

## WHAT COMES AFTER WESTPHALIA: THE DEMOCRATIC CHALLENGE

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There exists a puzzling disconnect between the almost universal advocacy of democracy as the sole legitimate way to organize domestic society and intense resistance from leading state actors to any steps taken to democratize the ways in which global governance in its present form is constituted and administered. There exists a particularly striking contrast between the political language that has been used by the current American political leadership in the course of the Bush presidency, which has made its signature claim to moral leadership in the world depend on its supposed championship of democracy while at the same time displaying an active hostility toward democracy as it might inform global governance. The neoconservative version of this disconnect is more explicit than a similar “democratic gap” that existed earlier, and was especially characteristic of the Clinton presidency, which also supported the spread of democracy on the national level as an essential element of its foreign policy (what it called “enlargement”). As with Bush, Clinton also was unsupportive of civil society’s efforts to open up the United Nations, or global governance more generally, to the impact of democratizing pressures. An inquiry into global democracy proceeds against this background of understanding.

The idea of global governance is itself elusive. It is a term of art that has come into being rather recently, at least most prominently, to consider the need for and form of governmental capabilities at the global level without implying the existence or desirability of world government.<sup>1</sup> There is considerable sensitivity on this matter of language as “world government” is associated with the movement for “world federalism,” which in turn is derided as utopian or as likely to pave the way toward tyranny on a global scale.<sup>2</sup> The idea of global governance, in contrast, is firmly situated in most formulations at the interface between realism and liberalism, grounded in the resilience of

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1. COMM’N ON GLOBAL GOVERNANCE, *OUR GLOBAL NEIGHBORHOOD: THE REPORT OF THE COMMISSION ON GLOBAL GOVERNANCE* (1995); *see also* GOVERNANCE WITHOUT GOVERNMENT: ORDER AND CHANGE IN WORLD POLITICS (James N. Rosenau & Ernst-Otto Czempiel eds., 2003) (1992).

2. For a classic critique of world government as a solution to the crisis of global governance, *see* INIS L. CLAUDE, JR., *SWORDS INTO PLOWSHARES: THE PROBLEMS AND PROGRESS OF INTERNATIONAL ORGANIZATION* (1971).

Westphalian world order based on the interplay of sovereign states and on the liberal effort to promote international cooperation and collective action as ways to promote humane values without requiring modifications in the structure of world order.<sup>3</sup> The interest in global governance reflects a growing sense that a stronger set of institutional procedures and practices are needed at the global level to address a series of challenges associated with the global commons, including climate change, polar melting, deforestation, and ocean fisheries.<sup>4</sup> This interest also reflects regulatory concerns about a range of issues, including transnational crime and international business operations. Increasingly, there exists an acknowledged need for a normative framework for economic globalization that will ensure greater poverty reduction and a less unequal distribution of the benefits and burdens of growth on a global scale.<sup>5</sup> Such a preoccupation with global governance can also be thought about as an evolutionary stage in the unfolding of Westphalian world order; in effect, a geopolitical successor to the simpler mechanisms of so-called “Great Power” management of international society that provided all societies with the benefits of global stability, which can be considered as a collective public good.<sup>6</sup> Another way of conceiving of the present historical circumstances is to postulate a “Grotian Moment,” that is, a transitional interlude that is signaling a tectonic shift in world order.<sup>7</sup> We are presently experiencing both the terminal phase of the Westphalian framework and the emergence of a different structure of world order that is sufficiently receptive to the emergence of supranational forms of regional and global governance, as well as exhibiting the agency of non-state actors, as to qualify as “post-Westphalian.” This assertion, in part, represents recognition that states are incapable of adapting to mounting global scale challenges without a significant reconfiguration of world order. This assessment is not meant to suggest that states have lost their primacy in global political life, but rather to observe that a sustainable world order in the future depends on some major structural and ideational innovations to protect an otherwise endangered global public

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3. For a further exposition and critique, see RICHARD A. FALK, *THE DECLINING WORLD ORDER: AMERICA'S IMPERIAL GEOPOLITICS* (2004).

4. On climate change, see NICHOLAS STERN, *THE ECONOMICS OF CLIMATE CHANGE: THE STERN REVIEW* (2007); INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, *CLIMATE CHANGE 2007: THE PHYSICAL SCIENCE BASIS* (Feb. 5, 2007), available at [http://ipcc-wg1.ucar.edu/wg1/docs/WG1AR4\\_SPM\\_Approved\\_05Feb.pdf](http://ipcc-wg1.ucar.edu/wg1/docs/WG1AR4_SPM_Approved_05Feb.pdf) (last visited Apr. 3, 2007) (Summary for Policymakers, Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change).

5. RICHARD FALK, *PREDATORY GLOBALIZATION: A CRITIQUE* (1999).

6. For influential depictions of this theory, see HEDLEY BULL, *THE ANARCHICAL SOCIETY: A STUDY OF ORDER IN WORLD POLITICS* (2d ed. 1995) (1977); see also F. H. HINSLEY, *POWER AND THE PURSUIT OF PEACE: THEORY AND PRACTICE IN THE HISTORY OF RELATIONS BETWEEN STATES* (1963).

7. For more discussion of the “Grotian Moment” and its surrounding conceptual context, see INTERNATIONAL LAW AND WORLD ORDER 1265-86 (Burns H. Weston, Richard A. Falk, Hilary Charlesworth & Andrew K. Strauss eds., Thomson/West 4th ed. 2006) (1980).

interest in the years ahead. Institutional and normative expressions of regional and global solidarity will be needed to address such issues as climate change, regulation of the world economy, establishment of security, and implementation of the ethos of a responsibility to protect. Sustainability will also depend on taking into present account the needs of future generations, with respect to resources and the foundations of life supportive of individual and collective human dignity.

More than the United Nations or even the Bretton Woods institutions and the World Trade Organization, the extraordinary regionalizing developments in Europe over the course of the last half century prefigure a post-Westphalian world order that draws on a number of complementary structural and attitudinal ideas to solve the deepening crisis of global governance. The European Union (EU) can be conceived as foreshadowing such modifications on the regional level in Europe, and potentially elsewhere, in a manner that seems entirely consistent with democratic values and procedures.<sup>8</sup> Europe has achieved internal mobility, a common currency, economic progress, regional governance, limitations on internal sovereignty, and most impressively, a culture of peace that makes intraregional arms races, interstate uses of force, and wars almost unthinkable. In current debates about the future of Kosovo, it is being influentially claimed that the only serious hope for reconciling the strong Kosovar push for national independence with the Serbian insistence on the unity of its state boundaries is for both of these contending entities to be formally absorbed into the larger reality of Europe by a new cycle of EU enlargement.<sup>9</sup>

It is notable, although ironic, that it is Europe, which invented Westphalian world order back in the seventeenth century, that is taking the lead in shaping a radical post-Westphalian form of governance for its region. Of course, Europe manipulated the state system for as long as possible to serve its geopolitical ambitions, which led to the colonizing of much of the non-Western world and subordinating most of the rest. In this respect, the EU should be mainly understood as a belated response to a series of European geopolitical setbacks as it is an expression of European creativity, or even less so, European idealism. The anti-colonial movement, the debilitating impact of the two world wars, the challenge posed by Soviet expansionism during the Cold War, and the difficulties of competing in the world economy all played a part in moving European leaders to seek greater unity through mutually beneficial cooperative practices and procedures. As is well known, the growth of the EU from its outset was premised on an appeal to the self-interest of individual sovereign states, especially with respect to economic policy. It is

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8. For optimistic assessments of the European experiment in regional governance, see MARK LEONARD, *WHY EUROPE WILL RUN THE 21ST CENTURY* (2005); JEREMY RIFKIN, *THE EUROPEAN DREAM: HOW EUROPE'S VISION OF THE FUTURE IS QUIETLY ECLIPSING THE AMERICAN DREAM* (2004).

9. See Timothy Garton Ash, *Why Kosovo Should Become the 33rd Member—and Serbia the 34th*, *GUARDIAN UNLIMITED*, Feb. 15, 2007, <http://www.guardian.co.uk /commentisfree/story/0,,2013344,00.html> (last visited March 30, 2007).

only by stages that this European experiment in regional world order began to take shape and a regional political and cultural consciousness emerged.

Such an understanding helps us realize that normally there are two major ways of stimulating significant world order reforms: the first, illustrated by the establishment of the League of Nations and the United Nations, is associated with efforts to reconstruct world order in the aftermath of a destructive war;<sup>10</sup> the second, best illustrated by the EU, is based on the evolutionary potential of building upon modest functional beginnings, where the benefits of institutional growth are weighed periodically by participating governments and their publics, leading to forward surges generally formalized by treaties negotiated and approved by the EU membership, but also by backsliding in periods of disenchantment with aspects of this momentous political experiment.<sup>11</sup> Since 2005, there has been serious debate about whether the EU has reached, or possibly even exceeded, prudent limits on its scope (the enlargement issue) and depth (the question of the European Constitution). European public opinion has been recently agitated by the costs of enlargement, the tensions associated with immigration, the controversy over possible Turkish membership, and the interplay between Islamic extremism and Islamophobia. Such incidents as the assassination of Theo Van Gogh, the Danish cartoon controversy, the French urban riots, and left views that the EU was anti-worker and a vehicle for neoliberal globalization, were instrumental in the French and Dutch rejection of a proposed European Constitution.<sup>12</sup> Despite this recent cascade of discouraging developments that have certainly cooled some of the enthusiasm about the EU as a model of world order, there remain important reasons to expect a rebound in confidence, as well as to reaffirm this set of regional initiatives to be an extremely positive demonstration that post-Westphalian change and reform is possible to achieve by peaceful means: the European Parliament shows that electoral democracy can be made to work in multistate, multinational political domains; environmentalist pressures to reduce carbon emissions are being most effectively articulated and organized under the auspices of the EU; and along similar lines, the advocacy of a more moderate approach, relying on diplomacy and law rather than force in responding to such threats as posed by political Islam and nonproliferation, is being led by European statesmen.<sup>13</sup> In

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10. For an important study of this dynamic, see G. JOHN IKENBERRY, *AFTER VICTORY: INSTITUTIONS, STRATEGIC RETREAT, AND THE REBUILDING OF ORDER AFTER MAJOR WARS* (2001).

11. For a useful account, see DUSAN SIDJANSKI, *THE FEDERAL FUTURE OF EUROPE: FROM THE EUROPEAN COMMUNITY TO THE EUROPEAN UNION* (Univ. of Mich. Press 2d ed. 2000) (1992).

12. IAN BURUMA, *MURDER IN AMSTERDAM: THE DEATH OF THEO VAN GOGH AND THE LIMITS OF TOLERANCE* (2006).

13. See ROBERT KAGAN, *OF PARADISE AND POWER: AMERICA AND EUROPE IN THE NEW WORLD ORDER* (2004) (arguing that relying on diplomacy and law rather than force in

2003, opposition of such stalwart American allies as France and Germany to the proposed invasion of Iraq vividly illustrated a growing divergence in approach to world order as between Europe and the United States that especially related to attitudes toward force and war as policy options of governments.

This apparent European submission to the Rule of Law encourages a soft-landing in a post-Westphalian world order. In contrast, the United States, especially during the Bush II presidency, has been far more reliant on a militarist approach in fashioning its efforts to move beyond Westphalian world order, including the seeming acceptance of the inevitability hard landing associated with wars, financing a worldwide network of military bases, and relying on the militarization of space for control over the entire earth.<sup>14</sup> That is, Europe since the end of the Cold War, and especially since the presidency of George W. Bush and the ascent to influence of a neoconservative entourage of political advisors has developed a regional self-consciousness that is defined in part by seeking an alternative path to world order that is less likely to produce catastrophic results. Whether this regional experiment, which can be compared with far less evolved regional frameworks in Latin America, Africa, and Asia, will spread sufficiently to itself constitute a post-Westphalian alternative form of world order beyond Europe is now quite doubtful. Even so, the regionalization of the world is a possibility worthy of attention even if only to illuminate “the Grotian moment” is generating rival responses designed to provide the world with a post-Westphalian form of global governance. Implicit here is the idea that the state-centric world order that evolved out of the Westphalian peace settlement was a form of global governance that generally seemed successful until the outbreak of the world wars of the prior century, as dramatized by the development and use of atomic bombs in 1945. Despite a certain success from the perspective of dominant elites, there was always much to lament about Westphalian global governance, including providing sanctuaries for “human wrongs” under the rubric of sovereign rights and more or less legitimating both the war system and colonialism.<sup>15</sup>

There is little doubt that the combination of opportunity and danger created by the end of the Cold War and the collapse of the Soviet Union encouraged the neoconservative imaginary to formulate a grand strategy based on global dominance.<sup>16</sup> The 2000 election of George W. Bush as president and

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responding to such threats as posed by political Islam and nonproliferation is being led by European statesmen).

14. For one critical look, among many, see CHALMERS A. JOHNSON, *NEMESIS: THE LAST DAYS OF THE AMERICAN REPUBLIC* (2006).

15. For a devastating critique along these lines see Ken Booth, *Human Wrongs in International Society*, 71 *JOURNAL OF INT'L AFFAIRS* 103-26 (1995).

16. For a perspective prior to the Bush presidency and 9/11, see Thomas Donnelly, Project for the New American Century, *Rebuilding America's Defenses: Strategy, Forces and Resources for a New Century* (2000), available at <http://www.newamericancentury.org/RebuildingAmericasDefenses.pdf>; for a sense of the neoconservative tenor of the Bush presidency, see James Mann, *Rise of the Vulcans: The History of Bush's War Cabinet* (2004).

the 9/11 attacks enabled this neoconservative blueprint for grand strategy to morph into a political project that became the centerpiece of the “war on terror.”<sup>17</sup> This ideological set of moves can be considered from the perspective of global governance as a means to overcome the anarchic character of world order given the globalization and trans-nationalization of security. It is within this historical and ideological setting that the neoconservative leadership of the United States has tried to solve the crisis of global governance by opting for the “empire” model of world order.<sup>18</sup> The form of empire pursued was definitely distinctive and unlike all historical empires in important respects. This American way of empire combined a rhetoric of respect for the political independence and territorial integrity of foreign states with a set of security claims of global dimensions that refused to acknowledge any boundaries on its authority and capacity to use force. It also gave unprecedented emphasis to a call for democratic constitutionalism at the state level, even selectively justifying intervention and regime change to rid countries of dictatorial rule. It resorted to aggressive war and exercised extraterritorial authority to implement its counterterrorist foreign policy. Aside from its militarism, it might be difficult to disentangle neoconservative visionary geopolitics as it has been enacted during the Bush presidency from other less provocative ways of establishing American control of world politics in a manner that was also arguably of an imperial character.<sup>19</sup> Imperial geopolitics are perhaps most clearly expressed by the relationship of the United States Government to international law and to the United Nations. International law and the UN due to their potentiality as well as their reality are anti-imperial, clarifying thereby crucial aspects of what, in contrast to empire, a global democracy would entail. Global democracy would certainly entail some kind of respected institutional presence that effectively provides alternatives to war in addressing international disputes, particularly with regard to those issues that touch on vital interests of governments and their citizens. Global democracy would also engender a political culture of respect for the kinds of restraints on the behavior of those states that arise from long diplomatic experience and are then encoded in agreements among governments and other international actors to establish obligatory standards of behavior. As such, it would override the insistence of American leaders on unilateral prerogatives with respect to the use of force, so vividly expressed by President Bush in the 2004

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17. Nat'l Sec. Council, *The National Security Strategy of the United States of America* (2002 & rev. ed. 2006), available at <http://www.whitehouse.gov/nsc/nss.pdf>; for a more popular presentation of the same approach, see David Frum & Richard Perle, *An End to Evil: How to Win the War on Terror* (2003).

18. There is much recent literature on all sides of this issue. Among the important contributions are: Andrew J. Bacevich, *American Empire: The Realities and Consequences of U.S. Diplomacy* (2002); Niall Ferguson, *Colossus: The Price of America's Empire* (2004); Michael Hardt & Antonio Negri, *Empire* (2001); and Rashid Khalidi, *Resurrecting Empire: Western Footprints and America's Perilous Path in the Middle East* (2005).

19. On the case for continuity, see Neil Smith, *The Endgame of Geopolitics* (2005).

State of the Union Address. In sum, he stated that the United States will never ask for a permission slip whenever its security is at stake.<sup>20</sup> The intention as stated, which was greeted by thunderous bipartisan applause, amounted to a crude insistence that this country, and only this country, retained the discretion to wage war without reference to either the authority of the United Nations or the constraints of international law. This is expressive of a unilateralism that is the decisive repudiation, or the decisive sign of a repudiation, of a commitment to a law governed way of addressing international political behavior.

A repudiation of such unilateralism does not mean a commitment to a legalistic view of the role of international law in our present world. One can appreciate that there may be occasions where the tension between the survival and security of the state and the general prior understanding of international law appear to be in conflict and pose difficult moral, legal, and political choices for national leaders. Recognizing such a possibility of deviating from strict legal strictures still contrasts with the imperial mode that in principle, rather than under existential pressures, repudiates the very idea of constraints on war-making derived from standards and procedures external to the sovereign state.

As important as is adherence to the Rule of Law with respect to war and peace issues for the establishment of humane forms of global governance, it is not at all synonymous with what we mean when we talk about global democracy. It is my intention to try to provide some introductory understanding of what it is that global democracy would entail, in terms of the organization of the world. In his pioneering work on “cosmopolitan democracy,” Daniele Archibugi has argued persuasively that global democracy cannot be properly apprehended as the extension of democracy as it has functioned on the level of the territorial sovereign state to the global level.<sup>21</sup> If global democracy is guided by statist experience, the logical culmination of advocacy of global democracy would be support for a world state and a world government. It is important to understand that this kind of global statism is one possible way of actualizing a commitment to global democracy, but it is probably not the most plausible way and it is certainly, from the perspective of the present, not the most desirable way. It would pose great dangers of world tyranny and world anarchy that would be highly unlikely to produce a form of global governance that could be called “humane.” Also, transition to world government seems politically infeasible to such an extent that its endorsement is quickly dismissed as “utopian,” that is, unattainable. Although we cannot peer into the future to discern what pathways to global governance will open up under a variety of circumstances, it does not seem useful to give serious

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20. President George W. Bush, 2004 State of the Union Address (Jan. 20, 2004), available at <http://www.whitehouse.gov/stateoftheunion/2004/index.html>.

21. See generally COSMOPOLITAN DEMOCRACY: AN AGENDA FOR A NEW WORLD (Daniele Archibugi & David Held eds., 1995); more comprehensively, DEBATING COSMOPOLITICS (Daniele Archibugi et al. eds., 2003).

attention to world government, whether proceeding from perspectives of global governance or global democracy.<sup>22</sup>

Accordingly, I would like to discuss in a preliminary way some of the developments during the last two decades that seem to be groping toward a set of political outcomes that could culminate over time in a type of global governance that it would be reasonable at some point to call global democracy. We remain very far removed from such a goal at the present time, but this should not blind us to a series of important initiatives that point beyond Westphalia without reliance on imperial prerogatives.

The first of these initiatives that deserve mention are the UN Global Conferences that were held particularly in the 1990's. I regard these public events as experiments in global democracy and as the birthing of global civil society.<sup>23</sup> The conferences provided arenas within which nongovernmental organizations, as representatives of civil society, had a number of opportunities. They were able to participate in dialogues that included governments and to develop transnational civil society networks. The strong media presence at these conferences, together with access to the Internet, enabled much greater visibility for civil society perspectives, so much so that this aggregation of influence was sometimes even referred to as being "the second superpower" active in the world after the Cold War.<sup>24</sup> This form of democratic participation by the peoples of the world within global arenas was definitely something new and hopeful. I would argue that it was precisely the success of these experiments that led to a geopolitical backlash that closed off this pathway to global democracy and humane global governance. The major states were not ready to yield their primacy to populist forces expressive of what the peoples of the world demanded and desired.

A second area that I think is extremely relevant and important is the previously mentioned experience of the European Union, also a political experiment intent on moving the theory and practice of democracy beyond the nation-state and establishing a political community that is only *indirectly* based on state sovereignty. As with global democracy, the EU has paused in its evolution, with its future in doubt. Part of a hopeful scenario for the emergence of global democracy depends on the emergence of democratic forms of regional governance that moderate or even neutralize the turn in the early Twenty-first Century toward global empire.

A third area that points toward global democracy is what I would call "the new internationalism." This kind of post-Westphalian diplomacy was most clearly exhibited in the extraordinary movements during the 1990s resulting in

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22. For the last comprehensive, ambitious proposal for world government, see GRENVILLE CLARK & LOUIS B. SOHN, *WORLD PEACE THROUGH WORLD LAW: TWO ALTERNATIVE PLANS* (3d ed. enlarged 1966) (1958).

23. See generally MARY KALDOR, *GLOBAL CIVIL SOCIETY: AN ANSWER TO WAR* (2003).

24. James F. Moore, *The Second Superpower Rears Its Beautiful Head*, <http://cyber.law.harvard.edu/people/jmoore/secondsuperpower.pdf> (Mar. 31, 2003).



the adoption of an Anti-Personnel Landmines Treaty and the establishment of the International Criminal Court (“ICC”). The defining novel feature of this new internationalism was active and very effective coalitions between clusters of nongovernmental actors and governments of states. This innovative diplomacy was able to overcome the concerted geopolitical objections of the most powerful nations, notably the United States itself, but also China and Russia, to produce new authoritative norms, procedures, and institutions for international society. Whether the refusal of leading states will doom these efforts remains to be seen. Already, in relation to the ICC, the United States, so determined to oppose, yielded to pressures to encourage the indictment of Sudanese officials alleged to be responsible for crimes against humanity in the context of Darfur. As with the UN global conferences, this kind of new internationalism establishes a mode of democratic participation for the peoples of the world, independent of governmental representation in shaping the realities of global governance.

A fourth initiative involves the activation of national judicial bodies to implement international legal standards. In the context of criminal accountability, this initiative is described beneath the rubric of “universal jurisdiction.” This initiative is perhaps best illustrated by the Pinochet litigation that commenced during 1998 in Britain. The Chilean dictator was indicted by a Spanish court, later detained in Britain where extradition hearings were held, and convicted in a historic judgment rendered by the highest British court, the Law Lords.<sup>25</sup> The importance here is that the weakness of the global institutional structure is complemented by a more active judicial role that gives substance to international standards by relying on national judicial institutions to implement universal legal norms. In other words, if national courts become enforcement agencies for international norms, particularly with respect to holding leaders of sovereign states responsible for the crimes against humanity and other crimes of state, there emerges a sense of global governance guided by a set of minimum constraints on the highest officials governing sovereign states.

Again, the challenge to Westphalian modes of geopolitics has provoked a backlash. Belgian laws that were the most revolutionary with respect to universal jurisdiction led to such a strong hostile reaction by the U.S. government accompanied by threats to move NATO headquarters and take other steps. Belgium relented by amending its laws, substantially renouncing its earlier embrace of universal jurisdiction. But all is far from lost. Leading political figures, including Henry Kissinger, have reported changed travel plans for fear of being indicted. There is currently pending with a German prosecutor a complaint against Donald Rumsfeld for his role in the practice of torture at Abu Ghraib. It is likely that geopolitics will prevail, and that the German court will ignore its own law and the strong evidence, but there is a

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25. See Richard A. Falk, *Assessing the Pinochet Litigation: Whither Universal Jurisdiction?*, in *UNIVERSAL JURISDICTION: NATIONAL COURTS AND THE PROSECUTION OF SERIOUS CRIMES UNDER INTERNATIONAL LAW* 97 (Stephen Macedo ed., 2004); see also NAOMI ROHT-ARRIAZA, *THE PINOCHET EFFECT: TRANSNATIONAL JUSTICE IN THE AGE OF HUMAN RIGHTS* (2005).

growing sense that global governance depends on establishing the accountability of leaders with respect to international criminal law. Those who act on behalf of powerful countries accept such accountability in relation to their adversaries, such as Slobadan Milosevic and Saddam Hussein, but not with respect to themselves.

A fifth initiative has been championed by Andrew Strauss and me, namely the proposal, in its various forms, to establish a global peoples assembly.<sup>26</sup> Symbolically and substantively this initiative recognizes the crucial importance of people participating in a direct manner in the institutional operations of global governance. The initiative presupposes that governmental representation of people, as in the United Nations and global diplomacy, is insufficient. This democratizing demand has proved controversial, but has become over time accepted and successful in the European setting. The European Parliament has finally established itself and been acknowledged as an integral operating part of the European Union and a fundamental element in moves toward European democracy. Much more could be said about the importance and feasibility of a global peoples' parliament. As an undertaking, the project to establish an international criminal court seems now far less utopian than it did in the early 1990's.

A sixth initiative is the existence of tribunals formed by civil society itself. The World Tribunal on Iraq ("WTI") that was held in Istanbul in June 2005 was a very powerful and comprehensive assessment of the status under international law of the American invasion and occupation of Iraq. The WTI included fifty-four presentations to a jury of conscience that drew on the expert knowledge of prominent international lawyers and international political experts as well as received emotionally powerful testimony from notable Iraqis. The primary justification for the creation of such a tribunal was to fill the gap created by the unwillingness and inability of either governments in international society or the United Nations to act meaningfully on behalf of fundamental norms of international law.

The WTI was impressive for a number of reasons. First, it was the culmination of twenty earlier civil society tribunals held all over the world on the Iraq War. Second, the WTI represented the first time that civil society was mobilized on a global basis to oppose a war that was so widely perceived throughout the world as illegal and an example of aggressive war of the sort prohibited by the UN charter. Third, the WTI exhibited an entirely new phenomenon that might be called "moral globalization," a spontaneous expression of support for the implementation of agreed fundamental norms, the constitutional basis of humane global governance, and a corresponding

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26. Richard Falk & Andrew Strauss, *On the Creation of a Global Peoples Assembly: Legitimacy and the Power of Popular Sovereignty*, 36 STANFORD L. REV. 191-220 (2000); Falk & Strauss, *Toward Global Parliament*, 80 FOREIGN AFFAIRS 80: 212 (2001).

repudiation of geopolitical claims of entitlement with respect to war as a political option.

The last initiative I will mention is the dependence of a movement toward global democracy upon the education of citizens, especially here in the United States. More generally, it is a vital component of the educational responsibility of institutions of higher learning throughout the world to prepare young people for engaged citizenship in this young Twenty-first Century. Furthermore, I believe the prospect of achieving global democracy depends on internalizing the sort of values and global outlook that would allow that kind of political development beyond the sovereign state to take place. I think that two areas of educational emphasis would be particularly valuable at this stage of history. One is the importance of making citizens of this country and of other countries much more familiar with the relevance of a culture of human rights as part of their own development as members of any political community entitled to all aspects of human dignity. It seems clear that to the extent that human rights are internalized as part of legitimate governance at any level of societal organization, it will facilitate a popular acceptance of the need for the construction of global democracy by consensual means.

The second educational priority is currently more controversial, but at least as necessary. It involves making a pedagogy of peace and human security an important part of the learning experience of every young person.<sup>27</sup> In my view, available evidence suggests the increasing dysfunctionality of war as an instrument for the resolution of conflict. On this basis, it is a virtual imperative to explore alternatives to war and political violence. Our educational experience should challenge the political and moral imagination of students by considering the benefits of reliance on nonviolent politics as the foundation of global security, reform, and justice in the world. The essence of global democracy involves a shift in expectations from a geopolitics of force to a geopolitics of dialogue and persuasion.

The goals of global democracy and humane global governance certainly seem remote from current patterns of behavior in all sectors of the world. The position taken here is that without such normative horizons, we will be enveloped by the storm clouds now gathering so menacingly as to defy disbelief. Hope begins when we have the moral courage to transcend what seems possible by what seems necessary and desirable. I think the changing parameters of debate on climate change, facing that “inconvenient truth,” is an encouraging sign of an emerging receptivity to an acceptance of constraints on behavior for the sake of a humane future.

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27. The most comprehensive and challenging contribution along these lines is JONATHAN SCHELL, *THE UNCONQUERABLE WORLD: POWER, NONVIOLENCE, AND THE WILL OF THE PEOPLE* (2003).

