

THE PROBLEM OF ORIGINS AND THE BIRTH OF WORLD LAW

Glen T. Martin

(Copyright 2008. The concluding chapter to *Emerging World Law*, Eugenia Almand and Glen T. Martin, eds., Institute for Economic Democracy Press, 2008)

When we survey our lives and endeavours we soon observe that almost the whole of our actions and desires are bound up with the existence of other human beings. We see that our whole nature resembles that of the social animals.... The greater part of our knowledge and beliefs has been communicated to us by other people through the medium of a language which others have created....

Only the individual can think, and thereby create new values for society – nay, even set up new moral standards to which the life of the community conforms. Without creative, independently thinking and judging personalities the upward development of society is unthinkable as the development of the individual personality without the nourishing soil of community.¹

Albert Einstein

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.²

Eric Gutkind

In the above quotation, Albert Einstein expresses a fundamental truth about our human situation. Each of us arises from the nourishing soil of community, and our lives represent and internalize these communities. However, not only our local communities but our planetary civilization

¹ *The World as I See It*. Alan Harris, trans. New York: Philosophical Library, pp. 8-9.

² *The Body of God: First Steps Toward an Anti-Theology – The Collected Papers of Eric Gutkind*. New York: Horizon Press, 1969, p. 94.

absolutely need creative, independently thinking and judging personalities to lead humankind toward the realization of its immense inner potential for a democratic world order living in peace, justice, and ecological sustainability upon our precious planet Earth. According to Einstein, such creative and independently thinking persons today reach the following conclusion: “A world government must be created which is able to solve conflicts between nations by judicial decision. This government must be based on a clear cut constitution which is approved by the governments and the nations.”³

Perhaps our most fundamental failure in this regard is expressed by Eric Gutkind. Our smallness of vision, our satisfaction with tiny, inadequate advances, our Stoic acceptance of the immense evils and corruption of the present undemocratic world order all constitute, for Gutkind, “our main sin today.” Our vision remains petty, practical, looking for shelter, while our moral obligation in the face of the immense suffering of the majority of human beings today, and the immense on-going destruction of the world’s other living creatures, arises an absolute imperative: a gigantic demand that we create a decent world order of peace with justice in the here and now. Our central failure involves our smallness, pettiness, unwillingness to affirm human dignity, our lack of vision.

The extraordinary work of many world citizens over the past half century in connection with the World Constitution and Parliament Association (WCPA) in developing the *Earth Constitution* and in holding sessions of the Provisional World Parliament (PWP) emerges from this sense of absolute moral obligation and the demand of human dignity. This half-century of creative work emanates from a sense of the greatness and real possibility of our humanity – democratic world law resulting in a transformed world order. Humankind is immeasurably greater than most persons think, and that is our chief sin today – to expect little, to be “realistic,” to reduce everything to a so-called “common sense,” to the point of denying the greatness of our human possibilities and our human destiny.

We do not have to wait until the Earth is an uninhabitable desert. We do not have to wait for a coming nuclear holocaust. We do not have to wait until the chains of global dictatorship under a superpower have solidified around our necks. We do not have to wait for 100 years or 1000 years to activate our destiny to live in a world where all persons are protected by law and all persons live under conditions in which their human potential can be realized. It can and must be done now, today, and that is the immense potential of the emerging world law collected in these volumes.

1. The Problem of Origins

The problem faced by every creative and independent idea that can move civilization forward toward its true destiny has sometimes been called the “problem of origins.” What is truly new has not yet been institutionalized, established, and sanctioned by existing customs or procedures. New truths or civilizing ideas usually find themselves at first ignored in human history, as Arthur Schopenhauer declared. They lie outside the limited “common sense” framework of the day. When they can no longer

³ *Out of My Later Years*. New York: Philosophical Library, 1950, p. 138.

be ignored, ridicule and laughter become the fundamental response. Finally, however, these civilizing ideas achieve wide acceptance as plain, common sense truth. The origins of what is both truly new and overwhelmingly valid in history are encountered as problematic by the entrenched forces of every historical era as well as by those who minimize the greatness and dignity of our human destiny.

Ancient “common sense” ideas of human civilization under universal empires involving human slavery were not morally legitimate, yet advanced thinkers advocating human dignity were ridiculed at the time. Medieval ideas of human civilization involving serfs bound to the land under an eternal destiny administered by a universal church were not morally legitimate, yet those advocating freedom of thought and religion were ridiculed at the time. Modern ideas of autonomous, militarized sovereign nation-states competing with one another under U.N. structures of unenforceable international laws and undemocratic trade rules are not morally legitimate, yet today those advocating a single *Earth Constitution* with a World Parliament legislating enforceable world laws are either ignored or evoke laughter and ridicule.

In *The Concept of Law*, philosopher of law H.L.A. Hart identifies the source of legitimate law as a “rule of recognition” commonly accepted within a society that allows citizens to recognize when an authoritative and legally binding law or edict has been issued. This rule may involve a founding document, a set of recognized customs, the functioning of certain institutions, or other sources for recognizing legitimate laws. A central problem that world federalists face today, of course, is the problem of origins. Every rule of recognition must begin from a situation in which it is not yet recognized. A revolution occurs, an old order crumbles and must be replaced through the spontaneous action of a few leaders, a coup takes power and abolishes the legislature, a monarchy is seen as no longer legitimate and must be replaced by democracy. In all these instances and more, a constitution must be written or an institution constructed that provides a rule of recognition for future laws, but in the absence of democratic procedures for writing or constructing such authoritative sources of law, something must simply be begun.⁴

On the planetary level, the problem is similar but clearly more difficult. Since the world has no institutions that can create binding world structures beyond the level of nations, from whence will appear a rule of recognition for world law? The currently accepted macro unit of government is the nation-state. Its self-definition of *national sovereignty* implies both internal and external autonomy, that is, the recognition of no binding authority beyond its borders. In a revolutionary situation within nation-states, different factions may vie for general recognition by the population and for their rule or institutions to function as a rule of recognition for authoritative laws. But there can be no such situation on the planetary level given the fragmentation of the world into approximately 193 autonomous units called nation-states.

Sovereignty today is indeed being eroded by multinational corporations (often with greater wealth and power than poverty stricken nation-states that host them), and by the World Trade

⁴ Hart, H.L.A., *The Concept of Law*, Oxford University Press, 1964, Ch. VI, “The Foundations of a Legal System.”

Organization's imposition of binding trade rules capable of economically punishing uncooperative nations, by the impunity of superpowers free to violate weaker nations with invasions, assassinations, or economic blackmail, and by the emerging U.N. doctrine that the Security Council can authorize action against a nation with major violations of human rights within its borders. But none of this brings the world closer to democratic world law. Just the opposite, since all four of these global forces tend to be undemocratic in the extreme, more often than not violating many of the principles set forth in the U.N. Universal Declaration of Human Rights. If the world is left to evolve toward different forms of governance through the actions of those who now wield tremendous undemocratic power, then the result will be anything but planetary democracy, peace, freedom, or prosperity.

While some federalist movements have debated for decades over the possibilities of calling a world constitutional convention or other means to overcome the problem of origins, the World Constitution and Parliament Association (WCPA) simply went ahead and did this, and has continued to do this from its founding in 1958 to the present in 2008. For the first time in an official publication, this volume collected some of the large body of quality work that resulted from the creative work dedicated to overcoming the problem of origins and founding a new world of peace with justice and prosperity. At the center of this body of work shines the *Earth Constitution* created through the continual efforts of thousands of world citizens and a process of four Constituent Assemblies culminating in 1991. This *Constitution*, we have seen, lays the foundation of genuinely democratic world law to replace the profoundly undemocratic and globally destructive modes of "governance" that have evolved from the U.N. treaty system: the multinational corporations, the WTO, the IMF, the World Bank, and superpower domination. The Provisional World Parliament (PWP) has continued the development of genuinely democratic world law through its ten sessions to date from 1982 to 2007.

We have also seen that Article 17 of the *Earth Constitution* gives the democratic requirements for official ratification and the activation of three operative stages of democratic world government. This democratic ratification process gives the Earth Federation its final legitimacy and authority. It is unlikely that any constitution in history was developed through truly democratic processes, since constitutions often *replace* an older order that has institutionalized legitimacy differently. The U.S. Constitution, for example, was developed by a few elite federalists who were part of that fateful meeting of a mere 55 persons in Philadelphia in 1787. It found its legitimacy and its binding force through its subsequent ratification by the states who would become members of that federation. As Professor Errol E. Harris puts the matter with regard to the *Earth Constitution*: "There are some who object to the *Constitution* because the body that drafted it was not democratically elected, but what makes a constitution democratic is not how, or by whom, it was drafted but whether it is freely accepted by those who are to become subject to its provisions."⁵ Article 17 spells out these democratic procedures in detail.

With regard to the problem of origins, no origin is ever legitimate within the older system when

⁵ *Earth Federation Now! Tomorrow is Too Late*. Sun City Arizona: Institute for Economic Democracy Press, 2005, p. 7

it is first initiated because no rule of recognition exists in those circumstances for legislating binding laws. There always must be a beginning outside the accepted system. After the American Revolution had been won in 1776, the former thirteen colonies loosely affiliated under the Articles of Confederation. Each former colony remained substantially a sovereign nation able to make its own foreign policy, etc. Because this system led to economic chaos among the former colonies and to squabbles that nearly led to wars between them, a group of leaders assembled in Philadelphia in 1787 to amend the Articles of Confederation, just as in recent decades large groups of people met concerned to amend the unworkable U.N. System.

At the meeting there were a few visionaries, known as federalists, and the delegation from South Carolina came to the meeting with a draft of a federal constitution that became the basis of the U.S. Constitution. Their situation, as Harris points out was “similar to that in which the world as a whole finds itself today.”⁶ They affirmed a federal constitution binding all the former colonies into one, while preserving a reasonable autonomy of internal government for each. There was no precedent and no mechanism by which this new constitution could be considered legitimate. Nevertheless *the problem of origins was dealt with simply by going ahead and doing it*, while building into the new constitution the criteria for its ratification by the member states.

In a similar vein, contemporary German philosopher Jürgen Habermas addresses the difficult problem of what he calls “jurisgenesis” in which human beings act collectively and morally to bring new institutions into existence. In *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, he connects his own thought concerning the primacy of “communicative action” with that of American political philosopher Hannah Arendt:

Arendt conceives political power neither as a potential for asserting one’s own interests or for realizing collective goals, nor as the administrative power to implement collectively binding decisions, but rather as an *authorizing* force expressed in “jurisgenesis” – the creation of legitimate law – and in the founding of institutions. It manifests itself in orders that protect political liberty; in resistance against the forms of repression that threaten political liberty internally or externally; and above all in the freedom-founding acts that bring new laws and institutions “into existence.” It emerges in its purest form in those moments when revolutionaries seize the power scattered through the streets; when a population committed to passive resistance opposes foreign tanks with their bare hands; when convinced minorities dispute the legitimacy of existing laws and engage in civil disobedience; when the sheer “joy of action” breaks through in protest movements. Again and again, it is the same phenomenon, *the close kinship of communicative action with the production of legitimate law*, that Arendt tracks down in different historic events and whose exemplar she found in the constitution-making force of the American Revolution.⁷

This is precisely what the framers of the *Earth Constitution* did but with one substantial difference. As a minority of world citizens convinced that existing laws of nation-states and the U.N. were *illegitimate*, they acted magnificently to create a legitimate system for the Earth. The U.S. Constitution had come into existence primarily within the space of a single year (1787). Given the

⁶ Ibid. p. 103.

⁷ Cambridge: MIT Press, 1998, p. 148.

proportionally greater difficulty of uniting a planet of differing languages, cultures, religions, and nation-states under a single constitution, the framers spent more than 31 years of intensive communicative dialogue and debate with thousands of world citizens through four Constitutive Assemblies culminating in 1991. It is not military power, violence, utility, slow reform, or “common sense” that will bring the transformed world order into existence. It is the power of communicative action exhibited in the creation of the *Earth Constitution* that can overcome the problem of origins and lift civilization to a higher level of existence. This courageous stance of doing what is right because it is right and expressing the right through communicative action and dialogue can transform the awareness of the people of Earth to see that there is a way out of their present suicidal trap: the ascent to a higher, more legitimate world order, the simple step that overcomes the problem of origins by uniting the nations under a non-military civilian democratic *Earth Constitution*.

The framers also wisely allowed for the development of provisional world government while the *Constitution* was being promoted for ratification under Article 17. The central way that provisional world government has been developed to date has been through sessions of the Provisional World Parliament (PWP). Rather than engage in civil disobedience or violent action, the revolutionaries of the WCPA engaged in morally grounded *communicative dialogue* demonstrating “the close kinship of communicative action with the production of legitimate law.” They began demonstrating through the Provisional World Parliament, and through the Earth Federation Movement (EFM) with its “campaign for ratification,” the justification and necessity of a world revolution through world law.

This volume has reproduced the 42 World Legislative Acts (WLAs) adopted by these sessions of Parliament covering disarmament, nuclear issues, environment, economics, water resources, peacekeeping, intellectual property rights, etc. These acts do not address the problem of origins by attempting to impose any of this on the world. By an official decision of the Parliament, this provisional world legislation *is not considered binding* on the final world parliament that will be activated with the official ratification of the *Earth Constitution*. However, it serves as a guide, a beacon, and a model for emerging world law. It can be adopted, rewritten, or discarded by the final world parliament once activated, but the characteristics and spirit of the transformed world order of peace with justice are amply reflected in the provisional world legislation adopted to date, making clear to all that *another world is possible*.

2. Declaration of the Rights of Peoples and the Necessity Defense

The problem of origins confronts those who would create a democratic world order with the customs and institutions of an older, undemocratic world system that lacks institutions within which to develop this new order. There are no institutional mechanisms whatsoever in place for citizens to develop a global democratic world order. The evolution of the democratic idea to its logical conclusion in world democracy is actively blocked and defeated by the dominant global institutions that have

colonized the word “democracy” in the service of a profoundly undemocratic world disorder. As we saw in the Introduction, the present global institutions maintaining the nation-state system and global monopoly capitalism are both self-defeating and self-contradictory. Human rights (including economic rights) are universal. *They apply to every human being equally.* They cannot be limited to national territories as if human rights stopped magically at some invisible political border. Nor can the rights to a life of minimum economic dignity possessed by all persons be prostituted to a global “marketplace” where human beings are sacrificed as chattel slaves to institutionalized greed in the service of private profit.

The closest we have come today to institutional mechanisms for developing a new world order that are really premised on the universality of human rights and dignity has been the World Constituent Assemblies organized by the WCPA in conjunction with thousands of world citizens. For only these institutions effectively address the problem of origins through a foundation of true universality. These Assemblies, and the Provisional World Parliament that subsequently developed under the authority of the *Constitution*, form the tender shoots of an institutional rebirth for the Earth. As such, they deserve our profound respect and support.

Many other international non-governmental organizations (NGOs) such as Greenpeace, Amnesty International, Oxfam, the collection of organizations allied under the U.N.’s “Millennium Development Goals,” or the Simultaneous Policy Project (SIMPOL) have, of course, developed institutional structures. However, these structures explicitly call themselves “non-governmental” and by and large do not seriously question the dominant planetary institutions of the nation-state and global capitalism. They attempt to work within this profoundly undemocratic system and its self-defeating premises to “reform” it in the direction of peace, justice, or environmental sustainability. But a system whose very premises contradict democratic peace with justice cannot be reformed without changing the very premises of the system.

The Earth Federation Movement alone has set up fledgling institutions on entirely new and more legitimate premises – planetary democratic government under an *Earth Constitution* with a parliament legislating enforceable world laws protecting every human being. Unlike the institutions set up by international NGOs, these fledgling institutions are *governmental*, precisely because it is democratic government that the world lacks, precisely because the chaos of the present world disorder stems from lack of government over the “sovereign” nation-states and global multinational corporations. It is not arrogance or presumptuousness that has led the members of the Provisional World Parliament to claim that they are legislating “provisional world law” under constitutional (and hence governmental) authority. It is the fact that they are confronting the problem of origins in the only way legitimately possible: *to originate* what is needed.

They have summoned the courage and wisdom to act for precisely what is needed on Earth: enforceable democratic world law legislated by a world parliament. They are *justified by necessity*, a necessity stemming from the disasters and massive violations of human rights under the current world

disorder lacking the rule of law. *Just as the laws of most nations recognize the “necessity defense” when people take the law into their own hands to prevent disasters or other tragedies, so this same necessity applies to the problem of origins.* Steps taken for moral reasons and without criminal intent are necessary to stop the present catastrophes taking place worldwide. Democratic world government is absolutely necessary and, since there are no viable existing mechanisms for its development, it must be begun. It must be initiated here and now, for catastrophe rages all around us and will clearly only worsen without such law.

The present world disorder confronts conscientious world citizens with an old order that is profoundly immoral, profoundly undemocratic, and deeply in violation of human rights and dignity. These violations of human decency and dignity, we saw in the Introduction, involve the dominant institutions of the present world: the system of sovereign nations and the global economic system. According to international legal scholar Francis A. Boyle, in his book *Protesting Power: War, Resistance, and Law* (2008), not only the government of the United States but many nations of the world operate according to the “realist view of international relations” as defined, for example, by Hans Morgenthau in his classic political treatise *Politics among Nations* (1948). Boyle writes:

In the realist view of international relations, international law is devoid of any intrinsic significance within the utilitarian calculus of international political decision making. International law, morality, ethics, and even knowledge itself become mere components in the power equation, devoid of noninstrumental significance or prescriptive worth, and subject to compulsory service as tools of power when deemed necessary for the national interest of a state. There are no barriers to the acquisitive nature of the nation-state beyond its domestic limitations and constraints imposed by the international political milieu. Consequently, the analysis and conduct of international relations must concentrate exclusively on the dynamics of power politics and national interest.⁸

According to Boyle, those committing “civil resistance” by breaking U.S. domestic laws in response to the violations of human rights, destruction of life and property, and violations of international law caused by U.S. foreign policy are legally justified in doing so and have ample legal justification for acquittal in the courts.⁹ For example, the readiness of the U.S. nuclear arsenal alone, which includes such weapons of mass destruction as its Minuteman III nuclear missile, already stands in violation of international law in any number of ways.¹⁰ U.S. citizens are fully justified in breaking domestic laws in the attempt to derail a U.S. military and foreign policy that is deeply destructive, deeply immoral, and in gross violation of human rights and international laws.

Boyle outlines the various defenses that could be mounted in the courts with regard to civil resistance intended to protect people, property, and human rights around the world: “People who engage in civil resistance have a constitutional right to rely on whatever statutory and common-law defenses are generally made available to every other criminal defendant in the jurisdiction concerned,

⁸ *Protesting Power: War, Resistance, and Law*, New York: Roman & Littlefield, 2008, p. 11.

⁹ *Ibid.*, p. 25.

¹⁰ *Ibid.*, p. 9.

for example, defense of self, defense of others, necessity, choice of evils, prevention of crime, execution of public duty, citizen's arrest, prevention of a public catastrophe, measures otherwise authorized by law, absence of criminal intent."¹¹ All of these several defenses apply equally to those *not* committing civil resistance within nations but who confront the problem of origins in their attempt to create a democratic world order.

Under the laws of many countries, breaking the law with the absence of criminal intent (hence for some moral purpose) is justifiable to protect others in imminent danger of harm, to prevent a crime, or to prevent a public catastrophe. How much more, therefore, do these defense arguments justify those who are trying to establish a world order that prevents these lawless and criminal arrangements from happening in the first place? The criminal consequences of the present world order provide ample justification for citizens of the Earth to take active steps to found a democratic world order free of such consequences. The Eighth Session of the Provisional World Parliament, meeting in Lucknow, India in 2004, unanimously ratified the "Declaration of the Rights of People of Earth to create and ratify a World Constitution and hold sessions of the Provisional World Parliament." This document states that:

The present institutions of the world are failed institutions. The global economic system has not led to prosperity for most of the Earth's citizens, but to starvation, poverty, disease, and misery for the majority. The present global political systems of the world, called territorial nation-states, have not led to a just or peaceful world order, but to endless wars, destruction of peoples and cultures, imperial domination and conquest, and global systems of exploitation of the weaker by the stronger. The United Nations has not led to a world where the many rights listed in its Universal Declaration of Human Rights have been extended to the Earth's citizens, but to denial of those rights for the majority and continuous increase in war, poverty, social chaos, and environmental destruction.¹²

I recently made a similar point in *Ascent to Freedom: Practical and Philosophical Foundations of Democratic World Law*:

When the framework of a democratically legislated body of enforceable law is missing (as in the international arena), the consequences are precisely those that we find all round us in the world today. 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.¹³

¹¹ Ibid., p. 25.

¹² Martin, Glen T. ed. *World Revolution Through World Law: Basic Documents of the Emerging Earth Federation*. Sun City, Arizona: 2005, p. 40.

¹³ Sun City, Arizona: Institute for Economic Democracy Press, 2008, pp. 337-338.

It is precisely this criminally based, inherently undemocratic world order that forms the grounds for the “necessity” of all persons of conscience to act for defense of the peoples of Earth and the collapsing planetary environment that sustains us all. Just as the domestic laws of many nations protect the necessity of persons to act to prevent catastrophe, to protect lives, or to prevent criminal activity so persons of conscience are faced with the necessity to create a democratic world order where these catastrophes are substantially reduced if not altogether eliminated. This clearly cannot be done within the framework of the present world order. As we saw in the introduction to this volume, the present institutions dominating our world disorder (global capitalism and sovereign nation-states) reflect failed institutions that we must understand as profoundly *illegitimate*. The people of Earth have the right to live in peace and freedom under legitimate democratic institutions premised on the common good and the equality of all.

Even the U.N. Universal Declaration of Human Rights specifies this fundamental human right: “Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized” (Article 28). Every person on Earth is entitled to an international order in which all thirty of the human rights listed in the Universal Declaration can be fully realized. These *universal rights* include Article 25, number 1: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.” Very few nations on Earth satisfy Article 25 and no nation on Earth satisfies Article 28 precisely because there is no democratic world social order that can even begin to make this possible. It is the right and duty of every citizen of Earth, therefore, to create such an order, and the most practical and effective way of doing so is through ratification of the *Constitution for the Federation of Earth*.

The problem of origins involves the fact that there are no democratic institutions in place for creating world democracy. The U.N. Charter is premised on inherently undemocratic assumptions, despite some of its internal rhetoric. Article 2, Number 1, states that “The Organization is based on the principle of the sovereign equality of all its Members.” This principle alone makes the rule of enforceable democratically legislated law on Earth impossible. It means that there is no enforceable law above the nations, because they are “sovereign.” In addition, the General Assembly represents all nations equally, regardless of vast disparities of population, and regardless of the fact that many member states are not democracies and ambassadors do not represent their peoples in any significant way. The Security Council gives an absolute veto power to the five most powerful victors in World War Two and makes the U.N., in effect, a dictatorship under these five. The United Nations itself is in substantial violation of its own Universal Declaration of Human Rights (for example, Article 25) and its very structure massively violates Article 28 since under this “social and international order” it is manifestly impossible to protect the human rights of the Earth’s citizens.

3. Interfacing with the United Nations and Existing International Law

Nevertheless, the Earth Federation Movement does not wish to abolish the U.N., which has a global infrastructure and many valuable agencies in place such as the World Health Organization (WHO), the High Commission on Human Rights (UNHCR), the International Labor Organization (ILO) or the Educational, Scientific, and Cultural Organization (UNESCO), the International Court of Justice (ICJ), and the International Criminal Court (ICC), to name but a few. These organizations perform real service to the people of Earth. These agencies and their infrastructure can and must be preserved, expanded, empowered, and made truly effective on a global scale.

The failure of the U.N. lies with its Charter, which remains a mere treaty among the sovereign states, and does not empower a democratic parliament to legislate binding world laws. This Charter must be replaced with the *Constitution for the Federation of Earth*. If the *Constitution* is ratified under the criteria specified in Article 17, the first immediate steps of the new Earth Federation in addition to activating the World Parliament will be to invite all viable U.N. agencies to integrate into the ministries specified under the *Constitution*. The High Commission on Human Rights can integrate into the World Ombudsmus, the ICJ and ICC can integrate into the World Supreme Court System, etc.

Doing so will empower these agencies immeasurably. Their funding base will no longer be dependent on the voluntary contributions of nations but will be vastly expanded to make them effective on a planetary scale. Their office infrastructure will be expanded to provide what is needed for all the people of Earth. Their agencies will no longer be subject to the power politics of nations or the whims of imperial powers. The existing accomplishments of the U.N. will be magnified to serve as a basis for a real transformation of the world order. Only under a democratic constitution can this happen, for the present undemocratic structure of the world and the U.N. itself currently defeats the very goals that are articulated in the U.N. Charter “to promote social progress and better standards of life in larger freedom” for all human beings.

In addition to advocating replacement of the U.N. Charter with the *Earth Constitution*, the Provisional World Parliament has already taken steps to interface with existing U.N. movements for the development of world law, themselves facing the same problem of origins. Specifically, it has adopted a variety of world statutes developed by the Assembly of States Parties (ASP) who have been signatories to the treaty for an International Criminal Court (ICC). The Parliament has reconstituted and integrated the Rome Statute for the International Criminal Court as World Legislative Act #20 for a World Court Bench for Criminal Cases. It has also adopted and modified Rules of Procedure and Evidence developed by the Assembly of States Parties for the ICC as World Legislative Act #24. In addition, the Parliament has adopted the *International Statute on the Rights of the Child*, reconstituting with greater strength the original U.N. *Convention on the Rights of the Child*, as a necessary legal basis for creating a World Juvenile Bench that recognizes the generally accepted principles of juvenile law.

The problem facing the *Convention on the Rights of the Child* as well as the Assembly of States Parties in developing an International Criminal Court is that these have been so far developed within the framework of sovereign nation-states and hence can function as no more than voluntary treaties from which nations may withdraw if they please. The Rome Statute of the ICC was written under this assumption. The original ICC statutes, therefore, rather than empowering the Court for issuing subpoenas and requiring witnesses and evidence as commanded by enforceable law, could only “request” such things, since the ICC is dealing with possible crimes committed within sovereign nation-states who may be party to the ICC treaty. The ICC is a major step forward towards world law applied to individuals (as opposed to most “international law” that applies to nation-states), but it still faces the problem of origins in taking the leap to real law, enforceable over individuals.

The Provisional World Parliament has changed only that wording that degrades the statutes of the ICC to compromise with the treaty system of sovereign states. Instead, it assumes the power of *mandamus*, the real power of a legitimate court to summon witnesses, order arrests, and compel testimony. The World Constitution and Parliament Association, from its interim offices at the New Humanity Centre in Kalamata, Greece, worked during the 2006-2007 years to integrate the statutes of the ICC with the work of the PWP that would substantially strengthen both initiatives. This work continues with regard to a number of excellent statutes of international law that can easily be transformed into genuine world law.

Neither the WCPA nor the PWP command the significant resources and connections possessed by the ICC (which has a 50 million Euro internal budget). Yet the ICC lacks an institutional framework transcending the system of nation-states that can provide a rule of recognition for world law enforceable over individuals. If the ICC were to draw on the *Earth Constitution* and the work of the PWP for its authority and legitimacy, the cause of legitimate, enforceable world law would be advanced immeasurably, which appears to be the precise goal of both movements.

Both initiatives can further contribute to their legitimacy and mitigate the problem of origins by drawing on the Universal Declaration of Human Rights: Articles 7 (for equal protection under law), 21.3 (for the voice of people via universal suffrage as the authority of government) and 28 (for a guaranteed universal social order that makes effective protection of human rights possible). One can reasonably argue that multi-cameral world parliament is urgently required and already legal, since enforceable world law is recognized as a human right in this Declaration. However, the problem of origins can be more effectively dealt with through cooperation of the ICC and the PWP, for the PWP is actually doing precisely what is necessary if the ICC is to be ultimately legitimate and successful.

4. A Powerful Global Democracy

There are some world federalists who object to the *Earth Constitution* because it creates a powerful Earth Federation government with authority over many areas of world order. These thinkers believe that the world should create a much weaker federation giving more latitude to nations, global

trade organizations, and local communities.¹⁴ They fear putting too much power into the hands of a centralized world bureaucracy. In 1950, before the information that we have today about the devastation of our world across the spectrum of human activities, this argument may have been cogent. And thinking exclusively in terms of the flawed, limited, and militarized institutions of “governance” now in place in the world, this argument might also be considered cogent. But in the light of the advanced condition of destruction throughout the spectrum of human activities that we are aware of today, and in the light of the carefully constructed democratic checks and balances embedded in an *Earth Constitution* that will be free of militarism, secrecy, and fear, both of these arguments appear deeply flawed.

Hannah Arendt distinguishes between power and violence in ways that may illuminate why powerful global democracy is not only legitimate but necessary and desirable:

Power needs no justification, being inherent in the very existence of political communities; what it does need is legitimacy.... Violence can be justifiable, but it never will be legitimate.... We saw that the current equation of violence with power rests on government’s being understood as domination of man over man by means of violence.... To substitute violence for power can bring victory, but the price is very high: for it is not only paid by the vanquished, it is also paid by the victor in terms of his own power.... Power and violence are opposites; where the one rules absolutely, the other is absent. Violence appears where power is in jeopardy, but left to its own course it ends in power’s disappearance. This implies that it is not correct to think of the opposite of violence as nonviolence; to speak of non-violent power is actually redundant. Violence can destroy power; it is utterly incapable of creating it.¹⁵

The *Earth Constitution* sets up a government with authority to regulate many aspects of our world order for the common good of the people of Earth including legal regulation major globally necessary resources such as oil, global financial institutions, global corporations, and nation-states insofar as they must conform to the human rights specified in Articles 12 and 13. It also sets up a network of nonviolent mechanisms of governance that eliminate all need for a military, that promote conflict resolution and open dialogue world wide, that institutionalize world courts in the service of the rule of law and fairness, that strictly limit the prerogatives of the World Executive and World Police, and that institutionalize a World Ombudsmus devoted to protecting the people of Earth from all sources of harm, including the Earth Federation itself.

All these mechanisms maximize nonviolence in human affairs. For this very reason, as Arendt points out, they also maximize authentic, legitimate power. The Earth Federation’s real power to promote the common good and create a world of peace, justice, and sustainability will be activated to the extent that the political community of Earth recognizes, legitimates, and supports these mechanisms and methods of governance. It will lose power and legitimacy precisely to the extent that violence is used to protect arbitrary forms of domination. As Mahatma Gandhi expressed this in *Socialism of my*

¹⁴ E.g., James A. Yunker. *Political Globalization: A New Vision of Federal World Government*. Lanham, Georgia: University Press of America, 2007.

¹⁵ *On Violence*. New York: Harcourt Brace & Company, 1970, pp. 52-55.

Conception, when exploitation and domination are absent, a government has no need of deception, lies, secrecy manipulation of information, or a military apparatus. Its operations will be transparent to the people and its power will be proportionate to their support.¹⁶ What we want and need is a powerful global democratic government capable of dealing with the immense catastrophes faced by human kind, from global poverty and disease to massive human rights abuses to planetary climate collapse.

In the Introduction, we reviewed Article 1 of the *Earth Constitution* that outlines the basic functions of the Earth Federation. Each of these six functions deals with a set of major global crises that plague humanity beyond the scope of any sovereign nation or treaty of such nations. Each of these crises already causes immense suffering and human rights violations among the peoples of Earth. And each can only be dealt with effectively by a powerful democratic government with sufficient authority to make and enforce laws everywhere on the planet. There is no other way to turn around climate collapse and restore the Earth to ecological health. There is no other way to eliminate all militaries and weapons of war from the Earth. There is no other way to create reasonable economic equality and prosperity for the peoples of Earth. There is no other way to effectively protect the human rights of every person on Earth. Powerful democratic government is utterly needed and those who claim otherwise are simply naïve or disingenuous.

Genuinely democratic government should be powerful, for it clearly must effectively protect human rights, the environment, the economic prosperity of all people, and end militarism and war. The real issue is not the power of government; the real issue is the *design* of government to ensure that genuine democracy is preserved and protected and how to authentically *empower* it on behalf of the common interests of the people of Earth. Close examination of the *Earth Constitution* reveals that it is brilliantly conceived to protect democratic processes and prevent tyranny. The analyses presented by Dr. Eugenia Almand in this volume demonstrate this careful design at great length. The Earth Federation will have no military. Its Executive Branch (always the most dangerous branch of any government) will not even have police powers. The Executive has no power to declare a state of emergency and suspend the *Constitution*, no power to refuse to implement the budget, and its members may be removed for cause through carefully defined procedures of the World Parliament.

It is also important to realize that under the Earth Federation the power of democratic government will be substantially transformed from what we presently think of as “powerful government” under the nation-state system. Powerful government today is associated with violent military and police powers that are used all over the world for surveillance, intimidation, and repression of populations. Hans Morgenthau’s *Politics among Nations* stresses that nation states and their ruling elites are concerned with “power,” which really means violent imposition of special interests at the expense of the majority. Like its forerunner, Machiavelli’s *The Prince* (1532), political “realism” of leaders directs itself to *violent* “power” most basically, emphasizing militarism and coercion when necessary while at the same time using moral concepts (the rhetoric of democracy, peace, or popular

¹⁶ Anand T. Higorani, ed. Bombay: Bharatiya Vidya Bhavan, 1957.

goals like “protecting the environment”) only as a means for political control and domination in the interests of the state and its ruling elites – whatever it takes in a world of scarcity built around absolute winners and losers.

It is precisely this pursuit of “power” so feared by those who believe in freedom today that will largely disappear from the authentic democratic system of the Earth Federation. When the non-democratic aspects of the world disappear, including the foreign policy of all “sovereign nations” with their militaries, their secrecy, and their espionage, then things will look very different. When the scarcity of goods and resources disappears through a rational and moral economic policy in the service of all persons, then the incentive to control what is available will largely evaporate. And when a media in the service of a ruling class and powerful governmental interests disappears (and all these will explicitly disappear under the *Earth Constitution*), then politics, leadership, police powers, and the uses of governmental bureaucracy will all be substantially transformed. We need powerful democracy, for genuine power is always “power of the people.” But such democracy under the *Earth Constitution* will be substantially and demonstrably different from today’s arbitrary big government insensitive to the public, using secrecy and security to cover up its real agenda, while actually destroying democracy and violating human rights everywhere on Earth.

5. The Roadmap

When I was in Japan in 2005, I met with many members of the Japanese World Federalist Movement (WFM) and other supporters of the democratic world government. World federalism in Japan has flourished more vibrantly than in many other parts of the world in part because the Japanese have kept alive their memory of the horror of nuclear weapons. I met a number of Japanese world federalists or WCPA supporters also devoted to preserving the memory of what happened in Hiroshima and Nagasaki. Yet world federalists there told me that the younger generation is asking for a “road map.” They are not content with organizations advocating world government or educating people on the need for world government, they want to know how this can be accomplished.

The answer to that question is embodied in Articles 17 and 19 of the *Earth Constitution* that deal with ratification of the *Constitution* and the development of provisional world government respectively. Unlike some NGOs working for “global solutions,” it is not necessary to spend vast amounts of time and energy fighting with the world’s dominant institutions and their power structures over incremental modifications of the absurd and immoral world system. Article 17 wisely lays out three progressive levels of activation for the Earth Federation. Actions directed to achieving each of these three levels provide a specific roadmap for citizens of Earth to follow in order to liberate themselves from the trap of the present contradictory world disorder that uses the rhetoric of democracy and human rights to actively militate against transformation to genuine global democracy.

Ratification by political units. Section A specifies procedures for ratification that can include referendums for any defined political unit or referendums of electoral districts as these are worked out

by the Provisional World Government. These include “local communities, cities, countries, states, province, cantons, prefectures, tribal jurisdictions, or other defined political units.” All such referendums must include a minimum of twenty-five percent of all eligible voters over the age of 18. A simple majority vote of the voters shall determine ratification. Section A also specifies that “the universities, colleges and scientific communities and institutes in any country may ratify the *Constitution*.” The roadmap becomes clear for those in each community of the world. The campaign for ratification can operate in any venue and at any level. The goal is to get as many defined political or educational units of the world as possible to ratify the *Constitution*.

Ratification by individuals and organizations. As we saw in the Introduction, individuals may also ratify the *Constitution* and take themselves out of the immoral condition of *de facto* war that now perverts human relationships worldwide. All such individuals can now discern this feature of the roadmap: through grassroots activism for worldwide referendums on the *Earth Constitution*, the ground swell will grow into the overwhelming demand for authentic global democracy and the dawn of a new era for humanity. At the same time the Earth Federation Movement also encourages *organizations* to affirm the ratification of the *Earth Constitution* as part of their organizational goals. It has been developing a network of organizations that work for the environment, to end poverty, to secure nuclear disarmament, or to protect human rights while at the same time affirming the *Constitution*. None such organizations can succeed in their goals unless the *Constitution* is ratified and enforceable world law is developed. As Professor Harris expresses this:

Greenpeace.... will not attain its ends unless it joins forces with other non-governmental organizations and with the World Constitution and Parliament Association in a campaign for the ratification of the *World Constitution*.... The goals of Oxfam are already included among the Directive Principles set out in the *Constitution for the Federation of Earth*, and only an authority with global jurisdiction could effectively legislate to attain them.... The human rights that Amnesty espouses...are all embodied in the *World Constitution*. To achieve its aims, therefore, Amnesty International must join the campaign to ratify the *Constitution for the Federation of Earth* and apply its skills and its energies as much to advertising that as to detecting violations of Human Rights.¹⁷

Ratification by the minimum number of nations. Article 17, Section C, provides for “preliminary or final ratification by a minimum of twenty-five nations, each having a population of more than 100,000.” It provides for several combinations of ratification by nations with ratification by direct referendum of world electoral districts. (The WCPA has already done noteworthy work in defining these districts for the Earth Federation.) However, this minimum requirement makes the first operative stage of world government a practical and realizable goal. No other world federalist organization offers anything resembling this practical arrangement that can happen in the relatively near future and which is legitimated by the *Earth Constitution* itself. Concerned citizens of the Earth and the network of organizations described above should all be working for a *founding ratification convention* scheduled to meet at a specific time and place, convening at least the minimum number of nations who will *simultaneously* ratify the *Constitution*.

¹⁷ *Earth Federation Now! Tomorrow is Too Late*. Sun City, Arizona: Institute for Economic Democracy Press, 2005, pp. 124-125.

The Protocol of procedures for ratification at this founding ratification convention has already been developed by the Provisional World Parliament. Here is something specific, doable, and Earth-transforming that concerned individuals and organizations can incorporate into their goals. We are not lost in the maelstrom of struggling against endlessly resistant forces attempting to prevent the U.N. from becoming effective. We are not lost as private citizens or NGOs struggling against the overwhelming odds posed by multinational corporations. The most practical steps we can be taking involve establishing this founding ratification convention and bringing the minimum of twenty-five governments to the table, governments who realize that there is no way out of their present nightmare of poverty, disease, exploitation, and manipulation by the dominant world forces unless they act to found a new, democratic world system. As world-famous anthropologist Margaret Mead declared: “Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.”

Provisional world government. Article 19 empowers citizens of Earth to set up provisional world government in lieu of the failure of the governments of the world to cease in their criminal neglect of the global environment, global poverty, global militarism, or global human rights abuses. We saw the Declaration of the Rights of Peoples affirm that citizens of Earth have both a right and duty to live under the legitimate rule of democratically legislated world laws. This article provides criteria for initiating the Provisional World Executive, for financing the provisional world government, for setting up the provisional World Court system, and the Provisional World Parliament. All these are concrete tasks that citizens can be working on now to move the world rapidly forward to real transformation of its present self-defeating and self-contradictory premises.

We have seen that the aspect of Provisional World Government most developed to date has been the Provisional World Parliament, which has met ten times from 1982 to 2007 with an eleventh session scheduled for Kolkata, India in January 2009. The Parliament addresses the problem of origins head-on. It is not merely “provisional.” It is also *governmental* representing, as no other organization does, all the people who live upon the Earth. Legitimate government for the Earth must begin somewhere, someplace before it is too late. Indeed, it is already a half century overdue. It begins under Article 19, here and now.

This article provides another dimension of the roadmap for people to build the foundations of a legitimate world order. While we have seen that these foundations are not binding on the final World Parliament activated with the First Operative Stage of the Earth Federation, its structures, institutions, decisions, financing systems, and laws will profoundly impact the future of Earth, and the newly ratified Earth Federation will have resources to draw upon (trained leaders, documents, organizational infrastructures, finances, etc.) that are ever more urgently needed as the Earth continues to descend into social chaos under its present illegitimate world disorder. As Eric Gutkind declares: “Man is greater than he thinks.” We are capable of rising to the challenge.

The people of Earth have a concrete program available to them for a decent future. Present

NGOs not affirming the *Constitution* push on blindly in the face of ever-growing social chaos and destruction on the Earth. Most present world federalist organizations endlessly talk about “global democracy” in the face of ever-growing dictatorship and domination from the world’s superpowers or hopelessly try to work within the present self-defeating system without confronting the problem of origins. Present national governments are either trapped into the endless cycle of poverty and domination through exploitation of their cheap labor and resources or caught in the competitive power struggle of weapons and greed that flushes down the toilet of militarism alone more than a trillion U.S. dollars per year. The only viable option is ratification of the *Earth Constitution* before it is too late. The *Earth Constitution* itself provides a roadmap with specific, achievable goals adequate to address our multifaceted planetary crises. Professor Harris eloquently describes what is at stake if we fail:

The fruits of culture will be lost forever; the light of knowledge will be extinguished, and the discoveries of science will have been in vain; the illumination of consciousness will vanish from the Earth, abandoning it to oblivion as it becomes a dead planet, like Mars or Venus. Federalists of the Earth unite; we have everything to lose if you fail!¹⁸

The three volumes of *Emerging World Law* together constitute an immense source of hope in the face of our chaotic world order. The monumental work by thousands of world citizens over half a century collected in them not only envisions a truly transformed world premised on peace, justice, and sustainable prosperity. It also confronts *the problem of origins* in ways that provide a genuine course of action for freeing ourselves from the self-contradictory premises of our present failed world system. For the first time, this astonishing synthesis of vision, integrity and hope will be available to humankind in a mere three volumes. We do not have to reinvent the wheel. Our task is to make it happen, to effectively address the immense suffering of the people of Earth, future generations, and the other life-forms on our precious planet by courageously facing, rather than avoiding, the problem of origins. We have before us a practical, realistic set of options for the people of Earth, a set of options that all those of vision, wisdom, and courage may embrace without compromise.

¹⁸ Ibid., p. 128.