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Challenges & Opportunities

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Integrated Approach to Peace & Human Security in the 21st Century*

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Abstract

Humanity has made remarkable progress during the past two centuries in advancing peace, democracy, human rights, economic development and social equality. The evolution of human relations has progressed far from the time when physical violence, war and conquest were the predominant form of international relations. Diplomacy has evolved from political negotiations at the conference table to mutually beneficial economic exchange and creative cultural integration. But the ideal of peace and human security for all human beings remains elusive, distant and utopian. Violence and insecurity persist and social harmony is threatened by the competition for political supremacy, markets, jobs and scarce resources. Thousands of nuclear weapons remain armed and on alert. Existential ecological threats increase daily. The roots of war and violence remain intact, even if their most horrendous expressions have receded from view. The permanent abolition of war and achievement of human security for all cannot be attained by narrowly conceived political alliances or collective security agreements. The negative concept of peace as the absence of war needs to be replaced by a positive conception of peace as the essential condition for the fullest development of human potential. The narrow concept of security in military and political terms needs to be replaced by an inclusive conception that views security as an emergent property of effective and harmonious social organization founded on the ultimate value of the human being. Peace and security are fundamental attributes of society as a whole. They can only be achieved by a comprehensive, integrated approach that addresses the roots of violence and disharmony in all forms—political, military, economic, social, cultural and ecological. This will require radical democratization of international institutions, establishment of an effective global legal process, abandonment of outmoded conceptions of national sovereignty, regulation of the global casino, recognition of the fundamental right to employment and economic security, and a realization of the essential role that cultural diversity plays in the evolution of the human race. New theory is needed to unify the disparate fields of social science by development of a transdisciplinary, human-centered perspective of society and social evolution. Formulation of a unifying social theory requires a radical shift from reductionist analytic thinking and mechanistic systems thinking to a more organic, integrated form of thinking that views society as a living organism and regards peace and security as emergent properties of harmonious social organization. These objectives can be significantly advanced by establishment of a

* Based on a speech delivered by the author at The Inter Parliamentary Coalition for Global Ethics at United Nations Headquarters in New York on September 14, 2016.

new type of international center for human security dedicated to combining new thinking on these issues with practical political initiatives for their implementation.

1. Missed Opportunities

The history of the 20th century is a record of unprecedented challenges, remarkable achievements and missed opportunities. The world community missed a unique opportunity at the end of WWII to abolish war between nation-states. After centuries of military confrontation under the rubric ‘balance of power’ culminated in two world wars, in 1945 representatives of 51 countries founded the United Nations as a global political assembly embodying the principles of peace, cooperative security, democracy, and universal human rights. Indian independence in 1947 was followed by the collapse of colonial empires around the world and independence for dozens of other countries. The post-war period became one of unprecedented prosperity. Europe, which had been the epicenter and motor for global conflict for centuries, was transformed into a model of peaceful political, economic and social relationships and collaboration. Peace was cemented by the emergence of European Economic Community and NATO, forging an unprecedented economic and military alliance that effectively ended the threat of warfare between its member countries.

“The rapid globalization of economy in the absence of effective international institutions converted international financial markets into a global casino and enabled multinationals to operate increasingly free of regulatory constraints.”

But the world community utterly failed to capitalize on the political opportunity envisioned by the founders of the UN and made possible by the positive post-war atmosphere. Instead, the new institution quickly degenerated into a forum for political confrontation between competing global military alliances. Instead of global disarmament, international relationships quickly degenerated into intensive military and political competition between two opposing military blocs. The peace of 1945 was followed by 45 years of nuclear confrontation. World war on the battlefield was replaced by Cold War tensions and proxy-wars, a frantic arms race that produced 70,000 nuclear weapons, and the constant imminent threat of total mutually assured destruction (MAD). Deeply concerned by the rising danger resulting from post-war political and military developments, the World Academy of Art & Science was established in 1960 by eminent scientists and intellectuals committed to cooperative international efforts to address pressing global problems. Its founders included Albert Einstein, Robert Oppenheimer, Bertrand Russell, Joseph Rotblat and many others deeply concerned about the growing threat posed by the proliferation of nuclear weapons and the fast-deteriorating atmosphere of political confrontation.

In 1990 humanity missed another unprecedented opportunity. The end of the Cold War, the decline of communism, and breakup of the Soviet Union created the possibility

of permanently eradicating nuclear weapons and establishing a truly inclusive, cooperative security system that could abolish the threat of future international conflicts. Initial progress was achieved on several fronts. The fall of the Berlin Wall, the spread of democracy and human rights in Eastern Europe, the dissolution of the forced union of Soviet Republics, the breakup of the Warsaw Pact and expansion of NATO, and the seventy percent reduction in the total number of nuclear weapons were dramatic achievements. The founding of WTO ushered in a new era of global trade. The founding and rapid expansion of the European Union solidified cooperative relations in Europe. The Internet evolved into the first truly global social network, promoting transnational and cross cultural exchanges between hundreds of millions of human beings from all over the world.

But the initial euphoria that accompanied the end of the Cold War soon dissipated and the positive momentum reversed. Instead of progressive reduction of nuclear stockpiles leading to complete abolition as mandated by the Nuclear Non-Proliferation Treaty, production and possession of nuclear weapons spread to four more nations and prompted other countries to consider acquiring them. Space weaponry and cyber warfare gradually gained legitimacy. The expansion of NATO stopped far short of transforming it into a truly global cooperative security system, failing to take into account the legitimate security concerns of Russia and other regions. The peaceful breakup of the Soviet Union was interpreted by many as the total collapse of Russian power, leading eventually to an assertion of unilateral American power in Afghanistan and Iraq. The fall of communism in Eastern Europe was misinterpreted as a victory for extreme neoliberalism, breeding arrogance in international affairs, promoting the wholesale adoption of flawed economic doctrines and breeding oligarchy in former communist countries, while dismantling decades of economic and social progress in the West. The field of global confrontation shifted from war and politics to intense economic competition. The rapid globalization of economy in the absence of effective international institutions converted international financial markets into a global casino and enabled multinationals to operate increasingly free of regulatory constraints. The result has been rising levels of financial instability, unemployment, economic inequality, social tension, political instability, cultural conflict, terrorism, competition for scarce resources and ecological destruction.

All of these threats to peace and human security persist and continue to grow. The urgent compelling need for radical change and the growing danger of continued inaction are indicated by the lack of a compelling vision of the future, the loss of confidence in traditional institutions, rising cynicism regarding prevailing economic theory and policies, growing hostility to business and financial institutions, the backlash against globalization, the sense of helplessness to combat climate change, the inward turning of nations, rising disillusionment with established parties and policies, and growing resentment, alienation and violence among the youth. The social compact for peace, freedom and prosperity for all so enthusiastically embraced in the early 1990s has been replaced by a growing sense of uncertainty and insecurity regarding the future of the human community.

This trend is not inevitable. Crises can be converted into opportunities. History confirms that it often requires the intensity and urgency of serious crisis to generate the willingness for radical change. The growing disenchantment with national politics is a negative sign of a

positive opportunity. The loss of faith in conventional social theories and policies is a demand for urgently needed new thinking. The failure of international institutions to fill the vacuum created at the end of the Cold War is an invitation for radical reform. Circumstances are now ripe for bold international political action to promote new thinking, strategies and policies. Opportunity knocks for an international coalition of nations, institutions and individuals dedicated to establishing a new paradigm for global peace and human security.

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2. Evolving Concept of Human Security

Traditionally, peace and human security have been viewed in narrow, negative terms. Peace has been defined as the absence of war or conflict. Security is still being conceived in terms of protection against threats and use of physical force in violation of the sovereign rights of a nation and the self-determination of its people. These narrow, negative conceptions are incomplete and inadequate. They merely describe but do not point to the underlying causes or remedies. Nor do they reflect the positive human condition of harmony and social organization that is the only real and effective deterrent to war and conflict. In their place, we need a conception of peace that is founded on positive values and conditions, rather than the mere absence of violence. We need a broader conception of human security that encompasses the entire spectrum of human needs for survival, growth and development, and not merely the need for physical protection from aggression. We need a conception based on the realization that peace and harmony represent positive conditions or statuses of society, closely related to the overall organization and functioning of the society, not merely the absence of negative disturbances.*

The prospects for world war have receded. War between nation-states is increasingly infrequent and unlikely, although threats of military action continue. Even civil wars have become a cause for international concern, evoking strong pressure and intervention to ensure they are resolved rapidly. But real threats to peace and security persist and even increase. These threats are political, economic, social and ecological. The rights of sovereign nations continue to be threatened by the unilateral acts of other states. Authoritarian regimes still deprive huge numbers of people of freedom and fundamental legal and human rights. Even in many so-called democratic countries, the rights of individuals and minorities are in constant jeopardy. The threat of famine and persistent poverty still undermines the security

* A positive conception of peace is found in the ancient Indian Sanskrit term for peace, “shanti”, which refers to a positive condition founded on spiritual foundations of inner strength and harmony which are immune to all disturbances. The application of this concept to international relations was explored and developed in discussions with Robert van Harten and Mark Spetter, in 2006-7 during preparation of their joint PhD proposal for research on a theory of peace.

of a few billion people. Over 200 million workers, including more than 80 million youth, are unemployed, leaving many of them with little prospect of a steady job, which is the essential condition for economic security. Global financial instability recently demonstrated its capacity to imperil the livelihoods and security of people all over the world and that danger persists. The unregulated and corrupt actions of multinational corporations' pervert public policies for private benefit; the illegal use of money power perverts democratic forms of government into oligarchies and plutocracies. Social tensions, intercultural conflict and terrorism are on the rise. And on top of them all is the existential threat to all humanity posed by climate change.

A positive and comprehensive concept of peace and human security can only be founded on a wider conception of society and social organization. Society is an indivisible and integrated whole. War, peace and social unrest are not attributes of any part of society. They are characteristics of the society as a whole, expressions of its viability, stability and integrity. An imbalance or disturbance in any one aspect can destabilize the whole. So also, any single factor or combination of factors that strengthen that social foundation or provides a constructive outlet for frustrated or pent up social energies can defuse social tensions and remove the underlying source of discontent from which it rises. Viewed from a social, rather than merely a political or military perspective, the progress of humanity in spreading democracy, rule of law, human rights, economic development, education, medical care and other social welfare measures offers valuable insights into the positive foundations on which lasting peace and security can be achieved.¹

Society is an organization that promotes cooperative interactions and relationships between individuals to enhance the welfare and well-being of all its members. It is an integrated, living organism. The prevailing conception of peace is akin to the negative conception of health as the absence of disease. Disease is narrowly conceived as the breakdown of a component organ or system. Treatment focusing on alleviating the symptoms or on measures to repair a malfunctioning part. By contrast, in traditional systems of medicine such as Ayurveda, health is viewed in wider terms as a property or status of the body as a whole. Health is fostered through measures that strengthen the general organization and harmonious equilibrium of the whole organism. Like the body, society strives to maintain a balance and equilibrium between people and activities. Like the body, all the parts, systems and functions of society are interrelated and integrated with one another. Cooperation, coordination and integration between its constituent elements are as essential for social peace as they are for bodily health.

3. The Evolution and Unification of Social Organization

Peace is a function of effective and harmonious social organization. It is fostered by the progressive development and evolution of the whole society. It develops horizontally by expanding the geographic reach and coordination of its different activities. It develops vertically by increasing cooperation and integration between different layers and levels of the social structure. The evolution of society began with tiny units of family, village and tribe which gradually expanded to constitute kingdoms. The subsequent emergence of

multi-cultural, multi-ethnic nation-states marked an important advance in human social evolution, because this new model overcame the inherent limits resulting from the partition of humanity into separate groups according to languages, religious, ethnic and cultural background. The modern nation-state created a common space and organization within which diverse demographic and social groups could co-exist, cooperate and intermarry, resulting simultaneously in greater unity and greater diversity. The nation-state is a triumph of cultural diversity over mono-cultural isolationism.

The development of democracy has been the primary instrument for the vertical integration of society to reduce or eliminate class privileges and religious discrimination. For thousands of years, Indian civilization was organized politically into hundreds of princely states varying in size, language, ethnic composition and religion. The fragmentation of Indian society was finally overcome by successive foreign invasions by the Moghuls and the British. It required foreign conquest to forge national unity among this highly diverse population. It was only after India achieved independence in 1947 that these culturally related but politically separate units were fully integrated within a modern nation-state. Democracy in India has promoted vertical social integration by reducing discrimination between castes and classes. India's diversity of language, caste, class, religion, race and political grouping—perhaps Nature's greatest experiment with heterogeneity—has evolved into one of its greatest experiments with human unity.

The evolution of society remains a work in progress. In a few nations it has proceeded very far to ensure an atmosphere of peace, security and harmony for all members. Most offer some degree of protection. Still, in many even the basic internal conditions for peace and security within national boundaries are yet to be met. But when we look beyond the boundaries of the nation-state to the status of the human community as a whole, progress is far less evident, especially prior to 1945. Human rights, rule of law and democratic representation, which constitute the foundation of the modern democratic nation-state, are sparsely and sparingly applied to international relations. The UN Charter and the Universal Declaration of Human Rights set forth idealistic principles for peaceful co-existence between sovereign nation states and respect for the rights of individual citizens. In practice, the UN remains an undemocratic institution in which most power resides with the permanent members of the UN Security Council, who possess an arbitrary right to veto actions not perceived to be in their self-interest, even those supported by the entire rest of the world community.

Social evolution has progressed up to the level of the nation-state and struggles to advance haltingly beyond it. Peace and human security are still organized on that basis. Yet many of the essential conditions for permanent peace and human security necessitate cooperation and collaboration between nations. Moreover, when it comes to ecological security, global cooperation is essential. This makes the European experiment with a supranational organization of great relevance to all humanity. The problems it encounters arise mainly from two causes. First is the refusal of national governments to fully cede authority to a democratically elected, all-European government representing the rights and aspirations of all European citizens. Second is the unwillingness or inability of national populations to outgrow the limitations of national identity, as humanity has previously outgrown the

limitations of family, village, tribe, ethnic, religious and cultural differences in order to establish modern nation-states. Viewed in an evolutionary perspective, further transition appears inevitable. It will require corresponding advances in social organization. Europe's initial efforts point the way forward as well as the limitations of exclusive reliance in rules and mechanisms to achieve higher and wider levels of integration and unity. Society is a conscious living organism, not merely a constructed, inanimate machinery. Ensuring lasting peace and human security between nation-states will require psychological as well as social and cultural integration. Efforts to achieve global peace and human security can have only limited success so long as our educational system highlights differences in national culture, our economic system promotes competition between nation-states, and our political system places emphasis on national sovereignty rather than human unity.

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4. Nuclear Weapons and Cooperative Security

The persistence and proliferation of nuclear weapons graphically illustrate the limitations imposed by the prevailing system of global social and political organization. The mere existence of nuclear weapons undermines the security of all nations and people of the world, including and especially those residing in countries possessing nuclear weapons. The increasing likelihood of nuclear terrorism or blackmail threatens the security of all human beings. These weapons should never have been created. At least now they can have no possible *raison d'être*. *They are a disease that must be abolished.*

The solution does not lie in preventing Iran from acquiring nukes or convincing North Korea to give up the ones they possess, although both of these objectives are highly desirable. Nor will it be sufficient to persuade Pakistan and other nations to renounce first use of these weapons under any circumstances. The only effective solution will be for the international community in the name of humanity to declare the production, possession, use or threat of use of these weapons a crime against humanity and to destroy the weapons of mass destruction en masse. If the UN Security Council is unwilling to do it, then the UN General Assembly should assert its power to declare the use or threat of use of nuclear weapons a crime against humanity and refer a new case before the International Court of Justice demanding its recognition as valid international law. Failing that, the UN should conduct the first global electronic referendum of all adult human beings to declare the illegitimacy and illegality of these weapons.

But nuclear weapons are only one expression of the problem. The core of the problem lies in the present paradigm of competitive security in which each nation is responsible for its

own security and largely dependent on its own means to secure it. Under this paradigm, each nation is encouraged to acquire the maximum defensive and offensive weapons capability to protect against any possible threat. The nature of the competitive security paradigm was graphically described by the International Commission on Peace and Food (ICPF) in its report to the UN in 1994.

The competitive security paradigm is a state-centred, egocentric approach in which the security of each nation is perceived in terms of its military superiority over potential adversaries. The push of each nation for unlimited security through military power is inherently destabilizing, since it inevitably increases the level of insecurity of other sovereign states. In practice, the effort of nations to arm themselves against perceived external threats generates a sense of insecurity among other nations and compels them in turn to increase military preparedness, thus initiating a vicious spiral, as it did during the Cold War.²

This competitive paradigm was responsible for the insane escalation of arms production during the Cold War, which still persists today. That is the logic which led to 70,000 nuclear weapons and now sustains \$1.6 trillion in global military expenditure, up by 45% in nominal terms since the end of the Cold War. The only obvious permanent solution is to shift to a cooperative security system open to all nations in which each contributes to and is protected by the overall preparedness of the collective in exchange for renouncing the right to aggression against any other state for any reason.

What is needed is a quantum shift from the competitive security paradigm to a cooperative security system in which countries mutually and collectively agree to refrain from acts of aggression and to protect each other from such acts by any nation. This principle served to protect the NATO and Warsaw Pact countries in the past, but on an exclusive basis which promoted a polarization of alliances into military blocs and, most importantly, left more than one hundred countries outside the security orbit and vulnerable to proxy wars. It should now be restructured on a global basis as a collective security system that offers protection to all nations from external aggression.³

NATO is a working example of a cooperative security system, but it remains an exclusive club and a perceived threat to countries which are denied entry. The expansion of NATO may make the nations of Eastern Europe feel safer, but it also acts as a spur to greater military spending by Russia, China, India, Iran, Pakistan and a host of other states left outside its purview. The only permanent solution is a global cooperative security system, which necessitates an effective system of global governance. We have avoided world war for 65 years, but we have yet to secure peace. That we can only accomplish together.

Toward the end, in its report, ICPF called for the establishment of a truly cooperative international security system supported by a world peace army open to all democratic nations willing to renounce war as an instrument of public policy and committed to defend each

other against any acts of aggression from member or non-member countries. The proposal resembles the constitution of NATO except that it is an inclusive system open to all and exclusively defensive in character.

5. Economic and Ecological Challenges to National Sovereignty & Global Rule of Law

As the recent nuclear accident at Fukushima illustrates, environmental catastrophes can be equally or more devastating than a nuclear detonation. It matters little to the hundreds of thousands of people who were driven from their homes, many never to return, whether the event was intentional or accidental. If this accident had occurred in Western Europe, instead of insular Japan, the radiation would have respected no national boundaries. If national sovereignty accords each nation the right to decide on the source of energy it will generate for its own use, what does it say about the right of neighboring nations to protection from the threat of nuclear contamination from beyond their borders? While regional security may be achieved by cooperation with other nations, global environmental security can only be achieved by cooperation with all nations. It is not the right of nations that is at stake here but the right of humanity as a whole to the global commons.*

The inviolable sovereignty of the nation-state is a flawed conception that cannot withstand rational scrutiny. The legitimate claims of the nation-state for self-determinism must also take into account the legitimate claims of the individuals who constitute each nation and the total collective of those individuals who constitute humanity as a whole. Justice cannot support claims of the sole legitimacy of any of the three at the expense of the other two. The legitimate source of authority for the nation-state derives from the consent of the governed, which is based on the inviolable sovereignty of the individual, and from the inviolable sovereign rights of humanity, which has chosen to organize itself as a community of nations.

Economic globalization has already undermined the nation-states' imperious claim. The myth of national sovereignty has already been defeated by the global marketplace, especially by international financial markets. Foreign exchange transactions average some four trillion dollars daily. These transactions consist primarily of surplus money circling the globe in search of higher returns, moving with the speed of light and with callous indifference to consequences of an earthquake or tsunami. Like its natural counterparts, this ungoverned social tempest is utterly without conscience, but not without intention. It thrives on uncertainty and strives to multiply complexity in an effort to conceal its transactions in a bewildering haze of jargon and sleight of hand. It seeks to destabilize national currencies in order to take advantage of sudden changes in their value. It rushes in and out of countries with highly disruptive consequences. It is utilized to hoard scarce food grains, energy and other raw materials to drive up international prices, to the detriment of people everywhere. Its aim is to maximize self-interest regardless of whose interests are sacrificed as a result. It plays nation and against nation in a competitive game designed to minimize taxation and

* This section is based on a paper presented by the author at the UNESCO Conference on Sustainable Development, Dubrovnik, in September 2011 which was published as an article entitled "Turn Toward Unity" in *Cadmus*, 1-3, Oct 2011, p115.

legal accountability. It strikes every vulnerability, uttering the hallowed name of free markets and economic science as it plunders. The soul and mastermind of the international financial markets is a computer running black-box trading algorithms, which have already wreaked havoc on the global economy on several occasions. Nations are defenseless against this most pernicious of all computer viruses, the virus of financial speculation, which moves with total abandon across national borders. Even the strongest of central banks, acting on its own, is hapless to defend itself. But worst of all, the entire world economy is held hostage for an extortionist's ransom. Tens of millions of jobs, which mean tens of millions of lives, are prey to its whims. In the name of free markets, growing numbers of people everywhere are deprived of one of the most basic of human freedoms, the freedom of livelihood.

Financial speculation represents as real a threat to human security as nuclear weapons and climate change. Its actions may be less physically destructive, but its sudden and pervasive impact is deeply disruptive of the very fabric of peace, prosperity and human well-being. Speculation is defended in the name of freedom supported by neoliberal economic philosophy. It represents a gross perversion of the original intention for which financial markets were invented as a means to facilitate and support the growth of the real economy. On the contrary, speculation diverts resources from the real economy and undermines its stability. The rapidly expanding gap between the rich and poor in recent times is channeling more and more wealth from productive purposes into a pseudo world where money chases money instead of creating real wealth, employment and welfare. Investors rightly point out that an effort to regulate or tax money flows and transactions nationally will only encourage the movement of money to foreign markets. Yet the very same group vigorously protests efforts to establish uniform policies and tax rates globally, for that would remove the threat which prevents national governments from regulating or taxing financial transactions. Speculation thrives in the absence of effective global financial regulatory mechanisms. The wisdom of the marketplace is a myth. The only truly free markets are those that are subject to regulations that preserve competition and a level playing field. Left to themselves, markets do not take cognizance of human welfare.

Global peace and human security cannot be achieved without establishment of effective global regulatory mechanisms to govern the activities of financial markets and multinational corporations. Differences in policy and enforcement are an open invitation for arbitrage. The destructive impact of speculative currency trading can be substantially mitigated without detriment to the global economy by imposition of a uniform Tobin Tax on short term, cross-border currency movements that are not directly related to trade or direct investment. One immediate result would be productive investment in human welfare by freeing trillions of dollars in foreign exchange presently held in reserve by national governments to defend their currencies against the threat of sudden attack. Ultimately, a permanent solution requires a unified global financial organization backed by international law, a world reserve currency and a world central bank.

Similarly, environmental challenges are oblivious of national borders and claims to national sovereignty. Environmental threats clearly and compellingly demonstrate the need for united and concerted global action by all nation-states. But this is a field in which cooperation rarely

extends beyond the conference table. International environmental law is rudimentary at best. Ecological issues require the formulation of new legal principles embracing a universal concept of sovereignty, which international courts are reluctant to embrace. The concept of national sovereignty—the idea that the state is not subject to any higher jurisdiction apart from laws and regulations with which it voluntarily complies—is inconsistent with principles of justice and human security for all. The emergence of common global environmental threats, such as chemical and radioactive pollution, the exhaustion of energy, mineral and water resources, and climate change, compels us to accelerate the evolution of international law. Law is both a condition and a consequence of social development, a form of social organization and an outcome of the broader process of social development.⁴

Historically, law evolved as a mechanism for conflict avoidance and resolution. Law is a civilizing force that evolves as society develops, transforming the raw power of physical violence into legal authority. Law represents the sublimation of violence by acceptance of common values, principles and processes for defining rights, governing conduct and resolving disputes. Law presupposes the existence of a collective. International law presupposes the existence of an international community—a community of people as well as states. Social order does not necessitate law. Primitive societies can be sustained on the basis of arbitrary authority, the rule of force and power. Law becomes essential when the rights of the individual and groups are to be safeguarded from arbitrary action. Law emerges in society with the emergence of the individual. Law represents the power of the impersonal collective over the individual, but also the acceptance by the individual of the impersonal authority of the collective internalized in his own mind. Therefore, laws presuppose the mental development and awakening of the individual. What begins as custom and usage evolves over time into codified law. Customs are based on values. Laws come into existence when the customs are accepted by all members of society. The most fundamental premise of law is that each individual's existence must be in harmony with that of everyone else's. The challenge today is for us to embrace shared values with respect to the global commons and the sovereign rights of individuals, nation-states and humanity as a whole.*

The evolution of law at the level of the nation-state is far advanced. At the level of the international community it is much less developed. The emergence of a shared global awareness and common human identity is still in a nascent state of emergence. The institutions needed to effectively organize global society have not yet acquired the requisite authority and strength. The process needed to create a comprehensive framework for global rule of law is still lacking. Insistent adherence to an outmoded historical concept of sovereignty is a major obstacle to the development of an effective global political, legal and social organization.⁵

6. Right to Peace

Since 1984, the UN General Assembly has been debating drafts of a resolution affirming the human right to peace. Subsequently the resolution has been considered by the Human Rights Committee. The right of peoples to peace resolution contains four substantive sections:

* This paragraph includes excerpts from the author's paper titled "Turn Toward Unity" published in Volume 1 Issue 3 of *Cadmus*

1. The solemn proclamation that the peoples of our planet have a sacred right to peace; 2. The solemn declaration that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State; 3. The demand that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations; 4. The supplication to all States and all international organizations to do their utmost in implementing the right of peoples to peace.⁶

Inspired by resolutions previously approved by the General Assembly, since 2008 the Human Rights Council (HRC) of the United Nations in Geneva has been working on the “Promotion of the right of peoples to peace”. On 1 July 2016 the HRC adopted a Declaration on the Right to Peace and recommended that the General Assembly adopt this Declaration in its 71st regular session, which would have begun its work in September 2016.

Why has there been need for three decades of debate to affirm what must be regarded as the most fundamental and inalienable of all human rights? The long struggle to obtain final approval by the UNGA reflects the complexity of the legal implications of its adoption and the cumbersomeness of the procedures for international deliberation. But most of all, it reflects the difficulty in overcoming the reluctance of nation-states to recognize the sovereignty of the individual human being.

7. Social Foundations of Human Security

There can be no assured peace and human security without addressing the international dimensions of peace—universal human rights, national sovereignty, global governance and rule of law, cooperative security, abolition of nuclear weapons and coordinated global action to address the environmental challenges. But these alone do not constitute a sufficient foundation for universal peace, social harmony and human security. The roots of conflict and violence lie in the deeper layers of human society and they can only be effectively extracted by addressing the issue at a more fundamental level.

This article has so far focused on the organizational structure of society. But it is also necessary to examine the content or substance of society and the process by which it is organized. Society is a living organism composed of living individuals and groups of individuals. They possess a vast reservoir of human potential in the form of energies, aspirations, ideas, attitudes, values, beliefs, knowledge, skills, and capacities that are expressed through myriad forms and varieties of organized and unorganized activity. This reservoir is the source and basis for all human activities, innovations, creativity and organization. The rapid and remarkable development of global society over the past few millennia has resulted from an increased capacity to develop, release, direct and channel this human potential for socially productive purposes. Its basis is the expansion of positive relations and increasing cooperation and coordination of activities between individuals and groups. It has been accomplished through the systematic development of social organization, including the institutions of national government and international relations, law and justice,

military, transport, communication, production, trade, education, scientific research, media and many others.

This process of social organization is the key to the process of social development. The process of development can be defined as an upward directional movement of society from lesser to greater levels of energy, efficiency, quality, productivity, complexity, comprehension, creativity, enjoyment and accomplishment. The essential nature of the process is the progressive development of social organizations and institutions that harness and direct the social energies for higher levels of accomplishment. Society develops by organizing all the knowledge, human energies and material resources at its disposal to fulfill its aspirations.⁷

“When the social organization is rigid and resistant to change or when it tries to direct the maximum benefits to an élite group, the energies are not able to find productive expression, and they begin to spill over in the form of frustration, discontent and violence.”

The organization of society converts social potential into many different types of social power—power for defense, governance, law, transportation, communication, production, commerce, research, education, healthcare, etc. All these forms of power are linked together, interdependent and interconvertible. The organization that accomplishes the transformation of social potential into usable social power grows increasingly sophisticated and complex.⁸

The values, ideals and structures that govern how the organized power is utilized determine the character of the society and its capacity for peace, stability, harmonious relationships and human security. Democratic values and institutions which recognize and uphold the rights of each individual and diverse grouping of individuals promote lasting peace and security. So also, social structures that maximize the equitable distribution of power among individuals, levels and groups and prevent the usurping of power by privileged minorities achieve the highest level of harmony and stability.

The relationship between peace and development is subtle and complex. It holds the key to effective strategies for addressing the roots of social unrest and violence. Society is not static or rigid. It continuously develops by an evolution of consciousness and organization. The awareness and aspirations of its members continuously expand and release fresh energies. Former WAAS President Harlan Cleveland observed this process in East Asia after the Second World War and described it as a “revolution of rising expectations”.⁹ Rising expectations are the principal driving force for social development.

In the measure the social organization is sufficiently developed to provide effective avenues for these fresh energies to find constructive, productive expression, social progress is smooth and rapid. In times of war or natural calamity, society channels all the available energies to cope with the crisis. Thus, we find nations able to double or triple their productive capacity within a short time as USA did after entering World War II. So also, rapidly

expanding economic opportunity, such as that prevalent in the USA and Europe after the last world war and in East Asia during the last quarter of the 20th century, generates an enormous power for rapid social development which fully absorbs the available social energies for productive purposes.

When the social organization is rigid and resistant to change or when it tries to direct the maximum benefits to an élite group, the energies are not able to find productive expression, and they begin to spill over in the form of frustration, discontent and violence. Power becomes more and more concentrated as it did in pre-revolutionary France and Russia and inequality rises dramatically as it did in USA during the 1920s and in many countries since 2000. The growing gap between rising expectations and increasing social opportunities leads to mounting discontent, tension and propensity for conflict. Great revolutions were the result of this process. The faster and higher aspirations rise, the greater the likely gap between expectations and reality. That gap promotes a sense of frustration, deprivation and aggression leading to social unrest and violence.

This process explains why violence actually increases even during times of rapid economic development, as witnessed in India and many other developing countries in recent decades. The discontent does not arise from a real increase in poverty. It arises rather from an increasing gap between aspirations and opportunities to realize them. The spread of democracy, the rapid development of the media, and greater access to education all increase public awareness about how people live in other parts of the society and in other countries, leading to increased awareness of their own relative deprivation and consequently increasing frustration.

8. Role of Economic Development

This process of social development explains why a comprehensive approach to peace and human security must necessarily take into account economic opportunity as well as political rights. Economic relations have always been an important and effective means for avoidance of war. The 20th century marked a radical shift from political negotiations to economic cooperation between nations, characterized by the opening of commercial relations for mutual benefit. The dramatic transformation of relations between China and USA since 1972 in spite of continued acute ideological differences is a remarkable instance of the power of economy to improve relations between people.

But the relationship between peace and economics is valid at the national level as well as at the level of international relations. This is dramatically illustrated by the sudden, unexpected end of religious conflict and terrorism in North Ireland since 2005. Up to that time the Irish conflict seemed so intractable that it appeared it would go on for decades. Like the conflict in Palestine, it had its origins in the distant past when England first colonized Ireland and subjected it to a deeply humiliating and oppressive imperial rule. The Roman conquest which conquered England did not reach Ireland and Scotland. Celtic Ireland lay beyond the pale of the Roman Empire and preserved its own distinct culture. The English colonial settlement of Ireland imposed centuries of severe hardship under English rule. The forced settlement of Belfast by Scottish Presbyterians generated deep resentment among Irish

Catholics. Irish independence in 1920 shifted the center of attention to the foreign occupied Northern region. An inextricable mixture of political, economic, cultural and religious factors made the problem intractable and seemingly beyond solution. Its intractable nature was complicated by the fact that the population of North Ireland witnessed bitter dispute between almost equal numbers of Irish Catholics on one side and Scottish and English Protestants on the other.

“There can be no effective and lasting solution to promoting peace and human security in a society which does not generate sufficient opportunities for gainful employment or provide some alternative means of ensuring social welfare.”

While many factors contributed to the remarkable transformation in North Ireland, one least appreciated was the consequence of rapid economic development in the Republic of Ireland to its south. When Ireland entered the European Union it was considered the basket case of Europe with high levels of poverty and unemployment, and very high rates of emigration to UK and USA. As a result, the population of Irish descent living outside of Ireland is roughly fifteen times higher than the present 4.5 million people living in Ireland. Faster rates of growth among the Catholic population in North Ireland aggravated tensions between communities, since it became evident that they would soon outnumber the Protestants who gave allegiance to Britain. The economic disparities between North and South were another aggravating factor, resulting in a steady flow of migrants and job seekers from Ireland to North Ireland until around 2000.

The turning point occurred imperceptibly when Ireland entered the European Economic Community, forerunner of the European Union, in 1973, but the consequences of that step did not become fully perceptible until nearly three decades later. During that period Ireland gradually transformed itself from Europe’s basket case to become its fastest growing economy in the 1990s, when its rapid economic development earned it the title of the Celtic Tiger. By year 2000, per capita income and employment rates in Ireland exceeded those in the UK and the direction of net migration reversed. Ireland became a popular destination for the North Irish, English and other Europeans in quest of better employment opportunities.

Until this dramatic change, a widespread belief had persisted that the conflict in North Ireland was essentially religious in nature and that anything short of a fundamental change in religious sentiments would be inadequate to resolve the conflict. However, a more considered view suggests that the factors influencing the region were at once far more subtle and more complex. After nearly five decades of terrorist violence, the conflict ended quite suddenly and unexpectedly in 2005, when the IRA announced plans for unilateral disarmament. The sudden peace in North Ireland gives us hope and teaches us not to rely too much on past precedent and recent experience in assessing the future prospects for peace in other regions subject to prolonged conflict.

9. The Right to Employment

Access to gainful employment is essential for promoting peace and human security nationally and globally. In a modern market economy, employment is the principal means by which individuals acquire the purchasing power to meet basic human needs for food, clothing, housing, education, and medical care and to fulfill their rising aspirations to benefit from the ever expanding array of comforts and conveniences offered by modern society. It is the basis for economic democracy, equivalent to the right to vote in political democracy. In recognition of this fact, US President Franklin Roosevelt planned to introduce a second Bill of Rights at the end of World War II protecting employment and other economic rights, but died before he could do so. Employment should be recognized as a fundamental human right and constitutionally guaranteed.

There is substantial evidence linking high rates of youth unemployment with rising levels of crime, violence and terrorism around the world. The Naxalite Maoist movement in Central India, radical Islam in the Middle East and Pakistan, drugs and violent crime in urban USA, Central America and Africa are all related to the absence of employment opportunities. There can be no effective and lasting solution to promoting peace and human security in a society which does not generate sufficient opportunities for gainful employment or provide some alternative means of ensuring social welfare.

The problem of employment is neither insoluble nor inevitable. It is the direct result of policies and priorities held sacrosanct, because they benefit established centers of economic and social power. Rules such as the tax rates applicable to payroll and capital gains, patent and copyright laws, policies concerning interest rates and speculative investment, incentives for investment in human capital, subsidies for energy and technology-intensive investments, all impact on employment. Change the rules and unemployment can be eliminated. Today's economies are organized to maximize growth, speculative investments, corporate profits, expenditure on weapons, high energy consumption and ecological destruction, rather than peace, human security, welfare and well-being. Change the system and the threats to human security can be radically reduced.

Employment is a global challenge, as well as a national problem. The competitive policies of other countries undermine efforts to manage employment solely at the national level. Solution to the global employment challenge necessitates global coordination of policies and strategies to harness the enormous potential of human capital and financial capital to ensure stable employment opportunities for workers everywhere. The alternative is increasing inequality, instability and unrest that threaten to tear apart the delicate social fabric woven so patiently, yet so sensitive and intolerant of neglect.

Peace and rising expectations fueled by the information age and rising human insecurity resulting from unfettered markets are an insufficient foundation for building a peaceful and prosperous world. The absence of international regulation and coordination is exploited to the advantage of multinational corporations at the expense of job seekers. Global policy coordination can stabilize global labor markets, but it will not address the severe inequalities in wages, which are aggravated by the ease with which jobs now move from one place to

another. Some form of global minimum wage, which could be graded according to average national income, would more substantially benefit low income workers with minimal impact on total employment. Its main affect would be to remove the price subsidy which presently benefits more wealthy consumers domestically and abroad.

“The greatest obstacle to global full employment is not population, automation, world trade, multi-national corporations or outsourcing. It is our collective faith in the myth of market fundamentalism.”

Effective policies can address the global employment challenge, but they must be human-centered policies. Current policies are based on the flawed notion that full employment is neither possible nor even desirable and on a system of values that gives greater importance to money than it gives to human welfare. The human resource is the most creative, productive and precious of all resources. Human beings are a perishable resource. Their capacities grow when effectively engaged, decline when left inactive. Society has a vast array of unmet and inadequately met needs—for education, health care, housing, environmental remediation, etc. At the same time, the current system possesses all the human and financial resources required to fully meet these needs, but it allows these precious resources to remain grossly underutilized or misdirected.

Efficient market theory is a terrible misnomer. Replacing human beings with machines may be efficient for the firm, but it is highly inefficient and wasteful for society. The greatest obstacle to global full employment is not population, automation, world trade, multi-national corporations or outsourcing. It is our collective faith in the myth of market fundamentalism. Valid economic theory must be based on the premise that the primary purpose of economic systems is to generate human security and promote human welfare, not to maximize growth or preserve accumulated wealth. Such a theory must be founded on the right to gainful employment as a fundamental human right.

10. The Evolution of Diplomacy

The course of history traces the evolution of diplomacy as a means for conflict avoidance and resolution. Several major stages can be identified that have transformed global society during the 20th century. The stages overlap and often occur out of turn, but still we can perceive a certain continuity in the progression from first to last. Before the advent of diplomacy, warfare was the principal means resorted to for settling conflicts based on the relative strength of the opposing parties. But even in early history, peaceful alternatives to warfare became prevalent. Among the most common was the forging of marriage alliances as a substitute for war or conquest. “Family diplomacy” enabled countries and empires to bind themselves to one another without resorting to wars of conquest and submission. During the 19th century, nearly all the monarchs of Europe including Queen Victoria and

Czar Alexander were members of the same extended family related by marriage. At an early stage of social evolution, a transition occurred from physical warfare to political treaties and alliances. Political diplomacy seeks to resolve or avoid military conflicts through treaty negotiations, alliances and balance of power based on bargaining and compromise. This phase characterized relations within Europe for many centuries and persisted as a dominant form of relationship until the end of the Cold War.

“Conflicts lend themselves to full and final resolution when we fully and genuinely recognize the truth in the other person’s point of view.”

Throughout history, diplomacy has often been clothed in high principles, fundamental rights and good intentions, but in practice these were usually little more than a veil for self-interest and self-justification. The transition from the politics of pure power and self-interest to political diplomacy based on principles of peaceful co-existence and rule of law is a recent phenomenon, even now respected more in word than in real act or intention at the national and international levels. The events that triggered the two world wars and many other regional conflicts were often clothed in similar garb. But in recent decades diplomacy based on Principles, Law and Rights has become more than mere words. The establishment of the International Court of Justice, the founding of the UN, ratification of the Universal Declaration of Human Rights, and creation of the EU are remarkable and unprecedented efforts of humanity to move beyond power to law, a process that is still only half done.

The 20th century marked a radical shift from political negotiations to economic cooperation between nations, characterized by the opening of commercial relations for mutual benefit. Economic relations have always been an important and effective diplomatic strategy and have become the most prevalent form of diplomacy today. The dramatic transformation of relations between China and USA at the height of the Cold War in 1972 in spite of continued acute ideological differences is a remarkable instance of the power of economy to improve relations between people. Before President Nixon’s surprise visit, such a radical change in relations seemed truly unimaginable.

Culture has always been a powerful force of change. Cultural diplomacy marks a significant step beyond traditional forms of political and economic diplomacy. Here the emphasis shifts from political treaties and trade agreements to social and cultural exchanges in which conflicts are resolved by mutual attraction to what is new, different and unique in other cultures. At its highest, cultural reconciliation leads to understanding that differences can be fully reconciled through mutual understanding and harmony. At its best, cultural diplomacy can lead to a higher stage of diplomacy which may be termed psychological. In this stage, we discover the universal principle that there is a truth in every point of view, even those which are diametrically opposite to our own. Conflicts lend themselves to full and final resolution when we fully and genuinely recognize the truth in the other person’s point of view.

The progression from military to political to economic to cultural and psychological diplomacy marks the transition from contradiction, conflict, and competition to compromise, reconciliation, harmony, and mutuality. Through this process, humanity evolves from the physical man to become the social and mental man. By this process violent revolution is transformed into social evolution, as the violent revolutionary fervor of France in the 1790s was transformed into peaceful social evolution between the classes on the other side of the English Channel in England. Inter-marriage between classes, religions, nationalities and even races has become a common means for cultural integration. Humanity starts by relating physically through war. It evolves to relating socially through trade. It evolves further by relating psychologically through culture. Culture represents the psychological evolution of humanity, as education reflects the evolution of knowledge.

11. Cultural Diplomacy

Culture is the finest flower of human social evolution containing the essence of knowledge and experience accumulated through long centuries of history and civilization. The astonishing achievements of the human community over the past few millennia are the product of intensive and incessant contact, exchange and interchange between cultures at the level of objects, foods, plants and animals, tools, products, languages, mathematics, technologies, customs, laws, systems of governance, religion, science, philosophy, art, architecture, literature and the other arts. All that humanity possesses today in terms of knowledge, skill and ways of life is the product of global cultural collaboration. Culture has an unrivalled capacity to generate positive, constructive human relations.

Cultural exchange is the highest in an ascending series of social measures that can be applied to sublimate humanity's aggressive instincts and reliance on physical violence and political power to resolve disputes and forge cooperative interactions between individuals and social groups. Because of its subtle character, cultural influences permeate by osmosis from one society to another, defying the political and social barriers that often obstruct understanding and recognizing the value of other societies. Past experience suggests that the comprehensive, systematic application of cultural diplomacy in concert with appropriate economic and other strategies can achieve a sudden breakthrough in relations in places which have defied resolution for decades through more conventional forms of diplomacy.

Political diplomacy is primarily the task of governments. Cultural diplomacy is primarily the work of civil society at the national and international levels. Business too has played an enormous role in spreading awareness of other cultures and ways of life through the dissemination of lifestyle products, books, TV, cinema and other popular media. Witness the craze in China when Apple releases a new model iPhone. The world media plays a similar role. It provides information and news about people and events that generate common global understanding, culture, values and lifestyles.

Global Civil Society plays an increasingly prominent role in promoting peace under circumstances in which national governments are severely constrained. Following the end of the Cold War, the number of international non-governmental organizations has grown

rapidly to exceed 40,000. This is in addition to the millions of national and local level NGOs, many of which also interact across national boundaries.

Of all the instruments for cultural diplomacy, the most powerful of all is the instantaneous exchange of information and ideas across national boundaries over the Internet, which has grown exponentially to become the first truly global social organization linking and binding together more than a billion people around the world into a single cultural community. The Internet permits the rapid diffusion of ideas and knowledge globally, enabling them to permeate all but the most inaccessible places and impenetrable political barriers. From a sparsely populated map of linkages between research institutions in the 1960s, it has evolved into a densely woven web of interrelationships linking together people, organizations and activities encompassing the entire gamut of humanity's global social life. It has done more than any other institution to forge a common sense of humanity and unified human culture.

12. Theoretical Foundations for Peace and Human Security

Diplomacy that transfers conflict from the battlefield to the conference table, abolition of nuclear weapons, commitment to universal human rights (including the right to peace) and rule of law, truly democratic institutions for global and national governance, acceptance of a wider conception of sovereignty that recognizes the legitimate claims of individuals and humanity, economic and employment security for all, a halt to predatory speculative financial activities, effective measures to reduce economic and social inequality, harmonious multi-culturalism, and concerted efforts to protect the environment are core elements of a comprehensive strategy to promote global peace and human security. Many of them are reflected in the 17 Sustainable Development Goals adopted by the United Nations for global implementation. These challenging and elusive goals are necessary, but not sufficient to secure peace and human security for all.

Violence is rooted not only in human actions and emotions, but in ideas as well. Religious crusades, slavery, colonialism, imperialism, racial superiority, proletarian dictatorship, people's democracy and balance of power are among the long list of ideas which have channeled the energies of their people into horrendous acts of warfare and self-destruction in the past. Today we look back on these discredited ideas as primitive and barbaric relics of earlier times. Yet the seeds of violence live on in intellectual notions and theories that still command respect and adherence today, most notably in the fields of social science.

Contemporary social policies are still founded on outdated notions of a clock-work, mechanical universe tending toward equilibrium, natural selection and survival of the fittest, scarcity, and positivistic, value-free, objective ideas about science. Inspired by the achievements of the natural sciences in earlier centuries, the social sciences have attempted to reproduce the objectivity and rigorous discipline developed for the study of material phenomena in physical nature. This led to the search for impersonal, immutable universal laws governing society, akin to Newton's laws of motion and thermodynamics. It also led to the emphasis on quantitative measurements and mathematical formulations which have proven so precise and effective in the material sciences.¹⁰ The philosophy of positivism which prevailed in the natural sciences eventually took hold in the social sciences as well. In

the process, the social sciences have largely come to ignore or regard as externalities vitally important distinctions between social and natural sciences.

The notion of a natural law and universal principles central to the natural sciences fails to take into account the conscious dimension of human behavior and individual uniqueness, which are vitally important to understanding the role of conscious human choice and its impact on social systems. Efforts to discover universal laws of political, economic, and social behavior fail to recognize the fact that the laws governing human society are created by human beings and are determined by prevailing values, attitudes, laws, customs, institutions, and social forces rather than immutable universal principles. Today few recall that Adam Smith considered himself as a morale philosopher, not a scientist. His advocacy for free markets was to counter the incestuous relations between business and government that shaped the policies of mercantilism. Smith's objective was to enhance human welfare and well-being by eliminating unfair policies designed to benefit the wealthy and powerful.

The aim of social science is not to imitate the impartiality of Nature founded on the law of the jungle, but rather to maximize human security and well-being. Philosopher of Science Karl Popper rejected the notion of value-free social science and emphasized the central importance of the ethical dimension in the social sciences. He cautioned against "misguided naturalism" and called on social scientists to accept moral responsibility for the outcomes of their knowledge. Persistent poverty, high levels of unemployment, and widening inequality reflect failures of knowledge, not immutable laws of social science.¹¹ Social science must be human-centered and founded on the power of conscious human beings rather than immutable laws of material nature.

Social science also ignores the single most powerful factor in social evolution: the role of the individual. It ignores the fact that a single person—a Lincoln, Churchill, Gandhi, Gorbachev—can change the world. In an effort to mimic the mathematical and statistical perfection of other sciences, the emphasis on mean, median, and standard deviation in the social sciences obscures the fact that all significant changes in social behavior originate in the mind and action of a single individual and from there spread to groups and the larger collective. The determinative power of the individual on the welfare and well-being of the collective is sufficient justification for all initiatives to eliminate authoritarianism and injustice, eradicate inequality, abolish nuclear weapons, fight against oligarchy and plutocracy, and strive to establish a harmonious and inclusive social organization promoting the peace, human security and well-being of all human beings.¹²

The prevailing concepts of war and peace based on the limited perspective of political and military science need to be broadened and founded on a comprehensive, integrated, transdisciplinary, human-centered science of society. Only then will we possess the right theoretical foundations to achieve permanent peace and human security for all.

13. Need for Integrative Thinking

Social theory forms the explicit and implicit basis for our conception of what is possible and the formulation of policies to achieve it. Theory is a product of the way we

think. Different types of thinking have different epistemological foundations. The notion of peace as the absence of war and the conception of security in narrow military terms are the products of analytic thinking, which dominated scientific thought for three centuries based on a positivistic, reductionist view of reality. Positivism eliminated the role of consciousness and choice from the study of humanity. Reductionism eliminated the complexity arising from the interrelatedness and interdependence of all aspects of social reality. The study of the individual elements as separate aspects of reality is useful and necessary for practical purposes. But when mistaken for reality itself, it introduces significant distortions and errors that can have immense practical implications and in some cases catastrophic consequences. The 2008 financial crisis and the Cold War nuclear arms race are striking instances.

Analytic thinking utilizes the mind's capacity to divide reality and life into categories, classifications, sectors, subjects, topics, specializations, components, systems, elements, fragments, parts and particles and regard each as if it exists separately and independently from all the rest. Mind's capacity for division and analytic thinking inevitably led to a proliferation of separate disciplines, to specialization, and compartmentalization of knowledge with immense consequences. Over the last five centuries, the number of intellectual disciplines has multiplied from five to around 1000 disciplines and sub-disciplines. As the study of reality is divided up into smaller and smaller pieces, specialization has led to increasing fragmentation of knowledge. Viewing each field independently has generated precise knowledge of the parts, but obscured the complex interactions and interdependencies between elements that are essential for knowledge of the whole.¹³

The insufficiency of analytic thinking became increasingly apparent during the 20th century and led to development of more holistic ways of thinking in fields such as biology, ecology, genetics, cybernetics, systems theory, management science, neural networks, complexity and chaos theory, and artificial intelligence. These new approaches are all founded on the capacity of mind to aggregate the fragments of reality conceived by analytic thinking in an effort to understand the interrelationships and interdependencies between the parts. Systems thinking has led to the identification of a number of transdisciplinary principles applicable to all fields of social science, such as feedback loops, self-organization, network effects, and emergent properties, which link apparently independent fields together.

This more inclusive type of thinking confirms the view that peace and human security depend on a wide range of political, economic, social, cultural and environmental factors. But even systems thinking is an inadequate instrument to fully comprehend the intricate complexity of social reality. Society is an integrated whole. Every aspect and dimension is interconnected with all the others, just as the health of human body depends on interactions and interdependencies between virtually all of its parts, organs and systems. Integrality cannot be attained by a mere aggregation and assembly of its constituent elements, any more than the living integrity of the human body can be accurately represented or reproduced by a constructed assembly of its constituent atoms, molecules, cells, organs and systems. Nor can it be achieved even by identifying all of the myriad links between its constituent components. Society, like the body, is a living organism. It is organically integrated. It is a whole that is

greater than the sum of its parts. It cannot be understood by modes of thinking that regard the whole as a mere aggregation of interlinked parts. More effective social theory needs to be founded on more integrative types of thinking, which will require a radical reorientation of the educational system.

“WAAS proposes the establishment of an International Center on Human Security (ICHS) committed to an integrated approach that encompasses the political, economic, social, cultural and ecological dimensions of human security.”

14. Peace as an Emergent Property

Peace and human security are characteristics of society as a whole, not merely of one dimension of its integrated existence. Peace is an emergent property of a social organization that effectively addresses the full spectrum of human needs in a manner that maximizes individual freedom, social equality, economic opportunity, welfare and well-being in a manner that also recognizes the rights of other individuals and groups, promotes social harmony and cultural diversity.

15. Proposal

An integrated, value-based, human-centered approach to peace and human security will be difficult to advance based on the compartmentalized structure of social science research prevalent in universities and research institutes. Moreover, an integrated approach cannot be effectively undertaken by institutions whose responsibilities are primarily for observation and analysis rather than for action. Nor can it be accomplished by purely political institutions which are subject to the dictates of prevailing governmental policy. Theory and practical application need to go hand in hand, but they need to be considered in an atmosphere free from the imposition either of conventional social theory or prevailing public policies.

For this purpose, WAAS proposes the establishment of an International Center on Human Security (ICHS) committed to an integrated approach that encompasses the political, economic, social, cultural and ecological dimensions of human security. The center could be established by a coalition of governments, research institutes and NGOs committed to fresh thinking and new policy measures designed to break the logjam that presently stalls progress on critical issues.

The structure and governance of the center might well be similar to that of European Organization for Nuclear Research (CERN), the world’s leading institute for applied research in the field of particle physics based in Geneva, and, incidentally, the birthplace of the World Wide Web. Established by 12 European nations in 1954, CERN’s membership now includes 22 countries and it works in close cooperation with other leading research institutes around

the world. CERN operates autonomously and democratically and provides an excellent model for multi-national, cross-cultural research.

The purpose of ICHS would be political rather than academic. Although engaged in research, its activities would focus on formulating and propagating effective, implementable solutions to real world issues through international collaboration. Its aim would be to build alliances of partner countries and institutions committed to quantum change. The work of the center would be global in scope and relevance, while giving special attention to issues of regional concern.

The World Academy's research program to formulate a new paradigm for human development confirms that solutions do exist to the pressing political, economic, social, cultural and ecological challenges confronting humanity today.¹⁴ Recent work by the Academy and other organizations on new economic theory, global employment challenge, the future of education, nuclear weapons, peace, cooperative security, multiculturalism and ecological security can serve as a useful foundation for the activities of the center. Regardless of its structure and membership, the mandate of ICHS would be to evolve new theoretical perspectives and practical strategies to address the most pressing challenges to global peace and human security in a comprehensive and integrated manner.

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New Paradigm for Global Rule of Law

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Abstract

Law is both a condition and a consequence of social development, an outcome of the broader social process, a form of social organization which channels social energies based on the relative strength of past practice and precedent, the present balance of power and emerging social values. Values are the bedrock of social process and the driving force for social activism. Historically, law evolves as a mechanism for conflict avoidance and resolution founded on the practical management of conflict and higher values, made possible by the implicit acceptance and internalization of the authority component of collective expectations. Established law acts as a conservative force of the status quo subject to continuous pressure to evolve from the changing public conscience and social values. Lasswell's comprehensive model of social process highlights the contribution of multiple participants to the evolution of law at the macro and micro level, including the role of individual value demands and the potential assertive power of the human community as a whole. The article explores the potential role of non-states in changing international law regarding the legality of nuclear weapons. An appreciation of the integral relationship between law, politics and society is essential to a fuller understanding of social, power and legal processes and the goal of universalizing peace and human dignity.

Law is a powerful instrument for social development. At the same time it is itself a product of social development. The objective of this paper is to formulate a paradigm of law and development that will foster realization of the values essential for addressing global issues and the positive evolution of the human community. Law is a response to the problems that emerge from the social process and from the process of social development. Human problems represent conflicts between values that change over time. Effective solution to human conflicts depends on our ability to arrive at clarity and consensus regarding those values which are most conducive to human progress.^{1, 2, 3, 4} An appreciation of how law has developed historically in response to past conflicts may serve as a guide to understanding its present status and possible future directions. This historical focus must include not only the formulation of law, but also its actual practices and outcomes. This is apparent when we consider that the

“Law is both a condition and a consequence of social development.”

eradication of discrimination or corruption depends as much on the prescription and application of prevailing law as it does on the prescription of new law.

Law is both a condition and a consequence of social development. All aspects and dimensions of society impact on and are influenced by the rule of law. For example, in recent months, the European financial crisis has exerted strong pressure for modification of the laws governing financial management of EU member states as well as the powers and responsibilities of national and European institutions to address the challenges posed. Changes in law and public policy relating to the financial management of banks and central banking institutions constitute important components of the policy response. Similarly, rapid advances in technology and communications impact on laws relating to regulation of the Internet and intellectual property. Political activism, like the Arab Spring, Moscow Winter, Occupy Wall

Street Movement, has thrown into question the constitutional legitimacy of governments and the fundamental rights of citizens. Soaring levels of unemployment have compelled changes in labor and social welfare policies and greater government responsibility for the economy. The Fukushima disaster has led to changes in law and public policy regarding nuclear energy in Germany and Switzerland and raised legal issues related to the rights of sovereign nations to environmental protection from the actions of their neighbors. These are just a few of the many aspects of social change which influences and is influenced by the prescription and application of law. An appraisal of the relevant trends and conditions which have influenced legal outcomes against the values that are claimed and preferred requires acute analysis not only of past precedent and the present balance of interests and forces; it must also take into account the likely direction of their future development.

Law does not evolve in a vacuum. It evolves with human agents as interest articulators and authoritative and controlling decision makers. It evolves as an important dimension of the wider quest of society for more effective institutional arrangements to fulfill the goals of the collective. The global challenge is to formulate creative strategies that will facilitate the most rapid and satisfactory progress for global society as a whole. A greater theoretical understanding of the relationship between law and social development and the processes governing their interaction and evolution should enable us to arrive at practical measures to resolve present conflicts and advance the collective human agenda.

“A greater theoretical understanding of the relationship between law and social development and the processes governing their interaction and evolution should enable us to arrive at practical measures to resolve present conflicts and advance the collective human agenda.”

1. Law as Outcome of Social Process

As an aspect of social organization, law is a mechanism for channeling social energies and interests. At any point in time, law consists of a more or less precarious balance between the past, present and future. Application and development of law are social processes that are influenced by multiple forces: the force of past precedent, established custom, and accepted tradition; the force of present political, economic and social power; the force of emerging aspirations; and ideas about the shaping and the sharing of the basic values for which there is a demand for acceptance.

Values are the bedrock of the social system and a driving force for social development. They represent the quintessence of society's acquired knowledge and convictions regarding the essential principles for survival and sustained human accomplishment. Law reflects the arena of important values in society and the precise points at which there is contention between conflicts about those values. For example, when sophisticated, rapid-fire, automatic weapons are involved in tragic instances of mass homicide, public outrage in the US rises once again to challenge antiquated constitutional protection for citizens' rights to bear arms, a right originally instituted at a time when 'arms' referred to single shot, musket-loaded flint lock pistols and muskets.* Thus, legal choices go to determine what to conserve, what to bury, what to affirm and what to enhance. Since values are changing rapidly in the modern era, social change leads to changes in understanding of the law as well as reconstruction of its prescriptions, application and enforcement over time. Growing support for government curbs speculative investments by banks and huge compensation packages for bank executives, which reflects changing social attitudes toward the social responsibilities of banks as institutions of public trust. Law is a continuing process of authoritative and controlling decision-making within which the community seeks to defend and secure the common interest. It is a continuing challenge for the present and the future.

The founding of the United Nations Organization (UN) illustrates this process of interaction and precarious balancing and its evolution over time.† Although conceived and cast in the highest idealistic terms of universal human values, the real basis on which the UN was founded was the overwhelmingly dominant physical, economic and political power of the allied nations which emerged victorious in World War II. The UN can be seen as an outcome of a global conflict. The UN Charter creating a semblance of democracy and universality in the composition of the General Assembly nevertheless concedes effective power concentrated almost exclusively in the Security Council, in which the five permanent members possess absolute power to act in concert on behalf of the world or in opposition to one another in pursuit of their own narrow self-interests. The basis for this undemocratic arrangement was the old concept of national sovereignty, a legacy of three centuries of nationalistic consolidation and competition, which already showed signs of irrelevance to cope with the emerging problems of an increasingly globalized world. Nationalism, power and idealism were combined in a formula that was sufficiently prescient to avoid world war for the last 65 years, yet increasingly powerless and inept to cope with the emerging problems of the 21st century.

2. Evolution from Coercion to Rule of Law

Historically, the threat and use of coercion have played a central role in determining the outcome of social processes. Conflict and coercion are outcomes of the social process. These outcomes we may identify and map as a process of effective power.‡,5 Conflicts

* *Amendment II of the United States Constitution* – The Second Amendment was adopted on December 15, 1791, along with the rest of the United States Bill of Rights. It is the part of the Bill of Rights that protects the right of the people to keep and bear arms. The right to keep and bear arms, often referred as the right to bear arms or to have arms, is the assertion that people have a personal right to fire arms for individual use, or a collective right to bear arms in a militia, or both.

† The United Nations Organization was founded in 1945 after World War II to replace the League of Nations, to stop wars between countries, and to provide a platform for dialogue.

‡ More generally on the relation of law to social process see Lasswell and McDougal, "The Relation of Law to Social Process: Trends in Theory about Law," *University of Pittsburg Law Review* 465 (1976).

“Law evolves as a sublimated alternative to physical coercion...”

about effective power are reflected in the issue of States' rights and abolition of slavery in America. These issues were resolved on the battlefields at Gettysburg, Shiloh and Vicksburg. The liberation of Libya in 2011 from four decades of dictatorship was similarly resolved by force of arms. If all social relations were exclusively a function of conflict, then the strongest would inevitably prevail on the basis that might is right. However, as societies evolve they generate understandings about managing power and develop strategies for conflict resolution. As conflict becomes increasingly expensive and destructive, protagonists frequently determine that the costs of conflict may exceed the potential gains. At this point the power brokers would look for ways to stabilize conflict and manage fundamental decision making by agreement and understanding. As democracy and human rights become more prevalent as sources of authority, they support tolerance and subordinate exclusive resort to naked power, both internally and internationally. Thus, the Arab Spring in Egypt, for example, achieved peacefully what their neighbors achieved by violence. Law evolves as a sublimated alternative to physical coercion, but legal authority retains the capacity for coercion as its ultimate foundation and reinforcement. Social authority comes to replace physical coercion as the primary means for resolving conflicts, but its power is accepted and respected because it retains an explicit or implicit capacity for physical enforcement, as well as the use of authority as a base of power.

Legal authority evolves as an alternative mechanism for conflict avoidance and resolution founded on higher values such as peace, collective security, human rights, justice and due process. Law evolves as an instrument to manage the politics of conflict based on authorized decisions and agreed upon rules of social order. Law is not the only social institution that plays this role. Money also became an important factor in the transition from violence to social order, providing economic incentives, rewards and punishments to protagonists to eschew resort to force. Historically, money has been used to resolve disputes, appease aggressors, compensate victims, propitiate antagonists, and incentivize competitors. But as governance and law evolved as recognized authorities, coercive force progressively gave way to social convention, legislation and jurisprudence as the principal means for dispute resolution. This evolution from physical violence to social power to authorized competence and higher values is an affirmation of the value basis of law. It replaces the principle that might is right and applies value-based principles to affirm the rights and enhance the power of the weaker segments of society.

This process is evident in the field of international relations where the habitual resort to war between nation-states that characterized European affairs for centuries has now been effectively replaced by an institutionalized political and legal framework. In the words of Dutch security expert Rob de Wijk, “War in Europe has become unthinkable.” Similarly, though with less absoluteness, establishment of the UN system after the Second World War has replaced periodic conflicts between nation-states, widespread imperialistic ambitions and colonialism with treaty negotiations across the conference table, debate in General Assembly and Security Council, judicial inquiries, international commissions, arbitration, mediation,

binding and non-binding resolutions, and countless other mechanisms for channeling energies from coercive violence into political, legal and intellectual processes. This transition from violence to law continues today in both national and international contexts.

Law involves an implicit acceptance and internalization of social authority which is reflected in the constitutionalization, that is to say, the acceptance of the allocation of fundamental decision making authority for society which generates shared expectations about the shaping and sharing of human values. Law codifies the most enduring values which emerge as social norms and customary practices accepted by the community, often representing the “living law” of the society.⁶ Indeed, public acceptance of basic expectations is a crucial aspect of law. Unless the community accepts the legitimate authority of its authorized decision makers and their prescription,

application and enforcement of law, such authority may lose its authoritative foundation and be compelled to resort to coercive force to maintain the status quo. Unless those laws reflect accepted norms and expectations, such acceptance is unlikely. Thus, rule of law is based on the major expectations which the community holds about the exercise of authority and control in the common interest. Law as codified strives to be the embodiment of the basic values reflected in the public conscience of what the collective of human beings agree to accept, that is to say, the collective fundamental expectations about authority, control, and the respect for basic values.⁷

“Law codifies the most enduring values which emerge as social norms and customary practices accepted by the community, often representing the “living law” of the society.”

3. Role of Law in Social Progress

Once formulated, law represents a conservative force for maintenance of the status quo and resistance to change. On the other hand, public conscience, social attitudes and values continue to evolve over time, exercising a continuous pressure for changes in the formulation, interpretation and application of law. This has profound implications for the evolution of both national and international law and emerging expectations of justice and value.

The growth of positivism gave prominence to the idea that law is a critical agent of social change in the form of legislation. As Bentham expressed it, legislation can serve the common interest by measures to promote the greatest happiness for the greatest number.⁸ However, Bentham perceived judges as an inherently conservative force, wrapping their conservatism in the symbols of natural law, which he called “nonsense on stilts”.⁹ He spurred an awareness of the importance of science in understanding and improving the performance of law in social process and development.

Modern discourses have generated a multitude of approaches resulting in important but partial insights about the role of law in social process. Two Fellows of the World Academy, Harold D. Lasswell and Myres McDougal, saw the problem in a very different light and developed a far reaching theory integrating social process and legal process based on universal human values. The culmination of their efforts was a two-volume work titled

Jurisprudence for a Free Society: Studies in Law, Science and Policy.¹⁰ The intellectual and scholastic challenge presented in their work requires an integration of many of the traditional approaches to law and society in a manner that leads to a new paradigm for the study of law and society. Their approach is problem-oriented and contextual, multidisciplinary, goal and value-guided, and decision-focused. They viewed law as a process of authoritative and controlled decision-making in which, since time immemorial, the community has sought to clarify and implement the perceived common interest. They regarded law as decision in response to the problems that emerge from the social context. That response may conserve, modify, change or be changed by the values and the institutions of society, which suggests that law may be both a condition and a consequence of the social dynamics of society.

The genius of their approach was to provide a framework of social process that permits mapping at any level of detail or abstraction. The basic model can be described as *human beings pursuing values through institutions based on resources*.¹¹ Using in part anthropological experience, they identified eight salient values that are identifiable cross-culturally in any social process at any level of abstraction – power, wealth, respect, enlightenment, health and well-being, affection, skill and rectitude. These values broadly encompass the entire spectrum of human needs and aspirations: political, economic, social, educational, health-related, human security, family and personal relationships, capacities and ethics.

The central purpose of the rule of law is to ensure that value allocations and the institutional forms specialized to the production and distribution of values should at least minimally secure the preservation of the prevailing values of the society. This is the conservatory function of law. However, social processes are dynamic and social values change over time. Frequently, the demands by social participants require that institutions evolve to reflect a change in values and to enhance the production and distribution of those values that are demanded. Here, the role of law in the form of decision is charged with the development and sustainability of institutions and situations for the purpose of enhancing positive social outcomes for an improved human prospect.

It is obvious that a multidisciplinary method is necessary for understanding the conservative and progressive aspects of the role of law. This requires understanding the role of law in the establishment and maintenance of constitutional order, the role of law in managing the production and distribution of values that are a condition and a consequence of constitutional order, and the role of law in the protection and enhancement of civic order and civil society. These challenges are waiting for a new generation of thinkers to formulate a comprehensive global framework, while at the same time moving with dexterity in understanding the local social consequences and policy implications of law.

“...individuals are often the initiators, the movers and shakers of important social developments.”

4. Critical Participants in the Global Community*, †

Such an endeavor necessitates development of a theory of social process that is sufficiently comprehensive and global to encapsulate all the critical participants in the global community – the factors that determine their interactions; the processes that govern the development of these participants and those that govern the evolution of the global community as a whole. At the same time, the theory should be capable of reflecting the unique role of various agents in this wider process. In short, the theory is confronted with the challenge of being comprehensive, selective and specific.

4.1. *The Individual*

Traditionally, the formulation of international law has been regarded principally as the purview of nation-states. Lasswell argued for a wider perspective that takes into account the contribution to the social process of all participants, including the individual. The global social process is comprised of individuals and sometimes associations of individuals who act as claimants demanding access to the shaping and sharing of basic values. We observe in both the national and the global context that individuals are often the initiators, the movers and shakers of important social developments. Without these individual participants, social movement and development would flow at a modest pace. Try to imagine the Indian Independence Movement without Mahatma Gandhi, the American Civil Rights Movement without Martin Luther King Jr., the Anti-Apartheid Movement without Nelson Mandela, or the end of the Cold War and the “Fall of the Berlin Wall” without Mikhail Gorbachev.^{12, 13, 14, 15} Similar roles have recently been played in different fields by Al Gore, Osama bin Laden, and the Four Horsemen (Kissinger, Nunn, Perry, Schultz). The central point here is that the individual is a participant in the global social process.¹⁶ Under certain circumstances, the individual stakes a claim to his or her identity, rights or convictions and acts to preserve and protect them. Additionally, the individual is a claimant and, therefore, an articulator of value demands on behalf of groups or an entire community. Without the individual as a claimant, there would be no social change and no social progress. What is true of individuals is also true of groups of individuals, small organizations such as the Club of Rome (climate change), Al Qaeda (terrorism), International Physicians for Prevention of Nuclear War (IPPNW), and Pugwash (nuclear weapons).

The process of claiming is a process of actively staking demands about the basic values of society. These demands are articulated in the form of basic rights. Human rights are driven by the demands of individuals and associations of social participants in the global social process. Lasswell devoted much of his academic life to exploring the role of the individual in the global social process. His approach was regarded as threatening to conventional legal and political wisdom, because it radically expanded the field of participants and multiplied the complexity of analysis required. In addition, it challenges conventional wisdom by disproportionately magnifying the potential power of the individual. Yet, this challenge to convention resonates

* For the purpose of this presentation we limit our focus regarding the full range of participants in the global community process. In addition to individuals and nation states we should recognize that organized participants include governments, political parties, pressure groups and private associations specialized in different value objectives. Unorganized groups include groups focused on culture, class, interests, and personality types; much of these participants fall in the framework of global civil society.

† See *Jurisprudence for a Free Society*, Vol. I, pp. 143-144; See also M. McDougal, H.D. Lasswell & L.H. Chen, *Human Rights and World Public Order*, pp. 94-160 (1980)

with much of the historical narrative in which individuals – Napoleon, Lincoln, Edison, Ford, Einstein, Gandhi, Hitler, Roosevelt, Stalin, Churchill, Mao, King, Mandela, Gorbachev – have exercised overwhelming influence on global processes. Professor Richard Falk, one of the most distinguished international lawyers of the 20th Century, described these ideas as generating what he called “dangerous knowledge”.¹⁷ The intellectual challenge generated by a realistic demand for an accurate depiction of global social process and all the important social participators remains a matter of unfulfilled promise and represents a unique opportunity for an original contribution of global significance.

4.2. Nation-States

Law, in particular, and the social sciences, in general, prefer to work with large aggregates. Classes, nations, sovereigns, and inter-sovereign organizations dominate the conceptualization, the problems and the discourses about these issues. Influenced by highly formalistic positivism, the boundaries of international law are largely conceptualized around the sovereign nation state. Since there are a limited number of sovereign states in the world community, a science of international law has a limited range of participant actors who are the focus of study and action.¹⁸ These assumptions constitute important barriers to a realistic understanding of the central components of global society and tend to deny the appropriate intellectual space for the role of the individual in the global social process.

Developments in both law and the social sciences have sought to reduce the rigidity of this form of collective conceptualization of participants in global society, giving rise to partial theories which selectively and somewhat anecdotally broaden the range of appropriate participants. One of the most important challenges for new theory is to determine whether a global orientation can generate effective theory and effective methods of exposition to account for all the important stakeholders in global society, especially the individual social participant.

4.3. Sovereignty and Human Rights

Sovereignty is one of the most widely invoked symbols of international governance. This concept asserts that the State is the sole legitimate participant in and determinate of the constitutive process. In contrast, the fundamental premise of human rights is to give a place for individual legal identity in both the national and the global social and legal process. Whereas national constitutive processes clearly affirm the rights of individuals and provide legal processes for their enforcement, international law still focuses primarily on the rights of sovereign states which may be in direct conflict to individual rights. Nuclear energy is a case point. As the Fukushima accident illustrates, increasing global dependence on nuclear energy has the potential to create significant conflicts between sovereign states and between states and citizens of other countries. If the impact of a nuclear power plant accident crosses national

“Last year, Germany, Switzerland and Italy announced plans to completely phase out nuclear energy within the next decade. Yet, that would afford their citizens no protection from the fallout of an accident in a neighboring country that continues to rely on nuclear energy.”

boundaries, what rights do states have against actions by other states that may pose equal or greater dangers to their own citizens? For example, recent reports attribute thousands of fatalities in the USA in 2011 to rising levels of radiation resulting from the Fukushima accident.* Last year, Germany, Switzerland and Italy announced plans to completely phase out nuclear energy within the next decade.¹⁹ Yet, that would afford their citizens no protection from the fallout of an accident in a neighboring country that continues to rely on nuclear energy.

Issues such as these make it extremely important that we understand the place of human rights in global society and the basis for the claim that they are universally binding on States and peoples. Lasswell's model may provide us with a way of unpacking sovereignty and human rights to better understand their place in the global constitutional scheme.²⁰

The World Academy's own historical antecedents justify this pursuit and illustrate its relevance. The founders of WAAS largely consisted of scientists, philosophers and heads of international organizations who had witnessed, or participated in, the ravages of two world wars. Albert Einstein and Bertrand Russell authored the famed Einstein-Russell Manifesto highlighting the dangers posed by nuclear weapons, which led to the founding of the Pugwash Conferences in 1957 and the Academy in 1960.†,‡,§²¹ After heading the Manhattan Project, which developed the first atomic weapons, Robert Oppenheimer grew increasingly alarmed at the future implications of the nuclear genie he had helped unleash, opposed development of the hydrogen bomb, and became a vocal advocate of efforts to prevent a nuclear arms race.²² Joseph Rotblat, a nuclear scientist who left the Manhattan Project in protest, later helped found both Pugwash and the Academy and went on to win the Nobel Peace Prize in 1995 for his dedicated efforts for the abolition of nuclear weapons.§ These and many other individuals and organizations, including Pugwash and the International Physicians for the Prevention of Nuclear War, played a crucial role in bringing the International Court of Justice to the verge of declaring any use of nuclear weapons as a crime against humanity in their landmark advisory opinion the following year.

5. Micro-law²³

Lasswell's recognition of the critical role of the individual in the formation and application of law led to development of a parallel insight by his student, Michael Reisman, another WAAS Fellow who highlighted the importance of micro-level events in the formation and application of law.²⁴¶ It is not merely acts of the legislature, executive and judiciary at various levels of government that determine the law of the land. Individual actions of individuals and groups can under certain circumstances acquire a symbolic and practical significance that

* *Radiological Assessment of effects from Fukushima Daiichi Nuclear Power Plant*, United States Department of Energy (16 April 2011) – The radiation effects from the Fukushima Daiichi nuclear disaster are the result of release of radioactive isotopes from the crippled Fukushima Daiichi Nuclear Power Plant after the 2011 Tōhoku earthquake and tsunami.

† *The Pugwash Conferences on Science and World Affairs* – an international organization that brings together scholars and public figures to work toward reducing the danger of armed conflict and to seek solutions to global security threats. It was founded in 1957 by Joseph Rotblat and Bertrand Russell in Pugwash, Nova Scotia, Canada, following the release of the Russell-Einstein Manifesto in 1955.

‡ *The Russell-Einstein Manifesto*, Issued in London, 9 July 1955

§ The Nobel Peace Prize 1995 was awarded jointly to Joseph Rotblat and Pugwash Conferences on Science and World Affairs “for their efforts to diminish the part played by nuclear arms in international politics and, in the longer run, to eliminate such arms”; See “The Nobel Peace Prize 1995”, Nobelprize.org.

¶ See also Michael Reisman, *Law in Brief Encounters*, Yale University Press (1999); See also Winston P. Nagan, *Reisman's "Law in Brief Encounters" (Book Review)*, *South African Law Journal* 120, no. 4 (2003): 907; Walter Weyrauch, “The “Basic Law” or “Constitution” of a Small Group,” *Journal of Social Issues* 27 (1971): 49–63; See also Walter Weyrauch, “Law in isolation—the penthouse astronauts; An experimental group cut off from the world makes its own rules,” *Society* 5, no. 7 (1968): 39-46.

either undermines existing principles of law or establishes new ones in their place.

Gandhi's 1930 Salt March was a brilliant strategy encapsulated in a single act designed to challenge the legitimacy of British rule in India and demonstrate at the same time to hundreds of millions of Indians, the power they possessed to overturn an illegitimate colonial government.²⁵ A tax on salt, an almost universally applied tax by European countries at home as a source of revenue, was extended to India by an act of Parliament in 1882.²⁶ Enforcement of the act in a country with such a vast population and extensive coastline was inconceivable without the docile cooperation of the local population. For years, that compliance was forthcoming. In a single act of statesmanship, Gandhi launched a massive civil disobedience movement that spread throughout the country and led to the arrest of more than 80,000 Indians.²⁷ From then on, it became evident that the days of British rule were numbered. The Salt March later served as a source of inspiration for Martin Luther King Jr.'s Civil Rights Movement. Like the Boston Tea Party, a single local act had profound legal consequences nationally and internationally.

“The individual act of value demand is the micro unit of the social process by which law is made and by which it evolves over time.”

On December 1, 1955 Rosa Parks refused to obey a bus driver who ordered that she give up her seat to make room for a white passenger in Montgomery, Alabama.²⁸ Her arrest and summary trial sparked a 381-day bus boycott by the black community of Montgomery, until the law requiring segregation on public buses was lifted. Parks' civil disobedience became a symbol of the modern Civil Rights Movement. Parks herself became an international icon of resistance to racial segregation. The individual act of value demand is the micro unit of the social process by which law is made and by which it evolves over time.

In December 2010, 26-year-old Mohamed Bouazizi was getting ready to sell fruits and vegetables in the rural town of Sidi Bouzid, Tunisia. Bouazizi was the breadwinner for his widowed mother and six siblings, but he didn't have a permit to sell the goods. When the police asked him to hand over his wooden cart, he refused and a policewoman allegedly slapped him. Angered after being publicly humiliated, Bouazizi marched in front of a government building and set himself on fire.²⁹ His act of desperation resonated immediately with others in the town. Protests began that day in Sidi Bouzid, captured by cell phone cameras and shared on the Internet. Within days, protests started popping up across the country, calling upon President Zine El Abidine Ben Ali and his regime to step down. About a month later, the President fled the country.³⁰ The momentum in Tunisia set off uprisings across the Middle East that became known as the Arab Spring.

6. Lasswell's Social Process Model

Lasswell's summation of social process is valid for any level of conceptualization; human beings pursue values through institutions based on resources.³¹ Simple as this model is, it can be generalized to the global level and yet also serve to explain the social process dynamics of small groups, such as the family (micro-social interaction). The central elements of this model begin with the individual human being who is active in demanding access to the

shaping and sharing of values. Cross-culturally, value demands target the social institutions specialized for the production and distribution of particular values. The individual therefore targets the institution. In targeting the institution, the individual must make some assessment of what bases of power he may access to facilitate and make more effective his claim on the system. This model generates complexity because it requires methods to assess those bases of power, to describe society as it is, to describe the problems in society as they are, and to consider as well the institutions of problem-solving at any level that can be deployed in response to the problem of value claims and resistance to these claims.

Borrowing insights drawn from the natural sciences, Lasswell and McDougal developed a form of conceptual and analytic mapping to guide inquiry into the social process.* They developed a map that can be summarized in terms of the following markers: (1) identification of the participators, as discussed above; (2) subjectivity of the participators, including their claims for identity, claims for values and claims relating to expectations; (3) description of the values available to participants.³² They based this approach on a radical description of social power postulating that power may be sought for its own sake or for access to any other important value. At the same time, they perceived that every other non-power value may serve as a base of power to achieve access to power in any other value.

Table 1: Major Components of Lasswell's Global Social Process Model

Values	Institutions	Situation	Outcomes
Power	Governance – Political Parties	Arena	Decision
Enlightenment	Universities – WAAS	Forum	Knowledge
Wealth	Corporations	Market	Transaction
Well-Being	Hospitals, Clinics	Habitat	Vitality
Skill	Labor Unions, Professional Organizations	Shop	Performance
Affection	Micro-social Units (Family) Macro-social Units (Loyalty)	Circle	Cordiality, Positive Sentiment, Patriotism
Respect	Social Class	Stage	Prestige
Rectitude	Churches, Temples	Court	Rightness

Situations define the context in which the claims on values occur. They are especially important in the global context, because of the unequal distribution of power and the multitude of conceptual models which shape the way we think about global issues (bipolar,

*Id.; See also Michael Reisman, *The New Haven School: A Brief Introduction* (2007)

tripolar, multipolar). Traditional models based on a state-centered paradigm may not adequately account for multinational firms, large hedge fund investors, popular uprisings, liberation movements, terrorist operations or organized crime activity. Each of these actors considers the possible strategies they may use given the demands, bases of power accessible to them, and the importance of critical strategies to generate desirable outcomes. Strategies implicate ideological symbols, diplomatic protocol, economic strategies and coercive military initiatives.

The critical marker of global social process is its outcomes and effects for the participants. A fully valid theory and method for the elucidation of the global social process should give us the ability to systematically and accurately predict the outcomes that emerge from this global process, such as the ultimate impact of the current European financial crisis on the structure of the European Union, survival of the Eurozone and regulation of international banking.

Table 1 summarizes the major components of Lasswell's Global Social Process Model.* It includes eight value categories identified from anthropological sources and expanded under the influence of the Universal Declaration of Human Rights. The authors used values descriptively to understand the state of social process, including its deficits as they actually are. The challenge is to determine how we might develop strategies to influence social process so that it enhances the positive scheme of value distribution and consumption.

7. Good Governance

Good governance is a valued outcome of the constitutive process.³³ Good governance is a function of the participants who are included and excluded from the governance process, the fundamental claims of the participants regarding the allocation of power and competence, and the basic expectations they hold about the structures that establish and maintain the constitutive process.³⁴ The stakeholders in the governance process participate by way of making claims and counterclaims, including claims by the State to conservation and to change.³⁵

Participation also requires access to a basis of power through some form of communication and representation based on prevailing social values that affirm the legitimacy, right or essential necessity of that participation. The toppling of Mubarak's government in Egypt in 2011 was possible because the society-at-large recognized and asserted its right to demand political change and successfully effected change without violence, whereas in Libya and Syria public protestors were denied access and forced to resort to alternative strategies. Rising public outrage over rampant political corruption in India has recently enabled a popular movement to gain national support for legislation to curb and punish malpractices. Internationally, specific individuals and organizations such as Pugwash and IPPNW have been able to gain access to power structures, but global public opinion lacks the legitimacy to exert influence even on issues such as nuclear abolition or climate change where the vast majority of human beings share common values and interests.

Participation takes place in arenas, such as legislative, executive, judicial, administrative and electorate, which represent spatial, temporal factors central to participation. They could

* See Part III for a more detailed discussion of Lasswell's model.

also include arenas of local and global salience – Tiananmen Square in Beijing, Tahrir Square in Cairo, and Wall Street. These arenas may be geographical, institutional, etc.

Any justifiable constitutive process will provide the participants with access to strategic resources to support their claims to effective participation. These resources could be described as coercive or persuasive. Persuasive resources include strategies of conciliation, mediation, negotiation, arbitration or non-violent civil disobedience. Coercive strategies could involve the use of the power of the State to compel complaints with desired modes of behavior.

The outcomes of a constitutive process could result in the grudging distribution or a maximal distribution of power to enhance participation. This is a model that could be developed for application to any global problem of governance, such as the challenges represented in the Arab Spring.

8. Application of the Model to Law regarding Nuclear Weapons³⁶

The efficacy of this model as a conceptual tool and a source of strategy may be illustrated with reference to nuclear weapons. The Nuclear Non-Proliferation Treaty (NPT) is the primary international legal instrument governing the development, proliferation, and possession of nuclear weapons.* Originally framed in 1968, its immediate aim was to prevent further proliferation of nuclear weapons technology to other states. The treaty also set forth the conditions under which non-nuclear weapon states (NNWS) would be granted access to technology for the peaceful use of nuclear energy in exchange for foregoing the right to develop or possess nuclear weapons. In exchange, Article VI of the treaty stipulated that the five original nuclear weapon states (NNS) shall enter into good faith negotiations leading to complete nuclear disarmament. The treaty essentially sought to freeze the status quo by denying access to nuclear energy technology to states that refused to sign. In spite of continued calls by the NNWS, the NNS have resisted steps to implement Article VI, resorting to military, political, economic and social pressure to maintain their monopoly. The fact that the world has been unable to compel the NNS to fulfill their pledge or to prevent at least four other states from acquiring nuclear weapons points to serious lacunae in the framing and implementation of international law relating to this issue.

A full comprehension of the situation requires that we broaden the framework, as Lasswell and McDougal assert, to encompass a much wider range of participants, a broader set of values and other social processes that fall outside the traditional boundaries of law. We have already referred to the key role played by a few distinguished individuals and organizations. The actual field of institutional participants numbers in the thousands, including organizations drawn from all eight categories listed in table 1, such as Global Zero, Greenpeace, WFUNA, ICAN, IPPNW, Middle Powers Initiative, Abolition 2000, Mayors for Peace, Nobel Peace Laureates, and countless groups of parliamentarians, scientists, physicians, women, lawyers, religious, military, civic and labor leaders. Although the NPT never anticipated a role for the UN General Assembly, WHO, UNESCO, the International Court of Justice, the Human Rights Commission, self-declared regional nuclear free zones and many others have exercised influence and made value demands related to this issue.

* *The Treaty on the Non-Proliferation of Nuclear Weapons*, Opened for signature in 1968, entered into force in 1970 and extended indefinitely on 11 May 1995.

Furthermore, over the years the value base for these claims has also shifted markedly. No longer is it confined to the security of nations. Today, individuals and civic groups are major claimants demanding protection for their individual and community rights: present and former military leaders protesting against wasteful expenditure on unusable weapons systems; environmentalists demanding recognition of the ecological threat represented by these weapons; physicians warning of the health hazards of radiation, etc. Other groups assert that the very existence of these weapons constitutes a threat to the fundamental human rights. Primarily, as the result of efforts by Pugwash, IPPNW and WHO, the case was brought before the ICJ in 1995. Thus far, the widening field of participants has resorted primarily to raising public awareness through the media or seeking to influence political decisions at the national or international level. This does not preclude the possibility of unified action by larger associations of participants.

Lasswell's model not only takes into account the myriad efforts of these other participants to influence international rule of law. It also points to the possibility of other strategies. The Prosecutor of the International Criminal Court suggested the possibility of approaching the ICC with a case against NWS on the grounds that even the threat of use of these weapons constitutes a crime against humanity. Recent experience within the World Academy suggests that there may be other more direct forms of action that can be taken to bring about a change in international law.

Underlying all these initiatives are some fundamental questions of international law: Do individuals and groups of the world have an inherent and inalienable right to freedom from the threat of nuclear weapons and from the medical and environmental damages that could affect large civilian populations as a result of nuclear weapons usages? Do the world's citizens have a sovereign right to representation and exercise of their political will independent of the structures and policies of the nation states within which they reside? Do the nations of the world, the vast majority of which protest and reject the right of the NWS to retain nuclear weapons and which also represent the vast majority of human beings, have a right to declare use and possession of these weapons illegal? What is the legal validity of international institutions based on an undemocratic, unrepresentative constitutive process? Are there salient principles of international law and universal human rights that override the authority of unrepresentative and undemocratic institutions of global governance? Is there an inherent right, and if so, is there a feasible means by which the majority of humankind can express, exercise and demand recognition of the values it affirms?

“The process of social power is itself a subset or component of a still wider social process by which human beings collectively affirm values and seek to realize them in their individual and collective lives.”

There are of course a multitude of value/institutional concerns that implicate the global rule of law. Among the most important of these questions is the issue of the global environmental crisis.³⁷ These issues do not exhaust the range of rule of law problems that might fall within the scope of legitimate inquiry by the Academy.

9. Integrated Theory

Lasswell perceived that the constitutive process by which law is created and modified forms a component or subset of a more fundamental and comprehensive process of social power by which authority is exercised in society, and that the process of social power is itself a subset or component of a still wider social process by which human beings collectively affirm values and seek to realize them in their individual and collective lives.

Similarly, Lasswell and McDougal widened our understanding of the agents who participate in the formulation and evolution of law, power and other values in society. While traditional legal theory focuses almost solely on the role of legislative, judicial and executive branches of government, Lasswell perceived that all those who can claim access to power in society have the potential capacity to influence the constitutive legal practice. Furthermore, he understood that the eight major categories of values are inter-convertible. Therefore, any agent who possesses one value has the potential capacity to influence or acquire the others. This is most evident in the case of the possessors of wealth, who enjoy considerable influence over political and legal processes in all countries of the world. It is less evident but also true of the possessors of other values, which explains instances in which popular movie stars, respected religious leaders, outstanding technocrats and skilled orators exert considerable influence on politics and law. Lasswell and McDougal extended the principle of integration still further by tracing the constitutive, power and social processes down to the micro-level where they are subject to influence by small groups and single individuals. They identified underlying social, cultural and psychological factors which influence the conceptions, motivations and actions of these micro-level actors and events.

Some legal theorists argue that this model adds such mind-boggling complexity to legal analysis that it renders the theory impractical. But the historical record so clearly affirms the truth of Lasswell's fundamental premises, that it is impossible to reject their obvious truth. When we examine great revolutionary or evolutionary transitions in law and politics, invariably we find outstanding individuals – a Rosa Parks, King or Gandhi – as well as small acts of civil disobedience or other significant events associated with them. So too, when we examine the most modest incremental changes in law that more commonly occur, we discover at their roots the acts of individual legislators, presiding judges, jurors, expert witnesses and special interest groups expressing their personal attitudes, convictions and beliefs in acts of judgment and power that influence the formation, interpretation and application of law.

The integral relationship between legal, political and social process and the linkage between the micro-level acts of individuals, groups, institutions and governments and macro-level changes in law may deter theorists from pronouncing generalized truths of legal process. But, for those interested in and committed to accelerating the evolution of law and legal processes to more fully embrace and reflect higher human values, Lasswell's model provides a detailed map of the potential participants, resources, institutions and strategies that can be harnessed to alter social outcomes. It makes more conscious the processes by which society, power and law evolve. It empowers those committed to social change. It offers hope and inspiration that more rapid and radical progress is possible nationally and globally.

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Social Evolution, Global Governance and a World Parliament*

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Abstract

This article describes the relevance of a world parliament in the context of long-term social evolution and the crisis of global governance. It is argued that due to the development of weapons of mass destruction and complex interdependency, war has ceased to be a driver of socio-evolutionary consolidation of power at the world-system level. At the same time, there is an increasingly urgent need for global governance in spheres such as climate change mitigation or economics and finances. The author looks at how the established and now dysfunctional pattern of evolutionary change can be overcome and identifies the institution of a world parliament as an important political and psychological aspect of the evolving collective.

Social evolution can be conceived as a continuous integration and disintegration of human communities. In a continuum between cooperation and competition human communities compete for areas of settlement, natural resources, food and political authority. In the course of technological development and population growth, these social units become more differentiated and their links with each other become ever more complex.

Within these communities rules develop, that organize communal life as peacefully as possible, even though primarily to the benefit of a ruling class that commands the exercise of force and the distribution of resources. Towards other units mistrust predominates. The preparedness to use force is high. War, oppression, slavery and assimilation were characteristics of this process. From a historical perspective, democracy, human rights and (humanitarian) international law are new developments.

In the course of history, the number of units has decreased. Their maximum size and degree of organization have grown. From hunter-gatherers, nomadic pastoralists and settled communities, different forms of political organization gradually developed such as city states, principalities, dynastic realms, continental empires or today's territorial states. At around 1,500 B.C. with an estimated world population of 50 million, maybe 600,000 political units existed.¹ Today, seven billion people are distributed amongst the 193 states in the world.

Regressions such as the breakup of the Roman Empire were followed by new processes of amalgamation. In his famous work *The Civilizing Process*, Norbert Elias has described this development since the Middle Ages. According to Elias, states today are still engaged in

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a permanent competitive struggle that inherently implies the formation of ever larger power units with overarching monopoly on the use of force.²

Due to the existence and availability of nuclear weapons, the relational system between the leading states in the world has been subject to a fundamental change since the end of the Second World War. Because of the destructiveness of these weapons, up to almost complete annihilation, a direct armed conflict between the great powers as a means to solve disputes or for power expansion has become potentially suicidal. They are locked, to use the words of Wilhelm Wolfgang Schütz, in an “interdependency of perdition”.³

This means that a consolidation of the state system into one political unit as a result of violent conflict, one of the main drivers in the past, is not possible (and, of course, not desirable anyway). After a Third World War, it is reasonable to assume that not much would be left of human civilization as we know it today. This also means that until a global monopoly of the use of force has come about voluntarily, the system would remain in a dangerously instable condition. “Even if we assume that global Armageddon will not occur, it seems to be the unfortunate fate of humanity that it has to live in constant fear of this disaster,” wrote John H. Herz.⁴

The system is not only unstable from a perspective of peace and security, it also has no “capacity to govern”, an urgent problem that has already been addressed, for example, in a report by Yehezkel Dror to the Club of Rome in 1994.⁵ As yet, no improvement is in sight. Quite the contrary. The technological revolution in the course of the last two decades has resulted in an ever stronger global linkage of almost all spheres of life. Crucially important political questions and challenges have slipped out of the control of nation states. The activity of international institutions reflects the lowest common denominator of conflicting government interests. National governments, whether representative or autocratic, are keen to hold on to their traditional sovereignty, even if in reality this sovereignty no longer is in accordance with effective autonomy. This is the case, for example, with regard to the global economic and financial system, as the financial crisis since 2007 impressively shows, but above all in climate policy.

Meanwhile, there is a broad international consensus that global warming of more than two degrees Celsius in this century will have incalculable catastrophic consequences for humanity. A transformation towards a sustainable post-carbon world, however, “can only succeed if nation states put global cooperation mechanisms before their own short-term oriented interests,” as the German Advisory Council on Global Change pointed out recently.⁶

The non-existence of a governable political world community remains to be the most dangerous characteristic of today’s world system. Further evolution and long-term survival of human civilization make it necessary to develop a democratic world federation. The world will have to unite politically in order to prevent the impending disintegration of global civilization.

The core issue is not just one of power politics and structure. The challenge is much more of a cognitive and intellectual nature. According to Elias, there is an inextricable linkage between human sociogenesis and psychogenesis. The growing complexity of social relationships that is characteristic of the emergence of states and modernization, for example,

came along with stronger emotional self-control, rationality and a more developed sense of shame.

Georg W. Oesterdiekhoff has reconstructed that in human history it is possible to trace “a sequentially advancing, unilinear and growing differentiation and integration of social and psychic structures”.⁷ “As the cognitive development of the individual takes place under social conditions,” said Jürgen Habermas, “there is a circular process between societal and individual learning processes”.⁸ Accordingly, Ken Wilber for instance has related the cognitive levels of consciousness that he described with “geopolitical systems levels”.⁹

In the face of the logic inherent in human evolution until now, Richard Newbold Adams and others claim, based on Wilhelm Friedrich Hegel’s *Phenomenology of Mind*, that global government is simply impossible as Earth is faced with no external enemy, no external social unit, that makes political integration at the planetary scale necessary or at least easier. “Identity is fundamentally the binary differentiation of some set of ‘we’ from some set of ‘other’,” says Adams.¹⁰

Overcoming this mode of forming collective identity is exactly the challenge of necessary transformation. Arash Abizadeh for example points out that collective global identity could also be formed in a temporal way instead of geographically by differentiating from the past and its values. “Humanity’s own past provides a rich and terrifying repository in contrast to which cosmopolitan identity could constitute its ‘difference’”.¹¹

As a matter of fact, more and more people conceive of themselves as world citizens and as such develop a sense of solidarity with each other. To a degree these people begin to outgrow the evolutionary logic that implies that identity can only be formed by differentiation from others. They concentrate on what all human beings have in common. They do not wish to carry on as before. They include future generations into their thinking. Their thinking is fundamentally different from that of the government executives who pursue particular interests.

“Nation states as institutions have proven reluctant to cooperate in ways that compromise their sovereignty or their freedom to pursue their maximal national interest. ... But it appears that individuals as a whole are more ready to cooperate in a global framework and are not as constrained by competitive national narratives,” explains Steven Kull in an analysis of international polls.¹²

The emerging view stems from what could be called a planetary consciousness. This consciousness is integral insofar as it does not suppress or deny other levels of identity and belonging but instead adds a holistic view to them that includes humanity and the planet as a whole. One of the most important pioneers of integral philosophy, Jean Gebser, has noted that such “mutations in consciousness” have always occurred in situations “when the prevalent structure of consciousness was no longer sufficient to cope with the world’s tasks.”¹³ Such a situation exists today. The political unification of the world will have to be the result of *an inner revolution*, a conscious evolutionary act carried out by humanity.

According to Steve McIntosh, global governance that is not based on integral consciousness is neither achievable nor desirable – “but with the rise of the integral worldview, a world federation becomes realistic and even inevitable”.¹⁴

The connection between sociogenesis and psychogenesis can also be found in McIntosh's reflections. He argues that "every new worldview has taken shape around a political issue, and the rise of the integral worldview will be no exception". The integral worldview, he says, needs a political platform "to produce lasting cultural evolution". The establishment of a world parliament is probably the most obvious and most promising project for this.

The first step into the direction of a world parliament would be the establishment of a Parliamentary Assembly at the United Nations.* This is a complex undertaking where it is easy to get lost in questions of detail. *Grasping the project from an evolutionary perspective is all that matters.* Because, as Habermas said, "It is possible to characterize every evolutionary boost through institutions that embody the structures of rationality of the next evolutionary stage".¹⁵

From this point of view it is of highest importance that the assembly would consist of democratically elected representatives of the world's population. As such the assembly would be *the first* political body in the history of humankind that establishes a direct connection between every single human being and the planet. Through its existence alone the assembly would contribute to the recognition of profound, one could say, revolutionary ideas, the first being the notion of the world as a community of individual world citizens. As a global voice of the world's citizens, the assembly would embody a planetary consciousness and at the same time facilitate its growth.

"As a planetary consciousness takes root over time, the assembly could help to evolve the United Nations accordingly and push forward the political integration of the world. In this way, the inner and outer dimensions of the global transformation – the development of consciousness on the one hand and the development of social institutions on the other – would reciprocally strengthen and stabilize each other."

The assembly and its members could become a focal point for a new, cooperative understanding of global politics. As a planetary consciousness takes root over time, the assembly could help to evolve the United Nations accordingly and push forward the political integration of the world.

* The proposal was introduced in the 2nd issue of Cadmus, see <http://cadmusjournal.org/article/issue-2/towards-global-democratic-revolution-global-parliament-and-transformation-world-order>.

In this way, the inner and outer dimensions of the global transformation – *the development of consciousness on the one hand and the development of social institutions on the other* – would reciprocally strengthen and stabilize each other.

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Evolution from Violence to Law to Social Justice

ARTICLE | APRIL 10, 2012 | BY WINSTON P. NAGAN, GARRY JACOBS

Law is a complex phenomenon. The principles and practice of law are a composite of multiple forces – the force of past precedent, established custom and accepted tradition; the force of present political, economic and social power; and the force of emerging aspirations and ideas striving for acceptance. At any point in time, law consists of a more or less precarious balance between the past and the future. The elite of society who achieved in earlier generations naturally accord greater legitimacy to past precedent. Currently prevailing social achievers, like the hedge fund traders of today, affirm the legal basis for their wanton freedom of action. Together with civil rights advocates, youth in Cairo and Occupy Wall Street protestors, idealists and aspiring masses press for the translation of high constitutional principles into pragmatic social realities. Thus, in formulating its decision on the legality of nuclear weapons, the International Court of Justice struggled to balance the reality of existing power equations (the five permanent members of the UN Security Council with veto power are all nuclear weapon states), current international law (the NPT specifically includes a long-ignored pledge of the nuclear weapons states to eliminate their arsenals), and the undeniable right of the rest of humanity to freedom from the use or threat of use of such heinous weapons of mass destruction. The ICJ's judgment is not a reflection of justice, but of the prevailing balance of strength between these social and political forces at a given point in time.

Law is evolving. The tension between these forces drives social evolution. Their relative strength determines its pace. But the direction of that evolution is not easy to discern. The complexity of its composition and the varying and alternating strength of retrogressive and progressive tendencies tend to veil the movement. Law is one dimension of a wider, integrated social reality. The intimate relationship between the evolution of law and the evolution of other aspects of society – the movement toward democratic governance, rising levels of prosperity, higher and wider educational attainments, technological and organizational advances – further complicates the issue.

The inevitable direction of that evolution is also obscured by the fact that social development is largely a subconscious process. It expresses irresistible human aspirations and social tendencies but works itself out through a long process of trial and error, advance and retreat, conflict and resolution. Often the strongest reactionary forces serve a crucial role in the evolutionary advance. The US Civil War, fought to affirm states' rights and preserve slavery, succeeded only in affirming the inalienable rights of the individual from unjust state law. In exhausting the policy of state control through the art of tyranny, the USSR demonstrated to the world the essential role of individual freedom and human rights for stability, economic welfare and well-being, compelling China to radically change course to avoid a similar fate. For sixty years, an undemocratically governed UN has espoused the cause of democracy, inevitably preparing for the day when international governance will be democratized. Today, free-market capitalism based on efficient market theory eminently serves the cause of socialism, while vehemently denying it.

In spite of the complexity of the movement, when viewed from a historical perspective, the general direction of the evolutionary movement can be discerned. Physical violence, social authority and economic power are gradually and progressively giving place to principles of justice based on universal human values. Yet, because the movement is complex and largely subconscious, its velocity is hampered by doubts and retrograde measures. Therefore, close examination and validation of the direction – making that direction more clearly conscious and evident – may be of immense practical value. It can speed the awakening of emerging social tendencies and dampen the insistence of those that seek to perpetuate the past and retard the future. A full examination of this issue would require

a massive research effort, for it involves a historical examination of advances in many different fields of society and their interactions with the evolution of law. Such a project would justify a major research program undertaken by a dozen or more universities under the auspices of an international group of multidisciplinary composition, such as the World Academy of Art & Science. Once validated, momentous consequences would follow. For its conclusions would have relevance not only to jurisprudence and legislation, but to politics, economics, education and other fields as well. As an illustration of the approach, here we can only sketch in broad strokes some important lines of inquiry.

The original 'law' of humanity was the law of the jungle, survival of the fittest, might is right. The survival and stability of the collective were the sole governing principles of social order. The strong imposed their will on the weak, the leaders with the greatest following imposed their will over the group, reinforced by force of arms or popular support. 'Law' consisted of the rules laid down by the leadership to govern the community and the foremost of those rules were concerned with securing the collective from external threats and enforcing the authority of the leadership over those living within the community. Hereditary rule became prevalent as a means to ease the transition from one leader to the next, avoiding frequent challenges to legitimacy and wars of succession. Aristocratic lineage defined by bloodline institutionalized the succession of power and proved a stabilizing basis for continuity of leadership and social stability.

Law evolved as an instrument of politics to replace violence with agreed upon rules of social order. Physical authority based on force of arms was progressively replaced by social authority based on the written word and backed by the implicit threat of force. The dueling grounds were replaced by the court room, civil war by parliamentary wrangling between opposing political parties, physical enforcement of financial agreements by contracts and negotiations. Money too played a central role in the transition from violence to social order. Blood money replaced murder as a means for resolving differences. A century ago in France, fining men for physically abusing their wives proved a successful means of curbing violence. The economic incentive of lucrative trade replaced the lure of piracy, conquest and destructive physical plunder. Through it all, physical force gradually gave way to social convention, legislation and jurisprudence as the principal means for dispute resolution.

While its origin might be force, the transition from violence to law always involves an implicit acceptance and internalization of authority by the collective. Unless the populace accepts the legitimacy of its rulers and the laws they pronounce, the rulers will be compelled to resort to force to maintain the status quo. Thus, monarchs, self-declared emperors like Napoleon, military rulers like Saddam Hussein and Gaddafi, and even worse tyrants have achieved that acceptance by those they govern. Rule by the word always implies a modicum of acceptance by the collective and reflects the conscience of the collective. If the people of democratic nations elect a Hitler, Mussolini, Reagan, Berlusconi or Ahmadinejad, it's because the collective conscience does endorse the principles they stand for. Of course, the relationship is more complex. Today, we find the judiciary in India playing an active role to awaken the social conscience and a public anti-corruption movement sprouting in response to the leadership of the Supreme Court.

Long after law evolved to regulate actions within the community, relationships between communities were still governed largely by mutual threats or incidents of violence. However widespread its incidence, war had its disadvantages as an instrument for foreign policy. For centuries, Europe sought to mitigate the threat of war by intermarriages between the ruling families of great powers. From very early times, communities found that replacing physical violence with mutually beneficial trade could also minimize threats and generate greater security. Commerce progressively replaced conquest as the principal means for enhancing national wealth. Bilateral and multilateral treaties between states gradually evolved into a nascent body of international law in the 20th century, culminating in the

founding of the UN, the ICJ and numerous other political organizations of nation-states empowered to codify the public conscience of the world community. As a result, two enormously destructive world wars were followed by 45 years of Cold War in which threats and accusations were mutually exchanged across the conference table and political lobbying for support progressively replaced the physical marshaling of armies. The principle of law replacing violence has gone so far that in the words of a Dutch NATO expert, in the European theater, the site of incessant warfare over five centuries, “war has become unthinkable”.

Each advance in society has a corresponding impact on the evolution of law. Greater democratic freedom necessitates establishment of rising levels of education which generates citizens, legislators, judges and lawyers more capable of formulating, administering, comprehending and abiding by complex rules of conduct. Rising levels of prosperity necessitate a more stable political and safer environment for expansion of industry, trade and investment. Technological advances necessitate development of law for protection of the public, preservation of privacy, patent and copyrights, etc. The process by which society releases fresh currents of energy and directs them toward the development of new types of organizations poses fundamental legal questions. Through this process, people also evolve psychologically. A more educated citizenry has higher aspirations and greater self-respect. The emerging individual is less deferential to the past and more insistent on his or her rights; less willing to conform to regimentation, more insistent on freedom and more tolerant of diversity.

Winston Nagan & Garry Jacobs

The following is an excerpt from the whole system book:

GLOBAL SYSTEM CHANGE
A Whole System Approach To
Achieving Sustainability and Real Prosperity

*The **Governance** section below is included in Chapter Five of Global System Change. The **Global Peace and Human Rights Protection** section is in Chapter Nine.*

GOVERNANCE

Governance is a complex and frequently longer-term system change issue. Important aspects of governance include levels of governance, autonomy versus interdependence, democracy and a global bill of rights. This section discusses systemic problems and solutions related to these and other governance issues. As with other systemic changes suggested throughout this book, ideas presented here are intended to be suggestions for consideration by collaborative system change groups.

Levels of Governance

Governance involves the organization, management and control of human society. Organization can occur at many levels, including local, regional, state, national, international and global. The organization of human society or sub-elements of human society can be driven by rational, random or other processes. Current national structures and borders, for example, did not result from rational whole system assessments focused on segmenting humanity in ways that maximize global well-being over the long-term. Instead, they largely resulted from the flawed ideas and systems discussed earlier.

As discussed in the Well-Being of Society section, around the time of the agricultural revolution, some religious and other ideas encouraged the domination of nature and other people. These ideas, and societies based on them, began to replace or push aside the partnership-based ideas and systems of indigenous cultures that had worked for thousands of years. As discussed in the Property Rights section, various religious, economic and political rationalizations and justifications were given for the domination of nature and other people. These rationalizations often condoned and drove the various empires seen throughout human history.

Original empire building or imperialism frequently was driven by political or military means. More recently, newer forms of imperialism based on economic means have emerged. Imperialistic or dominating entities can take different forms, including governments or corporations. Multinational corporations can take on imperialistic roles driven largely by flawed systems that require them to grow forever. They sometimes become more powerful than governments. National governments often no longer are the primary driver of empire building, for example, through the taking of land. But governments play a key role in economic empire building, in part by enabling the ongoing growth and domination of corporations. As discussed in the Economic Growth and Well-Being of Society sections,

seeking never-ending economic growth in the finite Earth system is not rational or sustainable. It drives growing environmental, social and economic problems.

Emulating nature probably is the most important overarching system change action needed to achieve sustainability and real prosperity. This strategy applies in nearly all areas, including governance. The solutions to many complex human problems are obvious or implied in nature. In emulating the sustainable and nearly infinitely more sophisticated systems of nature, an important aspect related to governance is local control. In nature, there are no national borders. Nature mostly is organized into local, largely self-sustaining communities that usually are divided by geography or other aspects of nature. Like nature, a sustainable human society would focus much more on strengthening local communities and regions. People who live on the land largely should control it. They have the greatest incentive to preserve the land and surrounding environment.

This implies that over time, as humanity moves toward sustainability, control of many aspects of society would shift from the national to the regional or local levels. One benefit of this decentralization of governance is empowerment of citizens. Many people feel powerless in relation to their national government, even though citizens theoretically are the ultimate leaders in a democracy. When governance is shifted to the local level, everyone who wants to be involved can be. This empowers citizens by giving them influence and control of their destiny.

Sustainable systems would use rational, logical, whole system approaches to governance. The ideal level of governance depends on the task or issue being managed. For many governance issues, a predominantly regional or local focus would be most effective. As discussed in the Trade, Scale and Competitive Advantage section, measures of effectiveness should include all aspects of social well-being, not just economic growth or economies of scale.

For some activities, the ideal level of governance often would be international or global. These types of activities include global environmental protection, global security, protection of human rights, and possibly some research such as exploration of outer space.

As many activities are decentralized to the regional and local levels and some are centralized at the international and global levels, the power and activities of national governments will decline. The idea that the role of national governments would decline in a sustainable world should not be surprising. National borders and segmentations often resulted from illogical, unfair and abusive ideas, systems and practices. We recognize that enslavement, genocide, slaughter of enemies and other barbaric acts that sometimes contributed to the current system of national borders were wrong. But their legacy often remains (i.e. the borders largely remain in place). In some ways, it is as if criminals were allowed to keep the proceeds of their crimes. However, it is different in the sense that these harmful actions often resulted from leaders doing what they thought was best for their people or what religions encouraged them to do.

Addressing national borders is a complex issue. But national borders often are the fruit of unjust actions. Therefore, there is little reason to assume that existing borders would be considered logical in a sustainable human society over the long-term. This is not to suggest that national borders should be dismantled. The more likely scenario is that over time they will become less relevant as various activities are centralized or decentralized. However, over the short, medium and even long-term, some activities might remain best managed at the national level.

The European Union illustrates how some national issues might be addressed. National borders did not become irrelevant with the formation of the European Union. But they did become less relevant as activities that were most efficiently and effectively managed at the international level were centralized. However, the European Union is not a full model of sustainable governance because it was formed in part

to compete more effectively in a global economy that is unsustainable and flawed in many ways. Under sustainable governance systems, more activities probably would be decentralized than centralized.

Several factors discussed in the Trade, Scale and Competitive Advantage section come into play here. Some people probably will argue that decentralizing the economy and society in many ways would lower efficiency and economies of scale. However, these arguments would be myopic if they did not adequately consider the whole system and all aspects of social well-being. When all aspects are considered, such as job security, environmental protection and happiness, a more decentralized society, with greater centralization of a few key issues, probably will be the most efficient and effective.

Addressing or even discussing national borders can be difficult. National identity often is a large part of personal identity. Many people are proud of their countries, as they might be proud of their favorite sports teams. In a competitive world, being part of a team or country can provide protection, pride and a sense of community. The purpose here is not to suggest changing national borders. It has more to do with changing perceptions about national borders.

Strongly identifying with one country can make citizens less sympathetic to the needs of people in other countries. In reality, we are all part of one global community. Borders cannot be seen from outer space. They are the fruit of human ideas and actions. They are concepts and constructs. As we recognize the reality that all people are equal and deserve a good life, we will become more willing to shift governance of some issues, such as protection of human rights, to the global level. The relevant team is not the US, French, Chinese, Kenyan or Brazilian team. It is the human or global team.

Of course, if we are all on the same team, then there is no one left to compete with. But this is what humanity needs to do to survive and prosper. Sports competition is fun. But excessive competition in human society is suicidal. To illustrate, when considering the whole human body, it becomes clear that the overwhelming force in a healthy body is cooperation. When the overwhelming force is competition, the body probably has cancer or some other terminal illness. But if one looks at the cellular level, they sometimes would see one cell eating another cell and might conclude (incorrectly) that the overwhelming force in a healthy human body is competition.

In the same way, if someone walks into a forest and sees one animal eating another animal, they might conclude that the overwhelming force in nature is competition. But if we step back and look at the whole forest, or any other healthy natural system, nearly infinite symmetry and coordination show that the overwhelming force in nature is cooperation.

When humans did not have the technology and power to substantially alter nature, we probably could have survived if human society was predominantly competitive. Paradoxically, at a time when we could have gotten away with competition, many indigenous societies recognized that cooperation with nature and others was the wiser, better course. Now that we have gained the power and technology to substantially alter our life support systems, greater cooperation among humanity has become essential for prosperity and even survival.

Our power has grown faster than our wisdom. In a sense, our wisdom has declined because we once often implicitly recognized that cooperation was the better way. But we seem to have forgotten this. Many people understand that cooperation is wise and live their lives based on this idea. But many national and global economic and political systems are based on competition. These systems drive most of the environmental and social degradation seen around the world. The problem is not so much individuals as myopic, flawed systems.

As seen in nature, limited competition at the individual level can work. But at the whole system level, survival and prosperity require cooperation. We have scaled ideas and systems based on competition up to the higher system level. This must change. Our higher-level economic and political systems must be based largely on cooperation. We have grown too large and powerful to afford the luxury of competition. Cooperation at the overarching system level is mandatory if we wish to avoid system collapse.

It is imperative that our wisdom and cooperation accelerate rapidly and catch up with our power. From a survival perspective, the only relevant team is the human team. Beyond survival the only constant in nature is diversity. As we move toward real prosperity, the great diversity of human ethnicity, culture, tradition and language should be honored and protected. As much as anything else, our diversity makes humanity beautiful.

Autonomy versus Interdependence

Autonomy versus interdependence relates to the degree of separation or independence within human society. Largely using the US as an example, this subsection discusses why some nations might believe that autonomy is important, how autonomy is maintained, and why less autonomy and more interdependence would produce a more sustainable and prosperous human society.

In reality, we all are part of one interconnected system. None of us can live in outer space. But the shortsighted human perspective often makes our interconnectedness difficult to see. Nevertheless, interconnectedness is reality. Separation is an illusion. As the human economy and society expand, if we continue to live largely as autonomous, separate entities, our problems will increase. Sooner or later (probably sooner), we will be compelled to address the reality of our interconnectedness and interdependence. Doing this in a rational and voluntary way will ease the transition to sustainability and maximize the well-being of human society.

One of the main barriers to sustainable governance is the desire to be autonomous at the national level. In a competitive and dominating world with frequent wars and many threats such as terrorism, strong and largely autonomous nations enable protection of citizens, economic interests and national security.

In this fear-based world, protection of national security often is used to override other concerns. For example, the military and corporations supplying the military sometimes are exempt from environmental performance standards. But the foundation of national security is an environment that is clean enough to keep us alive. Therefore, degrading our life support systems in the interests of national security frequently is not logical.

Large corporations support strong nations. They facilitate the development of weapons and control of resources domestically and abroad. Under our flawed systems, corporations can die or be taken over if they do not maintain ever-increasing profits. Corporations are critical to national security in countries such as the US. As a result, there often is strong pressure to ensure that corporate and economic growth are not impeded. But we pay a high price for pursuing infinite growth in a finite system. It causes many environmental, social and economic problems. A whole system perspective shows that we are implementing a philosophy and strategy that could be defined as, “We must kill ourselves to protect ourselves”. Obviously, no one intends this. Our well-intentioned, but suicidal actions result from failing to think from a whole system perspective.

Regarding autonomy, the US is a special case among nations. With GDP of about \$18 trillion in 2015, the US represents about 22 percent of the global economy. But as noted, the US spends more than the rest of the world combined on military. The 2008 US military budget of \$623 billion represents more than 55

percent of global military expenditures (about \$1.1 trillion).¹ In terms of tonnage, the US Navy is larger than the 17 next largest navies combined.²

However, the roughly \$600 billion military budget substantially understates total US military expenditures. When Homeland security, Veterans Affairs, interest on the military portion of the national debt and other military-related expenditures are included, the total US military budget in 2016 was about \$1 trillion.³

A strong US military has played a critical role in recent world history. For example, it is difficult to imagine the horrors that might have been unleashed upon the world if the US had not been involved in World War II. A strong US military in partnership with our allies helps to keep global peace. It also protects the activities and expansion of US corporations around the world.

When economic growth is the primary focus of measurement and management, there is strong pressure to do whatever is needed to achieve economic growth, including sustaining a large military to protect US corporate expansion. But the US pays a high price for this. Nearly all advanced democracies provide strong social safety nets, usually including universal healthcare, guaranteed retirement security, affordable college and daycare for working parents.

But the extremely high level of corporate welfare in the US makes it difficult to provide basic services that are taken for granted in most other developed countries. Very high military expenditures also make it difficult to provide basic services and maximize the well-being of society. It is not logical to assume that the US must spend more than the rest of the world combined on the military to defend itself well. But national defense is not the only reason for high military expenditures. Other reasons apparently include protecting the ability of US corporations to expand overseas and protecting access to resources, such as oil.

There also is a psychological aspect of having a large military. In a world based on competition and domination, having the largest military often is very appealing (to those who have it). This type of thinking reflects the abundance of power and lack of wisdom in human society.

Military expenditures show the importance of switching the focus of measurement from economic growth to social well-being. The small group that owns most business assets in the US does not need affordable college, universal healthcare or secure retirement. But they often do need a large military to support the expansion of US corporations overseas. This group gives the most money to politicians. As a result, they usually get what they want.

Average citizens were not asked if they would like to sacrifice basic services so that they could have the largest military in the world by nearly a factor of ten. This choice was imposed on them. The US spends nearly ten times more than the second largest military power in the world, China (\$70 billion 2009 military budget).⁴ The US could cut military expenditures in half and still be more than four times larger than the next largest military. If our military cannot defend the US well when it is more than four times larger than any other military, then we have an inferior and extremely inefficient military strategy. Cutting military expenditures in a way that still allows us to remain the world's largest and most powerful military by far would help the US to care for its citizens at levels comparable to other advanced democracies.

The desire to remain autonomous is a main barrier to reducing US military expenditures. The US began as a revolution against tyranny and unfairness. We fought for and won our independence. We established a visionary form of government that has been a model and inspiration for many other countries. We have

defended democracy, human rights and economic opportunity around the world. In other words, we meant well and did well in many ways.

The US grew up, so to speak, in a competitive and often unsafe world. The ability to do what we believed was right when necessary was critical to our success. In other words, autonomy was key to our success. But as with individuals, the growth and maturation of countries continue. Ways that once were appropriate and effective can become inappropriate and ineffective. As the human economy and society continues to expand in the finite Earth system, the reality of our interconnectedness and interdependence becomes more obvious. Autonomy once was an asset. But it has become a liability in many ways.

It is difficult to say why the US appears to believe that our military must be vastly larger than any other. Perhaps some senior government and military leaders believe that the world would be too unsafe and dangerous if we did not dominate the world militarily. From this perspective, it appears that some US leaders essentially view the US as the world's parent and all other countries as a collection of good and bad children who must be kept in line. These types of arrogant, paternalistic attitudes must change. This approach can alienate us from the rest of the world. Paradoxically, our strategy of dominating the world militarily might make us less safe because it can turn other countries against us.

The US cannot afford to continue being the world's policeman or using the implied threat of military force to impose our will and ways upon the world. Extensive global military operations are a main cause of high US military expenditures. The US maintains about 850 military facilities in more than 40 countries and US territories.⁵ These operations cost about \$250 billion per year. Maintaining global military dominance is too costly. It often forces us to sacrifice basic services that are provided in other countries.

The maturation process for countries and individuals is similar. At first, children depend on their parents (as the US did on England). Then teenagers begin to break away and become independent, sometimes by rebelling against parents (as the US did against England). But as individuals mature into their 20s and 30s, they often realize that no person is an island. Survival, prosperity and happiness often require reliance on others, including families, friends, employers and communities.

It is the same with countries. We live in an increasingly interconnected global economy and society. Our survival and prosperity is best provided by interdependence, not autonomy. Becoming a mature participant in global society means that we do not seek to dominate world events and organizations. Instead, we compromise and sometimes do not get what we want.

This means that we rely in large part on others for our security and prosperity. We no longer need to go it alone, like teenagers rebelling against their parents. We no longer need to be stronger than the rest of the world combined. An interconnected world of democratic nations is fully capable of defending itself against terrorism and other threats to humanity. Our allies can protect our interests in their part of the world, as we protect theirs in ours.

The US already practices interdependence in many ways, for example, through our participation in the United Nations (UN), North Atlantic Treaty Organization and many other international organizations. Nevertheless, in spite of these partnerships, it still appears that we feel compelled to dominate in global economic, military and other areas. True interdependence involves not needing to dominate or be the leader. It includes being comfortable as an equal among equals.

This movement from autonomy to interdependence is a major component of balancing power and wisdom. The overwhelming force in nature is cooperation. It has worked in nature for billions of years and in indigenous societies for thousands of years. Cooperation is wise because it works. Increasing

interdependence and cooperation will provide many benefits. By assuming a more equal global military role, the US can better meet the needs of its citizens.

Paradoxically, scaling back military expenditures and becoming a better global citizen might be the best way to defend against a main threat to US security – terrorism. As discussed in Chapter One and the Taxes section, the US strategy for protecting against terrorism largely is focused on the supply-side. Through increased national security and global military operations, we seek to reduce the amount or supply of terrorist activity.

However, the war on terrorism cannot be won by focusing only on the supply-side. Terrorism is a faceless enemy. Nearly anyone could be a potential terrorist. It is impossible to police everyone. As a result, terrorism risk never can be reduced to near zero through supply-side efforts alone. Demand-side efforts are essential for providing strong protection against terrorism. These efforts involve lowering the demand for terrorism. The focus is on reducing or eliminating the actions and policies that make people angry at the US, want to harm us, and want to engage in terrorism against us.

One factor stimulating terrorist activity is the presence of the US military in other countries. In this sense, increasing our supply-side efforts against terrorism can increase the demand for terrorism. This can put us in an escalating, no-win situation. The harder we try to stop terrorism through military efforts, the more terrorism or demand for terrorism that we often create.

The US does much good in the world. But we also directly or indirectly impose far greater negative environmental and social impacts on global society than any other country. Reducing these impacts and lowering our military presence around the world probably would substantially lower the demand for terrorism against the US.

In addition to benefiting ourselves, the US will benefit the world by moving from autonomy to interdependence. The US is a global leader. If we model greater trust and reliance on others, many other countries probably also will move in this direction. Some might argue that this laying down of the sword, so to speak, is naïve and cowardly. But this is the perspective of an unwise, fearful bully. The purpose of scaling back military operations and relying more on alliances is not to lower security. It is to improve it. Obviously, these actions must not be done in a foolish or risky manner. They must be well thought-out and well executed.

From a practical perspective, the need to achieve never-ending economic growth might be the main barrier to moving from autonomy to interdependence. Myopic economic theories say that society will decline if economic growth ends. But reality and the more accurate whole system perspective show that society will decline and then end if economic growth does not stop.

Using economic growth as the primary measure of the well-being of society is relatively simple. But it is extremely myopic and destructive. Accurately measuring and managing social well-being is much more complex, in part because many direct indicators are measured instead of one indirect indicator. Wisdom includes being able to see the big picture. As we become wiser, we will directly measure social well-being (instead of simply and incorrectly assuming that it goes up as the economy grows).

This will greatly facilitate movement from autonomy to interdependence. The priority no longer will be that big companies grow forever or that we remain the global economic and military leader. The priority instead will be to maximize the well-being of the US and its citizens while working with other countries to maximize the well-being of their citizens.

In its relatively short history, the US has been a global leader in many ways. We now have the opportunity to model and lead perhaps the most important and essential transition in human history – the movement from ideas and practices based on domination and competition to ones based on cooperation. In effect, this is becoming wise on a national level while supporting the expansion of wisdom and cooperation on a global scale.

Democracy

As discussed in the Influencing Government section, democracy probably is the only sustainable form of government, in part because it is based on the innate equality of all people. The purpose of government should be to serve society and all citizens equally. This only can be achieved if all citizens have equal influence over government. If citizens do not have equal influence and access to government, for example through fair elections and lobbying procedures, then democracy is thwarted and citizens' rights are violated. This section discusses how democracy often is blocked and how it can be strengthened.

True democracy, in the sense of citizens having equal influence over and access to government, is rare in modern society. The reasons for lack of democracy in supposedly democratic nations vary by country. But there are some common themes and reasons. One of the most important is the inherent conflict between democracy and attempting to achieve never-ending economic growth. Economic growth benefits society in several ways. But it also increasingly degrades the environment and society in many other ways. When economic growth is the primary factor being measured and managed, the negative impacts of economic growth on the environment and society often are not measured and managed adequately.

As shown by income growth disparities and many other examples given previously, economic growth mostly measures the well-being of the small group that owns most business assets. Governments often focus mainly on economic growth, partly because this group gives the most money to politicians and inappropriately influences government in other ways. In addition, many political leaders believe in the myopic and increasingly incorrect philosophy that economic growth is the best way to enhance the well-being of broader society.

If people had true equal influence over government (i.e. if true democracy were present), then government would be much more inclined to do what actually was best for broader society. In other words, government would be inclined to directly measure and manage what was best for all citizens, instead of what was best for wealthy business owners. Countries would be managed to maximize the ends (social well-being), rather than the means to the end (economic growth).

Maximizing social well-being sometimes would mean that economies would decline or not grow. The focus would be on factors such as job security, environmental protection and maximizing the well-being of individuals, families and communities. As shown in nature, this maximizing of well-being usually is achieved through balance, not growth.

Under current systems, maintaining economic and military dominance often requires ongoing economic growth. Without this, the multinational corporations that enable dominance might decline or go out of business. In a world based on competition and domination, impeding economic growth appears to be suboptimal. True democracy might slow, stop or reverse economic growth (by shifting the focus to social well-being). As a result, it often is not implemented.

Democracy is thwarted by different means in different countries. The US and China provide two important examples of the suppression of democracy. As discussed extensively, democracy is suppressed in the US mainly through inappropriate influence of government and unfair election practices. In addition,

failing to disclose military activities can inhibit democracy by taking away the people's ability to make decisions about or be aware of critical issues.

For example, under the banner of national security, the US military engages in many practices that are not disclosed to the public. Obviously, non-disclosure is logical and important in many cases. Revealing military strategies to potential enemies (through public disclosure) often would greatly weaken effectiveness. However, some military activities have existing or potential negative environmental, social and/or economic impacts. Most secret military activities are reviewed by the legislative, executive and sometimes judicial branches of government. However, a small group of political leaders reviewing this information might not adequately protect the public.

To illustrate, for many years, the US military has directed large amounts of energy at the upper atmosphere through the High Frequency Active Auroral Research Program (HAARP). Some experts believe that HAARP and other facilities like it around the world have the potential to significantly alter weather patterns.⁶ Weather disruptions could be used as a weapon, for example, by causing floods or droughts in enemy countries. The US military denies that this is the purpose of HAARP. Instead, it discusses other uses of the technology.

Even if weather disruption were one purpose of HAARP, the military might be inclined to deny it. Admitting this could compel enemies to develop similar weapons, limit HAARP's effectiveness, and/or make the technology politically unfeasible. If weather manipulation is not a purpose of HAARP, the technology potentially could have unintended negative impacts on weather. This in turn could cause negative environmental, social and economic impacts.

Balancing national military security with more important types of national security, such as environmental protection, is a difficult system change issue. Obviously national military security must be protected. But the foundation of national security is environmental protection. Without an environment that is clean enough to keep us alive, there is no nation to protect.

Activities such as HAARP that have the potential to cause large environmental and other problems sometimes should not be kept secret from the public. The interconnected global environment is massively complex. Humans do not come close to understanding how it functions as one total system. Weather manipulations (intentional or unintentional) could have large, unforeseen negative consequences. HAARP, nuclear weapons, other weapons of mass destruction, and other weapons technologies could have major negative impacts on human society, or even destroy it. As a result, the use of these technologies probably is not a decision that should be made by a few people who might be narrowly focused on military security and not adequately considering other aspects of national security, including the most important – environmental protection.

In cases where the potential collateral risks of weapons development and use are great, citizens have a right to know what is being contemplated. Obviously, public disclosure would render many weapons systems untenable. But the people's right to survive and be aware of grave risks facing them takes priority over weapons development. Requiring disclosure of weapons systems with high collateral risks will compel the military to develop weapons that provide excellent military protection without compromising other critical aspects of national security, such as environmental protection or the survival of human society.

The same situation exists with business. When businesses are held fully responsible for negative impacts, acting responsibly becomes the profit-maximizing strategy. The profit motive compels companies to develop high quality, cost effective products and services that do not degrade the environment and society. When the military is held fully responsible or accountable for negative impacts, it also is

compelled to creatively provide outstanding military protection in ways that do not degrade the environment or society.

Obviously, this is not a black and white issue. There might be situations where environmental or social risks are necessary, for example, to adequately defend against weapons being developed by potential enemies. However, national security probably is used too often to dismiss or ignore environmental, social and economic concerns. If the military is held to a higher standard, it will figure out how to meet this standard while continuing to ensure excellent national military security.

In the US, failing to disclose military activities that threaten the well-being of humanity is a relatively small suppression of democracy compared to the issues discussed in the Influencing Government and Government and Elections sections. Implementing the suggestions in these sections will greatly enhance democracy in the US.

In China, democracy also is suppressed, but largely through different mechanisms. China is a communist country. In theory, communism is a democratic form of government. Every member of society theoretically is allowed to participate in economic and political decision making.⁷ However, in practice, communist countries often are controlled by small groups of people and citizens' rights are regularly violated.

In China, citizens directly elect politicians at the local level. Then these politicians elect politicians above them. This system of politicians electing other politicians continues up through several levels of government until the highest level is reached (the President and the National People's Congress). These indirect elections suppress democracy in several ways. For example, citizens electing a politician who then elects another politician is not the same as citizens electing both politicians. Politicians have biases and self-interests. In addition, politicians cannot know which other politicians the people would like to elect unless another election is held to gather this information. As a result, politicians must guess what the people want. This guesswork combined with bias and self-interest virtually guarantees that the will of the people will not be achieved when politicians elect other politicians through indirect elections.

Also, essentially all senior government officials in China are members of the Communist Party. Other political parties are allowed in China. But they all essentially are under the control of the Communist Party.⁸ This effectively means that one party dominates China's government. Citizens might vote for candidates in other political parties. But these candidates and parties have little chance of being elected at the national level. This inability of other parties to attain power means that the will of the people cannot be achieved at the highest, most important level of government.

With indirect elections, politicians below elect politicians above. However, since one party controls government, politicians below usually take directions from politicians above. This can put pressure on politicians below to vote as directed by politicians above. This further lowers the probability that the will of the people will penetrate up through several levels of government dominated by one party.

The US political system is dominated by two parties, the Democrats and the Republicans. When one party takes over the executive or legislative branch, the other party is dissatisfied. But the country moves forward. It has for over 200 years. The same would be true in China. If the will of the people were reflected in government, all parties and candidates would have an equal and fair chance to attain office at any level of government. Under current systems, a small group in the Communist Party decides what is best for the people. This is not a people's republic. The People's Republic of China only can become an actual people's republic by allowing the people to directly elect politicians at all levels of government can.

The two-party system in the US creates many of the same problems as the one party system in China. As discussed in the Government and Elections section, US political systems make it difficult for third parties to have an influence in the US. The two-party system implies that US citizens have choices. In some ways this is true. Democratic and Republican candidates and parties often take different positions on major issues. However, candidates from both parties usually accept large amounts of money from large companies and their wealthy owners. This makes politicians from both parties beholden to these groups. As a result, regardless of which party wins, a small group of wealthy citizens still largely controls government.

This book does not emphasize distinctions between Democratic and Republican parties or politicians. Focusing on differences between the parties foments debate and keeps the status quo locked in place. The main problems or enemies in the US are flawed systems that frequently compel well-intentioned politicians from both parties to take actions that help their wealthy benefactors, but degrade society. Politicians from both parties perpetuate extensive corporate welfare. As discussed in the Finance and Capital Markets section, trillions of taxpayer dollars were used to bailout bank owners and other wealthy speculators. These large, unfair wealth transfers occurred under Republican and Democratic administrations.

The US and China are very similar in the sense that small groups of people control government. The two-party system in the US creates the illusion that the people control government. The indirect election system in China also creates the illusion that the people are in charge. In some ways, this is true. Citizens in both countries have some influence. However, this influence is limited. The small group that owns most business assets in the US is like the small group of leaders that control the Communist Party in China. Most power resides with these small groups. Neither country will be a true democracy until this changes.

The Chinese government has driven strong economic growth, built China into a global super power and implemented some of the most aggressive environmental protection programs in the world. Chinese leaders appear to be managing many aspects their country well. But there is no guarantee that future leaders will be as successful or serve the people as well. A small group of leaders in the Communist Party cannot fully know the minds and will of the people. The only way to guarantee that the people's will is achieved in government is to allow the people to choose their political candidates and parties, as well as directly elect their leaders at all levels of government. As noted, the wise King of Bhutan recognized the potential problems and abuses of power that might result from a government that was not controlled and replaceable by the people. As a result, he voluntarily converted his country to a democracy.

It is difficult to say why the people are not allowed to directly elect their senior leaders in the People's Republic of China. Some citizens and leaders might believe that the people are not competent to rule themselves. This is partly true in all countries. As discussed in the Government and Elections section, the US Founders understood that direct democracy was an unworkable form of government. Average citizens usually do not have enough time to study complex issues and make well-informed decisions.

However, this does not mean that citizens are not or should not be the ultimate leaders of society. As the name the People's Republic of China implies, the purpose of government is to serve the people. The individual perspective makes humans inherently shortsighted. Therefore, it probably is impossible for leaders to fully understand and implement the will of the people if they are not directly accountable to and replaceable by the people. As noted, Chinese leaders often managed their country well. But as global environmental, social and economic problems increase, as they inevitably will if large system changes are not made, there is a risk that Chinese leaders who are not fully accountable to the people might respond in ways that do not serve the people's best interests.

While the mechanisms are different, the problem in China and the US essentially is the same – the people do not control government. Small groups of wealthy or powerful people control both governments. This concentration of power and lack of democracy facilitates the quest for economic and military superiority and dominance. But it is not sustainable. Both systems are inherently unfair. As a result, they almost certainly will change through voluntary or involuntary means.

The current US and Chinese governance systems implicitly (though perhaps not intentionally) are based on the idea that a small group of powerful leaders know the needs of the people better than the people themselves. These leaders often are experts. As a result, this might be true in some ways. But even experts can make mistakes in ascertaining what is best for the people. In the Soviet Union for example, communist leaders intended to do what was best for the people. But in spite of this, citizens' rights were regularly violated. The government lost sight of what was best for the people because it was not directly elected by and accountable to the people.

Any nation that is not controlled by the people will fail because it violates the natural laws of fairness and equality. Citizens did not control the Soviet Union. Largely as a result, it collapsed. The same applies to the US, China and any other country that is not controlled by the people. If the US does not move substantially toward the democratic principles upon which it was founded, it will collapse. If China does not move toward the democratic principles inherent in communist philosophy, it probably will collapse too.

Global Bill of Rights

One of the most important aspects of sustainable governance is implementing and strongly enforcing a global bill of rights. An International Bill of Human Rights already exists. It is comprised of the United Nations Universal Declaration of Human Rights and two related covenants. But extensive human rights abuses around the world show that many countries do not abide by it.

Human rights abuses often occur in tyrannical or undemocratic governments. People are abused on every level, sometimes by their own governments. Basic rights and freedoms are regularly removed. Wealth sometimes is taken to an even greater degree than in the US. People often are forced to publicly praise or worship leaders who abuse them. If they do not, they or their families might be punished or killed. These violations of human rights are an abomination. Why would a man or woman worship a man who took away their dignity and freedom. (Reflecting lack of wisdom, tyrants and megalomaniacs usually are men.)

Every person on this planet is absolutely equal and entitled to the same level of protection, basic sustenance, dignity, respect and freedom. As a race, our failure to guarantee this protection to our fellow human beings probably is humanity's greatest failure and disgrace. It simply is not acceptable in modern society to allow widespread suffering and human rights abuses. We have the power to protect every person on this planet. We should be ashamed of ourselves for not using it. This would be wise use of power. Power used for domination and control usually is unwise and destructive. Protecting others is the proper use of power.

As discussed, under sustainable governance systems, many if not most aspects of society would be governed at the regional or local level. However, some aspects would be governed most logically and effectively at the global level. Ensuring global security and protecting human rights are among the most important actions in this category. By shifting some security responsibilities to the global level, each nation (especially the US) probably could lower military expenditures while receiving better protection and national security.

Protection of human rights probably also should be done by a global coalition ultimately including all nations. In theory, the UN could do this. But it has not been empowered to do so. Global power largely remains at the national level. The US and other nations often are unwilling to give up autonomy and power to a collective body. This kind of posturing and protection of self-interest has created many problems in the UN and greatly weakened its ability to fulfill the humanitarian and other purposes for which it was established.

We all are part of one interconnected and interdependent system. If we do not develop the wisdom needed to cooperate to a much greater degree, problems in human society will continue to increase. We are at or near the tipping point of many environmental, social and economic problems. If we do not become wiser and cooperate more, many of our major problems will quickly get worse.

In a civilized, humane, advanced and sustainable society, all global citizens would be protected. Leaders would not be allowed to abuse their people. Any leader who violates the rights of their citizens would be considered a criminal and removed from power by the collective global community. Tyrannical, abusive governments would be replaced by democratic governments that guarantee protection of human rights and are chosen by local people.

The US and other countries have been reluctant to establish such a system, in part because violating another country's autonomy implies that our autonomy might be violated. This is where maturity comes in. If we are treating our citizens well and not taking advantage of citizens in other countries, we do not have to worry about our autonomy being violated, in the same way that law-abiding citizens have no need to fear police in a just and fair democracy.

However, US companies often impose substantial negative environmental and social impacts around the world. Abiding by the rulings of a world court or other global body that required reduction of these impacts might restrict the profits of US companies, and thereby limit US economic growth. Economic growth and corporate profitability are the primary factors being measured and managed. As a result, actions that might inhibit economic growth, such as abiding by the higher authority of the global community, frequently are resisted.

It is possible that rulings of a global authority might unfairly benefit some members rather than the entire global community. This is one reason why movement toward global governance in areas where it makes sense to do so could be difficult and complex. Governance systems must ensure fair participation and prevent inappropriate manipulation.

Removing leaders who are criminals against humanity should not be done unilaterally. The collective global community must do it. If one or more countries removed a leader for reasons that they considered to be legitimate, other countries might perceive that the actions were motivated primarily by self-interest, rather than seeking to do what is best for the global community. Unilateral action could cause resistance in the country whose leader is removed (even if the leader is abusive) as well as in other countries.

For example, the US invasions of Iraq after it invaded Kuwait and Afghanistan after it supported the September 11th attacks were widely supported by many countries because we clearly had legitimate reasons for the invasions. However, the second invasion of Iraq for the purpose of removing Saddam Hussein from power was not as widely supported. Many countries opposed it. The invasion was not the product of collective global action. As a result, it was costly for the US (over \$4 trillion) and ineffective in some ways. Many Iraqi citizens resented the US's largely unilateral action.

This shows why removing criminals against humanity must be done collectively. Saddam Hussein was an abomination as a leader. He abused and murdered many Iraqi citizens. In an enlightened global

community, an arrogant, probably insane megalomaniac like him would not be allowed to rule people. Removing Saddam Hussein from power benefited the citizens that he abused or might have abused. In addition, as discussed in the Privacy section, the US deceptively argued that Iraq was developing weapons of mass destruction. These factors might have appeared to justify the invasion. But the threat to the US was not immanent. Therefore, it probably would have been better to work more with allies on a coordinated removal of Saddam Hussein, rather than acting in a nearly unilateral manner.

One problem with establishing a global system for removing abusive leaders from power is that developed countries usually impose far greater negative impacts on global society than tyrannical leaders who abuse their citizens. To illustrate, the US is by far the most unsustainable country in the world. As the largest national economy, demand for products and services in the US drives more global pollution, waste, resource consumption and negative social impacts than any other country.

As discussed, US companies impose many negative environmental and social impacts around the world. This is not said as a criticism of US companies or leaders. Flawed systems create a situation where companies could not exist if they did not degrade the global environment and society. The US does much good around the world. But we also impose far more negative impacts than any other country. In this sense, we are the greatest criminal in the world.

But our crimes are different from the crimes of tyrannical leaders. We do not intend to hurt anyone. Our intention is to do the opposite – benefit humanity. Like many other countries and companies, we are an unintentional criminal. We mean well. But flawed systems often compel us to do bad. Our negative impacts are unintentional. Therefore, they should be dealt with differently from tyrannical, abusive leaders. Our impacts result from flawed systems, not flawed motives. The purpose of this book is to suggest how these flawed systems might be improved. System change strategies like those suggested here probably are the best way to address the negative impacts of the US and other well intentioned, but destructive countries.

Women's rights provide another example of a human rights issue that is complicated by good intentions. In some countries, women have far fewer rights than men. Women sometimes are considered to be the property of men, have little say in how their children are raised, cannot own property, must be completely covered when going outside, must be accompanied by a man when outside the home, and/or can be punished if they are victims of crimes such as rape. Girls growing up in cultures such as these often come to believe that this treatment of women is normal and correct. They sometimes think that women who believe that they are equal to men, and act that way, are acting inappropriately and might be punished by God for doing so.

This is similar to the situation with slavery. Children born into slavery sometimes came to believe that slavery was the normal and correct way of the world. This belief was strengthened by the fact that some religions supported slavery. If God says that slavery is correct, then it must be, they sometimes believed.

Poor treatment of women is a difficult issue. Tyrants or ill-intentioned leaders frequently are not the ones perpetuating unequal treatment of women. Instead, men who sincerely believe that they are doing the right thing often do so. They are doing what they believe God wants them to do. If they treat women this way, they will go to Heaven, they believe. If they do not, they might go to hell. Women who resist this treatment also might go to hell. These religious ideas can cause some men to believe that they are helping women by treating them like property.

Difficulty arises because these are not bad, ill-intentioned people. They often are highly moral and religious people who are trying to live good lives. Following their religious beliefs, they often treat other people kindly, including the women who are considered to be property. There probably are no easy

solutions to situations like this. If a country practiced slavery, the global community should not allow this to continue, even if people in the country believe that they are doing the right thing and following the will of God.

Applying this standard to women's rights is difficult. People should not impose their religious views and standards on others. We should not interfere with people's right to practice their religion. But religion should not be used to suppress and abuse people, as it was with slavery. At some point, the global community must intercede to protect our fellow human beings.

As discussed in the Well-Being of Society section, no loving God would tell its subjects to destroy themselves, for example, by placing humans above nature. Also, no loving God would tell one person to enslave another or say that some people, such as women, have fewer rights than others. These ideas violate the natural laws of equality and fairness. Therefore, the ideas that humans are above nature, slavery is acceptable or women are not equal to men all are misinterpretations of Divine inspiration or some other type of inspiration.

Once again, this shows the importance of moving beyond blind faith. As discussed throughout this book, blind faith in economic, religious and other ideas can be extremely destructive. Through the intuitive function, one hears that all people are equal and worthy of love, respect and protection. If they do not hear this, then their minds probably are interfering with the receipt of intuitive wisdom. For those who believe in God, blind faith is interfering with hearing God's will. Intuitive wisdom is based on the laws of nature. These laws include fairness and equality. If someone's inner wisdom tells them that unfair or unequal treatment of fellow humans is acceptable, then they are deluded. It is impossible for intuitive wisdom to violate the laws of nature because intuitive wisdom includes the wisdom of nature. This is why discernment is so important.

It is understandable that some men, perhaps the less holy or more deluded, would support religious or other ideas that treat women like property or slaves. This type of thinking sometimes enables men to treat women like animals. In societies where women are not considered to be equal to men, men sometimes beat women or abuse them in other ways without consequence. Throughout history, religious dogma has been used to condone and encourage some of the most horrible human behavior, such as slavery. In the same way that religious dogma that condones slavery is wrong, religious dogma that condones or encourages the unequal treatment of women also is wrong.

For people who believe in God, God ultimately is heard within. Religious dogma can place someone on the path to God. But ultimately, people only can hear the will of God within. A loving God never would say that women are unequal to men or have fewer rights than men. As noted, if someone believes that they are hearing this within, then they are being deluded or misled by their minds or blind faith. Greater discernment is needed to find the truth.

While there might be no easy solution to human rights abuses perpetuated in the name of religion, one activity that could help is more open dialogue. Within religions, there often are varying interpretations of major issues. Within Christianity, for example, there are varying interpretations of God's will on the issues of abortion and same-sex marriage. Within Islam, there are varying interpretations about the rights and treatment of women. People should be given the option to hear alternative views, and then make their own decisions. Women have the right to choose to remain subordinate to men for religious or other reasons. But they should be given the right to choose this lifestyle rather than have it forced upon them.

Forcing women to be subordinate to men is a form of slavery. As humanity became more enlightened, we replaced destructive religious ideas, such as support for slavery, with civilized, enlightened ones. This enlightenment caused us to end slavery and other unfair practices. In a civilized, enlightened world, we

cannot and must not tolerate the unequal, abusive treatment of some of our fellow human beings. This natural right to equality takes priority over everything else, including religious dogma and national sovereignty. Religious dogma or national laws that support unequal treatment of women are voided by the higher laws of reality and nature.

Over time, as it becomes clear that people's rights are being violated, religious interpretations and cultural ideas that treat some people unfairly must give way to the absolutes of natural law. Anything that violates the laws of nature, such as fairness and equality, will not last. As discussed, we do not have the option of continuing to live on this planet as we are now. We are violating the laws of nature in many ways. Nature absolutely will correct us. It will be far less disruptive and much more beneficial if we choose to make these changes voluntarily.

Addressing global governance is a complex, longer-term system change issue. This section is presented near the end of this chapter because the suggestions made here probably would be considered over the longer-term. Suggestions made in previous sections often are more practical and actionable in the short to mid-term.

However, enforcing a global bill of rights must be done quickly. Abusive leaders are causing millions of our fellow human beings to suffer greatly. This must not be allowed any longer. Systems for removing criminal leaders from power and enforcing a global bill of rights must be implemented as quickly as possible.

GLOBAL PEACE AND HUMAN RIGHTS PROTECTION

Ensuring global peace and protecting the natural rights of every human being on this planet is an essential aspect of achieving sustainability and real prosperity. It is one of the most important components after protecting life support systems. Thomas Jefferson spoke of the natural rights of humans in the Declaration of Independence. He did not mean that only people in the United States have natural rights. Every human on this planet has the same innate, natural rights to life, liberty and the pursuit of happiness.

But the natural rights of millions of people are being grossly violated in several parts of the world. In North Korea, for example, if citizens criticize the government, their whole families often are sent to labor camps where they are tortured, starved, worked to death and sometimes forced to dig their own graves.⁹ This abuse of people in totalitarian countries in Africa, Asia, the Middle East and other regions is perhaps the greatest disgrace of modern society. How can we allow our fellow human beings to be treated like this? It is like hearing people in the house next door violently abusing their children and doing nothing about it. No human being has a right to take freedom and rights from another human. We all are absolutely equal and worthy of having our basic, natural rights protected. In this sense, the country that a person resides in is completely irrelevant. It has zero impact on each person's innate, natural rights.

In the 1940s, following World War II, there was a strong movement in the US to establish a global government with limited powers for the purpose of ensuring global peace. Over half of state legislatures passed resolutions advocating the establishment of "a limited world federal government able to prevent war."¹⁰ More than 100 US senators and representatives proposed transforming the United Nations into a world Republic. House Concurrent Resolution 64 stated, "it should be a fundamental objective of the foreign policy of the United States to support and strengthen the United Nations and to seek its development into a world federation, open to all nations, with defined and limited powers adequate to

preserve peace and prevent aggression through the enactment, interpretation, and enforcement of world law."¹¹

An excellent article by Harris Wofford and Tad Daley, called *50 Years Later, JFK's Vision of Enduring World Peace Eclipsed by Focus on Assassination*, describes the global peace movement in the 1940s and President Kennedy's efforts to promote global peace.¹² The article explains that during World War II, there was a growing conviction that anarchy and war could not be permitted on a global level. The rule of law that prevailed within nations also should be enforced among nations. Development of the atomic bomb made the need for global peace even greater because war now put the survival of humanity at risk. Many leaders and prominent citizens in the 1940s and 1950s supported the abolition of war and establishment of a world republic to ensure global peace.

Albert Einstein said, "The world's present system of sovereign nations can lead only to barbarism, war and inhumanity. There is no salvation for civilization, or even the human race, other than the creation of a world government." In 1950, Winston Churchill stated, "Unless some effective world super-Government can be set up and brought quickly into action, the prospects for peace and human progress are dark and doubtful."¹³

General Dwight D. Eisenhower led the Allied D-Day invasion of Normandy in 1944, and later became President of the United States. He visited Normandy 20 years after D-Day. Speaking over the graves of young soldiers who gave their lives at Normandy, former President Eisenhower said, "These boys were cut off in their prime... They never knew the great experiences of going through life... I devoutly hope that we will never again see such things as these. I think, hope and pray that humanity has learned more than we had learned up to that time... We must find some way to... gain an eternal peace for this world."¹⁴

Having fought in World War II, Representative John F. Kennedy strongly supported the movement to establish a global government to ensure world peace in the 1940s. He continued to strongly advocate and work for global peace when he was elected President of the United States in 1960. President Kennedy said, "Too many of us think... that war is inevitable, that mankind is doomed, that we are gripped by forces we cannot control." But he said that we control our destiny. We are not the victims of uncontrollable forces.

President Kennedy said that world peace could be built "not on a sudden revolution in human nature but on a gradual evolution in human institutions... World peace, like community peace, does not require that each man love his neighbor. It requires only that they live together in mutual tolerance, submitting their disputes to a just and peaceful settlement."

Regarding the UN, President Kennedy said, "We seek to strengthen the United Nations... to develop it into a genuine world security system... This will require a new effort to achieve world law... Our primary long range interest... is general and complete disarmament... to build the new institutions of peace which would take the place of arms."

During his inaugural address, President Kennedy said, "The world is very different now. For man holds in his mortal hands the power to abolish all forms of human poverty and all forms of human life." He said that the goal of the UN should be "To enlarge the area in which its writ may run... and bring the absolute power to destroy other nations under the absolute control of all nations." Our wise President said, "So let us begin anew... [and establish] a new endeavor, not a new balance of power, but a new world of law, where the strong are just and the weak secure and the peace preserved."¹⁵

Unfortunately, we did not learn the lesson of World War II and heed the advice of President Kennedy and many other wise leaders. As a result, the US and many other countries have suffered the immense cost and tragic lost lives of extensive wars. As President Kennedy said, war is not inevitable. We have the power to end it. We can remove the threat that nuclear and other weapons pose to human society. We also can protect the natural rights of every human being on this planet.

We have the power to do this. No excuse justifies not doing it. We should follow the wise advice given long ago by transforming the UN into an entity with the power to ensure global peace and protect human rights. As President Kennedy said, instead of fighting wars and killing each other, we should submit disputes to fair, impartial negotiation, arbitration and settlement.

We the People of the Earth also should work collectively through the UN to enforce a bill of rights for all humans. Every human has a right to self-government. Democracy should be established in every country. No leader anywhere has a right to suppress democracy and violate human rights. Protecting the natural rights of each human takes massive, essentially infinite priority over national sovereignty. When leaders anywhere on this planet violate citizens' natural rights, they lose their legitimacy and authority to rule. Acting as one global community, we must remove these abusive leaders from power, and then help the people of each region to establish fair, democratic government.

It is an absolute disgrace of humanity that people in North Korea, Sudan, Syria, Myanmar, Somalia, the Democratic Republic of Congo, Afghanistan, and other abusive countries endure such horrible suffering, deprivation and natural rights violations. This outrage should not be allowed to stand for one more day. It is time to exercise the collective power of humanity to protect our brothers and sisters everywhere on this planet. This is the appropriate use of power. It is power guided by wisdom and love for our fellow human beings.

Much of the worst atrocities and human rights abuses occur in developing countries. To illustrate, in January 2015, 17 people were killed in terrorist attacks in France. World leaders and millions of citizens denounced the horror and demonstrated in France and other countries. In the same month, as many as 2,000 people were killed in one terrorist attack in Nigeria. In developed countries, we are justifiably outraged by any terrorist event. But it seems that far more people are killed far more frequently by terrorism in developing countries.

The life of a person in a developing country is worth just as much as the life of a person in a developed country. We as a global community should be working just as hard to stop terrorism and other atrocities in developing countries as we do in developed countries. The UN already seeks to minimize terror and harm in developing countries, for example, by sending peacekeeping forces. But the UN is limited by political and other barriers. A UN empowered by the global community could be far more effective at maintaining peace and ending atrocities around the world.

Some dogmatic Christians oppose the formation of a limited world government because the Biblical books of Revelation and Daniel supposedly oppose it. As discussed in the US Founders, Religious Dogma and Birth Control section, this is a perfect example of why religious dogma should have no impact on national or global governance. The book of Revelation apparently is a dream or vision, possibly by John the Apostle. It implies that Satan will establish a world government during the end times, prior to the second coming of Christ. This fantasy or nightmare has no more validity than a childhood fairy tale.

We must base our actions on rational thought, observations of reality and intuitive wisdom. Allowing religious dogma to interfere with establishing limited global government for the purpose of ensuring global peace and protecting human rights would be irrational and criminally immoral. In this case, religious dogma would be perpetuating the torture, abuse and murder of our fellow human beings. As

discussed extensively, religious dogma often is unintentionally harmful. It frequently causes people to violate religious principles and natural laws. The most important commandment of Christianity and virtually all other religions is to love, honor and respect each other. Allowing a religious fairy tale to perpetuate the murder and torture of fellow humans grossly violates the most important commandment of Christianity.

This is why it is absolutely essential that we place rational thought and intuitive wisdom above all else, as our Founders did long ago. As discussed in the Governance section, national boundaries were not developed based on fairness and sustainability principles. They largely evolved from ignorant ideas based on domination and separation. Rational thought should be used to organize human society. As noted, nature mostly is organized into local, largely self-sustaining communities. This strongly indicates that most aspects of human society probably should be decentralized and managed at local or regional levels.

However, rational thought and observations of reality show that some aspects of human society should be centralized and managed globally. These include mediating and ensuring global peace, protecting global environmental life support systems, and enforcing a global bill of rights. The US can and should play a major role in leading the establishment of a limited global government, probably through the UN, for these purposes.

In general, as a leading proponent of democracy (even though we fail to implement democracy in our own country) with the largest economy and military, the US should play a major role in leading and modeling sustainable behavior. Businesses and their allies often block sustainability actions that benefit humanity, but threaten shareholder returns, by arguing that we should not take actions, such as reducing pollution, until other countries do the same. This is a childish and ignorant position. If acting in an environmentally responsible manner threatens US jobs, we should impose tariffs on imports to protect jobs and life support systems.

As discussed in several sections, the US is pursuing an extremely irrational approach to terrorism. From September 11, 2001 to 2013, we spent over \$12 trillion on national security. Over this time period, about 300 US citizens worldwide were killed by terrorism. But about 36,000 US citizens were killed by foodborne illnesses. People in the US are 110 times more likely to die from foodborne illness than terrorism. But we spend far more on preventing terrorism than on preventing foodborne illnesses and other environmental and health problems that harm or kill many more people.¹⁶

As discussed in the Privacy section, most of the so-called terrorism enforcement of the Traitors Act is used to make drug arrests and monitor and suppress activists who oppose the unjust status quo. The US war on terror is focused mainly on the supply-side. We seek to suppress terrorism through military, police, surveillance and other actions. Extensive military actions around the world often increase the demand for terrorism by fomenting anger at the US. In addition, US companies impose extensive negative environmental, social and economic impacts in other countries. This further increases the demand for terrorism and puts US citizens at risk.

The focus on maximizing economic growth and shareholder returns compels the US government to support the expansion of US companies in other countries, in part through the maintenance of extensive overseas military operations. Being a world leader means acting responsibly. Instead of helping US businesses to grow forever, regardless of how much this degrades other countries, we should require that US companies act responsibly at home and abroad. The primary solution to terrorism is to focus on the demand-side. We should end the negative impacts of the US government and businesses around the world. Acting responsibly will build goodwill and probably protect us more than any supply-side action.

The US often has resisted strengthening the UN in part because we do not want anyone questioning our sovereignty. But this is a cowardly and childish position. Business-controlled government does not want to open itself to scrutiny and pressure to act responsibly. But the priority is not national sovereignty. It is doing the right thing for US citizens and all other people around the world. We are part of a global community. We also are a leader in this community. We should act like a mature leader.

If we are doing the right thing for people at home and around the world, we have nothing to fear from a more powerful global government. But we are not doing the right things in many ways. Rather than resisting changes that threaten shareholder returns, but benefit US citizens and people in other countries, we must be willing to change. When we oppose global mechanisms for ensuring peace and protecting human rights, we are perpetuating the abuse, torture and murder of fellow humans in totalitarian countries. Preventing the murder of citizens in North Korea or any other country takes priority over rich people getting richer in the US or anywhere else.

This country was established largely to protect the natural, basic rights of current and future human beings. Our Founders surely would have wanted us to use our great power to further this goal around the world. The most effective and probably only way to ensure global peace and enforce a global Bill of Rights is through some type of limited global government. The most practical and expedient way to achieve this, as President Kennedy and many other US leaders proposed after World War II, is to expand the power of the United Nations.

This might require that the US give up some of our power and autonomy. But we cannot continue to dominate the world with economic and military force. We must become a mature global citizen. In successful, sustainable communities, one member does not dominate the others. All community members are seen as equals. Those with more capabilities are expected to do more to help the community. This helps everyone to prosper and reach their fullest potential. The same is true in the global community. We should act as an equal member of the community. We should contribute our great strength to the community and help it to collectively achieve the goals of global peace and protection of human rights.

Thomas Jefferson said, "I hope that our wisdom will grow with our power, and teach us, that the less we use our power the greater it will be."¹⁷ Attempting to force our will on the world through military and economic power is wrong. It turns millions of people around the world against the US. It greatly increases the demand for terrorism and places US citizens at risk. The US has great power. But we apparently lack the wisdom to use it effectively. Our flawed, suicidal systems compel unwise actions, such as seeking infinite growth in a finite system.

We the People of the United States definitely have the collective wisdom needed to utilize the great power of our country in ways that benefit all people around the world, not just US citizens. To achieve this, we must work together, establish democracy in our country, and then direct our servant government to act as an equal partner (rather than polite tyrant) in the global community.

Regarding empowering the UN to remove abusive leaders by force, one might ask does this apply to the US? US politicians grossly abuse citizens by enabling wealthy campaign donors to essentially steal citizens' wealth and power. These business-controlled political puppets suppress democracy and remove the people's freedom. Should they be removed from power by force if they do not agree to quickly change their ways and implement democracy?

The situation in the US and other plutocracies is different from totalitarian regimes, such as North Korea. In totalitarian countries, people have no choice. They are forced to obey abusive rulers. Citizens frequently are tortured or abused if they fail to obey or worship maniacal dictators. They have no freedom. However in the US and other plutocracies, citizens do have choices and freedom. But they have

been misled into voluntarily giving up their freedom. Citizens often have been deceived into thinking that liberals or conservatives are degrading society. Their attention is turned away from those who actually are stealing their wealth and power.

In plutocracies, loss of freedom usually is voluntary. By allowing ourselves to be emotionally manipulated and misled, we voluntarily have given up our wealth, power and freedom. In totalitarian regimes, abusive leaders often would have to be removed by force if they did not quickly allow democracy in their countries. In other words, when citizens' rights and freedom are removed by force, abusive leaders might have to be removed by force. However, when rights and freedom are suppressed through deception (as occurs in the US), removing leaders by force generally would not be appropriate. The solution to deception is awareness raising, not force.

In plutocracies, leaders frequently are elected through deceptive practices. In the US, the two-party system misleads citizens into believing that democracy exists. But both parties are controlled by a small group of wealthy citizens. Therefore, regardless of which party wins, this small group wins. This is not democracy, in part because citizens usually do not have a voting option that promotes the well-being of all citizens. (Third parties focused on promoting the general welfare often have little or no chance of winning.)

In countries where democracy, freedom and natural rights have been suppressed through deception instead of force, force should not be used to remove abusive leaders. Unlike totalitarian regimes, plutocracies such as the US often have constitutions that require democracy. But business-influenced politicians are violating their constitutions. Rather than using force in these situations, it would be more effective to raise public awareness about lack of democracy and vested interest deceptions, and help citizens to understand how true democracy and freedom can be implemented. For example, a global group focused on protecting human rights, such as the UN, might help citizens in plutocracies to organize efforts that compel supposed public servants to abide by their constitutions, end corporate welfare and business control of government, establish true democracy, and use the public wealth to equally and fairly benefit all citizens.

Changing how we define and measure success is an essential component of ensuring peace, protecting human rights and maximizing the well-being of global society. Focusing on economic size and growth strongly drives environmental and social degradation. Instead of focusing on a means to an end (economic growth), we must emphasize the true goal or end point (the well-being of society). Economic growth, productivity, exports and imports ultimately are irrelevant. The success of countries should be judged solely on the extent to which they objectively maximize the long-term well-being of environmental life support systems and society.

National pride or the desire to be more powerful might compel countries to expand military forces or increase exports. As we redefine national and global success, this type of puffery no longer will be needed. National pride and success will be based on how well countries care for current and future citizens and cooperate in the global community of nations.

Guaranteeing true equality for women is one of the most important aspects of implementing a global bill of rights and achieving sustainability and real prosperity. As discussed in the Wisdom of Nature and Women's sections, women innately manifest greater cooperation, empathy, whole system thinking and other aspects of wisdom, in the same way that men innately manifest greater physical strength, aggressiveness, competitiveness and other aspects of power. Rapid environmental and social degradation throughout human society reflect our abundance of power and lack of wisdom. It also reflects the suppression of women. When we suppress those who innately manifest more wisdom, we suppress wisdom, and suffer severe negative consequences.

It probably is no coincidence that countries with the greatest suppression of women also frequently are the largest sources of global terrorism. Blind faith in religious dogma often compels severe suppression of women in countries where radical Islam is widely practiced. It also sometimes drives the killing of those with different spiritual views. Those who kill in the name of God claim to be doing the will of God. But they are completely cut off from God.

Rational thought and intuitive wisdom would reveal that no loving God would compel people to kill those who hold different views of God. Religious dogma that causes killing or abuse of others does not come from God or intuitive wisdom. These are ignorant ideas, created by fearful, myopic men and attributed to God. We all have access to the infinite wisdom of nature through the intuitive function. For those who believe in God, the actual, true word of God is heard within through the intuitive. Blind faith in ignorant, fearful religious dogma cuts people off from God. In other words, those who kill in the name of God are completely cut off from God because God or intuitive wisdom never would direct one human to kill or harm another, except in defense of self or others.

The overwhelming force in nature is cooperation, not competition. The primary commandment of essentially all major religions is to love, honor and respect other people. Those who truly are following the word of God or intuitive wisdom would act on this basis. As discussed in the Women's section, many studies show that women innately cooperate more readily and effectively. Greater empathy better enables women to look beyond their own individual needs and see the importance of cooperation in human society. Greater intuitive capacity better enables them to see through destructive religious dogma and perceive the actual word of God or intuitive wisdom.

Bringing women to a position of true equality with men and implementing a more balanced male-female leadership structure would increase wisdom, cooperation, compassion and sustainability in society. As a result, promoting women's rights in countries that contain large terrorist networks is one of the most important actions needed to end terrorism.

Lack of wisdom is most evident in countries that grossly suppress women and promote terrorism. But wisdom is lacking throughout the world, as shown by rapid environmental and social degradation in developed and developing countries. The most important requirement for achieving sustainability and real prosperity is increasing wisdom in human society. All men and women have access to essentially infinite wisdom through the intuitive. But women innately have greater access to wisdom. Therefore, in this sense, one of the most important actions needed to achieve sustainability real prosperity is to end the suppression of women and bring them to a position of true equality with men. Implementing a global Bill of Rights is a critical component of achieving this equality.

Modern human society is dominated by irrational, fear-based, competitive ideas and systems, as proven by the results we are achieving. A whole system perspective shows the destructive nature of competition and essential need for vastly greater cooperation in human society. Women see the big picture and understand the need for cooperation more readily. Elevating woman to a position of equality with men will increase wisdom in society. Balancing power with wisdom and men with women is essential for achieving global peace.

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Section 8

Role of Academia & Civil Society in the Evolution of Global Governance and how can it be made more effective?

1. Importance of Academia

Fifty years ago, governments showed little interest in universities – academies, unless they propagated anti-government views. Governments were content that universities should be seats of learning, pure research, and scholarship, and largely at the service of economic systems. Universities around the world had broadly similar structures, with essentially independent (strictly disciplinary) departments of history, physics, philosophy, etc. Governments accepted such structures, provided funding, and did not normally interfere.

In the last fifty years, the world has fundamentally changed. Many governments now realise the new scientific and technological knowledge holds the key to our future wealth and health. Many new medical drugs and industrial products are based upon discoveries made in the academic world. Governments now recognize the power as well as the innovative instinct of (some) academies.

Today, higher education institutions are called upon to play a key role in 1) shaping knowledge, 2) educating citizens and leaders, 3) addressing pressing social issues – with the aim of promoting sustainable futures, meeting human needs and ensuring the integrity of the biosphere.

2. Importance of Society

The society is best placed to judge its developments and its dangers. Typical examples are: Energy and environment related problems, stop of nuclear power plants, the plastics and the oceans, science and ethics in medical research. A good mechanism for collaboration between academy and society and governments is vital

The academy and the society should also consider that the world is being redefined as we speak:

- **By technology:** research change very rapidly, students have to be trained for careers that don't exist yet
- **By globalization:** the world's most valuable commodity is getting harder to find. Company management has a gnawing worry about the supply of talent. Companies in Europe of all sorts are taking longer to fill jobs and say they have to make do with sub-standard employees. The best evidence of a "talent shortage" can be seen in high-tech firms – companies such as Yahoo! And Microsoft are battling for the world's best computer scientists.
- **By changing customer behaviour:** the society is much more demanding and there exists also a collapse of loyalty e.a. people leave easy companies and are moving to the highest bidder.

3. Role of Academia

“The activity of knowing is no less related to our sense of reality and no less a world-building activity than the building of houses”
(*The Life of the Mind* by Hannah Arendt, Hannah Arendt Center 2013)

There are multiple possible ways of government – academies interactions; in political – economic – scientific – industrial dossiers.

The academy

- should act as a thinking tank and source of information for all world related topics
- should be an adviser and guide to governments, international and world institutions; WAAS should focus on United Nations, OECD, IEA, FAO, UNIDO, etc
 - *Academic field*: Uniformity of university studies worldwide
 - *Research Field*: On Climate Change, Environment, New technologies (Nano-Science) ...Health
 - *Industrial importance*: Energy supply, Transport
 - *Social studies*: Hunger in the world, matters on immigration, nuclear safety, security
- could balance the ‘know-how’ focus with the ‘how to know’ questions, including: 1) addressing the the need to re-consider hidden, unexamined and often flawed assumptions about present and past systems (ISSC and UNESCO 2013) including ontological and epistemological reductionism; 2) collecting and disseminating innovative ways of doing research and teaching, of experimentation and innovation in ways of knowing and learning; 3) promoting the complex practices of inter and transdisciplinary research; 4) reflecting on the need to balance and integrate social sciences, humanities and the arts with ‘hard sciences’, STEM etc.; and 5) promoting a better balance between technological solutions and solutions that build on changes in values, self-awareness, worldviews and related lifestyles.
- should act as a service office for governmental institutions; studies upon request
- should warn authorities of upcoming problems and suggest solutions: water and food shortages
- could balance risk assessment and warning signals, with a pro-active contribution towards shaping futures – providing advice on the knowledge and education that can deliver sustainable futures that meet human needs and respect planetary integrity.
- should be a communicator with the society
The conflicts of curiosity and science and the current needs of society are as old as science itself. Once needs only to recall the famous encounter between Faraday and King William IV, who once asked the celebrated scientist what his “electricity” was actual good for. Faraday answered, “One day you will tax it.

4. Role of Society

- Could contribute to envision sustainable futures and set part of the education and research agendas that can help shape the future
- Should alert Governments, academia and the population on problems/situations of international nature e.a. Green peace, Anti-nuclear “weapons” groupings, plastics movements, Global warming, Traffic in cities,
- Should made suggestions: Weekend Free traffic in cities, Election campaigns,

5. Role of WAAS and the Evolution of Global Governance

As world academy WAAS should:

- Worldwide organizational structure to be built-up
- Create a liaison with continental/national academies
- Seek for official recognition by world authorities and institutions e.a European and International Bodies as OECD, UN: UNESCO, FAO...and even have an official seat in these decision-making bodies.
- Initiate appropriate channels for contacts with worldwide institutions should be created
- A mechanism for communication with the society – media, via press, radio, TV. Internet
- WAAS strategy plan needs to be developed
- Funds raising council/system to be created
- High Level Supporting Group to be installed: composed of politicians, bankers, industrialists, governments
- Within WAAS to develop a thinking tank: scientific – innovative, economic - political, ...with status of Nobel Laureate
- Associations should join, in addition to individuals

One of the great problems worldwide is that academies are, these days, less recognized by our governments and society. They are mainly composed of older generations and often less active persons and the entrance is not limited to strictly restricted to prestigious personalities. A revitalization process is vitally needed.

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with contributions by Olivia BINA

Who should Govern on What Principles: The Future of Decision Making Combining Nudge with Scenarios to reach Eutopia

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ABSTRACT

The main aim of this paper is to discuss the theories of decision making, the problems of predictions and how to improve the tools of decision making at macro level for policy makers in our postnormal times.

Decision making is the process of identifying and choosing alternatives based on the values and preferences of the decision maker from several perspectives (psychological, cognitive, normative).

Decision theory (or the theory of choice) is the study of the reasoning underlying an agent choices. It can be broken into two branches: Normative (prescriptive) decision theory, which gives advice on how to make the best decisions given a set of uncertain beliefs and a set of values (how people ought to make decisions) and descriptive (positive) decision theory which analyzes how existing, possibly irrational agents actually make decisions (Grunig and Kuhn, 2013).

Political decisions or governmental policies are the part of normative decision theory. The values, beliefs and ideas of policy makers will have a great impact on the formulation of policies. “What is right” and “what is wrong” can have different answers of different individuals and groups. So how governments or institutions especially international ones should be governed is a very complex question. Making decisions is the most important job of executives and policy makers. It is also very tough and risky. Researchers have been studying the way our minds function in making decisions for half a century.

The problems of our time- energy, the environment, climate change, food security, financial security-cannot be understood in isolation.They are systemic problems, which mean that they are interconnected and interdependent (Capra and Luisi, 2014).

In many cases political leaders are unable to connect the dots. They fail to see how the major problems of our time are all interrelated. They do not see that their so-called solutions affect future generations. Even if they can see the problems in a holistic way they will face another important threat of “how to distribute power”. Sometimes global decisions may contradict with national ones or sometimes populism may dominate the decisions of policy makers.

There are big diverse groups in the world so the governance of humanity is not very easy.

Most people in our modern society especially in our large social institutions, use the concepts of an out-dated worldview, a perception of reality inadequate for dealing with our overpopulated, globally interconnected world.

The age that we are living is named more frequently as “postnormal times”. Postnormal times have been characterized by complexity, chaos and contradictions (Sardar, 2010).

The main aim of this paper is to discuss and show the need of new alternative decision- making systems which could eliminate the basic deficiencies of the current systems in an era which is called postnormal times. What are the main reasons behind the necessity of formulating new ways of thinking and using them in the formulation of new policies is another aim of the paper?

In post normal times we need to teach or nudge people on “how they can be more anti-fragile and enjoy the complexity of our daily life”. Modernity has brought significant quality improvements into our daily lives but also it has brought lots of problems with it. Citizens and consumers of today are experiencing a growing sense of alienation, loss of values and loss of flexibility (Zajda, 2009).

This is another attempt to show that we need a reconsideration of the relevance of the certainty and stability of the Newtonian paradigm in the decision making or governance process.

Key words: postnormal times, governance, complexity, systems view of thinking, irrationality, chaos, foresight.

1.INTRODUCTION

On the one side it is believed that globalisation is creating the conditions for faster economic growth through access to ideas, technology, goods, services and capital on the other side many believe that globalisation causes rising levels of inequality and poverty. Half the world nearly three billion people live on less than two dollars a day.

Eighty-two percent of the wealth generated last year went to the richest one percent of the global population, while the 3.7 billion people who make up the poorest half of the world saw no increase in their wealth, according to a Oxfam Report (Richest 1 percent, 2018).

The UNDP defines “human development” as a “process of enlarging people’s choices”. So how we can increase the choices of people through sustainable development-more democratic- more humanistic way is one of the most important topics of the current and future global political agenda. Being a humanist means building bridges between north, south, east and west and strengthening the human community to take up our challenges together.

Today’s societies are interconnected and cannot act in isolation. So if there are conflicts among national and global priorities how the problem could be solved is still out of the main agenda of main powers. There are some very serious problems of the modern World that none of the countries or institutions can manage to solve by itself.

Poverty, disease (the Ebola virüs, Tuberculosis, HIV etc), wars, terrorism, racism and the like.

Famine in parts of Africa, depletion of natural resources, the proliferation of nuclear weapons, deterioration in human rights and democratic freedoms, problems of business life brought with technological change are some other problems that may require common, collective and participatory solutions.

Also it is very difficult for national decision makers to prioritize different interests of different groups within the same country. Decision makers will rely on their beliefs, ideas, values and sometimes to their ideological camp. It is very likely that they will formulate their decisions under the attraction of populism.

Even at individual level there are serious problems in terms of formulating our decisions. According to Kahneman, Utility Theory makes logical assumptions of economic rationality that do not reflect people's actual choices and does not take into account cognitive biases (Kahneman, 2012). Cognitive biases are tendencies to think in certain ways that can lead to systematic deviations from a standard of rationality or good judgement, and are often studied in psychology and behavioural economics. Anchoring or focalism, availability heuristic, bias blind spot, cheerleader effect, conjunction fallacy, focusing effect, framing effect, hindsight bias, omission bias are some of them.

As Thomas Hobbes marked perhaps we are selfish and driven by fear of death and the hope of personal gain, perhaps we all seek power over others (Warburton, 2012). Even if we don't believe in Hobbes's picture of humanity still it is true that there could be a serious difference between individual good and social good. But could it be possible to take some important decisions both at national and international level by collective action. This view not necessarily will be against of sovereign states. In this postnormal times national states are becoming weaker. This is sometimes named as the globalization of individuals. The people of the world are more connected now. This is not very bad as it is claimed by Hobbes in Leviathan.

Richard Thaler in his book titled "Misbehaving" also lays out that our decisions deviate from the standards of rationality, meaning we misbehave. Thaler and Sunstein in their book titled "nudge" criticize the homo economicus view of human beings "that each of us thinks and chooses unfailingly well, and thus fits within the textbook picture of human beings offered by economists. It seems reality is different than theory.

David Orell in his book titled "Economyths" also tries to show how the science of complex systems is transforming economic thought. He claims that the main assumptions of economic theory must be replaced with more realistic ones. The economy is unfair, unstable, and unsustainable and economics needs a scientific revolution.

Empirical studies proved the fallacy of "rationality" assumption of the traditional economic theory. Behavioural economics, a branch of economics, is challenging long-standing economic theory and reshaping the making of public policy.

Leaders, policy makers, CEOs are not, or at least they are no more rational than most human beings in their judgments and the choices that they make.

Kahneman says that human beings rarely meet the criteria of rationality even when they are reasonable. People could be irrational and make lots of errors. So, if we take our nationalistic, religious, gender or race-based and cultural differences into consideration, rational decision making could be even more problematic.

When these errors are predictable, decision-makers could design policies that “nudge” us toward better choices.

In the formulation of their policies governments and international institutions can incorporate human factors into design and by using scenario planning methods they could become “choice architectures”.

Through this way we can create credible and sustainable organizations that serve society’s interest simultaneously with their own.

There is no Pareto-dominant policy and no single policy ensures that all individuals in society will be better off than they would be under any other policy. Different policies have different repercussions on different groups within society (workers versus financial markets, domestic creditors versus foreign creditors; borrowers versus creditors). Moreover, different groups are bearing different risks (Stiglitz, Ocampo, Spiegel, Davis, and Nayyar, 2006). Finding a common solution could be a very difficult task. In this stage scenario planning through the use of information technologies could be used as a decision-making tool.

There are different but similar definitions of scenario planning.

Scenario planning technique exploits the remarkable capacity of humans to both imagine and to learn from what is imagined (Bawden, 1998). It is an effective futuring tool that enables planners to examine what is likely and what is unlikely to happen, knowing well that unlikely elements in an organization are those that can determine its relative success (....., 1998).

Foresight has different definitions but at a very simple level hindsight means understanding the past insight means understanding the present and foresight is used as understanding the future.

In foresight studies generally three of them are used together but the impact of the past should not dominate the image of the future. The conduct of different surveys to determine future policies or strategies can be used at global or national level. Then an international or national authority similar to that of today’s ombudsman can lead the process. Combining results with the evaluation of scientific committees the decisions can be taken. It may solve credibility and time inconsistency problems of the processes in which decisions are taken by privileged minorities either politicians or managers.

The larger organizational units concomitant with economic growth are more likely to lead to bureaucratization, impersonality, communication problems, and the use of force to keep people in line.

Economic growth usually requires greater job specialization, which may be accompanied by greater impersonality, more drab and monotonous tasks, more discipline, and a loss of craftsmanship (Nafziger, 2006).

To have a wealthier happier healthier future we need to design new ways of thinking and also decision making tools. Decision takers can be transformed into decision makers.

Governments may use the contributions of these studies in their policy making and implementation process. We need a novel thinking in decision and policy making process. We need to change the understanding of the way we think and choose.

Every difference in the future (change) is a combination of what the world does and what individuals, governments and corporates do, or do not do, over time. So individuals cannot control the future because the world has a role, but they are not completely powerless either because they can influence the future.

If prediction and probability are limited ways of thinking about the future so could it be possible to use scenario planning at macro decision making level and what could be possible advantages of using scenarios? By designing multi-round decision making process similar to the Delphi technique how the combination of scenarios and nudge can improve the success of policies must be designed to work practically as well. We need a new economic model in line with a system design. We need to think about non-profit businesses, non-market, non-managed, non-money based activities, networks beyond the price system (such as sharing and collaboration).

Delors report also asserted that “Learning to live together, by developing an understanding of others and their history, traditions and spiritual values and, on this basis, creating a new spirit which, guided by recognition of our growing interdependence and common analysis of these risks and challenges of the future, would induce people to implement common projects or to manage the inevitable conflicts in an intelligent and peaceful way” (Living to Learn Together, 2014).

How a better (more democratic-wholistic-humanistic) global governance can be designed and could work in practice should be the most important agenda of all nations. We need national sovereign states but by changing the design of the united nations could we create wealthier healthier happier world order requires lots of effort and brave actions.

2. GOVERNANCE and MANAGEMENT

The state has become increasingly dependent on organizations in civil society and more constrained by international linkages.

Governance differs from government both theoretically and empirically. In theoretical terms, governance is the process of governing. It is what governments do their

citizens. But it is also what corporations and other organizations do to their employees and members. Government refers to political institutions, governance refers to processes of rule wherever they occur (Bevir, 2012).

According to Chhotray and Stoker, governance is about the rules of collective decision-making in settings where there are plurality of actors or organisations and where no formal control system can dictate the terms of the relationship between these actors and organisations (Chhotray and Stoker, 2009).

So what is global governance? It is defined in the following form by the IMF.

The ideal of global governance is a process of cooperative leadership that brings together national governments, multilateral public agencies, and civil society to achieve commonly accepted goals. It provides strategic direction and then marshals collective energies to address global challenges. To be effective, it must be inclusive, dynamic, and able to span national and sectoral boundaries and interests. It should operate through soft rather than hard power. It should be more democratic than authoritarian, more openly political than bureaucratic, and more integrated than specialized (Global Governance, 2018).

Management could be defined as getting things done through other people or working with and through other people to accomplish the objectives of both the organization and its members.

How the system should be governed is still very disputed topic. The disputes between economic thought schools is still very deep. The debate is far from over.

Friedman who is known as the founder of monetarist school which is a successor of classical school once said “A society that puts equality -in the sense of equality of outcome-ahead of freedom will end up with neither equality nor freedom”. Following the ideas of Karl Marx communist regimes set out to create a state of uniformity among their citizens through programmes of social engineering and centralized economic management.

Many economists from all sides of economic thought schools have made significant contributions on the economic and political regimes of countries.

But our time is totally different than their time. Solutions to the major problems of our time require a radical shift in our perceptions, thinking and values. Postnormal times (characterized by complexity, chaos and contradictions), postnormal science (characterized by uncertainties, systems view of thinking, alternative perspectives, unknown unknowns, values) and human economy are the concepts that we need to take into consideration to define a new role for science (Cepni, 2017).

In many countries in many sectors senior managers are future illiterate or decisions are taken by using given, expert-oriented (expert-predicted) futures. But the future is not an extrapolation of the past?

Policy making and decision making and other aspects of the management of complex systems are becoming increasingly difficult. Management philosophies, approaches, and techniques were developed during simpler times. However, complex systems are dynamic rather than static, evolve or are driven into domains of instability, and emerge into new structures. There is now a growing gap or loss of fit between our systems-management capabilities and the real world.

Complex adaptive systems consist many diverse and autonomous components or parts (called agents) which are interrelated, interdependent, linked through many (dense) interconnections, and behave as a unified whole in learning from experience and in adjusting (not just reacting) to changes in the environment (CAS,2018).

So in such areas simple mechanistic view cannot be a solution to predict the future. We need new ways of thinking and making decisions.

At micro level in many commercial and non-commercial institutions still traditional strategic plans are used to foresee and reach to this foreseen future.

Strategic Planning is an organizational management activity that is used to set priorities, focus energy on resources, strengthen operations, ensure that employers and other stakeholders are working toward common goals. But now it is widely accepted that good management guards against anything that encourages the standardisation of thought and support original thinking. We need to see the world differently.

We are living in a new era of uncertainty for organisations to cope with. To respond to the interconnected threats the world currently faces (the human family are today interconnected as never before) is not anything that any state can do by her own.

Also at micro level organisation's "strategic readiness" to the challenges of an uncertain world is far from sufficient. A fear of not knowing is always with us and will be with us but we can design better decision-making models and could use it at micro and macro level.

3. CHANGING the WAYS of THINKING in the GOVERNANCE PROCESS- WE NEED EUTOPIA

A line between what is natural, universal, and constant in humankind and what is conventional, local and variable is extraordinarily difficult (Modern Mind,2002).

Systems thinking is a fundamental perspective of future studies. It embodies some of the foundational principles of foresight, such as: every entity (thing) is a system that consists of parts (subsystems) and which is also a part of larger systems- a holon- Arthur Koestler's term popularized by Ken Wilber.

The new emphasis on complexity, networks, and patterns of organization is slowly emerging. The new conception of life involves a new kind of thinking- thinking in terms of relationships, patterns, and context.

In science, this way of thinking is known as “systemic thinking” or “systems thinking”, hence, the understanding of life. A central characteristic of the systems view of life is its nonlinearity: all living systems are complex-i.e-highly nonlinear-networks, and there are countless interconnections between the biological, cognitive, social, and ecological dimensions of life.

The new scientific conception of life can be seen as broad paradigm shift from a mechanistic to holistic and ecological worldview. A shift of metaphors- a change from seeing the world as a machine to understanding it as a network.

We are surrounded by complex adaptive systems. The stock market, the world economy, society, the biosphere and the ecosystem, the brain and the immune system, management teams, traffic and more are the examples of complex adaptive systems.

Business dictionary gives a detailed definition of complex adaptive systems:

Entity consisting of many diverse and autonomous components or parts (called agents) which are interrelated, interdependent, linked through many (dense) interconnections, and behave as a unified whole in learning from experience and in adjusting (not just reacting) to changes in the environment. Each individual agent of a CAS is itself a CAS: a tree, for example, is a CAS within a larger CAS (a forest) which is a CAS in a still larger CAS (an ecosystem). Similarly, a member of a group is just one CAS in a chain of several progressively encompassing a community, a society, and a nation. Each agent maintains itself in an environment which it creates through its interactions with other agents.

The new decision making process or governance should take culture-ethics-complexity issues into consideration and by using today’s information technologies should be more participatory, fair and credible.

There is one truth; our decisions are heavily affected by our cultural heritage. Although there is no common definition of “culture” it may be defined as “the unique combination of expectations, written and unwritten rules, and social norms that dictates the everyday actions and behaviours of people”.

In the decision making process we consider how the future could be different from the present. We consider and explore how the rules might change?

Strategic foresight is most interested in “what will change”. We would prepare contingency plans for surprises. We would be proactive. We work on “what if” types questions.

Generally our emotional energy is blind to probability but even if it is not we can not predict the occurrence of extreme events from past history. Risk is in the future, not in the past.

Ethics can be defined in different ways but if we define it as the rules by which people agree to live together then in this age of complexity we may even define these rules again to adjust our universal rules to the changing conditions of our time.

Also ethics shows us the relationship between “individual good” and “social good”.

Catastrophe theory, chaos theory and the problems posed by incomplete information, “fracta” is changing the meaning of the world knowledge. It is producing not the known but the unknown.

The fundamental values of humanity we may use education, science, culture and communication as the pillars of a new science and decision making or governance system.

To construct a united human community and making development a sustainable one we need a new management tool to differentiate growth and development.

In many countries in many sectors senior managers are future illiterate or decisions are taken by using given, expert-oriented (expert-predicted) futures. Is the future is an extrapolation of the past? How can a planner anticipate what will be “good” and “right” and “proper” tomorrow? The values of planners perhaps are narrow and are today’s values, not those which will be held by people in the future. This is a form of tyranny-the tyranny of the present as mentioned by futurist Alvin Toffler.

Growth is a quantitative whereas development is a qualitative concept. By using nudge and choice architecture tools (through scenario planning and other foresight methods) we can compare short term gains long term losses of all decisions.

Modern economies today have undergone a dramatic change. There has been a shift from large-scale material manufacturing to the design and application of new technology with R&D and human capital. The new information age has introduced significant productivity gains through increasing returns and learning by doing. This has challenged the traditional growth models based on competitive market structures.

A complex decision problem is present, if two or more of the following conditions are fulfilled: The actor pursues several goals simultaneously. Some of these goals are not very precisely defined, and it is even possible that contradictions exist between them. As Morieux shows, CEOs in 1955 pursued 4–7 goals. In 2010, 25–40 goals are pursued simultaneously (Grunig and Kuhn, 2013).

To what extent the creation of new especially shared knowledge is used in companies, in public and private institutions, in NGOs etc (from fixed to autonomous management) is not known very well.

The use of flexible methods in working groups, flexible utilization of open discussion and brainstorming, participant empowerment, future-oriented workshops on selected themes facilitated by experts are getting popular but at the final stage who takes decisions is getting us back to traditional top to bottom decision making model.

There are two differing conceptions about rationality of decision making.

Substantial rationality, on the one hand, demands that the goals pursued are the right ones, that is, the goals are rational. Additionally, the decision-making procedure must have a rational course. Formal rationality, on the other hand, requires only that the decision process be rational. As goals generally represent subjective values, they cannot be considered as right or wrong. Thus substantial rationality is not possible. Management science is therefore oriented towards formal rationality.

To have formal rationality we need to use future in a better way. Instead of shorttermism we may use very long time horizon. We may use wholistic view-economic-political-institutional-sociological-technological-environmental aspects together. We may use multi-discipline approach to foresee main changes of the future.

The Discipline of Anticipation can be used as a base of new decision making process.

Prediction does not work very well in the world of human affairs, because there is not good scientific theory of human behaviour.

In fact, there are many theories in psychology, anthropology, sociology and the like. All work to some extent, but they fail just as often. So there is uncertainty when predicting the outcome of a process involving human beings.

The objective would be not to be too right (which is impossible), but rather not to be wrong-not to be surprised. Surprise means, inadequate preparation, late response, risk of failure, even chaos or panic.

The power for people to influence their future is related to the quality of their vision and a vision is a concrete image of a preferred future state.

To have a vision, to be a visionary, or to change the part of the world no need to be a grand historical leader. We can use better tools of decision making for today's complex world (post-normal times).

Scenario Planning is inherently a learning process that challenges the comfortable conventional wisdoms of the organization by focusing attention on how the future may be different from the present (Wilson,2000).

Scenarios are a management tools used to improve the quality of executive decision making and help executives make better, more resilient strategic decisions.

Back-casting is one of the scenario techniques where you start with an imagined future and then create a path to it. The path could be constructed through analytical methods or through more creative methods such as "future history writing".

Foresight is different than forecast. "Forecast" is used as a term for predictions, foresight is a term that describes a more open perspective on futuristic thinking.

It focus on the identification of possible futures, potential issues, tendencies, and uncertainties, often using scenario method. It is similar to the term prospective analysis.

There some pitfalls of scenario planning too. There are prejudices, wishful thinking and blind spots that could lead to lousy analysis. There can be other traps; process design, selection of participants, communication format and the others. But these deficiencies can be eliminated through well-designed procedures.

In this stage the online voting systems and suggestion collection method could be used.

A scenario is the full description of a future state and the path to that future. Some scenarios may include wild cards in it to show the possible future results. Of our current decisions. Wild cards are unlikely future events that would have great impact if they occurred.

To study the future is to study potential change-unveiling what is likely to make a systemic or fundamental difference over the next 10-25 years or more and it is not economic projection or sociological analysis or technological forecasting, it is a multidisciplinary examination of change in all major areas of life to find the interacting dynamics that are creating the next age (Giaoutz and Sapio,2013).

The emerging new scientific conception of life involves a new kind of thinking-thinking in terms of relationships, patterns, and context which is known as “systems thinking”. A central characteristic of the systems view of life is its nonlinearity: all living systems are complex- highly nonlinear-networks; and there are countless interconnections between the biological, cognitive, social, and ecological dimensions of life.

We may start thinking about “Could it be possible to change our ideas about “what is possible”? Is the wisdom of crowd (collective genius) possible? But of course Wisdom of the crowd requires trust, support by the government, enforcement.

Crowds can be mad as well. To be wise it needs to be diverse in its membership (Goddard and Eccles, 2013). We live in a turbulent world. Plans, strategies and policies are based on fixed goals. But the environment that we live and the conditions are changing very rapidly.

Corporate and government responsibilities are changing very rapidly. We the human beings own better social capital and can use collective intelligence in a better way.

4. HOW THE GLOBAL GOVERNANCE THROUGH COLLECTIVE INTELLIGENCE CAN BE DESIGNED-

The theory cybernetics was the result of a multidisciplinary collaboration between mathematicians, neuroscientists, social scientists, and engineers- a group that became known collectively as cyberneticists.

To deal with the complex problems of postnormal time we need postnormal science which could bring many disciplines together.

If an international organization is established to govern the complex global issues could it be practical? Many radical changes started with utopic ideas.

By using today's information technology, the people of the world can vote to choose the governor of this institution. Let us call her "supra-national ombudsman" and she will act as the ombudsman of the earth and all living things on it.

Then if decision's degree is simple the problem will be well structured and consequences can be predicted quite easily so the decisions can be formulated through the direct votes of all people living on earth.

If the problem is complex than a detailed order can but into effect.

Scientific committees chosen through direct votes by all the people will work on the issues.

The suggestions and solutions of interested people and invited experts will be received. In the second stage possible scenarios and their possible consequences could be shared through online videos to all people governments and institutions.

Richard Thaler and Cass Sunstein suggested that if a particular unfortunate behavioral or decision-making pattern is the result of cognitive boundaries, biases, or habits, this pattern may be "nudged" by public policy makers toward a better option by integrating insights about the very same kind of boundaries, biases, and habits into the *choice architecture* surrounding the behaviour.

So if the problem is totally divergent and does not contain only quantitative aspects then the problem and the decision to be taken to tackle with this will be brought to the supra-national ombudsman. The collection of scenarios and suggestions of scientific committees will be combined (if nudging is necessary this will be added too) and will be listed again to people through direct online surveys.

The choices will be empowered by national governments. Of course in such a global order like the sovereign states limited their sovereignty in some issues through international agreements again states should come together to write the charter of this new institution.

What will be the sufficient majority to take a decision and how any country who does not obey the decision will be forced are the details that can be determined.

But it seems in today's postnormal times we need to destroy the world in theory before we destroy it in practice to make the world order more credible. Through this way the ability of governance systems to cope with change and uncertainty will be easier. Governments created bureaucracy-the rule of no one has become the modern form of despotism as Mary McCarthy described.

Regardless of how we describe the present-the digital epoch-the fourth industrial revolution age-second machine age-the new world order could be designed by the nations especially on complex problems. Trust must be brought back to the global governance. We live in a VUCA (Volatility-Uncertainty-Complexity-Ambiguity) world. Actors with different forms of authority and with different interest can not find common solutions to complex problems.

It is better to start working on the governability of such collective-participatory-

inclusive system. Thinking the unthinkable one is not a utopia. **Utopia** is a Greek word meaning “no place”. But it may be combined with Eutopia which means “good place”.

The similar system can be designed with in corporations. Andrew Chakhyan calls it “intrapreneurship” which means creating new ideas from within organisations. This utopic idea may bring us to eutopia.

5. CONCLUSION

The modern world individuals are isolated and helpless. Basic anxiety is characterized as a feeling of “being small, insignificant, helpless, endangered, in a world that is out to abuse, cheat, attack, humiliate, betrays, envy.

A new solidarity or new humanism, to reintegrate all countries in the universal community may be named as utopian by some decision makers or politicians. The meaning of utopian is misused. Utopic never means something which is unrealistic or unreachable. It means by choosing difficult road which requires a paradigm shift and radical changes (which may seem unrealistic or unattainable) we can shape the future in a better way. The history is full with the success stories of these kind of utopic ideas.

Changes in the world call for the development of a new humanism that is not only theoretical but practical, that is not only focused on the search for values – which it must also be – but oriented towards the implementation of concrete programmes that have tangible results.

The Italian philosopher Pico della Mirandola (1463-1494) expressed this point at the tender age of 24, when he developed the central concept of humanism in his famous *Oration on the Dignity of Man*, written in Florence in 1486: “God the Father, (...) taking man (...), set him in the middle of the world and thus spoke to him: ‘we have made you a creature neither of heaven nor of earth, neither mortal nor immortal, in order that you may, as the free and proud shaper of your own being, fashion yourself in the form you may prefer’.”

Global crises raise challenges that cannot be resolved by any single country. Societies are interconnected and cannot act in isolation. It is up to every one of us to bind the community of humanity together, to build a common space that excludes no one, regardless of continent, origin, age or gender.

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.“

We need new global governance model to assess the impact over the next decades of multimedia, the human genome project, biotechnology, artificial intelligence, organ transplants, superconductivity, space colonization, and myriad other developments.

How can a planner anticipate what will be “good” and “right” and “proper” tomorrow?

The values of planners perhaps are narrow and are today's values, not those which will be held by people in the future. This is a form of tyranny is was called -the **tyranny of the present** by the futurist Alvin Toffler.

As Nassim Nicholas Taleb states in his new book having the title "Skin in the Game"; we cannot control other people we can only control our own reactions to them. He also adds that the curse of modernity is that we are increasingly populated by a class of people who are better at explaining than understanding (Taleb, 2018).

The world is like the human body, if one part aches, the rest will feel it; if many parts hurt, the whole will suffer. The nature and character of nation's future development should therefore be a major concern of all nations irrespective of political, ideological or economic orientation. As we look toward the next centuries there can no longer be two futures, one for the few rich and the other for the many poor.

Every ecosystem, every species, very thing that happens in the air, or the water or on the land is affected by what people do or have done. This is why many scientists believe that it is time to proclaim an end to Holocene Epoch, which began some ten to twelve thousand years ago with the end of the last Ice Age, and recognize that we have now entered a new epoch, the Anthropocene in which human activity has come to rival nature as a force in the evolution of life on Earth (Anderson,2016).

Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs.

As Spinoza said "If facts conflict with a theory, either the theory must be changed or the facts". And Seneca said "Every new beginning comes from some other beginning's end".

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Social Democratic Constitutionalism, New Economic Theory, and the Dangers of Neoliberalism's Attacks on Rational Government Regulation

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Abstract

This paper examines the foundations of economic neoliberalism and underlines the implications of the foundations of this economic theory in its reliance on economic value as ownership, property, and commodity which misdirects economic inquiry from the real value of human capital as the proper foundation of a viable economic system. It focuses on the role of a selective emphasis on rules of international law for the protection of private property. These rules indirectly influence economic theory in general in the sense that commodity is made to be near absolute, and to be insulated from regulation. The paper explores these ideas in the context of major neoliberal theorists and stresses flaws of the theory of ownership as well as the flaws in the myth of the market as a form of economic activity immune to rational regulation. The paper goes on to stress the emphasis of the destruction of the so called "deep state." The attack on the deep state is reinforced by an academic interest group loosely styled "The Law and Economics Movement." The paper emphasizes the politico economic costs of the the demolition of the so called deep state, which is essentially a social democratic state. One of the consequences of this form of economic advocacy is the possibility of rule by plutocracy. This will mean the destruction of the constitutional foundations of the state. The paper also underlines an important aspect of the jurisprudence of neoliberalism which is rooted in the theory that law must be done from the point of view of the bad man and be completely separated from basic morality and values. This is applied to economic theory and makes for a sharp chasm and basic human rights values. There is clearly a need for more effective forms of interest representation representing the vital importance of human capital.

1. Introduction

At the present time, we live in a culture dominated by the forces of globalization.

The emphasis of globalization in the political and economic sphere has been highly contested and ideologically driven by conflicts of global theoretical and practical political-economic dimensions.

In the economic sphere, the conflict of global economic priority is focused on the United Nations, which emphasized the idea of a new international economic order. This was opposed by the re-emergence of an economic theory founded on market fundamentalism, efficiency and the primacy of private property holdings sustained by natural law and a weakened form of state control. This emphasis emerged as the economic theory of contemporary neoliberalism. It is currently the dominating economic paradigm from a global point of view. It aspires to be the new normal of global economic organization.

Economic globalization today is, in effect, a reinvention of laissez-faire economics that was fashionable in the 19th century. After the Great Depression and consequences of the failings of the market system, which led to massive inequality, unlivable cities, pollution and decay, these policies were largely rejected by many industrializing societies. The laissez-faire advocates claimed that markets were self-regulating and, after sometime, prosperity would resume. According to Keynes, markets are not self-regulating and in the time frame of the fundamental market protagonist we would all be dead.

Neoliberalism radically emphasizes the primacy of private property and market efficiency in opposition to state regulation of the economy. The new international economic order and its derivatives in the form of new economic theory focus on the centrality and importance of human capital as a starting point for a realistic and socially responsible economic theory.

The ascendance of economic neoliberalism has been generated by organized political forces using academic positions as bases of power to promote the values behind economic neoliberalism. This includes a powerful aggregation of academic economist-lawyers whose self-identification is “the Law and Economics Movement”. The important gloss that they bring to economic, political and legal theory is that they are deeply committed to the abolition of most of the regulatory foundations of the social democratic form of American government. Their particular skill has been to unpack what they believe to be the cost of regulation, and then construe this as a form of the taking of economic interests of the holders of private property affected by regulation. The broader consequences of their success result in the transfer of economic power from the public interest of the state to the private interest of private parties. In short, their attack on regulation and the weakening of public interest power does not mean that the aggregate power is diminished.

On the contrary, it is simply transferred from some form of public accountability to a significant interest in non-accountability by the private sector. Economic neoliberalism cannot provide an effective framework for managing power if the social democratic constitution is extinguished. This group of academics represents powerful interest articulation, backed by a cascade of academic commentary, which often does not invite critical appraisal. When confronted with critical appraisal, they tend to collectively ignore it.

Alongside the “Law and Economics Movement” is a society of conservative legal practitioners and judges, organized into the so-called federalist society. They provide added punch to the academic apologists but are more explicit in their call for the destruction of

the New Deal state, essentially, the destruction of the social democratic constitution of the modern era. If we destroy the New Deal state, we are left essentially with the rule by, of and for the plutocracy. This is a dangerous course to take. There is no evidence that these extreme views are subject to some measure of moderation. It can be concluded here that the extreme form of economic neoliberalism may well represent the most profound threat to the survival of American democracy and its rule of law foundations.

2. The Political Economy of Neoliberalism

Neoliberalism has its foundations in classical economic theory with a focus on value, property, market, supply and demand, and efficiency. Modern neoliberalism emerged from a meeting organized in Mont Pèlerin, Switzerland, which included major intellectuals from the UK, the USA, and Austria. These intellectuals were concerned about the emerging socialist-Stalinist form of command control economics. The Stalinist approach stressed the extinction of private property and the monopoly and legitimacy of state control over the economy and the means of production.

These intellectuals saw the extinction of private property as coextensive with the extinction of freedom. This included economic and political freedom.

In their view, the solution to economic theory was a radically reduced role for the state in the regulation of economic affairs and a restricted role focused principally on the protection of private property. This included the importance of private property and efficiency in market exchanges and therefore also stressed an extremely minimal role for the state in regulating the market. In short, “the market functions best when left to the practices that facilitate unregulated market transactions and events.” One of the tenets of neoliberalism is that it aspires to make private property vested with the attributes of “private sector sovereign capabilities.” This serves as a partial barrier to public sovereign regulation, which neoliberalism considers to be a form of creeping expropriation of vested private property. Additionally, it is argued that such purported takings must be fully compensated by the public sector represented by the public interest.

This is a matter that became a central ideological focus of the UK under Thatcher and the USA under Reagan. At the intellectual level, neoliberalism was the spearhead of the work of Milton Friedman (*Capitalism and Freedom*)¹ and the Department of Economics at the University of Chicago.

3. Private Sector Attacks Versus Public Sovereign Regulation in the International Context

These issues emerge in the documentary foundations of modern international law.

The initial emphasis of this approach was reflected in the scale and scope of global decolonization. Since colonial economic interests controlled and regulated the vast resources of newly decolonized states, these states were confronted with the problem of neocolonialism.²

This meant they had formal freedom politically, but their economies were still under colonial control; colonial control often came in the form of transnational business enterprises.

The response to this is explained in several sequential documents emerging from the General Assembly of the UN. The following are included as illustration: United Nations General Assembly Resolution 1803 on Permanent Sovereignty over Natural Resources (1962); Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (1965); The United Nations Declaration on the Right to Development (1966); United Nations General Assembly Resolution 3171 on Permanent Sovereignty over Natural Resources (1973); Programme of Action on the Establishment of a New International Economic Order (1974); Declaration on the Establishment of a New Economic Order (1974); Charter of Economic Rights and Duties of States (1974); Draft Code of Conduct on Transnational Corporations (1988).

The most controversial provision in the Resolution of Permanent Sovereignty involved the sovereign taking of private foreign investment. The Resolution stipulates that the taking should be for a public purpose and the compensation, which may give rise to controversy, shall be measured according to the principle of appropriate compensation and that controversies should in the first instance be resolved according to the law of the taking state.* The appropriate(ness) standard was a significant departure from the approach of traditional international law of capital exporting countries. These countries maintained that expropriation of property is lawful only if the taking is for public purpose, is not discriminatory, and is supported by the principle of full compensation. States from the communist world saw the taking of property as a part of the state's legitimate power over the means of production. The newly decolonized states asserted the right to take foreign owned property subject to just or appropriate compensation, but the term "appropriate" could cover a wide variety of circumstances, including the context of colonial exploitation.

4. The Third World Approach and the Support of International Law

The Charter of Economic Rights and Duties of States, which had the support of decolonized states, declares a right in each state, "to nationalize, expropriate or to transfer ownership of foreign property, in which case appropriate compensation should be paid by the state adopting such measures, taking into account its relevant laws and regulations and all circumstances that the state considers pertinent. In any case where the question of compensation gives rise to controversy, it shall be settled under the domestic law of the nationalizing state and its tribunals..."†

This relaxed standard regarding takings and compensation caused a fire storm in the capital exporting world. Clearly, the capital exporting states wanted as tough a standard as possible to restrain takings and to ensure maximum compensation. In short, they were reaffirming a near absolutist legal standard for the protection of private property in international law.

* Hyde, James N. "Permanent sovereignty over natural wealth and resources." *American Journal of International Law* 50 (1956): 854.

† Assembly, United Nations General. "Charter of Economic Rights and Duties of States." A/RES/29/3281 – Charter of Economic Rights and Duties of States – UN Documents: Gathering a body of global agreements. <http://www.un-documents.net/a29r3281.htm>.

5. Protection of Private Property in International Law: The Act of State Doctrine

The protection of private investment in the wake of decolonization was considered to be under threat by the emerging approach to the protection of foreign investment in the global environment. From a juridical standpoint, the matter appeared to reach an apex in a leading Supreme Court case, *Banco Nacional de Cuba v. Sabbatino* 376 U.S. 398 (1964).^{*} In this case, Castro's government by state decree in Cuba nationalized parts of the sugar industry. The proceeds of the sale of sugar were present in the New York Bank and the former owners of the sugar interests filed an *in rem* action seizing the proceeds of the sale of sugar and placed it in the hands of a New York trustee, Sabbatino, while they litigated the ownership of the proceeds.

In this case the Supreme Court ruled that since the standard with regard to takings was still a dispute in international law, it was prudent for the court to not intervene. It justified its non-intervention by invoking a sovereignty informed doctrine: The Act of State Doctrine. Under this doctrine, a taking based on the domestic law of the state with regard to property in the state could not be contested in the foreign courts of another state. In effect, Castro kept the proceeds of nationalization. In subsequent cases, without disposing of the Act of State Doctrine, the court radically weakened its scope of applicability. The battle lines were now drawn. Essentially, neoliberals fought tooth and nail to prevent the sovereignty of the state from taking private property, except under rigorous conditions.

The Sabbatino case caused a tornado in the American business community. The business interests prevailed on the U.S. Congress to pass an amendment to the Foreign Assistance Act. One can see this as the neoliberal fight back for the inviolability of property rights. Under the Second Hickenlooper Amendment, it was provided that "No court in the United States shall decline on the ground of the federal act of state doctrine to make a determination on the merits giving effect to principles of international law in a case in which a claim of title or other rights to property is asserted by any party including a foreign state...based upon... a confiscation or other taking after January 1, 1959, by an act of that state in violation of the principles of international law."[†]

The initial implications of the roll back of the Act of State Doctrine led to the emergence of the "Hot" Goods Doctrine, which enlarged the scope of private remedies for protecting private property in international law.[‡] Under this theory, if the taken property or its assets were physically present in another state, the private corporation could file an *in rem* action, seize the property, claim legitimate ownership of the property or its value. The State of Chile had its copper or copper assets seized in this way and nearly brought the Chilean economy to its knees.³

^{*}*Banco Nacional de Cuba v. Sabbatino* 376 U.S. 398 (1964)." *Justia Law*. <https://supreme.justia.com/cases/federal/us/376/398/case.html>.

[†] Legal, Inc. US. "US Legal." Acts of State laws. <https://actsofstatelaws.uslegal.com/the-act-of-state-doctrine-article/>.

[‡] Deines, Brooke. "HOT GOODS AND COLD CASH: Hot Goods Laws, The Joint Employment Doctrine and Retailer Liability Under the Fair Labor Standards Act of 1938." (2006).

Foreign investment now became infused with an international law theory of the inviolability of property rights. Since third-world countries were dependent on foreign investment, they could get foreign investment only under rigorous standards that protected private property for foreign investors. To a large extent, these matters were supplemented by standards set up by the government of the US to secure foreign investment as a condition of foreign investment, and this was supplemented by the practice and procedures of the World Bank and the IMF.

In addition to the Hickenlooper Amendment, a number of exceptions emerged in US practice to further limit the Act of State Doctrine. One of those important interpretations was that the Act of State Doctrine could not be used to block human rights cases. This provides an overview of the little-known (to the economists) factual legal background that solidified the near absolute status of property in the context of global law.

6. Consolidation of Neoliberalism & Law in its Expansion in International Economic Matters

Essentially, the culture of foreign investment and the absolutist idea of private property fell in line with the demands of the global financial community and capital underwritten by the World Bank or the IMF came with stringent conditions that sought to weaken the state's regulatory role.

To give one illustration, an 80 billion dollar loan from the IMF required a massive deregulation of protections of domestic manufacturing and the outflow of capital from South Africa. These regulations seem to contribute to accelerated poverty, inequality and unemployment.* The evolution of ideology behind a non-regulatory state into the ideology that regulations, which impact on foreign investment, may constitute an unlawful taking in international law is illustrated in the case of *Methanex v. The United States* (2002).†

7. The Background to Methanex

The background to this in NAFTA was an explicit commitment of big business to “roll back the New Deal.” The background to this was the *Lochner v. New York* case,‡ decided by the Supreme Court in 1905. The New York law required a 10 hour work day for bakery workers. The *Lochner* case ruled that this regulation deprived the bakery owners of their property rights. The following history of *Lochner* showed the court invalidating over 200 state and federal statutes (income tax, minimum wage laws, health and safety regulations, workers' rights to organize independent unions, etc.).§

In 1937 the composition of the Supreme Court had changed and *Lochner* was overturned. The court supported a constitutional obligation to protect society's health and welfare and

* “Southern Africa: Apartheid Debt.” Southern Africa: Apartheid Debt. July 27, 1998. <http://www.africafocus.org/docs98/debt9807.php>.

† “*Methanex Corp. v. United States of America*.” U.S. Department of State. <https://www.state.gov/s/l/c5818.htm>.

‡ *Lochner v. New York*, 198 U.S. 45, 25 S. Ct. 539, 49 L. Ed. 937 (1905).

§ *Ibid*.

used “police powers” to justify the intrusions into the private sphere. Public necessity came before property rights.

Although *Lochner* was dead, its ghost continued to survive. Recently, the Federalist society organized a law conference on rolling back the New Deal. Epstein, a University of Chicago Law professor, provided a novel interpretation of the Fifth Amendment: “Regulations should be properly understood as ‘takings’ under the Fifth Amendment, so government must pay those businesses or individuals whose property value is in some way diminished by public actions.”* This is a breathtaking interpretation of the protection of property under the Fifth Amendment. The implications are that neoliberalism has near limitless boundaries. More than that, in this sense it is an engine of dynamic political change, the consequences of which could undermine the juridical and economic foundations of social democratic governance and the constitutive process that underpins it.

8. The Methanex Case

People in California began to recognize a foul taste in their drinking water and local authorities had to shut down water supplies and purchase clean water from elsewhere. It was established that the pollution came from MTBE, a methanol based gasoline additive, which creates cleaner burning fuel and reduces pollution. If small amounts of MTBE leak into the water supply, the water becomes unfit to drink and hard to clean. It was determined that the additive was also carcinogenic.

The governor of California made an executive order requiring the phase out of MTBE. A few months after this, a Canadian company filed a 970 million dollar law suit for compensations against California because the regulation inflicted losses on its future profits. They argued that Chapter 11 of the North American Free Trade Agreement (NAFTA) permitted them to sue if their company’s property assets were damaged by laws and regulations of any kind. The proceedings before a NAFTA tribunal are held in secret. It is true NAFTA arbitrators cannot overturn domestic law, but billion-dollar damage awards can chill local lawmaking. This could imply a million dollar consequence of chapter 11 of NAFTA. This vastly expanded the absolutist sense of private property. Although Methanex ultimately lost this case, it was a matter that still has a backing of the multi-national business community. The story here has not ended.

9. Milton Friedman, the Significant Architect of Neoliberalism (*Capitalism and Freedom*)

Friedman was the key right-wing intellectual adversary of Keynesian economics. He theorized that there existed a “natural” rate of unemployment. Friedman promoted an alternative macroeconomic viewpoint known as “monetarism”, and argued that a steady, small expansion of the money supply was the preferred policy. His ideas concerning monetary policy, taxation, privatization and deregulation influenced government policies, especially

* “The Fifth Amendment and Takings of Private Property.” <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/takings.htm>.

during the 1980s.* His influence in economic theory was to radically delegitimize the science of macroeconomics using the methodology of the pure market and market efficiency and monetarism. His monetary theory influenced the Federal Reserve's response to the global financial crisis of 2008.

Friedman's views were echoed in the Reaganomics era when Reagan declared, quite bluntly, that the government was the problem. This introduced a powerful emphasis in federal politics. This was an emphasis that called for reducing taxes on the rich, reducing government expenditures for social and health services, reductions for education, environmental issues. In short, any effective regulatory function of the federal government was a fair target for the total free enterprise movement.

One of Friedman's greatest successes came from the Clinton administration and involved a massive deregulation of the banking industry, that is to say the repeal of the Glass-Steagall act. Financial commentators regard this as a major cause of the 2008 financial crisis. With the repeal of Glass-Steagall came the large-scale financialization of the US economy and those countries connected to the US economy.⁴ Donald Trump has promised to "undo" the laws which were enacted to reinstate Glass-Steagall type regulations.

Even with the reintroduction of the regulatory regime for the banking industry, every element of reform was and remains contested. Fundamentally, neoliberalism and the financialization of the economy supported by the legal foundations of the inviolability of private property provided a powerful economic theory, a powerful economic constituency, and a powerful force of professional apologists.

The fundamentals of Friedman's theory were formed around centrality of private property as a cornerstone of human freedom. In this sense, private property should be juridically protected by a preemptory legal norm that gave it near absolute status along the lines of the *Lochner* case. Private property as a commodity functioned within a market that should so far as possible be immune from state regulation or control. In this sense, the market was so crucial to the exchange of good services and commodities that the implicit assumption that it was self-regulating or that it was regulated by an invisible hand, elevated the status of the market to the status of a protective natural law analogous to the right to property in *Lochner*.

Friedman's views here have been subject to vigorous and coherent assault by many theorists. Many see the notion of the market in Friedman's sense as not an appropriate framework within which to properly understand economic interactions in the real world. The framework is suited to pseudo-scientific academic theorizing far removed from experience. It therefore obscures malfunctions and imperfections that are correctible in the market. Essentially, the market works very well for a focus on academic interests far removed from reality. Consider the following:

*"Publications." Publications - Dallasfed.org. <https://www.dallasfed.org/en/pubs.aspx>. <https://www.federalreserve.gov/Pubs/feds/2011/201126/201126pap.pdf>

“You have to know that academic economists today are not even interested in the real world. In the economic profession today, interest in the real world is an indirect admission that you are not very good. If you are really smart you do really abstract mathematical modeling. If you are a bit less good you do econometrics, basically manipulating statistics. If you are really down in the pits you are interested in the real world...It’s strange academic culture...when you say these uncomfortable things, people refuse to listen to you.”*

Bjorkman unpacks the myth of the market by demonstrating that there is no invisible hand or a self-moving institution of exchange. He demonstrates that the market is first of all not a static social event, but an institution fed by an internal constitutional process which under the influence of decision makers seeks to shape the market in ways that are fair and socially responsible. This view is in stark contrast to the idea that the market is a sort of automated machine.

One of the important outcomes of proper market dynamics is that the market will always generate many alternative and constructive possibilities to improve performance to meet social responsibilities. In short, the market is a man-made and self-organizing system and is guided by its own constitutional foundations. For example, the constitutive rules of the market include the definition of property or corporate rights.

Friedman scores an important point in recognizing that freedom is diminished without reasonable access to property and one of the most important aspects of property is earning capacity. However, earnings from labor, if not supplemented by access to other forms of property, leave the individual incapable of robust participation in a democratic society. During the time of the founding of the United States, access to land provided an important substitute to augment earnings. Today under the neoliberal approach accelerating inequality which produces hardships endured by the least well-off demonstrates that wealth concentration is slanted in favor of the property earning class and not the class which experiences diminishing earnings in the wage labor market.

In a modern capitalist economy, industrial capital is owned by mega corporations. This has replaced land as a supplement to the earning capacity of labor. This essentially means diminished freedom for the laboring classes. To understand this we must appreciate the inextricable relationship between property rights and economics. The market’s role in this regard via wealth enhancing transactions essentially means that property begets more property and more freedom for the property owners and less freedom for the laborers. This then raises the question whether the exchange between labor and property in the market requires the market to have an ethical standard to moderate and secure a better distribution from the wealth maximizing standard of the market.

The free exchange principle behind the market generates unfree results. In other words, the idea of private property should be enhanced with an ethical and moral restraint on the license implied in the free exchange market principles. The philosopher John Locke suggested three basic principles of ethical morality that should inform the nature of property. First, universal

* Ha-Joon Chang, cited in “The Market Myth” by Tomas Bjorkman, *Cadmus*, Volume 2, Issue 6 (May 2016).

participation—in current situations this does not exist. Second, the distribution or sharing in the market mechanism is focused on actual production and voluntary exchanges. Thirdly, ethics and morality require constraints and property to secure the rights of others and society in general. These foundations of the nature of property in the context of market exchanges mean no barriers to market entry, voluntary exchanges, and constraints on monopoly. This therefore means that the bargaining power of individuals needs more than an invisible hand.

In short, the market's ethical standards that constitute the market require rules to ensure that economic conditions and perfect market competitions are interdependent. Without these rules of ethics and morality, property generates concentration, monopoly and the abuse of property. Voluntary exchanges in the market are simply eroded by the concentration of private property in the field.

Friedman's approach here makes a cosmetic attempt at competitive equal opportunity but the operation of code of Friedman's system demonstrates that acquiring opportunities in proportion to wealth and property favors the wealthy over the poor. It would therefore seem imperative that the state's role in framing the constitution of the market requires a state to secure the moral and ethical foundations of property itself. If there is no real competitive opportunity to acquire property and voluntarily engage in exchanges, the middle class and the poor suffer great duress and the wealthier market players experience favored treatment. It would seem that Friedman's instrumental justification of his capitalist ethic and wealth maximization without restraint, is both freedom denying and politically dangerous.

An elucidation of the interrelationship between money, finance, property and economics is summarized by Pascal van Griethuysen.* He summarizes the directing force of property economics with the right perspective.

Figure 1: Directing Force of Property Economics⁵

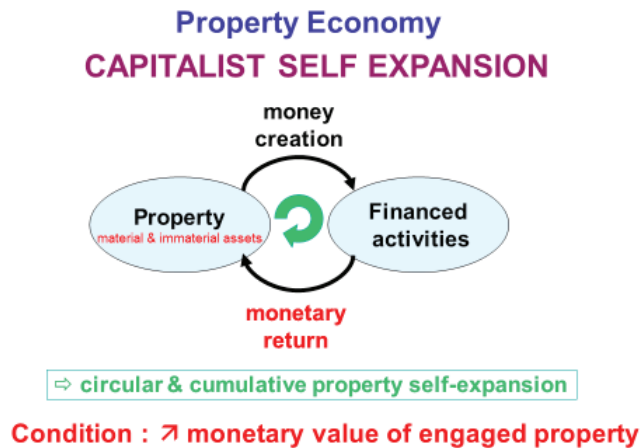
- **Veblen (1904), Heinsohn & Steiger (1996), Soto (2000)**
- **property: constitutive institution of capitalism**
- **property dual potential**
 - **material: concrete exploitation of resources (direct income)**
 - **financial: engaging property in capitalisation processes (indirect)**
- **proprietors' cumulative enrichment**
- **capitalist self-expansionary nature**

The position of property in the market unconstrained by moral or ethical factors and sustained by the emergence of a natural law influenced on both property and the mechanisms

* Presented by Pascal van Griethuysen at the Post-graduate Certificate Course/Roundtable in "Human Centered Economics" from February 1-3, 2017 at Inter-University Centre, Dubrovnik, Croatia https://youtu.be/H_Btj1S157w

of market exchanges has meant that both property and the mechanism of exchange have near absolute status and resist even the implicit constitutional rules of the market itself. This approach triggers capitalist self-expansion via an unrestrained notion of capital and exchange.

Figure 2: Capitalist Self-expansion⁶



We should understand that property is essentially a matter of commodities and commodities, which are converted to monetary growth. The following diagram clarifies and demonstrates the ease of flow from property to capitalization to concentration:

Figure 3: Flow from Property to Capitalization to Concentration⁷

END : ↗ property value = monetary growth

MEANS ?

- **physical growth** (spatial expansion, biotic resources overexploitation, industrialisation, mineral resources depletion)
- **commercial strategies** (lay-off, delocalisation, marketing, advertising)
- **institutional strategies** (commodification, enclosure, market creation; selective deregulation & liberalisation)
- **profit driven innovations** (technical, commercial, financial & institutional)
- **property capitalisation & concentration** (acquisitions & fusions)

These diagrammatic outlines of property, economy, commodification, money and markets sustain the outcomes of wealth concentration and lowering of the economic position of the middle and lower classes. This model sustains its stability by the explicit or implicit juridicalization of the notion that property is an absolute, or a near absolute private right (Lochner), and the mechanism of the market is a related near absolute rightly sustained by natural law and resisting political authority to intervene or modify (Lochner). The idea of contract as a property right and a legal absolute and by implication the market mechanism has a similar juridical underpinning.

“Investors dabbling in the various kinds of derivatives are simply gambling according to the throw of the dice.”

10. Friedman and the Nature of Property in the Market

We have discussed the problem of the ethical limitations of property in Friedman’s neo-liberal theory. However, lack of ethics and morality has not been thought to be a serious limitation on the drive to privatized absolutism regarding property and the market. The entire sub-discipline of law and economics is devoted to deregulation and the minimal state and the natural law basis of the market and private property.

The fundamentals of economic neoliberalism insist upon a radical privatization of property and value in society. In short: if a matter may be privatized, it should be privatized. Additionally, economic neoliberalism favored the notion of the minimal state. In short: the more deregulation and limitation on the state’s power to regulate, the better. A strong belief in corporate tax cuts and reduced taxes for the wealthy. A strong belief in trade liberalization and open markets. Finally, with regard to the minimal state, there would be a massive diminution of the role of government in society.

The writer Tayyab Mahmud describes a summary of economic neoliberalism as follows:

“The neoliberal project is to turn the “nation-state,” one with the primary agenda of facilitating global capital accumulation unburdened from any legal regulations aimed at assuring welfare of citizens. In summary, neoliberalism seeks unbridled accumulation of capital through a rollback of the state, and limits its functions to minimal security and maintenance of law, fiscal and monetary discipline, flexible labor markets, and liberalization of trade and capital flows.”⁸

11. The Nature of Property as a Foundation of an Allegedly Free and Efficient Market

The financialization of the economy led to the creation and recognition of many forms of new property. The system encouraged the investment of property in property and the generation of “new property”.

New forms of property emerged in the financial markets. Several of these forms were based on derivatives, others on credit default swaps and other exotic ideas. In short, the speculation in derivatives permits investment because the outcome of the derivative is a new form of property. The problem is how to identify the property and determine its potential risk or economic value. In order to understand derivatives, it is generally recommended that the investor take a course in calculus. If one passes the course, this may still not be enough to understand the complex logarithms that are supposed to represent the form of capital value which may be traded in the financial markets. In short, investors dabbling in the various kinds of derivatives are simply gambling according to the throw of the dice.

Neoliberalism became a critical ideological strut for the ascendance of new financial mechanisms, driving the accretion of wealth to insiders. The financial mechanisms were facilitated by ingenious ways in which property interest and securities could be invented or created. This gave dynamism to the financial markets as these new instruments became a cornerstone for market trading. Non-regulation permitted the generation of new forms of property without restraint.⁹ Laws which gave a high priority to the protection of private property ensured the insulation of these innovations from regulation and accountability.

The process by which paper assets could be manipulated and marketed essentially resulted in a ton of paper assets generated by new financial instrumentalities such as derivatives. The reproduction of paper property ran amok. This made for a huge gap between finance capital and capital generated by the real economy. The securitization, bundling and marketing of mortgage obligations and the growth of sub-prime lending in this regard accelerated the gap between financial capital and the real economy.

This gap proved to be unsustainable and the financial bubble burst, creating a major economic crisis in the economy of the United States and other leading economic powers.

The financial sector remains a backbone of the real economy and the collapse of the financial market impacted upon the viability of the real economy. Thus, the recession impacted on the global political economy of all states with resultant impacts for socio-economic justice. When national economies struggle, that struggle is reflected in the depreciation of living standards (accelerated inequality, unemployment and poverty).

12. Market Theory, Political Culture and Regulation

To put these developments into a broader context of governance and political perspectives, it is important to recognize that the UN system inspired by the four freedoms, which were in turn influenced by the New Deal, had developed a greater confidence in the role of government in moderating the negative effects of free market capitalism. Macroeconomics was a real science.

In this sense the role of governance and regulation was at least implicitly apparent in setting up a global mechanism of limited but important global normative guidance in the form of the UN Charter. When Roosevelt expressed the war aims of the allies in terms of the four freedoms, he was also expressing those aims of a social democratic form of governance

which as a global matter was engaged in a war with totalitarianism. In the totalitarian state, the assumption of omnipotent powers could be seen as powers which extinguish freedom.

13. Neoliberal Legal, Political and Economic Culture: Implications for Freedom and Justice

In 1944, the scholar Karl Polanyi provided a critical meditation on the role of governance and regulation in the context of human freedom. He distinguished two kinds of freedom: a form of good freedom, and the other a form of bad freedom. Bad freedom involved the freedom to exploit others.¹⁰ The freedom to take disproportionate benefits without commensurate service to the community, the freedom to appropriate technological invention without use for public benefit and the freedom to exploit social disaster for private benefit.

With regard to the good side of freedom, Polanyi stated: “The market economy under which these freedoms thrive also produced freedoms we prize highly; Freedom of conscience, freedom of speech, freedom of meeting, freedom of association, freedom to choose one’s own job.” These freedoms are the product of the conditions that also give us the bad freedoms. Polanyi speculated, interestingly, on a post market economy and its capacity to enhance freedom. According to Polanyi, the passing of the market economy can become the beginning of an era of unprecedented freedom.

Juridical and functional freedom can be made wider and more general than ever before; regulation and control can achieve freedom not only for the few, but for all. Freedom is not an appurtenance of privilege, tainted at the source, but a prescriptive right extending far beyond the narrow confines of the political sphere into the intimate organization of society itself.

Thus will old freedoms and civic rights be added to the fund of new freedoms generated by the leisure and security that industrial society offers to all. Such a society can afford to be both just and free. Polanyi also noted that an important impediment to such a future was the moral obstacle of liberal utopianism. He refers to Hayek as a key figure in this area. According to Polanyi, “Planning and control are being attacked as a denial of freedom”. This is a fundamental postulate of the social democratic state. Free enterprise and private ownership are declared to be essentials of freedom. No society built on other foundations is said to deserve to be called free. The freedom that regulation creates is denounced as unfreedom; the justice, liberty and welfare are decried as a camouflage of slavery.* Polanyi’s view of neoliberalism is that it is doomed. It has the seed of authoritarianism and fascism. Thus, the good freedoms are destroyed and the bad ones are ascended. According to neoliberalism, an alternative perspective of social democratic culture is that of good and bad freedom and the role of the state in maximizing the good and minimizing the bad is an important insight into the modern industrial state influenced by social democratic political principles. It is very consistent with Roosevelt’s view that severe economic deprivation and poverty diminish the freedom of the person deprived. The view of Roosevelt’s social democratic political culture is that the disparities between the elite rich and the deprived poor are moderated by regulation which has the consequence of enhancing good freedom and moderating bad freedom or

* Ibid.

political license. Thus, regulation in this view is not an oppressive state-centered invention, but part of the complex process of using the state to manage power in ways that enhance the aggregate position of the individual in terms of equality, freedom and dignity. This idea is reflected internationally in the International Bill of Rights. The development of human rights codes, regulations and practices are not instruments of repression but instruments that enhance human freedom and liberation. In this sense, the UN Charter and Roosevelt's four freedoms reflect social democratic perspective about the values which guide and animate governance and regulation at the international level as well.

14. Climate Change and Sustainable Development

This now brings us to the problem of neoliberalism and the challenge of climate change and sustainable development. On September 25, 2015, the UN adopted a sustainable economic and political global policy in the shadow of the perceived dangers of climate change. There were three essential points:

1. Ending poverty
2. Ecological responsibility for protecting the planet
3. Global prosperity for all

The following are the 17 UN sustainable development goals:

1. End poverty in all its forms everywhere
2. End hunger, achieve food security and improved nutrition, and promote sustainable agriculture
3. Ensure healthy lives and promote well-being for all at all ages
4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all
5. Achieve gender equality and empower all women and girls
6. Ensure availability and sustainable management of water and sanitation for all
7. Ensure access to affordable, reliable, sustainable and modern energy for all
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all
9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation
10. Reduce inequality within and among countries
11. Make cities and human settlements inclusive, safe, resilient and sustainable
12. Ensure sustainable consumption and production patterns
13. Take urgent action to combat climate change and its impacts
14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development

15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels
17. Strengthen the means of implementation and revitalize the global partnership for sustainable development*

“The role of law in seeking to marginalize the authoritative processes of economic regulation must become more responsible to a range of values broader than mere efficiency and the worship of natural law based market fundamentalism.”

15. Climate Change and the 17 UN Goals

The looming crisis of climate change has generated a stress on the importance of responsible economic development, that is to say sustainable development. Implicit in sustainable development is the notion that such development does not accelerate climate change and the risk to the entire eco-social system.

To destroy the ecosystem would clearly risk the survivability of humanity. The question of survivability implicates the entire International Bill of Rights. These challenges are stark and mandate new thinking. Such thinking minimally must include a new realism about a global economic context that is truly eco-social in scope. It must also include a scientific understanding of human social processes and power relations that are global in impact.

Finally the role of law in seeking to marginalize the authoritative processes of economic regulation must become more responsible to a range of values broader than mere efficiency and the worship of natural law based market fundamentalism. These matters implicate values of global eco-social scope and they provide challenges to deepening our understanding of vital choices that we must take to save humanity.

16. Human Rights Values and Eco-Social Responsibility as Guides to Global Choice

The new economic theory has its primary focus on the vital importance of human capital for a viable human-centered new economic theory. The foundation of this theory is rooted in socio-economic realism. Human beings are activated and energized to pursue desired values and compelling needs through human institutions sustained by human resources including law. What drives these human beings in their pursuit of values is the following:

*See Transforming our world: the 2030 Agenda for Sustainable Development, G.A. RES/70/1, UN Doc A/RES/70/1 (Sep 25 2015), http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

“Society is a teeming ocean of human energies and capacities, unorganized but latent with unlimited productive potential. The organization of social energies and capacities converts social potential into Social Capital. Each member of society is a microcosm of human potential—an unorganized reservoir of energies, aspirations, and capacities. The organization of the energies and capacities of each member of society converts human potential into Human Capital. The formed Individual is the summit of social evolution where Human Capital and Social Capital intersect and become infinitely productive. The Individual is a product of the past evolution of society who internalizes its accumulated knowledge and capacities, attunes himself to the emerging aspirations and potentials of society, and applies his energies at critical points for personal accomplishment and collective progress. Thus, we find repeatedly in history that one individual can change the world.”¹¹

In short, human beings as central participators in social processes bring the energy of humans directed at the satisfaction of value needs, wants and desires. The values that human capital seeks to advance are the values encapsulated in the entire International Bill of Rights and implicit in the UN’s 17 Sustainable Development Goals. The specific values are values that are interdependent and they often inter-determine the range and efficacy of all other values. We list these values as follows: Power, Wealth, Respect, Health and Well-being, Skill, Rectitude, Affection, and Aesthetics.

“Unemployment is neither inevitable nor necessary.”

The responsibility of all in social process is to facilitate maximizing the production and fair distribution of all the values to secure the dignity worthy of the individual and the integrity of the earth-space system. If we consider the individual human being as a critical unit of human capital, then the production and distribution of values with a critical role for human capital is the best assurance of the development that will advance and defend the prosperity of the subjects of human capital.

The specific human rights dimension implicated in the role of human capital is the value of opportunity freedom and capability freedom. Without opportunity, human capital is depreciated. Without capability freedom, the potentials of human capital are diminished or obliterated.

In the context of current global economic order, the world community faces a crisis of radical inequality and a vast expansion of radical unemployment.*

17. Unemployment

The central issue for conventional neoliberalism appears to be that unemployment is a necessary byproduct of generating higher profits in the commercial sector; it is natural and inevitable. What is ignored is that unemployment radically undermines the capacity of

* The appendix to these notes includes portions of an earlier article dealing with radical inequality and radical unemployment.

human beings to be energized and contribute to economic prosperity. What unemployment does is that it extinguishes opportunity freedoms and without opportunity freedoms, no capability freedoms can be exercised, thus guaranteeing a wastage of human energy. There are innumerable theories that show that unemployment can be eliminated by wise judicious policymaking with a concern for the full utilization of human capital. Unemployment is neither inevitable nor necessary.

If we conceptualize the right to employment and labor as encapsulated in the value of skill, it is possible to briefly map the way in which skill is a base of power for securing other articulate human rights values. For example, skill in terms of access to power is a base that is critical to the shaping and sharing of power. In this sense, skill is a critical value for protecting human rights interests tied up with the exercise of political power. Similarly, skill is an important base to acquire wealth and related economic values and is therefore critical for economic justice. Skill is also a base for access to education and enlightenment which are central to human development. Skill is also a base for access to health and well-being as well as to the institutions of social rectitude. Thus, employment rights including access and performance influence every other human rights value. Similarly, every other human rights value will influence the shaping and the sharing of labor and skill values. With this in mind, we examine the problem of full employment as a human right. It may be at the outset better to see this in terms of the political will and articulate ideology of the state and state responsibility. From this perspective it is self-evident that governments routinely intervene in matters that directly affect the economic status of the individual. Such interventions may well influence both quantity of employment opportunities available as well as the nature of these opportunities. Some obvious examples of governmental policy influencing these issues are its role in setting interest rates, its approach to budget deficits, the expansive or restrictive nature of its import and export policy, its tax policies, its military expenditure, its immigration policies, its approach to industrial development, its investment in the society, its licensing policies, its environmental regulations, and a good deal more. One illustration of the way in which an ostensibly neutral tax policy could influence employment patterns is the regulation that provides incentives for capital investment in the form of depreciation while providing disincentives to employment in the payroll tax. This suggests a partiality to investing in technology rather than labor.

“The right to employment may be seen as the critical foundation of economic democracy.”

Thus, employment rights including access and performance influence every other human rights value. Similarly, every other human rights value will influence the shaping and the sharing of labor and skill values. With this in mind, we examine the problem of full employment as a human right. It may be at the outset better to see this in terms of the political will and articulate ideology of the state and state responsibility. From this perspective it is self-evident that governments routinely intervene in matters that directly affect the economic status of the individual. Such interventions may well influence both quantity of employment opportunities available as well as the nature of these opportunities. Some obvious examples of governmental policy influencing these issues are its role in setting interest rates, its approach to budget deficits, the expansive or restrictive nature of its import and export policy, its tax policies, its military expenditure, its immigration policies, its approach to industrial development, its investment in the society, its licensing policies, its environmental regulations, and a good deal more. One illustration of the way in which an ostensibly neutral tax policy could influence employment patterns is the regulation that provides incentives for capital investment in the form of depreciation while providing disincentives to employment in the payroll tax. This suggests a partiality to investing in technology rather than labor.

To the extent that employment is one of the most important mechanisms for the allocation of purchasing power to the individual, the right to employment may be seen as the critical foundation of economic democracy. If society cannot assure the survival of all citizens through employment access, it may be that the state has a special obligation to provide employment opportunities for all. In short, the right to employment is not a privilege, it is a right. To the extent that economic survival is critically sustained by employment it could be argued that the right to employment has the character of a fundamental human right. The critical question then is: How strategically should the state act to secure this fundamental right to economic

survival? The International Commission on Peace and Food provided a report to the UN on this matter in 1994. Its principal point was that there had to be a universal affirmation of and commitment to the delivery of fundamental economic rights to all. According to the International Commission there should be an approach which recognizes:

“.. [t]he right of every citizen to employment is the essential basis and the most effective strategy for generating the necessary political will to provide jobs for all. What is needed is not another job generation program, but a change in social values that will accelerate the natural and inevitable evolution of society, from one in which labor is regarded as a dispensable resource to one based on full human rights and the enormous productive potential of the human being. The type and magnitude of change needed today is comparable to that embodied in President Roosevelt’s New Deal for the American people during the Great Depression at a time when 25 percent of the work force was unemployed, to the Indian Government’s decision to launch the Green Revolution in the mid-1960s to achieve self-sufficiency in food grains at a time when the country was highly dependent on imported food to stave off famine, and to Mikhail Gorbachev’s initiatives late in the 1980s to end the Cold War and transform Soviet society.”¹²

There are many skeptics in political circles as well as academic and scientific circles who genuinely believe that full employment is simply an unfeasible policy. It is very possible that this outlook has a corrosive effect which initiates this discourse with an assumption of futility. Thus, a critical part of initiating this dialogue is the assumption that a full employment society is a realistic prediction if there is a plausible and wide-spread acceptance of the necessity of this in economic terms as well as the importance of this commitment in juridical and moral terms. In this sense, more may be required to fully explore all the ramifications of the notion of employment itself. This could include not simply the market value of labor but other components of labor that deal with the very nature of human development. An approach is suggested in the Human Development Report of 1990 which stresses that a significant element of the dynamic of employment is embedded in the “capability approach.” This approach suggests that economic measures of labor value are insufficient. For example, a measure like the GDP may unintentionally distort our view of the critical value of employment to individual and social well-being. It may be that the notion of employment seen through the lens of capability would emphasize the production and distribution of freedom as a better indication of human value. According to the Human Development Report, “the basic objective of development is to create an enabling environment for people to enjoy long healthy and creative lives. This may appear to be simple truth but it is often forgotten in the immediate concern with accumulation of commodities and financial wealth.” Central to the capability approach is the insight that social and economic arrangements should have as a key objective the expansion of human capability. This includes the freedom to defend and enhance valuable activity. Central therefore to the emphasis on capability is the expansion of human freedom in the aggregate in the economic sector. It also permits a clearer link to the fundamental human rights standards which are now the foundation of modern social

organization. In short, what is central then to the human rights approach to employment is the recognition of “opportunity freedom” (capability) and “process freedom.” These freedoms are then cornerstones of the dynamic of employment both in terms of the conditions of access and performance. The challenge that a focused human rights approach generates is that it compels a discourse about the values which implicate human rights and are part of the culture of labor, skill and employment. This carries a further implication that these values must in turn provide compelling normative guidance for a newer approach to the problem of a commitment to full employment. It may be assumed that the current flavor of dominant economic policy is one that either tolerates or may even tacitly encourage unemployment as an economically efficient mechanism for stabilizing the market, and the dominant business values of self-interest behind it. This means that we must generate a change in the discourse of our values and then look toward a process of those changes being reflected in a wide framework of decision making at all levels for the promotion of full employment. This view is also taken by the International Commission as follows:

“We must recognize that the present status and functioning of our economies is the result of specific choices that have been made in the past, based on priorities and values that were relevant or dominant at the time, but which we certainly are not obliged to live with indefinitely, and, in fact, are continuously in the process of discarding in favor of new values and priorities. The rapid adoption of environmentally-friendly policies around the world is positive proof of how quickly the rules, even economic rules, can change when there is a concerted will for a breakthrough.”¹³

18. Inequality and the Neoliberal Aspects of the American Economy

The most notorious fact about the American economy is that for decades we have experienced an inexorable drive to move the overwhelming majority of American citizens to the bottom of the economic system. In short, the expansion of inequality has been an extraordinary fact of the politically inspired economic policies of the neoliberal economists. Radical inequality has the consequence of diminishing opportunity freedoms, thus undermining human capital. By undermining opportunity freedoms, we correspondingly undermine capability freedoms, which further diminishes the value of a human capital economy.

“The success and the genius of American civilization has been its belief in human capacity and the critical importance of human resources for national prosperity.”¹⁴

Let us start at the top. Reputable economists tell us that one percent of the American population takes one quarter of the its income. One percent of the American population controls forty percent of the nation’s wealth. One percent of the American population has seen their incomes rise by over eighteen percent. The central political question is whether this kind of outcome is desirable and in the national interest of the United States. If this is desirable, is there a sound reason to justify it? There have been marginal economic theories

which suggest that the one percent who have benefited so mightily are simply better than the rest of the nation. Many people whom we consider talented and who have made enormous contributions and inventions to modern society have not necessarily benefited from this. The financial wizards who almost destroyed the United States' economy were in fact rewarded with performance bonuses. Although to their credit, they saw the irony in this and changed the label to retention bonuses. Meanwhile, those at the bottom of the economic ladder were not candidates for any form of retention. They were candidates for pink slips. One of the assumptions of neoliberal economists is that if there exists a bigger economic pie there will be more to go around. Unfortunately, the arithmetic is the other way around. The bigger the pie, the less the American citizens share in its bounty. It would seem that American economic growth is essentially a growth that is downwards in the direction of inequality. This means there exists an exponential growth in lost opportunity for the American people. The extinction of opportunity for the people is a major social and economic loss because the success and the genius of American civilization has been its belief in human capacity and the critical importance of human resources for national prosperity.¹⁵ This means that when we depreciate human resources we are attacking the recipe, which is at the heart of American genius. There is of course enough blame here for everyone. However, I think most of the blame must lie with the neoliberal apologists. They have historically been the most frenetic defenders of economic monopoly. Additionally, they have been successful in hijacking rational tax policy debate. No new taxes means that the weaker members of the body politic still pay while the special interests, which fund the neoliberals, the well-healed financial oligarchs prevail with outrageous tax holidays. Indeed, a recent survey about the fairness of the tax system showed only twelve percent believing it was fair and eighty eight percent believing it was unfair.

The consequence of these outrageous benefits to those who already have an excess of resources is that they also promote the idea that national investment in education and human resources, investment in technical innovation and sound infrastructure is a waste of scarce resources. Their version of appropriate national incentives is driven by an intense desire to discourage investment in the future based on basic research and the central importance of our transportation and infrastructure system. Essentially, neoliberal policies have hugely empowered the financial oligarchs while undermining the participation of the overwhelming majority of citizen stakeholders in the process. They promote no version of a national common interest and see only the vista of narrow special selfish interests. Greed is king. They attack labor unions, promote the replacement of labor with technology and export jobs abroad because foreign labor is cheap. American labor is a liability. It is too expensive for the oligarchs. Hence, their mantra about jobs is "send jobs abroad." The government is the problem, is the enemy because it is the critical restraint on the unfettered power of economic oligarchs. Now the present agenda appears to be clearer: do what we need to do to keep our wealth and get more of it. Demonize the government as a moderator between extremism and the people; extinguish the opposition such as the labor unions and the independent media and most critical of all, no taxes on the rich. Probably the most impressive victory of the financial oligarchs was their promotion of the economic theories of neoliberalism. The center point of this approach was to oppose any and all government regulation.

The great success was the deregulation of the financial sector. With the financial benefits, which they acquired through a non-regulatory state, they could use their bounty of wealth as a base of power to control a good deal of law making, and they did. Their successes have permitted a huge scale of financial manipulation in a no-financial rules context—the context they in effect purchased. This was a good financial investment. After the Citizens United case, a major Supreme Court blunder, the corporate sector could now begin the process of purchasing the government without spending limits. In short, the Supreme Court solidified the nexus between wealth concentration and its capacity to control the government in an almost complete form. One illustration of many will suffice. Big Pharma was able to squeeze a trillion dollar boondoggle out of the government by the neoliberal drive to block the government from bargaining with Pharma about the price of drugs. The neoliberals have their eyes on other temptations such as Medicare, Medicaid Security. What is it that drives the neoliberals to destroy highly popular social safety nets? The answer to the above question is to be found in the longstanding neoliberal nightmare called the New Deal. The New Deal produced popular policies and its political success was reflected in Roosevelt being elected four times. After his death neoliberals considered that the New Deal was popular and an important base of power for the Democrats. The problem they confronted was that the New Deal programs were popular and could not be directly attacked. Their agenda focused on foreign fears and anti-communism. However, the lingering fear of New Deal institutions was finally frontally assaulted by the brilliant Ronald Reagan. The critical neoliberal strategy would now be to run up huge deficits so that there would be no funds to pay for New Deal programs. Moreover, if the Democrats came back to power, they would find that there is no money in the state bank to fund their programs. So fiscal conservatives ran up huge deficits, and borrowed billions, which they could now distribute as governmental socialism to neoliberal business and defense interests. This left us with a deficit nightmare and a mighty recession. With a great deal of political amnesia neoliberals now proclaim the morality of living within our economic means. You cannot spend funds if your bank account has no funds in it. They are the architects of this approach and the creators of the monumental deficit. Few heard from the deficit hawks during the Bush spending spree, fueled with money borrowed from China. We still do not hear the neoliberals willing to acknowledge their budgetary scam. Meanwhile, the United States is in a spiral towards radical inequality and there is a diminishing of our national values. Perhaps national economic oligarchs should be reminded of the wisdom of Alexis de Tocqueville who saw the key idea behind the American genius as “self-interest properly understood.” By this he meant that by taking care of your own self-interests you simultaneously express a concern for the other person’s self-interest as well.

There is strong popular endorsement of economic neoliberalism. A change here could have global implications for the evolution of a political economy whose foundations are rooted in human capital and human rights. It should be noted that President Roosevelt insisted that economic deprivation meant the extinction of human liberty.

President Roosevelt commissioned a draft of fundamental economic rights. This was precocious and came long before we had the foundations of an economic bill of rights at the global level. Certainly, the rights indicated in this draft are rights that could be adopted and amplified to meet the current needs for fully utilizing human capital on a global basis:

- The right to work, usefully and creatively through the productive years;
- The right to fair play, adequate to command the necessities and amenities of life in exchange for work, ideas, thrift and other socially valuable services;
- The right to adequate food, clothing, shelter and medical care;
- The right to security, with freedom from fear of old age, want, dependency, sickness, unemployment and accident; The right to live in a system of free enterprise, free from compulsory labor, irresponsible state power, arbitrary public authority and unregulated monopolies;
- The right to come and go, to speak or to be silent, free from the spying of secret political police;
- The right to equality before the law, with equal access to justice in fact;
- The right to education, for work, for citizenship and for personal growth and happiness; and
- The right to rest, recreation and adventure, the opportunity to enjoy life and take part in advancing civilization.

19. Neoliberalism and Global Inequality

A recent report from Oxfam indicates that eight of the world's richest men own as much of the world's wealth as 3.6 billion people.¹⁶ Oxfam maintains that the gap between the super rich and the very poor is far greater than it was a year ago. Very few of the apologists for neoliberalism consider this a matter of global importance. But Oxfam believes that this crisis of inequality will be the harbinger of seismic political changes. According to Oxfam, "it is obscene for so much wealth to be in the hands of so few when one out of ten people survive on less than two dollars per day." Also "inequality is trapping hundreds of millions of people in poverty, it is fracturing our societies and undermining our democracies." Oxfam has relied on information from the Swiss bank, Credit Suisse. Indeed, they also used the Forbes list to determine that Bill Gates, the Microsoft founder, is the richest individual in the world, worth 75 billion dollars. Others in this league include Amancio Ortega, Warren Buffet, Carlos Slim, Jeff Bezos, Mark Zuckerberg, Larry Ellison, and Michael Bloomberg, former mayor of New York. It should be noted that Gates has called upon the billionaire class to pay their taxes. The Oxfam reports suggest that such rampant inequality erodes trust in the basic institutions of global financial governance.

*"The implications of the global trust crisis are deep and wide-ranging. It began with the Great Recession of 2008, but like the second and third waves of a tsunami, globalization and technological change have further weakened people's trust in global institutions. The consequence is virulent populism and nationalism as the mass population has taken control away from the elites."**

* Ibid.

20. Towards Theoretical and Methodological Foundations of NET

The new economic theory requires a comprehensive focus that does the following:

1. The focus must transcend narrow disciplinary boundaries.
2. The focus must be interrelated, interdependent and defy solution by partial, sectoral approaches.
3. The focus must be eco-social and global in scope and cannot be fully addressed without coordinated actions of international society.
4. Recognition that a multitude of approaches resolving these issues and challenges are subject to conflicting claims, priorities and interests.
5. These ideas and those that follow although somewhat different are overall compatible with those supported by the Nobel prize winning economist Joseph Stiglitz, *Globalization and Its Discontents* (2002).¹⁷ He suggests an important role for NET lawyer economists.

The importance of new economic thinking is that the problems are often interrelated with larger society values and interests. Economics, for example, cannot be isolated from political power or the value of respect, or issues of health and well-being, or issues of skill, positive sentiment, or morality and rectitude. The following is a partial listing crying out for new paradigm thinking:

1. Economy and Employment: How can global food security, full employment, and abolition of poverty be achieved within a decade?
2. Energy and Ecology: How can global living standards be raised to middle class levels without depleting or destroying the environment or depriving future generations of the capacity to sustain these achievements?
3. Human Capital, Education, Health and Welfare: How can global levels of education and public health be raised to OECD level?
4. Money and Finance: How can the necessary financial resources be generated and mobilized to achieve the goals described in the first three questions?
5. Security: How can we permanently eliminate war and WMD that threaten to destroy all other development achievements?
6. Global Power and Governance: How can we design and implement systems of global governance capable of implementing necessary measures to achieve the other five goals for the welfare and well-being of all?

The necessary elements for new paradigm thinking must include the following:

1. It must be contextual, i.e., it must perceive all features of the social process of immediate concern in relation to the manifold events comprising the relevant whole.

2. It must be problem-oriented.
3. It must be multi-method.
4. It must be interdisciplinary with a focus on the dynamics of global interdependence and global inter-determination.
5. It must be guided by the normative values of the Global Bill of Rights.

21. The Context of Ecological Values

There was a time when the conventional wisdom in economics was that nature and related environmental resources were unlimited. Today, the reality of climate change challenges this earlier level of idealism. A new economics must consider both the potentials and the limits of the ecology of the planet. The ecology of the planet, therefore, is a crucial factor of context for a new political economy. This must be understood in terms of the creative capacity of human capital.

22. The Context of Global Social Interaction

Global social interaction involves the shaping and sharing of all values. The outcomes of this process generate the aggregate statistics of human development or the lack of human development. One of the most important problems that emerges from global social interaction is the problem of effective power and social conflict. However, the new economic theory must have a useable model of the global social process in order to fully appreciate the problems it generates on a global basis for all values. This process raises the important issue of the role of law and its institutions in facilitating the evolution and development of human capital as a positive global resource.

23. The Context of the Global Process of Effective Power

The global social process reproduces the institutions and imperfections of the production and distribution of global power. It is well understood that the outcomes of global power represent conflict and competition. Additionally, the expression of global power in society is done through the process of decision-making itself. We can call this decision-making according to naked power. Since power expresses itself in terms of conflict, war and often violence, it will be obvious that peace and security are critical foundations for a social process that seeks to maximize its human capital resources. In short, war consumes human capital resources, and does not enhance or reproduce them. The new economic theory must, therefore, account for the global processes that generate and sustain human conflict, since these processes generate deficits in development.

Stiglitz has suggested that the entire law and economics profession is a special interest group for the plutocracy and they have done this by fierce advocacy targeting rational state policy and regulation. This suggests that progressive law and economics lawyers should contest the negative professional class and they should vigorously assert the value of a rule of law based constitutional order based on social realism and human rights values. The strength

of this perspective should be based on the authority of the people as a whole, sustaining a new constitutional order based on the authority and human capital of the people itself. This would seem to be the surest way to evolve creative value based institutions to affirm human progress and to avoid human tragedy. Providing markets the license to run amok has been a global disaster. Clearly the challenge of economic globalization is a challenge for progressive lawyers and their allies to design more enduring and promising patterns of international infrastructure to save capitalism from itself. Enrique Carrasco insists that scholarship in law and economics now addresses economic globalization taking broader factors into account like distributive justice, human rights, social and constitutional development. Stiglitz and others insist that dysfunctional global economics provides a serious challenge for lawyers as economic, political, and social engineers to provide a more effective international economic structure to salvage capitalism.

24. The Context of the Evolution of Power into Behavioral & Documentary Constitutional Processes

Conflicts about power do not always endure indefinitely. Indeed, there are periods when the power broker contestants in conflict may see that the continuance of conflict may only result in zero sum losses. This realization may generate the elements of inter-elite collaboration from which understandings may emerge about how to manage power in ways that avoid conflict and promote collaboration. If this happens, a society may emerge with a series of understandings about how power is to be distributed, indeed allocated among the power broker contestants. This level of institutionalization of power will reflect the emergence of the power dynamics constrained by distributions, which have the support of the authority of community members. When there is a form of constitutional process, we effectually have expectations about institutionalizing the forms of authorized decisions about decision-making itself. This is the foundation for the establishment of a system of public order in which all the values are distributed and produced via the authorized institutions of society.

It would, therefore, be appropriate that the new economic theory develop and map the constitutive process (local to global) because it provides the framework of authorized decision-making regarding all the basic values in society including wealth. In this sense, a constitutional order that has a working capacity has an approximation to the idea of the rule of law. And the constitutive process is made operative by the constitutive functions of decision-making. Thus, constitutive decision-making may both directly and indirectly influence development and progress. Additionally, a theory of economic novelty would have to account for the decision-making functions.

25. The Functions of Decision-making Relevant to a New Economic Paradigm

The architecture and functions of decision-making listed below apply to all value processes, which are demanded in a dynamic global social process.

1. Intelligence. Intelligence, which includes gathering information relevant to making decisions and its processing, storage, retrieval, and distribution to all participators performing decision functions.
2. Promotion. The decision-making function of promotion requires agitation and recommendation of certain policies, which in the form of prescription have the quality of law. In this sense, promotion is a critical component in decision for directly changing the common interest. It is in this sense that we cannot look at economics as value-free.
3. Prescription. This decision function implicates the formulation and adoption of certain policies as authoritative pronouncements in appropriate sectors of the social process.
4. Invocation. This function of decision-making is essentially a provisional decision function that characterizes behavior as incompatible with the law and goals of the community. Those who perform the invocation function raise the question of what initiatives enhance or violate community prescriptions.
5. Application. This is the authoritative characterization of conduct as lawful or unlawful. To secure lawful ends, the applier must use tools of some form of sanction to secure appropriate application. In terms of the objectives of development, the consequences of development may be critically related to the actual applicative performance. The new economic initiative must, therefore, give careful attention to the idea of application if development goals are to be real.
6. Termination. The decision function of termination means the termination of something in the status quo and its replacement by something that changes the status quo. New economic theory must ensure the termination of dysfunctional traditional standards and embrace new thinking.
7. Appraisal. The theory of decision-making as applied to economic policy requires that there be constant measures that may be appraised in terms of advancing toward progressive economic goals and avoiding the regression to the opposite.

26. Decision-making Challenges for Value Processes

For us to develop an approach that permits us to identify where we are and where we want to go, we would have to measure development in terms of the existent state and potentials for transformation of at least the following nine values: power, wealth, enlightenment, skill, well-being, affection, respect, rectitude and aesthetics.

1. Power. The most important expression of power as decision is the understanding of the institution within which it expresses itself. For example, globally, power is significantly decentralized. This means an economic paradigm of global salience runs into the problem of the degree of lack of institutionalization of power. It is probably true that the most power-deprived are the least well-off in global society. The new theory must be able to map global power and to appreciate its capacity to be mobilized for rational developmental objectives.

2. **Wealth.** In general, this refers to the aggregate volume and composition of what a society produces. It may refer to income in the community and also to the notion of an aggregate resource base. In general, when wealth is developed, the outcome is an increase in the volume and composition of products without depleting the resource base. $(P+I) \div R$
3. **Enlightenment.** What we mean by enlightenment is the prescription and application of education in social and economic development. The nature of enlightenment as social capital is evident when education in a society leads to development. A society with an increased education-knowledge base uses enlightenment to extend development through informed decision-making. Decision-makers would make decisions based on informed enlightenment.
4. **Well-being.** Well-being including health refers to the state or condition of a society and its members. The well-being of a society is directly proportional to the level of “life expectancy” and indirectly proportional to the expectancy of disease occurrence in that society. The optimum level of well-being, however, is dependent on other values in that society.
5. **Skill.** Skill is the ability to perform tasks (especially employment or professional tasks), as a function of human capital development. The skill value is for the benefit of society. Skill development is a consequence of an increase in the strength of the “skill pool” in a society where skills are directed towards development. Skill is a critical component of individual and social capital.
6. **Affection.** Affection is a form of positive sentiment and underlines the loyalty of individuals and associations to the group. Being a basic value, it has tremendous social capital. The increase in scope of positive sentiments in a society increases developmental achievements and goals.
7. **Respect.** Showing regard for other individuals within a society is crucial to development. A lack of respect gives rise to discrimination, which in turn becomes a direct cause of retarded development.
8. **Rectitude.** Rectitude drives moral behavior in society. When the rectitude of individuals within a society matches its development goals, there emerges what we call rectitude development.
9. **Aesthetics.** Aesthetics is rooted in human creativity and in human creative capacity. A culture of strong aesthetics will inspire economic development objectives.

27. The Jurisprudence of Economic Neoliberalism

Since we stressed the vital importance of the human agents of choice at all levels of our eco-social process, it would be worth while to have a better understanding of the jurisprudence that animates and justifies neoliberalism and that segment of legal culture that seeks to justify and cement its presence.

In the early nineteenth century law, just like economics, became influenced by the philosophy of science known as positivism. To make economics a science meant a reduction in the context of accounting for values, ethics, and morality. Science was searching for an objective theory of economics, uncontaminated by the subjectivity of normative value analysis. This philosophy also influenced law. It gave birth to the conventional theory of law as the command of a sovereign imposed by a sanction administered by the sovereign. This approach radically distinguished between law properly so-called and morality.

“Science was searching for an objective theory of economics, uncontaminated by the subjectivity of normative value analysis. This philosophy also influenced law.”

Positivism influenced the US strongly in the latter part of the nineteenth century. The clearest expression of the American version of the objectivity of law and its separation from morality came from Oliver Wendell Holmes of the US Supreme Court. He had, in seeking to purge morality and its contamination of objective law, suggested that the most important way to look at law was to look at it from the point of view of the “bad man”. The “bad man” is the starting point. When he consults his lawyer, he is moved by self-interest. If he has made a deal and he wants to get out of the deal he is completely uninterested in the morality of deal making. He wants to know what is the cost of breach. In this sense, the “bad man”, who is essentially an economic operator, is moved by one important interest and that is self-interest. In short, the only question the bad man wants to answer is, what is the risk that I might get away with? The bad man therefore is essentially a businessman whose exclusive objective is to maximize self-interest. This is what law should be about as well.

Alexis de Tocqueville suggested that in American culture self-interest should be more cautiously understood. Self-interest has to include the interest of the self and the public interest. However, this latter interest appears not to be a part of the neoliberal project.¹⁸

The consequence has been that generations of lawyers are trained to serve as the “bad men”. They service tax avoidance. They service the defense of corporate monopoly. They service deregulation. They service the absolute sense of property, the non-regulation of the market, including financial markets, and they furnish and socially engineer a legal architecture to reinforce self interest, greed and a depreciation of the public interest concerns of the profession. The recently proposed budget is an indication of this trend. To gut the American government and the administrative apparatus that ensures leadership in the world can hardly be seen as ‘making America great again.’ In fact, a radical weakening of the federal government cannot conceivably be in the public interest. Only few powers would support this achievement.

The effort to destroy the regulatory apparatus of American government has been supported by the creation of a powerful legal constituency: the law and economics movement bent on a destruction of the juridical economic and political foundations of the New Deal state and its

offshoot, the modern social democratic state. The challenge here is to reassert the primacy of the constitutional foundations of the social democratic state and to engineer the institutions and architecture for the purpose of globalizing this effort. A new generation of lawyers is required for this.

“Franklin Delano Roosevelt acknowledged that the unregulated aspect of the market was in fact not the product of metaphysical forces but the product of practical human choices. If choice could make the mess, then choice could unmake the mess.”

28. The Social Democratic Constitution in Distress, the Threat of Plutocracy

In this part of the paper we provide a summary of the principal threat to the United States’ social democratic constitution, a threat fueled by economic neoliberalism and sustained by such constituencies as the Federalist Society and the law and economics movement.

Recently, the Principal Advisor to President Trump, Steve Bannon, told a reactionary audience that the prime objective in terms of policy-making for this administration was the complete demolition of the so-called ‘administrative state.’ The implications of this directive are quite far-reaching because the substantial removal of the administrative architecture of the social democratic constitutional state will effectually result in the collapse of the constitution itself. Let us put this in historical perspective.* At the turn of the last century President Theodore Roosevelt began to see the threat posed to the Federal Union and American democracy by the emergence of oligarchic business trends. He saw the threat to our constitution and its democratic principles as coming from the emergence of large scale corporate monopolies. If this were to be unchallenged, the Constitution would come under the influence and political control of an unelected plutocracy. In his time, he saw plutocracy as the greatest threat to American values.

In 1929 we had the Great Depression. Plutocratic interest was able to cement itself via the Supreme Court ruling in *Lochner v. New York*¹⁹, which made private property a fundamental and nearly unchallenged constitutional right. The unregulated free market economy, protected by the elevation of private property to near absolute status, resulted in forms of egregious speculation, which resulted in capitalism consuming itself.

When Franklin Delano Roosevelt was elected in the early 1930s, he acknowledged that the unregulated aspect of the market was in fact not the product of metaphysical forces but the product of practical human choices. If choice could make the mess, then choice could unmake the mess. Roosevelt faced incredible resistance to any form of regulatory measures to salvage capitalism from itself.

* The strategy of the current White House in weakening the alleged “deep state” may have profound consequences for the future of American Democracy. <https://www.foreignaffairs.com/articles/2017-08-15/trump-and-deep-state>

However, the *Lochner* case and the Supreme Court succeeded in overturning over 200 efforts at regulating various aspects of the economy. The result was that the plutocratic elite had learned nothing from capitalistic cannibalism and were now going to destroy the emerging New Deal state which sought to save capitalism from itself.

“The impact of neoliberal unregulated economic policy in the US and globally represents an astonishing crisis of global and national unemployment and a significant accentuation of radical inequality.”

When the composition of the Supreme Court changed, important New Deal initiatives emerged to stabilize and improve the American economy. These developments received enormous support as a consequence of World War II. The necessity of national security compelled the plutocrats and the government to work through a collaborative economic partnership, which benefitted capital, labor, government and the American people. The problem Theodore Roosevelt faced about oligarchic tendencies was moderated by the army of lawyers generated in Ivy League schools who were trained to challenge the scope and reach of antitrust law. These and other factors permitted a slower but important accretion of economic monopoly.

The University of Chicago and its economic department promoted a revived theory of a non-regulatory economic system. Milton Friedman argued that the Great Depression was not a flawed free market but a flawed system of governmental liquidity. From these developments there emerged a new normal for political economy, loosely styled ‘neoliberalism.’ According to neoliberals, the Stalinist state, which extinguished private property, was an almost complete extinction of human freedom. The regulatory initiatives of the social democratic state was a creeping form of state control and a creeping form of the denial of human freedom. Fundamental to neoliberalism was the idea that any aspect of value which could be privatized should be privatized, and, in privatized form, such value should be protected from governmental interference by the emergence of an absolutist jurisprudential protection of private property.

The weakening of financial regulation led to a massive collapse of the financial underpinnings of the world economy. Deregulation seemed not to learn much from 1929.

The evidence of the impact of neoliberal unregulated economic policy in the US and globally represents an astonishing crisis of global and national unemployment and a significant accentuation of radical inequality. Notwithstanding, Trump has already made it an objective to repeal vital regulatory standards for the financial markets. In short, the prospect of accentuated unemployment and inequality from an unregulated state looms large in the future of the world community. What is important to note here is that, at the intellectual level, the law and economics movement has made it an explicit objective to destroy the New

Deal state. They have done this by the ferocious attacks on all forms of state regulation in virtually every sphere of life. Additionally, they vigorously assert the idea that a regulatory state can rarely include rational regulation and, as a consequence, it is a destroyer of freedom. In the meanwhile, the evidence of the non-regulatory state accentuates radical inequality and extended unemployment.

“Without a constructive role for lawyers in the global economic process, we are doomed to repeat the failures of flawed market theory and the commitment to myopic, narrowly formulated principles of economic efficiency.”

The current challenge for Trump is whether he can deliver a better form of health care which is left purely to the market and which excludes as much regulation as possible. American people see this as Trump searching for a black cat in a dark hole that is not there. At the same time, the real agenda has now been made explicit: the elimination of the administrative state is the elimination of the architecture of constitutional social democracy. The elimination of constitutional social democracy will leave the American people in a legal and political void. In this void, it is the plutocrats who will rule without restraints of the rule of law. In short, the approach of current leaders seems to be in the direction of government of the plutocracy, for the plutocracy, by the plutocracy.

Simultaneously, we have the looming Russian scandal. In Russia, we have a form of governance by, of and for the oligarchy. In this context, there are no real Russian state interests, there are the interests of the oligarchy represented by the chief oligarch. In the US, the struggle to destroy the administrative state challenged basic values that are irrelevant to the plutocracy. It seems that in the future, if greedy leaders succeed, there will be no foreign policy representing state interests and values, there will be plutocratic and oligarchical interests done with a handshake and a wink. In this sense, the only conflicts between Russia and the US are the plutocratic and oligarchic interests and not the broader framework of values of the social democratic constitution and the UN Charter. If self-serving interests win in destroying the social democratic state, we must be prepared for governance that sidelines ethics and morality and we will join the Russian oligarchs in representing a form of international influence also devoid of ethics or morality. This would imply a farewell to the most fundamental values of governance and accountability. Indeed, the demise of the Bill of Rights and human rights in general.

29. Conclusion

This paper has tried to stress that, without a constructive role for lawyers in the global economic process, we are doomed to repeat the failures of flawed market theory and the commitment to myopic, narrowly formulated principles of economic efficiency. Law thus far, has served to provide effective advocacy and flawed scholarship to sustain market

fundamentalist myth. Here it would be useful to record the support of Stiglitz to repudiate this short-sighted professional blunder. According to Stiglitz, “Basically, the call is to restructure the legal and regulatory foundation of globalization to better reflect the teachings of economic science as opposed to free market ideology. Institutions need to be structured and to be more democratic and more resistant to special interest influences. Constituencies that have little power or voice in globalization need to be heard to assure a more nuanced, culturally sensitive and politically sustainable set of globalization policies. States that are exposed to full globalization must have adequate social, physical, and regulatory infrastructure in place to allow markets to thrive to the maximum extent possible. Most importantly, the world appears to be woefully under-educating its human resources.” This last point stresses the salience of human capital, the importance of education in cultivating human capital and the tragic losses to humanity by educational policies that conspire to under-educate them as a condition of fictitious market efficiency.

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