enforceability over individuals is *necessary* to this network of relationships, whether the elimination of such enforceability vitiates the entire concept of "law" beyond recognition. I think it is clear that it does.

Another way of stating this is to point out that the analogy between the "complex set of relationships" that make up the law within functioning national legal systems and the set of relationships outside of such legal systems (i.e. in the international arena where so-called "international law" functions) is misleading. It is true that this network of customs, common practices, citizen loyalty, traditions, moral understandings, and habitual ways of doing things is integral to law. But when there is a democratic legislature passing universal, routinely enforced laws for the entire society, this entire system of relationships is transformed into one that can function in the service of real justice, equality, due process, freedom, and prosperity.

When the framework of a democratically legislated body of enforceable law is missing (as in the international arena), then the "network of relationships" functions entirely differently: the strong prey upon the weak, international child prostitution flourishes, slavery and trafficking in human beings or human organs is rampant, international drug smuggling is unstoppable, hit squads of assassins travel the

globe looking for their targets designated by national governments or their counterparts in terrorist organizations, currency manipulation and financial fraud is commonplace. Imperialism destroys entire countries with its military and economic warfare, international exploitation of the poor by the rich worldwide flourishes, militarism and worldwide legal and illegal sales in weapons expands annually, unstoppable poverty grows nearly everywhere, and multi-faceted environmental destruction continues unabated. These horrors are not something yet to be dealt with through an evolution or tinkering with the system of international law. Rather, they follow directly from the absurd premises on which international law is based.

Apparently, this "network of relationships" is not too bad for comfortable, First World professors like many of today's professors of "international law" or advocates of "reform" of the U.N. system. Give it time, they seem to say, and the international Mafia-like operations of organized extortion, murder, weapons trading, and robbery will settle down into "customs" that we can consider as yet another source of "global governance." In *When Corporations Rule the World*, David Korten details the devastation, corruption, and destruction that occurs worldwide by the operations of gigantic transnational corporations who understand that power and money can get them anything they want, from the right to destroy the environment to "free trade zones" where they can exploit starving people at will without regard to labor laws in the host country.

In *The Globalization of Poverty*, Michael Chossudovsky shows in what ways even the horrific genocide in Rwanda was a direct consequence of the international financial rules administered by the World Bank with respect to Rwanda. He shows this social disintegration operating in others places, as well, in consequence of World Bank and IMF policies. Apparently, this "network of relationships" is not so bad for the defenders of international law who may see the vast potential of the international laws of "free trade" that codify this pattern of exploitation, domination, and dehumanization. The books documenting the horrors of today's world under current "international law" are numerous and some of the relevant authors were cited above.

The larger reality ignored by nearly all those in the "reformist" camp is that the strong in today's world (imperial nation-states and multinational corporations) use this anarchic world system to exploit the majority of the world's citizens (primarily the poor) in their greed for evermore wealth and power. These practices are inherent within the premises of the system itself. And for this reason the system also encourages them. They are not the inevitable result of a "greedy human nature." They are the consequences of the fragmented political and economic system of modernity that we have been examining.

Secondly, perhaps the most compelling specific points against accepting so-called "international law" as law at all should be restated at this juncture. As we have seen, so-called international law primarily applies to abstractions called "nation-states" (or what the U.N. calls "states parties") and not to individuals. As Harris puts the matter: "The very idea of international law is a standing contradiction, because... sovereign nations are, by their very sovereign nature, subject to no law superior to their own... they cannot then be subject to International Law" (2005, p. 62).

Governments make treaties with one another. These treaties are unenforceable and not binding, since the governments may withdraw from the treaties at any time. Governments may also make "reservations" to their agreement to a treaty, exempting themselves from one or another provision of a treaty that they do

not like. Treaties often build in a time limit at which time the treaty expires and must be renegotiated. This system is not, and cannot be democratic. Under the rule of legitimate (democratically legislated) law, individuals (the subjects governed by law) do not decide whether to agree to the law, when they will exempt themselves from the law, or specify a time-line dictating when they will no longer be subject to the law. Once again, the premises on which "international law" is founded obviate the possibility of anything remotely resembling the genuine rule of law.

Once governments have signed a treaty, Weston, Falk, and D' Amato claim that we now have "law." If a government fails to comply with a treaty it has signed, the "community of nations" can apply economic sanctions or it can go to war against the offending nation (according to the U.N. Charter, Chapter VII). Hence, since the absurdity of "international law" applies only to governments (being treated through the fiction that they are individuals), an entire community must suffer starvation or military attack if the treaty is to be "enforced" on that government. This insane, immoral, and absurd system that believes law can apply to a fictitious thing called "governments" or "corporations" (however supplemented by patterns of "governance" derived from this same set of assumptions), rather than to individuals, is what is known today as "international law."

All of these contentions we have made regarding the conceptual problems inherent in this textbook on international law are also borne out if one studies the website of the International Law Commission of the United Nations (<http://www.un.org/law/ilc/ilcintro.htm>). The site describes the development of the Law Commission out of the failed League of Nations and into the United Nations (founded on the same assumptions concerning "sovereign" states as the League). One can read about its "relationship with governments," with the General Assembly, and with "other bodies." The main "Conventions" that comprise international law are listed, with the explicit caveat that these only apply to states, although they cannot be enforced over states who are "sovereign" and recognize no law above themselves. Also explicitly stated is the fact that the tenants of international law are only "treaties" among sovereign states.

The site makes it clear that treaties can be withdrawn from at any time or entered into with "reservations," exempting the nation involved from obeying whatever it does not like about the treaty. For example, the U.S. finally signed the International Convention Against Genocide (40 years after it was written and signed by many other nations) with a reservation stating that this Convention was not applicable to the United States. Therefore, such treaties create unenforceable "law" to which, in addition, nations can exempt themselves if they do not like what the "law" says.

All the absurdities of this system that we have identified above are apparent on the website of this prestigious U.N. Commission, just as they are in the "Strategy for an Era of Application of International Law Action Plan" of the Secretary General, also posted on the U.N. website (<http://untreaty.un.org/ola-internet/cover-sheet.htm>). Study of this so-called "action plan" makes it very clear that there is little or no action that the U.N. can take to "apply" international law, that the most that can be done is to "educate about," "train for," and "encourage obedience" to international law. What we have is a world of no law, but only "treaties" among so-called sovereign nations (influenced in governance by other powerful players like multinational corporations, the WTO, the World Bank, and the IMF) in which the powerful do what they wish and the weak suffer what they must.

The in-depth analysis that is missing from both these U.N. websites and this textbook on international

law requires the insight first articulated forcefully by Karl Marx in the nineteenth century, then elaborated by dozens of important thinkers through contemporary, twentieth-century philosophers like Jürgen Habermas. The insight is that all unjust societies, all systems of domination and exploitation, *generate a false ideology* to justify and cover up the domination and exploitation that is really going on (see Pines 1993). Today, the concepts of "free trade," "peace processes," "spreading democracy," "international security arrangements," "encouraging development," and "international law" all serve as an ideological cover for a profoundly unjust and undemocratic world order (Chomsky 1996, Smith 2002).

To buy into the idea that the United Nations or international law can be evolved or reformed through citizen participation toward a world of justice, equality, and freedom is to be complicit in this global system of domination and exploitation. International law, as we have seen, is derivative from the system of "sovereign" nation-states, which itself is a global imperial system of domination and exploitation. The ideology covers up the fact that the rulers in this system have no intention of allowing it to evolve towards something more just and decent. However, the fault lies not in particular governments, nations, or rulers, but in the system itself (Martin 2005a, 2005b), which necessarily generates a class of nations or rulers who benefit from the system and will defend it to the end through both propaganda and force.

Noam Chomsky writes at the end of *What Uncle Sam Really Wants* that "the terms of political discourse typically have two meanings. One is the dictionary meaning, and the other is a meaning that is useful for serving power – the doctrinal meaning" (1996a, p. 86). Hence, in the propaganda system (fostered by the mass media, imperial governments, and the powerful), the doctrinal meaning of "democracy," "a crisis of democracy," "free enterprise," "defense against aggression," "peace process," or "special interest," is nearly the opposite of the dictionary definition. For example, Chomsky writes, the doctrinal meaning of "free enterprise...refers...to a system of public subsidy and private profit, with massive government intervention in the economy to maintain a welfare state for the rich" (p. 87).

Economist J.W. Smith similarly describes the ideological function of the concept of "free trade" :

When the blatant injustices of mercantilist imperialism became too embarrassing, the belief that mercantilism had been abandoned and true free trade was in place was expounded. In reality the same wealth confiscation went on, deeply buried within complex systems of subtle monopolies and unequal trade hiding under the cover of free trade. Many explanations have been given for wars between the imperial nations when there was really only one common thread: "Who will control resources and trade and the wealth produced through inequalities in trade?" This is proven by the inequalities of trade siphoning the world's wealth to *imperial-centers-of-capital* today just as when *plunder-by-trade* was learned centuries ago. The battles over the world's wealth have only kept hiding behind different protective philosophies each time the secrets of laying claim to the wealth of others have been exposed. (2003a, p. 85)

Just the same is true of the phrase "international law." Commonly accepted understandings of "law" are twisted by international jurists or U.N. reformers (who wittingly or unwittingly serve powerful imperial interests) into the illusion that the world has a growing body of something called "legitimized politics – a Hydra-headed process of social decision, involving persons at all levels and from all walks of public and private life who, with authority derived both explicitly and implicitly from community consensus or expectation, and supported by formal or informal sanction, effect those codes or standards of everyday conduct by which we plan and go about our lives" (Weston).

Such innocuous sounding definitions serve as an ideological cover for a world system where dominant

elites make the rules and reap the spoils at the expense of not only the Earth and the majority of human beings, but truth, justice, freedom, and human decency as well. The very opposite of legitimate law is here enshrined as "international law." This system must be exposed before the entire world as the travesty of "law" that it is. This system cannot be reformed but can only be replaced by democratic world government, that is, genuine, democratically legislated world law enforceable over individuals.

As we have seen, even the International Criminal Court is not yet a real court as it was created by the Assembly of States Parties. It is hamstrung by the absurd system of so-called "sovereign" nation-states. The U.N. is a mere *confederation* of independent states, not a federation, which could only exist under a genuine *Earth Constitution*. Hence, Articles 2 and 16 of the original Rome Statute allow the Security Council to override decisions of the court. Article 72 allows confederal military circumvention of the court. In Part 9, from Article 86 to Article 98, dozens of provisions grant the court powers to *merely request* evidence, arrest, or *habeas corpus*.

A real court, of course, has the power of *mandamus*, the court order. It can subpoena evidence or witnesses, issue a warrant for arrest, etc. Articles 100, 109, and 112 through 118 contain fiscal provisions that are merely confederal. A real court cannot depend on voluntary donations from sovereign nations for its budget. Articles 124 and 127 allow for nonacceptance of jurisdiction and withdrawal, respectively, by sovereign nations who are party to the treaty that supports the court.

In the Eighth Session of the Provisional World Parliament, meeting under the authority of Article 19 of the *Earth Constitution*, the statute of the International Criminal Court was molded into the language of genuine law. World Legislative Act Number 15 (WLA 15) eliminated those Articles relying on the confederal system, placed the Rome Statute under the authority of the *Earth Constitution*, and replaced all instances of the phrase "the Court may request" with "the Court may order." In doing so, the Provisional World Parliament turned the Rome Statute into an excellent component of emerging world law. Real law is enforceable, and citizens cannot refuse to accept a court's jurisdiction or decide to withdraw from obedience to a court's dictates.

By contrast to the travesty called international law, the Provisional World Parliament has begun to formulate provisional world laws that conform to the norms of authentic law. With respect to the criminal statutes of the ICC, the Provisional World Parliament demonstrates how easily many existing international laws can be converted into real world law. In its Seventh, Eighth, and Ninth Sessions, meeting in 2003, 2004, and 2006, the Parliament adopted the entire Rome Statute of the International Criminal Court nearly *verbatim* as provisional World Law. With very slight modifications in the language, and by placing the International Criminal Court under the authority of the *Constitution for the Federation of Earth*, delegates used this excellent statute to expand real emerging world law. This statute was placed under one bench of the World Supreme Court designated as "the World Bench for Criminal Cases."

In fact, work of the Provisional World Parliament since its inception in 1982 illustrates how easily illegitimate "international law" can be transformed into effective democratic world law under legitimate government. We don't need to scrap the many valuable U.N. agencies now in place. We do not need to abandon much of existing "international law." We do not have to abolish transnational corporations, nor the territorial and cultural integrity of the world's nations. We simply need

the crucial insight that *the premises themselves* of the modern world system (nearly four hundred years old, hopelessly outdated and fragmented) are the source of our insoluble problems and crises. We must simply put the institutions presently in place on the solid foundation of democratically legislated, enforceable world law.

In this chapter we have seen in detail why no existing sovereign nation-state is legitimate. If possession of power alone conferred legitimacy, drug cartels, Mafia organizations, and terrorist networks would be considered legitimate. Many of today's nation-states have nearly sunk to the status of such criminal organizations because they have thrown away their democratic moral legitimacy by refusing to create the democratic world law that can alone restore their social stability, protect the security and safety of their citizens, ensure widespread prosperity, maintain environmental integrity, and democratically empower their citizens. If the nation-states themselves have become illegitimate, the spurious "law" by which they claim to regulate themselves and their corporations beyond their borders is nothing more than a fiction built upon a fiction.

The greatest legacy of the modern period, and the greatest promise of our emergent human potential, we have seen, is the concept of democracy. This concept is today used as a propaganda tool by imperial nations, transnational corporations, the World Bank, IMF, and some agencies of the U.N. to cover up a profoundly undemocratic reality. We must use our common sense critical abilities to penetrate the propaganda that claims they are "evolving" toward democracy. You cannot "evolve" a system based on absurd and contradictory premises. Change these premises and the entire system can easily become genuinely democratic and begin to function in a just and efficient manner. There is no other route to human and environmental survival and flourishing on this planet.

Chapter Twelve

Conclusion: Ascent to Freedom Through Democratic World Law

Glen T. Martin

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New passion is needed, a new passionate will, to melt down the congealed, determinate world and bring the world of freedom to light. And such a passion, such a passionate will can be set aflame on the summits of consciousness, after all the testing inquiries of reason. There is a primary, original passion, the passionate will, which is also the final and ultimate will. I call it messianic. It is only by messianic passion that the world can be transformed and freed from slavery.

Nicholas Berdyaev

*Now trumpeter for thy close,
Vouchsafe a higher strain than any yet,
Sing to my soul, renew its languishing faith and hope,
Rouse up my slow belief, give me some vision of the future,
Give me for once its prophecy and joy.*

*O glad, exulting, culminating song!
A vigor more than earth's is in thy notes,
Marches of victory – man disentral'd – the conqueror at last,
Hymns to the universal God from universal man – all joy!
A reborn race appears – a perfect world, all joy!
Women and men in wisdom innocence and health – all joy!
Riotous laughing bacchanals fill'd with joy!
War, sorrow, suffering gone – the rank earth purged – nothing
but joy left!
The ocean fill'd with joy – the atmosphere all joy!
Joy! joy! in freedom, worship, love! joy in the ecstasy of life!
Enough to merely be! enough to breathe!
Joy! joy! all over joy!*

Walt Whitman

A communicative framework necessary for democracy to flourish is not valuable unless it presupposes *universal* values: universal human dignity, rights, and the freedom to speak. The very structure of today's world order denies this universality. The old order inevitably crushes freedom

through its fragmented and fragmenting effects of militarism, violence, propaganda, misunderstanding, intolerance, injustice, poverty, and environmental destruction. The ascent to freedom blossoms from the holistic integration of *unity in diversity* within the framework of enforceable democratic world law.

However, a communicative framework will only be activated when ordinary individuals grasp their *dignity as persons*. We must grasp our autonomy as sovereign persons, as Gary Davis states, and refuse to bow and scrape any longer to national power constellations that do not have legitimate authority over us. With this act we recognize our immense dignity as human beings, as what Teilhard de Chardin calls the creative and leading shoot of evolution. We act to create a world order commensurate with our dignity as human beings, an order necessarily democratic, an order of peace, justice, freedom, and sustainable prosperity.

Nietzsche's powerful question still rings true: "Has man perhaps become *less desirous* of a transcendent solution to the riddle of his existence, now that this existence appears more arbitrary, beggarly, and dispensable in the *visible* order of things? Has the self-belittlement of man, his *will* to self-belittlement, not progressed irresistibly since Copernicus?" We exhibit a will to self-belittlement in our refusal to transform the economic system that has ravaged the world with its creation of immense poverty and destruction of our planetary environment. We demean ourselves by bowing and scraping to the nation-state system that degrades our lives with its war-taxes, militarism, security check-points, and surveillance of our personal lives.

Today we understand that a transcendent solution to the riddle of existence does not entail a return to traditional metaphysics, nor an ontotheological conception of a perfect, static God that demeans our lives in yet another way. Today we understand that we can restore our human dignity and strength only by moving to a higher level of existence, by affirming the emergent-evolutionary upsurge within us of transformative global democracy. Our human dignity affirms itself in the activation of our human potential for autonomy and community for our entire species on our planetary home.

This ascent to freedom is our birthright and our emergent destiny. Rousseau's proclamation that "man is born free but everywhere is in chains" is truer today than in the eighteenth century. Involuntary poverty is a chain around the necks of sixty percent of humanity. Rogue agents of imperial powers roam the world killing, disappearing, and torturing whomever they deem an enemy of their system of domination. Vast sums of the world's precious wealth are flushed daily down the toilet of militarism. We are all demeaned by the poverty of our neighbors on this planet. We are all begrimed by this lawless world of killing, disappearing, unspeakable waste, and violence.

By embracing our human dignity we rise above the petty political divisions of our respective national barnyards and engage with *the politics of human destiny on planet Earth*. Our individual meaning and dignity is inextricably bound to our collective meaning and dignity as human beings. To "think globally and act locally" is not enough, for our local acting must also be action for a transformed world order beyond petty internal national politics that distract us from the great questions of the meaning and destiny of human existence on this planet. The political spectrum of opinion within nations that once had philosophical significance in terms of human destiny has hopelessly degenerated in the face of the growing illegitimacy of our contemporary world disorder.

Political liberalism by and large no longer means what it once meant. Dialogue and debate are meaningless if they serve as a lily-livered liberal cover for cowardice and pusillanimity, the inability to stand against intolerance, injustice, and violence. Political liberals forever whine about the problems of injustice and human degradation in the world without ever taking effective action. They do not wish to give up the hidden privileges of living in the imperial center of empire, nor their share in the comfort provided by centuries of accumulated stolen wealth. They fail to improve the human condition by fooling themselves into believing that the fragmented and self-contradictory world system can somehow be “evolved” in the direction of a decent world order.

Their cowardice expresses itself in perpetual self-deception. They do not wish to risk their immense position of privilege at the top of the global pyramid of domination and exploitation. They worship the false gods of the nation-state and monopoly capitalism and claim that, with patience, false gods can be transformed by some sort of twisted logic into the living God. They try to “work within the system.” They are not likely to be disappeared into the torture chambers of the empire. They are an impediment to human freedom because they defend the old fragmented order against revolutionary change.

Neither does political conservatism any longer mean what it once meant. Political conservatives today tend to deny this universality, this *all*, which we have seen Mortimer Adler call “the most revolutionary term in the lexicon of political thought.” They understand very well the revolutionary implications of the democratic idea, and they hate it. They define “justice” in ideological and theocratic terms that serve as a cover for programs of injustice and human degradation. They see clearly the problems of this world but dishonestly interpret these problems to suit their own elitist interests and prejudices. Their discourse constitutes a corruption and perversion of communicative dialogue. They implicitly or explicitly support the secret prisons and torture chambers, intuiting their necessary function in maintaining their global system of domination and exploitation on the Earth.

The act of *civil obedience* to the *Earth Constitution* is a revolutionary act because it stands against all that degrades, demeans, exploits, and dominates human beings on planet Earth. It is neither on the political left nor the political right but historically beyond the current political spectrum in the service of a transformation of the entire political framework in the ascent to freedom and *planetary maturity*. We are not kidding about human dignity, about the right of human beings to live under universal, authentic democracy, the right for their diversity and individuality to be respected. These can be respected precisely because they have been lifted out of the fractured maelstrom in which economic, political, and military power inevitably colonizes and assimilates their differences into the imperial sameness of whoever holds that power. The *Earth Constitution* constitutes the most practical and effective foundation for democratic world law. That is why we take the highest *oath of civil obedience*.

In human life, we have seen, the achievement of *philosophical understanding* also brings with it freedom in one of its dimensions. Understanding the unspoken assumptions that determine our lives liberates us to transform the negative consequences of these assumptions by transforming the premises under which we live and act. But philosophical understanding as an end in itself is worth little. Our understanding must be in the service of freedom, of human liberation, of an active expression of our dignity as human beings. It must result in action for a transformed world. It must realize our highest human potential that is intimated in the expression of our common human ideals of universal peace, freedom, justice, and democracy. In the service of both understanding and action, this book has identified at least six

philosophical foundations of democratic world law.

First, understanding the philosophical foundations of democratic world law involves rational recognition of the dignity and equality of all human beings (chapters 7-8 above). *We understand legitimate law as premised on this dignity and equality.* This principle precedes the state and is protected and enlarged when the state constructs its citizens as *legal persons* who are the bearers of *inalienable rights*. This principle alone is *radical* in that it puts us against the basic structures of our world order institutionalized today under the sovereign state system and global capitalism. The sovereign state effectively denies all persons outside its borders any rights whatsoever that may be embodied in its constitution, and global capitalism in practice demeans and degrades persons into mere commodities every minute of every day.

Second, understanding the philosophical foundations of democratic world law involves understanding the emergence and progressive transformation of the democratic idea out of human history from ancient times to the present (chapters 4-8 above). *It understands democracy as an emergent expression of our highest human potential.* We have seen the democratic idea transformed in the course of history from conformity to an external natural law to the realization of the innermost rational and communicative potential of human beings. We have examined four interrelated rational derivations of this potential from Immanuel Kant, Alan Gewirth, Leonard Nelson, and Jürgen Habermas. The democratic idea expresses our highest potential as social, economic, and political beings. That potential arises from our common humanity and therefore is necessarily global in scope.

Third, we have examined the moral imperatives toward this universality that arise from our *rational freedom oriented toward wholeness* and their implications for a democratic world order (chapters 7-9 above). *Our rational freedom legislates the universal imperative for planetary democracy.* As both John Dewey and Habermas point out, democracy is a moral ideal inherent in our common rationality and in our human situation.

The task of creating democracy and justice for the Earth is not a contingent goal of some Western or Eastern culture. It is an end that is at the same time a duty. We have seen Leonard Nelson express this insight as follows: “We have already learned that the moral law commands us to respect the dignity of the person; now we can define that law more closely as the command of justice, or as the law that commands us to safeguard the equality of persons.” Authentic democracy is precisely that set of institutions that safeguard the equality of persons.

Fourth, the philosophical foundations of democratic world law involve comprehending the transformative and integrative powers of authentic democracy to transcend our present world of fragmentation and violence toward one of peace, freedom, justice, and sustainability (chapters 9-11 above). *We comprehend democratic law as a universally transformative power, a creative force in history.* Democracy is not simply one political system vis-à-vis many others. It alone, when actualized in history, is morally and juristically legitimate and capable of transforming individuals from private persons to mature, responsible world citizens concerned with the common good of all. It alone expresses our immense potential for world transformation toward a global democratic framework predicated on these values. There is no other route to peace, freedom, justice, and sustainability. Here the practical and philosophical foundations of democratic world law coalesce in a program of transformative action.

Fifth, comprehending democratic world law involves understanding the communicative basis of our common humanity, with its potential for mutual respect and a universal communication community (chapters 8-9 above). *We understand democratic law as an expression of our communicatively constructed political will.* Language alone, in its core, presupposes such a community. We have seen Habermas state that “what raises us out of nature is the only thing whose nature we can know: *language*. Through its structure, autonomy and responsibility are posited for us. Our first sentence expresses unequivocally the intention of universal and unconstrained consensus.” The potential for a communication community, inherent in our rational freedom, serves as a map and guide for the kind of global institutions that we need to create for the Earth.

Finally, understanding the philosophical foundations of democratic world law involves recognizing the holism of our universe and of human life within that universe (chapters 2-3 above). *Democratic world law provides the field of human integration within the holism of our Earth-system.* The geosphere, biosphere, and noösphere (mindsphere) of our planet interpenetrate in a geological, ecological, and rational unity. Human beings can only function harmoniously within that unity if they integrate their common humanity within a rationally integrated mindsphere that embraces and includes the rest. This cannot be achieved without the universal rule of democratically legislated, enforceable world law. Ultimately, these three spheres together are but a field within the *unity in diversity* of the universe itself.

No one is free except in society. Human beings have evolved into social animals down to the very roots of our being. We assimilate our central characteristic – language – only through interaction with others. It is probable that we assimilate our central characteristic, as linguist Noam Chomsky (1988) argues, because our social evolution has genetically programmed us to receive language at a certain stage in our childhood development.

Every one of us needs the collective knowledge that we inherit from society, the technology that comes to us through the creativity and enterprise of others, and the environmental quality that depends on the care and protection of numerous others. No one, not even Robinson Crusoe on his island, can survive without these things. Robinson Crusoe had the fragments from his ruined ship—a vast store of technological accomplishment and knowledge—as well as his education and know-how provided to him by society before shipwreck.

Every one of us needs security of person and personal property that can only be provided by society. Every one of us needs food, clothing, shelter, and the essentials of life that can only be provided through an economy, however simple and rudimentary that economy may be. Every one of us needs to be protected from the interference of others (maverick individuals, fanatic groups of individuals, and authorities in government) that can only come about through the rule of law, carefully preserved systems of due process, and the general social commitment to recognize and support this rule.

From Plato to the present, no serious thinker has argued that freedom is simply the ability of individual persons to indulge their whims and desires unhindered by others. If freedom is the ability to live life guided by reason such that we are able to rationally consider alternative courses of action, foresee possible consequences, and thereby guide ourselves into the future (as Plato defined it in Book IX of the *Republic*), then freedom is necessarily a social phenomenon. For such rationally guided action to be possible, one must have a physical well-being provided by economics and trade, a mental development

of our rational capacities provided by education and cultural resources, and an orderly social matrix that supports our ability to follow courses of action without interference from others. Plato's *Republic* develops all three of these preconditions of reason and argues that a "just" society that has provided for these human needs is the precondition of freedom.

The implications of this realization that *human freedom is a social phenomenon* are immense. For we understand that freedom emerges from the way that we organize and run our societies, not some imagined innate ability or condition that human beings have prior to society. The weight of reflection is shifted to how we can bring freedom out of the social order, not how we can limit the social order in ways that do not impinge upon our individual *a priori* freedoms. The social order *constitutes* real freedom, including our mutual commitment to protect one another's personal freedoms. We begin to discern the practical foundations of democratic world law.

This gets to the real issue. We must reflect upon the social, economic, and legal order with a view to how that order can maximize the freedom of all of us (all human beings) for that order is the very source of freedom and without a proper organization it will fail us, or, as has often been the case, it will benefit a few of us at the expense of the rest or result in a chaos of competing interests. If we retain in our thinking the model of an *a priori* freedom that needs protection from society and the social order, we are not only thinking very badly, we are liable to damage the very social matrix that makes freedom possible. This faulty model of freedom is very common today. People attack "big government," the "bureaucracy," those who interfere with their god-given rights to carry dangerous weapons or get rich at the expense of others.

If we begin to see that the legal and social order is what makes freedom possible, and that the freedom of each must be a function of the freedom of all, then we have the opportunity to create a social and legal order that transcends the numerous failed or distorted attempts throughout history. The first principle that strikes us is that in an interdependent world where military attack can come from half way around the world in minutes, where weapons of mass destruction can be introduced into any society clandestinely, where economic downturns on the other side of the planet can throw us into economic chaos, where wars and human rights violations elsewhere affect us directly, and where the planetary environment that sustains us locally needs global protection, we must envision freedom on a planetary scale. There is no other option.

The society and a legal system providing the matrix for human freedom must be a planetary society and legal system. Otherwise freedom will necessarily be truncated by the need for military defense, security arrangements, and domestic spying that destroy one's own freedom in the name of security. Freedom will be constricted by a precarious economic stability predicated on the mere hope that things go well elsewhere on the planet, by the fact of wars and human rights violations elsewhere demanding our reaction rather than free pursuit of our own rational goals, and by our local environment steadily being degraded as the global environment continues to collapse.

Human beings are in a position at the dawn of the twenty-first century to create the matrix for true human freedom by ascending to a social and legal order consciously directed to maximizing the freedom for all within a rational social and legal order. It has taken the entire history of political and legal thought since ancient times to understand that the goal of the social and legal order is freedom for all. It has taken

the entire historical development of technology to make possible global communications, economics, environmental awareness, and the planetary consciousness to the point where we understand that there is no real freedom anywhere unless there is freedom everywhere on our planet.

Advancements of technology and understanding in all these areas have made possible a democratic Earth Federation for the first time in history. The Earth Federation would necessarily have to socialize the money supply so that debt free money would be created by government for public projects, loans to emerging businesses, universal healthcare, education, and insurance for all citizens on the Earth. Such common sense monetary policy has a long and honorable history in economic thought (Brown 2007, Zarlenga 2002).

It is this social framework, we have seen, that *makes possible* universal human freedom. A planetary civilization with sixty percent of its population in dire poverty and eighty percent in unpayable debt to gigantic private banking interests is a failed civilization, an outrage against our common humanity. It is a world where freedom is practically non-existent, a world of slavery to debt and slavery to poverty and injustice.

Those who misunderstand freedom and its sources to the point where they would "limit big government" in reality create the need for ever bigger government in their vain attempt to maintain security and military defense within a chaotic world order. Rousseau and Kant understood that the goal of the legal order (through the "social contract") is freedom. But the eighteenth century had only a limited understanding of our planetary interdependency and the fragile global ecosystem. They had no understanding whatsoever of weapons of mass destruction or super-sonic delivery and attack systems. Today, we have the understanding necessary to realize freedom for human beings for the first time in history.

In the historical perspective of human life on this planet, this is both a natural and, one might say, expected development. Human beings have been on earth one to two million years. The planet was very slowly colonized by them over the span of hundreds of thousands of years of slow migrations. On this time scale, they first developed the imaginative capacity to picture their environment only yesterday at something like fifteen to forty-five thousand years ago, exemplified in the amazing cave paintings found in China, Europe, Africa and elsewhere that were created during this period.

On the scale of one to two million years, this was only yesterday. Since then things have accelerated rapidly. With the discovery of agriculture about ten thousand BCE, permanent civilizations became possible and the ancient world developed huge civilizations along the Nile, the Indus, the Tigris-Euphrates, the Yellow River, and elsewhere. Human beings were now the dominant species on the planet. Only a few thousand years passed before the Axial Period of the first millennium BCE gave rise to enough intellectual differentiation of subject from object that human beings could secure their domination of the planet through the systematic development of knowledge and technology. The new consciousness emerging during this period became the foundation for democracy and democratic world law.

This increased intellectual self-awareness of our differentiation from the environment also gave rise to philosophy and the rational reflection on what it means to be human, on our human situation, and on society and the legal order. Plato, Aristotle, and the early Stoics were part of this great transformation

in consciousness that gave rise to the philosophy of law and society. The creature that found itself standing upright one to two million years ago, with an opposable thumb and forefinger and a gigantic brain, destined to colonize and rule the world, has now, in the twenty-first century, realized the destiny implicit in its nature from the beginning.

Since the transformation of consciousness that took place in the Axial Period to the present (about 2500 years) is but a moment in relation to the age of human beings on this planet. We have been taken by surprise, so to speak. Only yesterday, Plato and Aristotle were attempting to understand the legal order and its purposes in terms of the Greek city-state. Only yesterday St. Thomas Aquinas was attempting to understand the legal order in the light of what he took to be God's unchanging feudal-Aristocratic, Church-dominated model of society. Only yesterday Hobbes, Locke, Rousseau, and Kant were attempting to understand the legal order in terms of the limited social contract within the mythologized sovereign nation-state.

Today the transformative ascent of human beings out of the biosphere and into a noösphere of *rational freedom oriented toward wholeness* is nearing fulfillment. The world is entering what one thinker called its "noon-time terror" (Gutkind 1965). As pressure to transmute ourselves toward *planetary maturity* and global democratic civilization increases, so do the forces of reaction, immaturity, and fragmentation increase their resistance. A global struggle ensues in which those engaged in the *transformative praxis* toward *planetary maturity* are confronted by immense institutionalized systems of privilege, self-interest, greed, and imperial domination. The fate of the Earth and the future of humanity hang in the balance.

The *nisus* within us for wholeness and growth in maturity militates for transformative action. We must make the kind of efforts that lead to growth, both personal and planetary. The emergent power of the holistic universe upsurging within us militates for transformative action. The pressure exerted by the communicative core of language toward mutual respect, democracy, and a universal community of rights and responsibilities militates for transformative action. And the rational freedom within us morally commands us to create institutions in which every person can be treated with dignity and equality. *History is on the side of the ascent to freedom.*

But time is short. Weapons of mass destruction, the militarization of space, exhaustion of the Earth's resources, the suffering billions in extreme poverty, and the pending collapse of the planetary ecosystem demand from us a maximum degree of nonviolent transformative effort. That is why the most effective and immediately practical option is working for the ratification of the *Constitution for the Federation of Earth*. We do not need to reinvent the wheel. Thousands of world citizens have worked together to move the world closer to its ascent to freedom through creating the *Earth Constitution* and a body of quality provisional world legislation enacted by the Provisional World Parliament.

The philosophical foundations of democratic world law provide the conceptual framework through which we can understand our situation at the dawn of the twenty-first century. These principles show us both the development of the democratic idea and its potential for transforming our world order in an ascent to universal freedom and dignity. These foundations are clearly embodied within the *Earth Constitution*. The fate of our species and our children hangs in the balance.

Through passivity or denial we can fail to act and reap the consequences of our failure as the planet descends further into chaos or totalitarian darkness. We can also misdirect our energies by working for an impossible democratic plurality at a multiplicity of local levels not encompassed by a genuine unity capable of protecting that plurality. Or we can choose, for ourselves and future generations, a mature, planetary civilization under the enforceable rule of democratic world law.

We can follow our present course and inevitably descend into barbarism and planetary destruction. Or we can choose the fulfillment of our higher potential as human beings. We exist today at the creative edge of time, on a cusp of history that is decisive for the fate of the Earth. The choice is still ours, but soon it will be too late. We can continue our descent into perdition and decisive failure for the Earth and our human project. Or we can choose to fulfill the promise of history, and our humanity, in a glorious ascent to freedom.

Today, we understand that all of these models were very temporary historical phenomena in the ascent of human beings to planetary responsibility. The city-state, the feudal order, and the sovereign nation-state came and went rapidly on the changing stage of human history and the historical destiny implicit in that upright creature with the gigantic brain one to two million years ago has swept upon us almost unawares. Today, we find ourselves confronting immense planetary crises that have grown out of proportion almost behind our backs as we focused on outmoded historical institutions like the sovereign nation-state: weapons systems that make the security of the nation-state obsolete, a population explosion that threatens mass extinction unless it finds an urgent global solution, a planetary environment in the process of collapsing, and an understanding that freedom is disappearing everywhere on the planet as a consequence of social and legal systems that do not provide the planetary matrix necessary for genuine freedom.

Today, we are in a position to understand the destiny implicit in that upright stature and gigantic brain of one to two million years ago. It is a human destiny, not a national, ethnic, racial, or cultural destiny. It is a human destiny, not a destiny connected with any one of the many wonderful world religions that were born during the Axial Period. Our human destiny implicit in our origins was to be a single species living on this tiny, fragile, gloriously beautiful planet Earth – and responsible for its care and maintenance in the service of human freedom. We have not yet understood nor accepted this responsibility. We are busy fighting over the partial self-identifications of the transient historical past: religious identifications, nation-state identifications, racial identifications, etc., while the future of the planet and our children is rapidly evaporating in one planetary crisis after another.

Our destiny is to inherit the Earth as a single species, all fundamentally and directly related to one another, and to govern the Earth in the service of human freedom and the freedom of future generations. This can only be done through a social and legal matrix that provides the freedom for each within the context of freedom for all. It can only be done through a democratic world legal, social, and economic order premised on human freedom, justice, peace, and prosperity.

Our destiny as a race is to live in joy – in simplicity and joy upon the Earth. *Not to have or possess* within an empty and merciless system of domination and exploitation. *But to be*, simply to be, in joy – to breathe in freedom and joy. These possibilities for the fullness of life are in us from the beginning, emerging out of the process and coming to fruition in our time. They cannot be realized without democratic world

law bringing peace and freedom to the world. They cannot be realized unless war is abolished and the suffering of poverty eliminated for the vast majority. Democratic world law is a necessary condition for the realization of our destiny, not a sufficient one. If we are to grow to *planetary maturity*, we must begin someplace, and that place is the freedom of world law.

Our messianic passion must be the passion to realize our true human destiny. Only such a passion will free the world from its present condition of slavery. Our destiny is to create a planetary legal order that embodies that truth that we are one species to whom the care, protection, and future of the Earth has been entrusted. Implicit in our destiny from the beginning was an ascent to the freedom of democratic world government under a single *Earth Constitution*. Implicit in our destiny from the beginning were the philosophical and practical foundations of democratic world law.

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