NOVEMBER 20

Minerva 39

Citizens for Global Solutions
WORLD FEDERALIST INSTITUTE

2 – 4 – 6 – 8 ~ CONGLOBATE!

In this issue:

Minerva

3 Å EDITORIAL COMMENT: First & Goal — Thesil Morlan

10 Å BOOK REVIEW: Power and Arrogance — David Shorr
The End of Arrogance: America in the Global Competition of Ideas
by Steven Weber and Bruce Jentleson

13 Å The New Road to Europe: Ways Out of the Hydra-Headed Crisis — Mary Kaldor

15 Å BOOK REVIEW: European Union & Global Union — Ronald J. Glossop
The Uniting of Nations: An Essay on Global Governance
by John McClintock

17 Å Reform of the United Nations Security Council & General Assembly ~ A Step to Federation — Myron W. Kronisch

19 Å The UN as Truth Commission — Andrew Erueti

20 Å INTERVIEW: The Big Picture — Joanna Rice
Rodolfo Stavenhagen, former UN Special Rapporteur on the Rights of Indigenous Peoples

22 Å Six Scenes of Endeavor — Joshua Cooper
1 - UN Expert Mechanism on Rights of Indigenous Peoples | 2 - ASEAN Civil Society Conference & Peoples' Forum | 3 - UN Human Rights Council
4 - UN Permanent Forum on Indigenous Issues
5 -Threatened Island Nations | 6 - UNSC & climate change

33 Å Traditional Values — 65 NGOs

36 Å INTERVIEW: Human Rights, Fundamentalism, Power and Prejudice — Cassandra Balchin
Vijay Nagaraj, Director, International Council on Human Rights Policy

39 Å NOTES on Dehumanization and Extermination

40 Å The Trials and Tests Faced by R2P — Rachel Gerber

41 Å ICC - Speech at Closing of Lubanga Trial — Benjamin B. Ferencz

42 Å ICJ - War Crimes Reparation Right — Amnesty International

44 Å Assertive Action To Protect — Without War — Lucy Law Webster

45 Å REVIEW of 17 BOOKS: Eliminating Nukes — James T. Ranney

50 Å Extreme Injury — Elaine Scarry

54 Å NOTES & RESOURCES

This twice-yearly collation, provided by the World Federalist Institute of Citizens for Global Solutions, is named in honor of one of the four women signers of the UN Charter, Minerva Bernardino (1907–1998), who helped found the UN Commission on the Status of Women.

Editor:
Thesil Morlan
PO Box 397
Waldoboro, ME 04572
Tel & Fax 207-832-6863
E-mail: thesil@midcoast.com
<www.midcoast.com/~thesil>
www.globalsolutions.org/wþ/minerva

Editorial Advisory Board:
Robert Enholm
Ronald Glossop
Scott Hoffman

To help support *Minerva*, please consider making a donation to the CGS Education Fund: 418 7th Street, SE, Washington DC 20003. Thank you.

Information cut-off for this issue:
1 November 2011
Submission deadline for next issue:
1 March 2012

Citizens for Global Solutions promotes discussion of global issues; the views presented in *Minerva* are the authors' own.

COVERS - Front: UNWRA's Gaza Summer Games, involving a quarter million children, 30 June 2011 (UN Photo/Shareef Sarhan); Back: women observe Eid al-Fitr in Dili, Timor-Leste, 1 October 2008 (UN Photo/Martine Perret); Back cover quotation from *A Thousand Times More Fair – What Shakespeare's Plays Teach Us About Justice*, by Kenji Yoshino (Ecco, 2011)

First & Goal

Even euphoria isn't what it used to be. Remember a now fallen Football Hall of Famer, as a giddy young running back, telling a post-game interviewer that he'd been enjoying "a metaphoric moment in the locker-room"? Perhaps *Minerva* has been suspiciously deþcient in sports metaphors. Let's tackle that.

I was surrounded by football as a child (even though my father and mother preferred tennis and lariat twirling, respectively). In a warm climate, our family lived near an open-air football stadium that served the local college and high school — whose season seemed to run most of the year because a large state boasts many layers of playoffs — and where the nearest professional team had its summer training camp. Night after night, I eventually fell asleep to the sounds of play-by-play from the public loudspeaker and organized cheers from the stands. "PUSH 'em back, PUSH 'em back, WAAAY back!" echoed through my slumbers.[1] **ò2-4-6-8 ñ DECIMATE!ó**

Although I don't claim this as a corrupting inÿuence, Iõm consequently not surprised to live in a society that loves to chant "We're number one!" on the sidelines of games and battleþelds. Iõm confounded, though, by American culture's simultaneous fostering of reluctance to choose superior representation in its political system. We are hobbled by smugly asserting þctive superiority while mocking and tearing apart any discernible signs of excellence in political policy-making or leadership.

exceptionalism

The strands of our so-called exceptionalism include not only that conÿicted claim of national superiority (oddly, further hardened and undermined simultaneously as factions haggle over which side is more to blame for decline!)[2] but also: exceptionalism as a measure of lapse from foundational ideals, as a prod to improvement in that regard, or as an excuse for alleging that emergencies supersede adherence to tradition or to the rule of law; and the assertion that international law or globally accepted standards do not apply to a self-proclaimed virtuous country, entitled to special status.

Despite the usual terminology, exceptionalist attitudes are not exclusively American. Several strands are tangled in ways peculiar to each nation, and are sometimes matted over broader turf, such as a hemisphere or the realms called "Global North" or "South". There are even competing proclamations that "the West" is best at deteriorating!

But the USA does specialize in an exceptionalist outlook that tends to be experienced by others as at least ignorant, at worst predatory. At home, "[t]hat the common good requires such exceptionalism has been so taken for granted as to not need acknowledgment," observes James Carroll, though the US Congress recently aimed "to convert informal understanding into ofþcial legislationó in a provision of the National Defense Authorization Act "expand[ing] boundaries of America's military mission in the world" by stretching the notion of our targetable enemy to include not only those who "committed or aided" the 2001 attacks but also forces allegedly "associated" with designated antagonists. Although this language afþrms what already has become practice, says Carroll, "more than policy is at stake. The law after 9/11 made an implicit claim to global force projection based on an emergency; the new legislation would explicitly reject any time or place limitations on that force. In other words, a seemingly subtle shift marks a movement from the exceptional to the threshold of normal. There is a word for the realm into which that threshold opens: The legislation is a step toward an open declaration of American empire." Carroll comments that, even if instances of "'invited' US imperialism [are] mainly benign (which requires leaving aside questions of unfair economic structures abroad, and dehumanizing effects of garrison culture at home)", and even if "contemplated expansions of … belligerence may successfully defang terrorism (instead of sparking it), … the more far-reaching consequence of 21st-century American empire will be the þnal destruction of authentic internationalism — nations bound by the power of agreed democratic law, cross-border systems of checks and balances, all abiding by the same rules, mutually enforced. The destruction, that is, of the only world with a hope of real peace and justice."[3]

Decrying "America's Selective Vigilantism"[4], Tariq Ali complains that, "notwithstanding" Euro-American liberal and conservative governing elites' "pious renunciations of terrorist violence …, they have no problems in defending torture, renditions, targeting and assassination of individuals, post-legal states of exception at home so that they can imprison anybody without trial indeþnitelyó, while most citizens "avert their gaze from the dead, wounded and orphaned" afar.

Even if one (a) acknowledges that humanitarian impulses inevitably may be mixed with impure thoughts, that humanitarian excuses often are merely added on ofþcially to crasser projects, or that "great-power logic soon overwhelms the humanitarian rationale for intervention", as Walden Bello complains[5], but (b) does not go so far as to agree with Tariq Ali that NATO intervention in Libya intended "to bring the Arab rebellions to an end by asserting western control, conþscating their impetus and spontaneity", and that "the frontiers of the squalid protectorate that the west is going to create are being decided in Washington", it is painfully obvious that our infamous cultural exceptionalism is riddled with delusions that are dangerous for all.

The delusion of being Number One, deplored by some as obnoxious and self-defeating, diagnosed by others as a frenzy covering anxieties about being sidelined, might also sometimes be considered a bit of relief in the midst of seemingly interminable vicious squabbles — evidence that we can conceive of banding together after all. But as long as this involves pushing everyone else back — or ignoring their existence — it obviously doesn't advance us down the earth-wide þeld toward any desirable, or even recognizable, goal.

Political theorist Benjamin Barber[6] mocks "the American exceptionalist claim that 'We're Number One', when as measured by far too many key indicators we are

actually closer to being #10 (social mobility) or maybe #34 (infant mortality) or dead last — pun intended — in the percentage of our population we incarcerate". He angrily challenges "the complainers who deny the public good and insist government is a wastrel" to "make up their minds: do they want the United States to be a third class mini-state with a fourth class public sector? In which case they can … stop pretending we're number one and admit we're actually a drop-out. Or they can try to give some substance to their boasting and take steps to maintain our global leadership. In which case they need to be revitalizing and growing the public sector they are currently devastating." Instead of hypocritically destroying democratic governance, he argues, we need to learn to "share our commonwealth" and enable farsighted leadership toward that end. Unless we're intent on staggering backward while shouting louder about being number one.[7]

While Barber was calling for "salvaging American leadership at home and abroad" last summer ("We're Number 34!"), Steve Clemons was blogging[8] from a conference in Aix-en-Provence, organized by Le Cercle des Economistes to grapple with "The State of the World". In "a session exploring the growing tension between political rather than economic zones and whether 'states' were back or still getting fuzzed up by various transnational saboteurs", his New America Foundation colleague Parag Khanna[9] "said that globalization is not a trend that can just be quickly turned on and off. He thinks globalization is a much longer, deeper process stretching back a thousand years in which the Silk Road was an early part of the platform. Khanna said we are 'now entering a phase in which globalization is really global' and that it can't be slowed by the þscal straits of a few of the larger developed countries. … [He] also said that nation states as the term of unit in the international system was being undermined by 'Four C's' -- Countries, Cities, Companies, and Communities. He believes that these groupings will share authorities, overlap, and intensify their communication and coordination in ways that don't depend on the state for intermediation."[10] These shifts are exposing limits of patchwork international law as well as of national prerogatives.

commonweal

While people continue, deliberately and/or by default, to sort out Khanna's crisscrossed "Four C" categories and form teams from them, vast exigencies pressure us all, threatening our lifesaving sense of a 5th C: the Commonweal. Rescuing this may require some rehabilitation of bodies politic, large and small — identifying essential values, acknowledging shared rights and responsibilities, and pooling sovereignty for the sake of better self-government at all levels.

The holes in this early 21st-century 5th C, the Commonweal, are lined with mind-boggling numbers: the bewildering calculations of the þnancial & economic crisis; the alarming statistics of population growth, disappearing species, and climate change; the staggering numbers of migrants, asylum-seekers, camp-bound refugees, slum dwellers, child soldiers, victims of famines, disease, disasters, ethnic cleansing, crimes against humanity, war crimes, and genocide. And, lurking anywhere, even where least expected (as in Norway) the "one of us" — each unaccounted for, in numbers and linkages unknown — who can go rogue to maim and kill in the grip of an extreme ideology or misunderstanding or perverse impulse.

scrimmage

Though feeling overrun and nearly overwhelmed by the piling on of these numbers, we have realized that we have to start somewhere to interrupt their patterns — such as committing to the Millennium Development Goals (MDGs)[11], the International Criminal Court (ICC), the principle of the Responsibility to Protect (R2P), an Arms Trade Treaty (ATT) to reduce the supply of small arms to human rights abusers, and the proposed UN Emergency Peace Service (UNEPS), designed to complement existing peace operations — even though all of these measures are discouragingly clumsy at this early stage, without having all the necessary equipment, and without our having learned all the necessary implementing skills yet.

As Citizens for Global Solutions CEO Don Kraus points out, when stressing the need for "a global 911 service that can rapidly, credibly and legitimately respond when a government uses its military to violently smash peaceful protest" (UNEPS)[12], "you can't protect babies from 30,000 feet nor should this be the job of the US and its allies alone".[13] Carrying the latter proviso a step further, so that "military units belonging to hegemonic powers — in particular, the United States and NATO — must not be allowed to participate in … intervention", is one of Walden Belloõs þve guidelines for considering a legitimate intervention (and only in "the exceptional case of genocide being carried out by a government")[14]. His þrst two criteria, usually considered grimly late in an emergency, are that "the evidence for genocide must be substantial" and "the intervention must be a last resort, after all efforts at stopping the genocide by diplomacy, military export bans, and economic sanctions have failed". He scarcely mentions that the R2P principle also grapples with thresholds and the right moment of a last resort. Third, "the UN General Assembly, not the Western-dominated Security Council, must legitimize the intervention". He does not specify whether this would be in the "Uniting for Peace" mode or require a different mechanism. Finally, "the expeditionary force must aim only at stopping the genocide, must withdraw once the situation has stabilized, and must refrain from sponsoring and propping up an alternative government and engaging in ônation-buildingõ.ó Deþning and securing the stability is left an open question.

Obviously, Walden Bello is discussing only one kind of intervention. But his opening sentence equates it with a narrow notion of R2P: "Events in Libya and Syria have again brought to the forefront the question of armed humanitarian intervention or the 'responsibility to protect'." And the scheme he outlines seems strangely sanitized. Atrocity reaches a calculable level, is duly stopped, and the scene magically clears itself. Instead, as Rachel Gerber observes, "Far from a checklist that mandates uniform action, R2P is a dynamic policy framework that is meant to twist, bend, and adapt as best it can to the complex realities of the world

it hopes to improve. Beyond Libya and Syria, it informs many and diverse approaches to crisis, each of which gives it a chance to prove its mettle in the long run."[15] She warns that "military responses in Libya and Côte d'Ivoire have come to dominate current political discourse on the 'responsibility to protect' (R2P) in a way that threatens to detract from the much broader role the international community can and should play in preventing mass atrocity crimes."[16] And, as noted frequently, prevention includes peacebuilding and other kinds of capacity-building in the aftermath of previous crises.[17]

The UNEPS plan that Don Kraus promotes "calls for the UN to individually recruit, train and employ 10,000-20,000 personnel [others recommend different numbers] with a wide range of skills, including civilian police, military, judicial experts and relief professionals. It is designed to ensure that missions would not fail due to a lack of skills, equipment, cohesiveness, experience in resolving conÿicts, or gender, national or religious imbalance. With UN Security Council approval in hand, this force would have the legitimacy to enter countries in conÿict and deter mass atrocities."[18]

Writing in Tripoli of his tempered hopes & concerns for Libya,[19] Nicholas Kristof proclaims himself to be "a believer in humanitarian intervention to avert genocide or mass atrocities — when [as it seemed in Libya] the stars align …" — also a difþcult criterion to ascertain! But, recognizing that "the question of humanitarian intervention is one of the knottiest in foreign policy, and it will arise again," he hopes that next time we remember, despite the quandary of Syria, "a lesson of Libya: It is better to inconsistently save some lives than to consistently save none."

Still, complacency about current halfmeasures is as unwarranted as capitulation to dreaded doom. Even those of us who try to avoid panicked retreat from it — and also reject rushing toward doom in anticipation of rapturous selective exemption ñ often þnd ourselves hobbled by arguments about incrementalist versus transformative strategies. Recognizing that mixtures of both preferences risk confusing people further, perhaps provoking even more resistance to either course (or to both), we are daunted by the difþculty of þnding a balance ñ of acceptable, practical, and motivational elements — that seems as elusive as the perfection we know is not possible.

scrum

Meanwhile, within mobilizations concerning speciþc issues ñ nuclear weaponry, nuclear power, climate change, for example — organizers warn that the nature of each overpowering danger means that "reality reality trumps political reality", as Bill McKibben asserts concerning climate change, since even projected developments short of the worst case scenario are cataclysmic, so time not only should not, but cannot, be wasted on piecemeal þxes.[20] Others argue that coping with multiple crises precludes attempting to master one deemed the most dire while spurning small steps toward mitigating the rest.

Similarly, the number of participants is in dispute. Moisés Naím's much-discussed recommendation in *Foreign Policy* (2009) that for every global crisis we should summon "the smallest possible number of countries needed to have the largest possible impact on solving a particular problem" is countered by those who worry with Lord Nicholas Stern, economist at the London School of Economics, that small agreements afford only the impression of action, exposing everyone to one or another form of devastation. "The scale of ambition should be commensurate with the risks being managed, which are enormous," Stern says.[21]

Perhaps this blockage should send us dashing back to the gridiron, where a successful game-plan grinds out crucial inches mixed with bursts of yardage!

As with arguments about increments and ultimate goals, advancement stumbles over local or global focus, as if both weren't necessary. Actual problems with some aspects of globalization — transnational labor and migration issues, for example— aren't reduced by merely battering straw globalization from all sides. Remedies may require more varieties of globalization, along lines such as those described by University of California history professor Peter Baldwin, discussing the globalization of universities in which "reciprocity is the key concept" ("The Narcissism of Minor Differences")[22] — by extending beyond trends in academic life "a kind of intellectual Brownian motion across the globe".

After all, a transformative movement needs more than a roaring "wave" running across one side of a stadium, where solidarity is unremarkable. And solidarity, "in its mundane sense", is "morally neutral", as Christopher Hayes reminds us.[23] "Union members refusing to cross a picket line exemplify solidarity, but so do white homeowners in a Chicago neighborhood signing restrictive covenants to keep black families out. Sublime solidarity, on the other hand", developing from empathy, "embodies a powerful moral aspiration to realize the fundamental fellowship of humankind." J.A. Myerson reminisces that in 1968 "[s]ublime solidarity bound the sixty-eighters to one another. … What linked the[m], the critical factor that turned what might otherwise have been disparate local movements into a global revolutionary force, was solidarity. Solidarity has acquired near cliché status, but it remains an inestimably important ingredient in the struggle for freedom, justice and equality."[24]

fanfare

Is this fanciful? Or is a semblance of it revealed by fanology, which studies a spectrum of loyalties of varying intensities to learn more about group identiþcation in general and about allegiance — which, in sports, does not depend on attachment to a winning team[25], nor is it strictly geographical. Researchersõ þndings òpoint to a variety of factors that contribute to fanship, including our instinct for tribal afþliation, our desire to participate in tradition, and our hunger for compelling characters and dramatic story lines," reports Leon Neyfakh in extremely sports-conscious Boston.[26] "If tribalism and honor exert a strong pull, there may be an even more powerful force at work in getting fans addicted to teams: the human need for

narrative. Especially for franchises with long histories, … a big part of what hooks fans—what pushes a casual fan deeper into the spectrum—is the multitude of story lines that can be seen in longstanding rivalries, the career arcs of players, and of course, individual games." And "narrative has a self-reinforcing property": the more familiar one is with team history and the more deeply one knows a team, the better "you're able to keep track of multiple story lines at once. …" This gives people a sustaining sense of progress (not mere static success or depressingly distant promise of it). While accommodating fans to unpredictability, it offers, notes Neyfakh, an enlivening hit of what sports experts call "eustress" — "the addictive combination of euphoria and stress that grips fans", with rewards delivered at irregular intervals.

In this context, Adam Sternbergh [27] even touts "the epic sports collapse" that "is to be treasured, even more so than the improbable victory. It's more rare, and therefore more precious. And it reafþrms the essence of why we root for a team in the þrst place. é Itõs crushing, maddening, unfathomable — and yet it means nothing. … The epic collapse … is an opportunity to confront an event that's bewildering in its unlikelihood and ruinous in its effect, yet to also walk away entirely unscarred. It matters, deeply, and yet it doesn't matter at all. … At a time when much more dire collapses ñ þnancial, emotional, geopolitical, familial — are a frequent occurrence or at least a consistent threat, the opportunity to experience and survive one, however trivial or nonexistent the repercussions, is something to be valued, not lamented. It's the one time you should really be grateful for deciding to be a fan. … There is one demonstrable value to being a sports fan. It allows you to feel real emotional investment in something that has no actual real-world consequences. In any other contest (presidential campaigns, for example), the outcome can be exhilarating or dispiriting to its followers and, by the way, when we wake up the next day, the course of history has been changed."

There are other risks, of course.[28] Unruly fanatics abound. Weak characters who can't handle a heady mix of instant and delayed gratiþcations can resort to hooliganism. More commonly, carelessly poor fan manners are displayed. Daniel E. Doyle Jr., who studies sportsmanship, cautions: "You have people who, emboldened by the cover of the crowd, are able to say anything and do anything without consequences",[29] as in other venues such as the Internet.

Corruption by peer pressure and manipulations of fanhood to distract people from thoughtfully asserting the responsibilities of citizenship are not the only factors to be considered when gauging or endeavoring to engage public opinion, however. When it's not going berserk, fandom recognizes the precariousness of fortune and security, the illusion of invincibility, the stimulation (though sometimes to excess) of opposition. Segments of a sports crowd with different allegiances are similarly engrossed in a partially meshed narrative and equally vigilant for signs of unfairness (though interpretations differ, of course), with acceptance (however grudging at times) of rules and referees. Flipping to the less trivial political protest version of these tendencies, the "Occupy Movement" (for example) seems to include a mix of descriptive accounts of structural crises and angry objections to gaming the system.

So it may be possible to move beyond spasms of cheerleading to tap into certain fan capacities — particularly love of narrative[30] and **fairness**[31] — in ways that render tensions productive or rehabilitative, conducive to involvement in world affairs, while avoiding either paralyzing ourselves with futile desire for total comity or destroying ourselves with enmity.

Owning common heritage and destiny, we need not anticipate perfectly integrated global brain circuitry or revert to the superior cooperative þnesse of slime mold cells. With today's multiplicity of megaphones, global citizens — who realize that we don't have to think alike or love everyone to recognize that "we're one!" — can lead and heed sustained summons in support of the Commonweal: a humane human future.

ò2-4-6-8 ñ CONGLOBATE!ó

ENDNOTES:

1 - University of Chicago football cheer (late 60s):
Themistocles, Thucydides
The Peloponnesian War
X-squared, y-squared
H2SO4
Who for? What for?
Who we gonna yell for?
Go Maroons!

2 - More neutrally, Adam Gopnik comments: "There's no pattern in history to compare us to, because nothing like us ever happened before. The lessons of declinism are manifold, but the central one is that obsessively fretting about possible decline can be a good way to produce it. … Whatever happens next, short term or long, is likely to be more affected by accident and by invention — and by new ideas — than any trend now in sight. … Declinism is a bad idea, because no one can have any notion of what will happen next. Yet the idea of our decline is emotionally magnetic, because life is a long slide down, and the plateau just passed is easier to love than the one coming up" ("Decline, Fall, Rinse, Repeat — Is America Going Down?", *The New Yorker*, 12 September 2011).

Aside from the death link, Gopnik is not surprised that many voters refuse to act to "maximize future utility" and even prefer to ignore their own interests: "In the long story of civilization, the moments when improving your lot beats out annoying your neighbor are vanishingly rare."

3 - James Carroll, *Boston Globe*, 16 May 2011

4 - Tariq Ali, British/Pakistani political commentator and editor of the *New Left Review*, "America's Selective Vigilantism", *The Guardian*, 7 September 2011): "'Sovereign is he who decides on the exception,' Carl Schmitt wrote in different times almost a century ago, when European empires and armies dominated most continents and the United States was basking beneath an isolationist sun. What the conservative theorist meant by 'exception' was a state of emergency, necessitated by serious economic or political cataclysms, that required a suspension of the constitution, internal repression and war abroad."

5 - Walden Bello, Princeton-educated Filipino political analyst & activist, politician, professor of sociology & public administration at the University of the Philippines, Executive Director of Focus on the Global South (based in Bangkok), and Fellow of the Transnational Institute (based in Amsterdam), "The Crisis of Humanitarian Intervention", Foreign Policy in Focus ("A think tank without walls" <http://www.fpif.org/articles/the_crisis_of_humanitarian_intervention>) - A Project of the Institute for Policy Studies, 9 August 2011; his books include *The Future in the Balance: Essays on globalisation and resistance* (2001)

6 - Benjamin Barber, Distinguished Fellow at the Demos policy center, "We're Number 34!ó, Hufþngton Post, 25 July 2011

7 - On an index produced by law professor (and former administrator of the UN Development Program and co-founder of the Natural Resources Defense Council) James Gustave Speth, among the 20 major "advanced" countries, the US does rank highest in the poverty rate, inequality of incomes, prison population per capita, international arms sales, and failure to ratify international agreements.

Despite evidence of problems that he expects to worsen or at least "continue to fester" for "the foreseeable future", Speth (as quoted by William Fisher in a Truthout op-ed "American Exceptionalism", 29 August 2011) believes: "There is hope especially in three things. The decline now occurring will progressively delegitimize the current order. Who wants an operating system that is capable of generating and perpetuating such suffering and destruction? The one good thing about the decline of today's political economy is that it opens the door to something much better. Second, people will eventually rise up, raise a loud shout and demand major changes. That is already happening with some people in some places. Eventually, the chorus will grow to become a national and global movement for transformation. And third, Americans are already busy with numerous, mostly local initiatives that point the way to the future."

8 - On Steve Clemons' page for The Washington Note at *The Atlantic*, 9 July 2011

9 - Born in India, having grown up in the United Arab Emirates, New York, and Germany, and having been educated at the London School of Economics and Georgetown University, geo-strategist Parag Khanna is, in addition to his position as a Senior Research Fellow at the New America Foundation, Senior Fellow at the European Council on Foreign Relations, Director of the Hybrid Reality Institute, and author of *The Second World: Empires and Inÿuence in the New Global Order* (2008) and *How to Run the World: Charting a Course to the Next Renaissance* (2011).

10 - On another occasion ("Innovation Amidst the Wreckage of America's Empire", The Washington Note, 17 January 2011), commenting on Parag Khanna's *How to Run the World: Creating a Course to the Next Renaissance*, Steve Clemons questions Khanna's observations about "a much more complex … diffusion of actors and speeding up of international interactions", saying he thinks "the proliferation of large-scale NGOs and the surge of diplomatic activity by nations such as Brazil, South Africa, Turkey and others may not be examples of the 'mega-diplomacy' Khanna observes and advocates but rather examples of what happens when a hegemon collapses. All of this seemingly rich and diverse activity may be manifestations of America's loss of control, its diminishment on the international stage — where other players þll voids, co-opt parts of the sprawling infrastructure of America's foreign policy framework, and test the reset boundaries of power in a world of US strategic contraction. I fear that we won't know whether the world we are moving into is more stable and better run given this ÿood of new institutions and states into global stewardship roles than that we had in the past — but Parag Khanna seems to embrace it." Clemons thinks America can salvage some leverage, but "the jury is out on America being able to recreate a global social contract with other nations and players in the international system …. [W]e may be as Khanna believes on the way to some version of a neo-Medieval global arrangement, though the term is tough to use because it comes with so much distracting baggage, but if we get there — there's no assurance of a Renaissance at the other end."

See also Foundation on Economic Trends president Jeremy Rifkin's new book, *The Third Industrial Revolution: How Lateral Power is Transforming Energy, the Economy, and the World*. He summarizes his thesis in a response to Hufþngton Post environmental reporter Tom Zeller, Jr. (26 September 2011): "The Third Industrial Revolution is the last stage of the great industrial saga and the þrst stage of the emerging collaborative era rolled together. It represents an interregnum between two periods of economic history — the þrst characterized by industrious behavior and the second by collaborative behavior. If the industrial era emphasized the values of rigid discipline and hard work, the top-down ÿow of authority, the importance of þnancial capital, the workings of the marketplace and private property relations, the collaborative era is more about creative play, peer-to-peer interactivity, social capital, participation in open commons and access to global networks. … In the new era, providers and users aggregate nodally in vast networks and carry on commerce and trade in commercial arenas that function more like commons than markets. A more distributed and collaborative industrial revolution, in turn, invariably leads to a more distributed and collaborative sharing of the productive wealth generated by society. … The metamorphosis from an industrial to a collaborative revolution represents one of the great turning points in economic history."

11 - Valdênia A. Paulino Lanfranchi, a lawyer who grew up in Brazil's *favelas*, is the founder of the Sapopemba Center for Human Rights in São Paulo and has taken part in informal hearings with the UN General Assembly concerning the Millennium Development Goals. In an interview last year (Amnesty International, *The Wire*, August/September 2010), she said: "Universal and indivisible human rights is the only way to ensure the inclusion of marginalized and neglected groups in the UN Millennium Development Goals (MDGs) process. A great portion of the world's population – the poorest in all countries and the poorest countries – havenõt yet been signiþcantly affected by

the efforts to achieve the MDGs. We will have an estimated 1.4 billion people living in slums in 2015. We are not dealing with 'minority' groups here. Millions of homeless and landless people cannot be a minority. They can't be left out. A holistic human rights perspective must spur discussion towards a new socially inspired economic and political world order as the only way to overcome poverty, hunger and disease and sustain common life on this resource-limited planet. Such an immense task will call for collective action well beyond 2015."

Phyllis Bennis, a Fellow of the Institute for Policy Studies and the Transnational Institute in Amsterdam, argues that, instead of searching for new strategies to achieve the Millennium Goals, the MDGs should be re-construed as MDRs — Millennium Development Rights (*YES!* Magazine, 27 September 2010). Then grim realities could be changed "through building a new internationalist movement, involving civil society AND governments AND the United Nations. And a movement based on rights — with accountability when those rights are violated."

12 - Don Kraus, "The Arab Spring and a Global 911", guest post on care2make a difference, 16 May 2011

13 - Don Kraus, The Global Citizen blog <globalsolutions.org>, 18 April 2011

14 - "With these guidelines," asserts Walden Bello, referring to perspectives attributed to the Global South, "very few humanitarian interventions would have qualiþed as valid and carried out legitimately in the last 40 years. There are perhaps only two: the Vietnamese invasion to remove the blood-thirsty Khmer Rouge from power in 1978 (though this lacked UN sanction) and the UN-led multinational force INTERFET that ended the genocidal killings and deportations of Timorese by Indonesian-backed militias in 1999."

15 - Rachel Gerber, "The Trials and Tests Faced by R2P", The Stanley Foundation's *think.*, August 2011; reprinted here, page 40

16 - Rachel Gerber, "Mass Atrocities and the International Community: The Multilateral Framework for Prevention and Response", The Stanley Foundation's *think.*, April 2011

17 - For example: the work of the UN-backed International Commission Against Impunity in Guatemala (CICIG). Created in the fall of 2007, the CICIG is described by David Grann ("A Murder Foretold — Unravelling the ultimate political conspiracy", *The New Yorker*, 4 April 2011) as "a path-breaking political experiment. Unlike many truth commissions or human rights bodies, it does not investigate war crimes of the past, or merely monitor abuses. Rather, it aggressively þghts against systemic violence and corruption …. Composed of several dozen judges, prosecutors, and law-enforcement ofþcials from around the world, CICIG works within Guatemala's legal system to prosecute members of organized crime and dismantle clandestine networks embedded in the state."

Thanks to national and international pressure, the Guatemalan Congress approved the International Commission Against Impunity in Guatemala on 1 August 2007. The CICIG is set up to support the Public Prosecutorõs Ofþce, suggesting methods of investigation and presenting evidence. The Public Prosecutorõs Ofþce has ultimate responsibility for deciding whether or not to pursue an investigation. It is partly intended to interrupt the operations of clandestine groups that undermine respect for the rule of law and human rights.

In a recent high-level case (Amnesty International press release, 26 November 2010), the Guatemalan Public Prosecutorõs Ofþce brought charges against former Interior Minister Carlos Vielman "and 19 individuals, some of whom are in custody, for their alleged participation in the extrajudicial execution of prisoners in several Guatemalan jails. These actions have the support of the CICIG. Former National Director of Police Erwin Sperisen, currently resident in Switzerland, and other former ofþcials are being investigated over the killings of prisoners held at two prisons in Guatemala in 2005 and 2006." Carlos Vielman was arrested on 13 October in Madrid following a judicial request by the Guatemalan Public Prosecutorõs Ofþce, supported by the CICIG. He was released by the Spanish authorities on 23 November, after Guatemala failed to meet a deadline for þling the proper documentation for his extradition.

18 - Don Kraus, care2make a difference, 16 May 2011: "In the meantime the US should support the deployment of UN peacekeepers on the ground to protect civilians; provision of food, water, medicine and shelter for displaced Libyans; and UN sponsored elections to bring democracy and a legitimate government."

19 - Nicholas Kristof, *New York Times*, 7 September and 31 August 2011

20 - Bill McKibben, Reader Supported News, 16 April 2011: "Climate change, above all issues, requires a transformative and not an incremental vision. We have fundamental change to make, and a very short window to make it in — Obama's typical (and often quite savvy) little-bit-at-a-time approach doesn't square with the physics and chemistry that govern this debate."

21 - Naím and Stern, along with several other debaters on this issue, are quoted by Thanassis Cambanis, author of *A Privilege to Die: Inside Hezbollah's Legions and Their Endless War Against Israel*, in "No Big Deal — The key to solving the planet's most daunting problems: think small", *Boston Globe*, 9 January 2011.

22 - Peter Baldwin, "The Narcissism of Minor Differences: How America and Europe Are Alike", *New York Times*, 28 November 2010

23 - Christopher Hayes, of *The Nation*, "In Search of Solidarity", In These Times, 3 February 2006

24 - Editor & artist J.A. Myerson, "'Arab Spring' Label Hampers Global Protests' Solidarity Potential", Truthout, 9 July 2011

25 - "For a team to be lovable, it helps not to be great or too great, but rather to have a chance to win or get lucky," says Lawrence Wenner, of Loyola Marymount University, author of the MediaSport and former editor of the *Journal of Sport and Social Issues* (quoted in 26, below).

26 - Leon Neyfakh, "How Teams Take Over Your Mind", *Boston Globe*, 24 April 2011; see also: *Sports and Their Fans*, by

Kevin Quinn, on the tribal aspect; and, on inculcation processes, *Fandom: Identities and Communities in a Mediated World*, edited by Jonathan Gray

27 - Adam Sternbergh, "The Thrill of Defeat for Sports Fans", *New York Times Magazine*, 21 October 2011

28 - Seeking fans, while promising to increase the size of the military by 100,000, Mitt Romney exclaimed in October to cadets at The Citadel: "This century must be an American century. America leads the free world and the free world leads the entire world. God did not create this country to be a nation of followers."

Andrew Bacevich lamented the increasingly dominant requirement of militaristic piety in public life: "In his Citadel speech, Romney said nothing that a thousand politicians and pundits have not already said a thousand times and will say again. The signiþcance of his presentation lies not in its originality but in its familiarity" ("America: with God on our side", *Los Angeles Times*, 16 October 2011).

29 - Daniel E. Doyle Jr., executive director of the Institute for International Sport at the University of Rhode Island, *New York Times*, 5 September 2011

30 - For example: "What matters [to the public] is the story of America, not the ideological structure of American exceptionalism." - Steven Knapp, president of The George Washington University, "The Enduring Dilemma of the Humanities", *The Key Reporter*, Summer 2011

See also Vijay Nagaraj on the human rights "counter-narrative" to religious fundamentalisms, page 36 of this issue.

31 - From Former Under Secretary General of the United Nations **Brian Urquhart**'s Afterword to Working Paper 40 of the Brookings Global Economy and Development program, *Does Fairness Matter in Global Governance?*, by Hakan Altinay, a nonresident senior fellow with that program: "A universal tradition of fairness and public spirit — a glorious objective — will not be created quickly or easily. This is why the foundation from which it can grow needs to be established as soon as possible. … Until the recognition of the notion of human dignity becomes universal rather than a distant aspiration, progress in establishing universal respect for human rights will remain partially unfulþlled, and the growth of a universal tradition of fairness will be stunted.

"Anyone who has worked for many years in an admittedly ÿawed international system becomes accustomed to being called deluded, naïve or unrealistic. In the end, however, it is possible to look back on a surprising degree of progress that was difþcult to discern at the time, sometimes toward objectives that were previously thought to be hopelessly unattainable. **Fairness and civility are vast objectives even for a single state, but if we pride ourselves on having achieved globalization and a revolution in human communication, why should fairness and civility not also be global objectives? Such vast objectives may never be altogether realized. They stand as a guide to behavior, a great work in continual progress é "**

ALTERNATIVES

rugby

Secretary-General Ban Ki-moon, at the Paciþc Islands Forum summit meeting in New Zealand, just before the Rugby World Cup there (September 2011):

New Zealand is the magniþcent meeting ground of both the world of diplomacy and the world of rugby. I have come to realize that those worlds are not as different as you might think. In rugby, you lose teeth. In diplomacy, you lose face. Rugby scrums confuse anyone who doesn't know the game. So do UN debates. And sometimes they can look very similar. And yet, in heart and spirit the Rugby World Cup is a celebration, a celebration of common values and a way of life: teamwork, mutual respect, solidarity. The qualities of grit and determination — all very useful, I have found, in the world of diplomacy.

soccer

I would rather lose as Scotland than win as Great Britain.

~ **Craig Brown**, former Scotland manager who now coaches Aberdeen, expressing reportedly widespread sentiment as to whether there should be a team of English, Welsh, Scots and Northern Irish players at the Olympics in London (*The Guardian*, mid-September 2011)

The "nuclear football"

— accompanying the US president — is housed in a modiþed Zero Halliburton attaché case (Photo: John Caruso)

From **òImperiled Revolutionsó**, by Stephen Eric Bronner (RSN Perspective, 24 June 2011) ~

Stephen Eric Bronner is Distinguished Professor of Political Science and Director of Civic Diplomacy & Human Rights at the Institute for Global Challenges, Rutgers University, Senior Editor of *Logos: A Journal for Modern Society and Culture*, and author of *Peace Out of Reach: Middle Eastern Travels and the Search for Reconciliation*, among other works.

The Arab Spring was marked by spontaneous revolts, lack of charismatic leaders, youthful exuberance, and disdain for more traditional forms of organizational discipline. That is what made these revolutions so appealing. Institutional obstacles to democracy, however, require institutional responses: speaking truth to power is no longer enough. Success now hinges on the organization of power by the former insurgents and their ability to deal with the armed forces, the bureaucracy, religious institutions and the global economy. …

Revolution is a daunting task, but running a country the day after is perhaps an even more daunting proposition. New liberal republics in economically disadvantaged circumstances will need to navigate a swirl of conÿicting economic interests and illiberal institutional claims. These are not discrete concerns though, in each circumstance, the art – not the science – of politics is required to provide an integrated set of responses. Ignoring the logic of power is no solution. Only by confronting reactionary and exploitative interests with an eye privileging the common needs of the disenfranchised and the oppressed will a fresh breeze sustain the Arab Spring.

The United States must undoubtedly be more conscious of how it appears to others, less presumptuous about the advantages it has enjoyed in the past, and more respectful of the needs and perspectives of other nations.

Power and Arrogance

BOOK REVIEW:

The End of Arrogance: America in the Global Competition of Ideas

by Steven Weber and Bruce Jentleson

David Shorr

April 2011

David Shorr is a program ofþcer at the Stanley Foundation and a member of the board of Citizens for Global Solutions Education Fund. Co-editor of *Bridging the Foreign Policy Divide* (Routledge) and a contributor to the foreign policy blog Democracy Arsenal, he teaches US foreign policy at the University of Wisconsin-Stevens Point.

Reprinted from *Policy Review*, a publication of the Hoover Institution, Stanford University.

The most interesting questions for US foreign policy are variants of the following: How much has the world changed? As America tries to prod world affairs along its preferred trajectory, how has that task been complicated by new international realities? The debate over whether America is in decline misses the point. The signs of a signiþcant shift in international power are just too plain and numerous for anyone to doubt that the United States faces new challenges in exerting its inÿuence. But again, this leaves plenty of open questions about the nature of those challenges.

Steven Weber and Bruce Jentleson's new book, *The End of Arrogance: America in the Global Competition of Ideas*, tackles these most basic issues head-on. The authors offer a bracing assessment of the international environment US policymakers confront. If the þrst step in overcoming any self-delusion is to recognize that you have a problem, Weber and Jentleson are trying to jolt America out of its self-absorption. Just to stretch the analogy, consider the book an intervention — its authors giving tough love to fellow foreign policy thinkers who are addicted to an outmoded ideology of American leadership. They liken the delusion to the Copernican paradigm shift undercutting the image of the earth at the center of the universe; the United States has lost its political gravitational pull.

Putting it succinctly, the book answers this essay's opening question by saying the world has changed a lot more than we have admitted to ourselves. Assumptions about America's advantages are ripe for reexamination. The authors dissect even the milder conceptions of American exceptionalism. In other words, their critique covers conservatives and liberals alike.

Among their targets is the notion that the US political and economic model faces no signiþcant rivals, because the supposed contenders have such limited appeal or applicability. The argument is indeed familiar — and comforting in its reassurance. The Chinese dynamo of export-led state capitalism is very hard to replicate. The Singapore model depends on its peculiar geography. Fundamentalist Islam is too inhuman. Anti-Americanism is a purely negative phenomenon. American-style democracy and free markets are dominant paradigms because no others are as coherent or systematic or can match their record of success.

But this is a false comfort, Weber and Jentleson argue. The main fallacy — aside from the stubborn fact of China's economic success — is that only universally applicable, all-encompassing theories can contend as rivals. In other words, while America presumes that it has won the grand historical argument about governance and economic management, we have misunderstood how that argument plays out in the real world of global politics. Resistance to American leadership and the emergence of counter-arguments don't need to be undergirded by fully workable ideologies.

So it is a mistake to view American approaches as vying in a war of ideas, in which one model decisively vanquishes another. And despite the use of the Copernican revolution as a reference point, the book also warns against the image of scientiþc advances, with theories gaining acceptance due to their superior explanatory power. A much better analogy for how it works, say the authors, is the competition of the commercial marketplace.

In his recent state of the union address, President Obama adopted similar themes of American economic dynamism as strengthening national competitiveness, but *End of Arrogance* is a methodical reconception of US foreign policy challenges in terms of the global competition of ideas. A main thread of the book is to warn against taking anything for granted, beginning with the òþve big ideas [that] shaped world politics in the twentieth century": the preferability of peace to war; benign (American) hegemony to balance of power; capitalism to socialism; democracy to dictatorship; and Western culture to all others. Jentleson and Weber portray an international order that is up for grabs at the beginning of the 21st century. Their claim that nations and leaders are working with a clean slate probably overstates the case, but most of the book charts a credible course to renewed US global leadership.

The heart of the bookõs þrst section describes essential market dynamics and key principles:

In a functioning modern marketplace of ideas, at least three things are true of a twenty-þrst-century leadership proposition. First, we offer, but they choose. A market leader is fundamentally more dependent on the followers than the followers are on the leader . . . Second, the relationships are visible and consistency is demanded. Market leaders don't depend heavily on private deals and subterfuge to hold their bargains in place . . . Finally, there is real competition. Markets are relentless in their ability to generate new offerings.

The authors describe some key challenges in the contemporary marketplace, all of which lower the barriers to entry for our competitors. They highlight the revolution in information and communications technology, demographic trends that þll megacities with young people whose worldview is non-Western, the openings provided by the diffusion of authority, and the permeability of national borders. The section concludes with a sobering assessment:

In 2010, globally, there remains a deep skepticism about the proposition that the United States can be more powerful and the world can be a better place at the same time. The belief that these two things could be consistent or even reinforce each other was the most valuable and precious advantage America had in the post-World War II milieu. It has eroded and that changes the nature of ideological competition dramatically. A new foreign policy proposition has to þnd a way to put that belief back into play.

A stark, yet apt, summary of our current strategic challenge.

The book's middle two chapters outline the substance of leadership propositions the United States could offer as a basis for equitably just societies domestically and new political terms for international order. Since the authors' project is to shed those conceits that represent the toughest "sell" for the hegemon, their leadership propositions have a distinctly stripped-down character. In place of democratic ideology — electoral competition and the popular mandate — the essential elements of a just society are the empowerment of people to lead fulþlling lives and protection of the vulnerable, those buffeted by forces of rapid change such as extreme weather, industrial accidents, or spikes in the price of staple foods.

As the authors step out of ingrained American worldviews to gain perspective on democracy, they make a compelling point about the weaknesses that others perceive. After all, democracy is a decision-making process rather than a tangible beneþt for peopleõs lives. In the wide swath of the world where daily life is a grinding struggle, to idealize process and treat material conditions as secondary and contingent must seem exotic.

Just as the book proposes revised standards of good governance, it issues a similar challenge to recast the international political order. Again the root of the problem is complacency; Americans are still trying to dine out on our authorship of the post-World War II order when the resonance of that creation myth has faded. Rather than dismissing the mere notion that the postwar order could be (or has already been) upended, we should try to get out ahead of the revision process. One of the authors' refrains is that while the US political elite is consoling itself that "there is no alternative", much of the rest of the world is insisting that "there must be an alternative".

The leadership proposition that Weber and Jentleson put forward is a response to the interconnected 21st-century world, and rightly so. The difþculty is that the precursors for a peaceful and prosperous

order — which they identify as "security, a healthy planet, and a healthfully heterogeneous global society" — can only be achieved through combined effort. In other words, if all of the world's key players deal with the international system by trying to maximize their own nations' beneþts and minimize their contributions, the world as a whole could face a pretty bleak future.

As a key to spurring a more civic-minded attitude from nations and their leaders, the authors offer an alternative to narrow and short-sighted conceptions of national interest: the principle of mutuality. When policy-makers mull tough diplomatic compromises or tithes they might contribute toward global public goods, they should use an accounting system that takes a long view. They shouldn't expect repayment or beneþts of equal value, but should instead trust that if everyone does his part, "an ongoing set of mutuality moves will roughly balance out the accounts and leave us all better off than we were".

The book's concluding chapter highlights four major foreign policy dilemmas that will test America's international strategy. To stress the importance of those tough choices, the authors give their thoughts on the discipline of strategy: "Anybody can tell a story about the world they want to live in. Strategy is the discipline of choosing the most important aspects of that world and leaving the other stuff behind." As they see it, the trickiest questions have to do with the proper role of nonstate actors versus ofþcial authorities; multilateralism as a false panacea for international challenges; populist pressures demanding more than democratic governance and free markets can deliver; and the difþculty of reckoning short-term costs in light of long-term risks (think climate change).

Here's how I would answer my opening question about how much the world has changed: not as much as Jentleson and Weber say it has. *The End of Arrogance* works very well as a provocation, yet the authors' insistence that we are back to the drawing board of a new global order is a bit excessive. Their report of the postwar order's demise is greatly exaggerated. While it may be overly complacent to assert that "there is no alternative", it's also too early to declare the old rules invalid. Indeed, one of the book's most dramatic claims is to declare the very notion of rules to be passé. In keeping with the idea of a relentlessly competitive, constantly churning marketplace, the new international order consists of a stream of intergovernmental transactions. As the authors put it, diplomatic deals are taking the place of international norms at the heart of the system.

If they're right, the world has been turned upside down, and most of us in the foreign policy establishment failed to notice it — international politics as a new global Wild West. Can that be right, though? I don't think so. It's one thing to face up to the political strains that indeed jeopardize the norms put in place over the last 65 years, and yet another to declare that the old rule books have gone out the window.

When Weber and Jentleson describe a new political system in which each nation's polity and social order are beyond the bounds of international relations, you have to give them credit for practicing what they preach about strategic discipline and abandoning secondary concerns. In one section, they try to get a jump on their critics with a preemptive defense against charges of betraying moral values. The authors insist that they fully share the values of liberty and democracy. It's just that the authors' own views — and by extension those of the American leadership and public — do not represent the weight of international sentiment and therefore do not set the terms for the global political order. As a matter of political assessment, they see only enough consensus among governments for them to deal with one another as equally sovereign authorities in the international arena. Governance principles for how they act within their own borders are too divisive and controversial to serve as a basis for international order.

In such a system, would the United States be compelled to back Hosni Mubarak to the bitter end? *End of Arrogance* was published before the recent protests in Egypt, but the book says enough about the hazards of getting involved in others' governance to allow for some extrapolation. Jentleson and Weber's view doesn't necessarily imply unstinting support for a dictator faced with mass discontent. Given their emphasis on political realities, it would be surprising if the authors called on US policy-makers to ignore the writing on the wall. Machiavelli himself would have recognized that Mubarak was neither loved nor feared enough to retain power.

On the other hand, the authors' views seem to align them with the series of US ambassadors in Cairo who counseled against any serious pressure by Washington on Mubarak to reform Egypt's political system. In other words, I interpret the book as an argument for giving Mubarak a shove at the end, but not laying a þnger on him before then. Among their comments on democratic principles, the authors remind us of the long record of American hypocrisy — the dictators supported, the democratically elected governments overthrown. And remember, among their tenets of the marketplace of ideas is that a nation must be consistent to remain credible, given the market's high degree of transparency. The apparent answer is to give up any pretense of defending democratic principles abroad.

Given the scope and speed of change in today's world, it is highly useful to have a book that keeps us from being too comfortable. US foreign policy indeed confronts hard choices and trade-offs and must do a better job in wrestling with these dilemmas. Yet I have to ask whether this framework has boxed us in more than necessary. Must the discipline of strategy be so stringent that second-tier concerns be jettisoned rather than kept in proportion? Just because the norms of the old order have come under signiþcant new skepticism and resistance, does that mean they are null and void? Does the global market demand such consistency that international publics cannot understand the competing pulls of democratic principles, stability considerations, and power realities?

[continued]

The United States must undoubtedly be more conscious of how it appears to others, less presumptuous about the advantages and self-righteousness it has enjoyed in the past, and more respectful of the needs and perspectives of other nations. US foreign policy cannot press for democratic reform as if its value were universally recognized or it's equally achievable everywhere, regardless of local power structures. Democratic values cannot be the top concern in countries where nuclear proliferation or global economic stability is the main worry.

None of which, though, requires the extensive revision of American strategy that Weber and Jentleson advocate. Even if post-World War II legacy documents like the 1948 Universal Declaration of Human Rights hold limited sway over abusive governments, as the authors point out, that doesn't render them invalid. We should not be so quick to accept this kind of tacit withdrawal from the UDHR or the other pillars of the so-called "international bill of rights" (the International Covenant on Civil and Political Rights and its twin Covenant on Social and Economic Rights). Repressive leaders should have to renounce such longstanding norms by formally abrogating the treaties their nations have previously ratiþed.

The recent events in Egypt show the difþculties on both sides of the equation. It could hardly have been helpful to renounce the role of human rights norms in the international order when faced with such a popular outcry for political reforms. Nor would it have been a simple matter for the United States to question Mubarak's legitimacy much earlier than it did. Clearly we havenõt þgured out the right foreign policy balance, in this instance like so many others. To be sure, it's vital that we do so, for Americaõs credibility, inÿuence, and competitiveness.

In the old world order, international politics, like all politics, was a struggle for power. The new international politics will be about the struggle for the ascendancy of competing normative architectures based on a combination of power, values and ideas.

~ **Ramesh Thakur**, author of *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics*

The New Road to Europe: Ways Out of the Hydra-headed Crisis

Mary Kaldor

5 September 2011

The European Union is uniquely placed to solve the problems that have been caused by the tensions and templates of national political solutions in a globalized economy. There exists a positive European reinvention of the Union for all those that are rightly indignant.

Mary Kaldor is Co-Director of the Centre for the Study of Global Governance and a Professor of Global Governance at the London School of Economics.

See also Robert A. Enholm's review of Shannon D. Beebe & Mary Kaldor's *The Ultimate Weapon Is No Weapon: Human Security and the New Rules of War and Peace* in *Minerva* #38 (April 2011).

This article was originally published in the independent online magazine <www.opendemocracy.net >.

There was not much holiday season this August. Day after day, the news was þlled with multiple crises ñ the fall of Qadhaþ, the brutality in Syria, the sovereign debt crisis in Greece, Portugal, Spain and Ireland, the deadlock in the US Congress and the loss of the American triple A rating, Hurricane Irene, the anti-corruption campaign in India, the English riots. Indeed there was not space or time to cover the extraordinary events that popped up in different places.

The þnancial crisis ñ as others have pointed out ñ is the expression of a deeper underlying crisis that manifests itself in political, economic, social, environmental and moral terms. It has to do with the end of a long phase of human development, associated with the nation-state, mass production, the intensive use of energy, especially oil, and the dominance of the United States. The last two decades have witnessed at an accelerating pace the erosion of the compact between capital and labour that underpinned the role of the state, the loss of economic sovereignty, the rising cost of energy both in economic and environmental terms, as well as new challenges to the role of America. This has also been a period characterised by the rapid growth of the so-called new economy based on information and communications technology with vast and unknowable implications for human relations. Essentially the institutions that underpinned the last phase of development have been badly damaged but so far, the institutions need to manage the transition to something new have not been established. [continued]

The protestors in Tahrir Square and elsewhere in the Middle East, the *indignados* in Spain and Greece or the *wütburger* in Germany, ... are experimenting with new social arrangements and new forms of discursive democracy. But they need an institutional response. Change is blocked at a national level, the policies and assumptions of the past are imprinted on the structures of the nation-state and on the assumptions of national politicians. Some change is possible at local and regional levels but there also needs to be a global agenda, especially in the þelds of þnance, security and environment.

The hydra-headed crisis is also a European crisis. The crisis of the euro, like the wider þnancial crisis, is an expression of deeper underlying factors. Yet the European Union also could represent an answer to the crisis. It has to go forwards if it is not to go backwards. To save the euro, policies will have to be adopted that could offer a model for the rest of the world. This may well not happen, of course, but that is why activists and others need to campaign at a European level and not just at local and national levels.

The reason that the European Union contains the seeds of a solution is because it is a new type of political animal. It originated as a peace project, in reaction to two world wars and the holocaust. By trial and error, it has developed as a new form of transnational governance designed not to displace the nation-state but to constrain its dangerous tendencies. It adds a new layer of political authority rather than establishing a new pole of political authority. It is a multilateral institution but goes beyond internationalism (between states) and possesses an element of supra nationalism (beyond states). It offers new possibilities for public intervention that is not state-based.

In practice, actually existing Europe appears very different. Indeed, it seems to be little more than a neo-liberal bureaucracy. As Pianta and Rossanda have shown, the neoliberal policies that underpinned the euro have been immensely destructive in social and economic terms. The Lisbon Treaty was supposed to establish a more uniþed political leadership but in fact it proliferated Presidents largely unknown to the public – the Union now has a President of the Council, a rotating Presidency of the Council, a foreign minister, a President of the Commission, all appointed through a murky backstage method and few European citizens are even aware of who they are. The result is a political vacuum made worse by a tendency for national governments to blame Europe for their own incapacity to respond to popular demands.

Yet precisely because the European Union is new type of political animal it has the potential to address some of the underlying sources of the crisis in a way that is not possible for nation-states. There is, of course, a risk that the euro will collapse and that the EU will disintegrate. But in order to forestall that possibility some changes are happening almost by stealth. Eurobonds have, in effect, been created by the decision to convert national debt to European debt. Almost unnoticed, President Sarkozy and Chancellor Merkel agreed to a tax on þnancial transactions –something long demand by activists in the social forums.

At root the weakness of the European project was that it has always been an elite project. It lacks the social compact that underpinned the state. The protestors in different parts of Europe are however mainly focussed on local demands, but those local demands can only be met within a wider European framework. How can the current popular mobilisation connect up and frame a European agenda? Such an agenda might include:

Å A new þscal mechanism that would raise taxes at a European level ð a tax on þnancial transactions for example, and a carbon tax – and would increase spending and redistribution at a European level.

Å A new social policy aimed at reducing inequality and promoting jobs, especially for young people. Some have proposed a Marshall Plan for youth.

Å An economic strategy aimed at resource saving as opposed to labour saving that would be both economically and environmentally sustainable.

Å A renewal of the peace project including cosmopolitan citizenship, reaching out to the new democracies in the Middle East the way it reached out to Eastern Europe, and a human security rather than a national security policy.

Å A reinvigoration of democracy both locally and at European level — a widespread debate at local levels, in town halls and public squares, as well as a way of publicly electing an accountable political leadership.

Change of this kind in Europe could have far reaching consequences for global arrangements. The EU is still the largest single economy in the world. But it lacks popular legitimacy. How can the road to Europe be reinvigorated from the bottom up? Is another Europe possible? A peace-green-democratic-cosmopolitan Europe instead of a neo-liberal bureaucracy?

The goal is to provide an institutional model that could tackle the multiple crises that are piling up, that could channel the new technologies into emancipatory applications, and that could address the mismatch between pervasive changes in social relations and the institutions of an earlier era. We need to reinvent the road to Europe.

An international study, to which 21 universities worldwide contributed, considers the potential for new states to emerge in the EU, hypothesizing a “fourth wave of independence”. *Enlarging democracy in Europe – New statehoods and processes of sovereignty* was presented to the European Parliament on 11 January, at the initiative of Catalan MEP Oriol Junqueras. The study suggests, among other possibilities, Scotland, Flanders, the Basque Country, and Catalonia — all with their own languages, past institutions, and other relevant social & historical factors (Agence Europe, 11 January 2011).

European Union and Global Union

BOOK REVIEW

The Uniting of Nations: An Essay on Global Governance

by John McClintock

Ronald J. Glossop

October 2011

World Federalist Institute Fellow **Ronald J. Glossop** is Professor Emeritus of Philosophy and Peace Studies at Southern Illinois University at Edwardsville and author of *Confronting War* (4th ed., 2001), among other books.

The Uniting of Nations: An Essay on Global Governance, by John McClintock, Brussels: P.I.E. Peter Lang, 3rd ed, 2010

The Uniting of Nations argues for the need for a governed world community and uses the European Union as a model for how that can be accomplished. One must start with small steps and proceed gradually in such a way that national governments will want to join to gain something speciþc for themselves. The European Union would be the nucleus and other countries could join this global political union separately, but they would then be required to work together to form their own regional organizations. Thus eventually there would be a world federation made up of regional federations, one of which would be the European Union which initiated the new global organization.

McClintock begins the book with a summary for those "who do not have time to read the whole essay" (p. 17). The world faces many problems, problems which no country by itself can solve and which can only get worse. The only way forward is for countries to work together. Europe is a region of the world demonstrating how nations can share sovereignty in order to improve both their national welfare and the welfare of the whole group. "What Europe has done, the world needs to do. This essay explains how" (p. 18).

The many current global problems not being handled shows that "the present system of global governance is dysfunctional" (p. 18). The basic problem is the lack of a sovereign governing body for the whole global community which can make and enforce laws as sovereign national governments do within countries. Just as citizens share sovereignty in order to establish a governing body within their nations, so national governments need to share sovereignty in order to establish a governing body at the global level. The European Union is a good example of a governing body over nations that has both sovereign powers and political legitimacy. On the other hand, the UN's Security Council has impressive powers on paper but not in the real world. The UN Security Council also lacks political legitimacy because 5 countries are permanent members with a veto power while at any one time only 7% of the 193 countries are represented at all.

"Nothing like a United States of Europe has ever been built before, a half-billion people brought together not through conquest but by the idea of "ever closer union". In a way it's an inspirational blueprint for mankind; and so it would be foolish to think it would go smoothly. Yes, the League of Nations collapsed, but it did lead to the United Nations. The euro may also unravel but the idea is too good not to return in force. Between the League and the UN lay catastrophe. From here to euro 2.0 is not going to be pretty."

~ **Roger Cohen**, London, 29 November 2010

The global community must do two things: assist the failing nation-states and "bring into being a governing body which can act effectively at the global level" (p.23). But the þrst task itself requires òa system of global governance that worksó (p. 24) and the rules set down in the UN Charter are such that the Security Council can never be reformed. "Something new needs to be created" (p. 25). This new global organization could be initiated by "the European Union and around half-a-dozen or so pioneer states" (p. 26).

As was done in Europe the new global governance community could start with a few countries focused on a single problem like food security (p. 27) and then "a community for climate, energy, and prosperity" (p. 28). As the European Community was furthered by the Zeitgeist of a united Europe, so the current Zeitgeist of globalism can support the creation of a Global Union. Perhaps future historians will see the European Union as an experiment in sharing sovereignty by states that could be followed by the whole world.

[continued, next page]

Having given the overall thesis, McClintock turns to the details. The global threats not being handled by the current global governance system are "War and Conÿictó, òActs of Terrorismó, òNuclear Weapons", "Depletion of Natural Resources", "Instability in the Domain of International Finance", "The Outsourcing of Jobs", "Migration", "Indebted Countries", "The Violation of Human Rights", "Climate Change", "The Concentration of Corporate Power", and "Pandemics". McClintock documents each of these problems and how the existing global system is not dealing with them. International organizations exist but they "are not in a position to make and enforce law" (p. 74). They do not possess sovereign powers (which is what Hobbes noted a government must have) and they don't have political legitimacy (which Rousseau & Locke noted that a government must have).

In chapter 3 McClintock focuses on the problem of failing states and asks what is necessary for a state to succeed as a state. The two pre-conditions for success are a sense of national unity and a benign international environment (pp. 84-85). He gives a detailed account of the history of Sierra Leone and a brief reference to India in order to substantiate his view. Chapter 4 gives a history of the European Union, emphasizing its successes, while chapter 5 gives a history of the UN, recognizing its successes but emphasizing its shortcomings. Chapter 6 argues that the EU is a better and more legitimate governing body than the UN Security Council. Chapter 7, titled "A World of Chronic Anarchy", marks the culmination of McClintock's thesis that the basic cause of our global mess is "the fact that the behaviour of states is unregulated" (p. 159).

Part II - "What Are the Options?" has only one chapter, chapter 8. The options he considers & rejects are (1) reforming the Security Council, (2) expanding the European Union to include all countries, (3) merging existing regional organizations, (4) expanding the G-8 or NATO or The Commonwealth of Nations or The Non-Aligned Movement or The Conference of Democracies to include all nations, (5) getting the United States to become an enlightened global hegemon, and (8) strengthening the role of international law (p. 172). McClintock then concludes "that if the world is going to avail itself of a governing body that can be effective, it has no choice but to create such a body" (p. 186). His speciþc proposals on how to do that, following the example of the European Union, are set forth in Part III (chapters 9-14).

Chapter 9 is a general discussion of the new global organization that would put forward technical solutions that would be "politically acceptable to all the parties concerned" (p. 189). The principles to be followed are gradualism, inclusivity, voluntary membership, membership availability to all nations which could share sovereignty in the relevant area and do no harm to states outside the community, and all states would be required to gather into regions so that the global community would have "at most 15 to 25 members — one member for every region in the world" (p. 193). Nations could originally join individually but would have to join with other nations in the same region to form a single regional organization. The global community as a whole would have 3 institutions (a legislature, a judiciary, and an executive) plus other organs. It would seek good relations with all countries which aren't yet members, but could as a last resort take tough measures such as suspending trade and cooperation. In chapter 12 McClintock lays out a food security plan which might be the þrst practical project for the global community. In chapter 13 he describes a second project, "a community for climate, energy, and prosperity" (p. 189).

Despite the great contribution this book makes to thinking about global governance, it is not without deþciencies. No mention is made of the role of NGOs or of the International Criminal Court or the language problem facing Europe and the global community. Even though McClintock is arguing for the need for a world federation, he says nothing about the arguments of other well-known advocates of world federalism such as Alexander Hamilton. From a world federalist point of view it is surprising that there is nothing about the difference between a confederation and a federation although that distinction is at the very core of McClintock's main thesis about the need for a more effective global organization. But McClintock does successfully address what has been a huge issue for world federalists, namely, how do we begin to move forward from where we are now?

"It is often said that the UN is becoming marginalized in the affairs of a globalized world. The global threats to the preservation — even the survival — of organized life on the planet demand a much more effective global organization than has hitherto been thought necessary. The UN lives to a considerable extent in a political past where independent national sovereignty was the gold standard of international affairs. What is needed now is to reconcile national sovereignty with the demands of human survival and decency in the astonishingly dangerous world we have absentmindedly created."

~ **Sir Brian Urquhart**, former UN under secretary general, "Reinventing the United Nations Again?", UNA-USA *World Bulletin*, January 2011

The following commentary and editorial appeared in the 7 March & 4 April 2011 issues of the *New Jersey Law Journal*, where **Mike Kronisch** is a member of the Editorial Board. He also is vice chairman of the Center for War/Peace Studies, a nonproþt organization created to establish an international political and legal system devoted to making the abolition of war possible.

Reprinted with permission of *New Jersey Law Journal*. © 2011 ALM Media Properties, LLC. All rights reserved.

Reform of the United Nations Security Council & General Assembly — A Step to Federation

Myron W. Kronisch

I ~ The Argument for Weighted Voting at the UN Security Council

As the revolution in Egypt and the unrest in neighboring nations poses great risks and equally important opportunities, one wonders what the United States could do in this decade to help advance the rule of law.

In his 1984 State of the Union address, President Ronald Reagan asserted, "A nuclear war cannot be won and must never be fought. ... The only value in our two nations possessing nuclear weapons is to make sure they will never be used. But then, would it not be better to do away with them entirely?"

When President Barack Obama spoke in Prague on April 5, 2009, of an eventual end to nuclear weapons, he addressed the need for enforceable international law. He said, "Some countries will break the rules. That's why we need **a structure in place** that ensures when any nation does [so] they will face consequences. ... Rules must be binding" (emphasis added). The most logical place for that structure is at the United Nations.

The Security Council is the United Nationsõ most powerful organ. It has þve seats for permanent members (P5) — the United States, the United Kingdom, France, Russia and China — and 10, two-year seats. The 1945 charter has given it primary responsibility for the maintenance of global peace and security, and its decisions are binding for all member states.

But the council's design is out of date: three of the P5 — the United Kingdom, France and Russia — are surpassed in economic power by India and Japan. Its limited geographical balance, combined with P5's veto power, however, makes the Security Council less representative than desired by many member states. No component of the United Nations system has been the subject of more ideas for reform than the Council. The period 2003–2005 alone witnessed dozens of such proposals.

In 2003, Secretary General Koþ Annan ÿatly told the General Assembly, òI respectfully suggest to you, Excellencies, that in the eyes of your peoples the difþculty of reaching agreement does not excuse your failure to do so. If you want the Council's decisions to command greater respect, particularly in the developing world, you need to address the issue of its composition with greater urgency."

Professor Emeritus Joseph E. Schwartzberg at the University of Minnesota has drafted the only plan that would not increase the number of seats. His plan would reduce the number to 12; each region would have a weighted vote based on sovereignties, population and contributions. Called the Universal Regional Representation as a Basis for Security Council Reform, it is the only one that gives each of the 192 member-states direct or indirect representation on the council: Selection of six of the 12 regional representatives would take place every year.

The paper proposes a universally representative Security Council with 12 "regional" seats: four for individual nations (the United States, China, India and Japan) and eight for multinational groupings (e.g., Europe, Latin America and the Caribbean). Each multinational region would nominate several individual candidates to represent it, and from such slates the General Assembly would choose one. [continued, next page]

Meanwhile, UN Secretary-General Ban Ki-moon has appointed Atul Khare of India, who has served as Assistant Secretary-General for UN Peacekeeping Operations among other roles, as head of the **Change Management Team** (CMT) tasked with suggesting reforms including "formulation of a comprehensive plan to streamline processes, increase accountability and improve the effectiveness and efþciency of the organisation in the delivery of its mandates" (UN statement reported by the *Times of India*, 1 June 2011). "The establishment of the CMT is a further step in the efforts of the Secretary-General to strengthen the United Nations as it is called on to play an increasingly prominent role in a period of rapid change and þnancial constraint and build a management culture focused on excellence and result."

Regions would cast weighted votes based on the formula W = P+C+8.33 percent, where P and C represent their total population and contributions to the United Nations budget, respectively, as percentages of world totals, while the constant, 8.33 percent, would signify the equal worth of each regional perspective. Weights would range from Europe's 16.2 percent down to 4.3 percent for the "Westminster League" (Canada, Australia, New Zealand). For the full text, see <cwps.org>.

A charter amendment requires a General Assembly majority of two-thirds of the members present and voting, and ratiþcation by two-thirds of the member states, including the P5. Charter amendments have occurred only to enlarge the Security Council and the Economic and Social Council; both were enlarged in 1965, and the ECOSOC again in 1973. The Global South called for these enlargements but they were opposed by the P5. Despite their threats to veto, all þve ratiþed the amendments after an overwhelming majority in the General Assembly had passed them.

This proposal has been presented at the State Department and 38 key foreign ministries since 2004. Of all the ideas for Security Council reform, this is the only one that is both visionary and pragmatic.

II ~ Voting in the United Nations General Assembly

Former Secretary General Koþ Annan called for òradical reformó of the major organs of the UN in 2003. Responsive proposals included a plan for creation of legislative power in the General Assembly (GA) known as the Binding Triad (BT).

Under the GA's present one-member, one-vote (OMOV) system, China, with a population of 1.3 billion, counts no more than Tuvalu, with a population of 11,000. This system has worked since 1945 because the GA has never been more than a meeting place for diplomats, authorized only to run the internal affairs of the UN and to make nonbinding recommendations. Legislative power under the BT would utilize weighted voting and would be limited to truly global problems such as Global Warming, Nuclear Proliferation and Terrorism.

In 1787, under the Articles of Confederation, Congress was not a legislature but, like the GA, a diplomatic body. It had to request contributions of money and troops from the 13 states. To create legislative power, weighted voting was created: a Senate based on equality of each state and a House of Representatives that reÿected each stateõs population. Under the BT, a third weighted factor in the GA would be each nation's contribution to the UN budget.

The U.S. Constitution barely made it through the state legislatures. Then Patrick Henry and James Monroe led the struggle to add the Bill of Rights. In 1789, the problem was how the people of the country could learn to think nationally, not locally, about the United States. Today the problem is how the people of the world can learn to think internationally, not nationally, about the United Nations.

BT resolutions in the GA would begin with OMOV. A computer would instantaneously report whether the resolution has the support of all three legs of the triad: (1) two-thirds of the nations present and voting; (2) nations representing an agreed-upon majority of the world's population; and (3) nations representing an agreed-upon majority of the UN budget. The GA's present ability to pass nonbinding resolutions and to control the internal affairs of the UN using the existing OMOV would continue. When considering proposed legislation, no member nation would have more than a vote of 15 percent on either the population or the contribution leg of the triad.

Any aspect of the proposal can be changed by the GA committees that will be considering it. The þnal product would require amendment of the UN Charter. That involves passage by two-thirds of the GA and ratiþcation by two-thirds of the national legislatures including an afþrmative vote of all þve permanent members of the Security Council.

The Policy Planning Staff of the State Department had begun work on radical reform of the United Nations as early as 2009. In the not-too-distant future, we can expect proposals from the White House for UN reform. We support the reform.

The UN as Truth Commission

Andrew Erueti

The process by which the UN worked out the Declaration on the Rights of Indigenous Peoples was long and tortuous, but it also served as a kind of truth commission — one with global implications.

Andrew Erueti (Maori) is an adviser to Amnesty International on Indigenous Peoples' rights. Before that, he was a senior lecturer at Victoria University in Wellington, New Zealand. He is a PhD candidate at the Faculty of Law at the University of Toronto, Canada, where he writes on the rise of Indigenous movements in Asia and Africa. His *iwi* (people or clan) are *nga ruahinerangi*, and *ati-hau-nui-a-paparangi*.

This comment is part of a special feature, "Indigenous Rights and Truth Commissions", in the Spring 2011 issue (35-1) of *Cultural Survival Quarterly*, produced by Cultural Survival in partnership with the International Center for Transitional Justice, and co-edited by ICTJ's Joanna Rice. It is reprinted by permission of Cultural Survival.

ICTJ (www.ictj.org) is an organization "dedicated to pursuing accountability for mass atrocity and human rights abuse through transitional justice mechanisms". It "works to redress and prevent the most severe violations of human rights by confronting legacies of mass abuse. Among the many programs and efforts that ICTJ pursues is the Truth and Memory Program, which supports efforts to preserve memory of crimes committed by governments against their own people. And one focus of the Truth and Memory Program has been truth commissions for Indigenous Peoples."

Cultural Survival (www.cs.org) "partners with Indigenous Peoples to defend their lands, languages and cultures worldwide".

After 25 years of negotiations, the UN General Assembly in 2007 adopted the UN Declaration on the Rights of Indigenous Peoples, without doubt the most advanced human rights instrument created for sub-state peoples. The standards laid out in the declaration are a remarkable achievement for the international Indigenous movement. The right to self-determination; free, prior, and informed consent; and territories — with the emphasis on the collective — are breakthroughs. And its impact can be seen already. On consultation, for example, we've reached a point now where most organizations or states are fully aware of their obligations to consult or seek consent before developing on Indigenous lands.

With its emphasis on historical rectiþcation and the need for dialogue between Indigenous Peoples and states, the UN declaration provides a useful framework for states seeking to establish mechanisms of transitional justice. But I think it is useful to see the process by which the declaration was drafted as a model of transitional justice in its own right. Its function, after all, was to bring to light, in a very public setting, the violations of rights suffered by Indigenous Peoples and to establish standards to address those violations. For more than 20 years, the working group would meet each year at the UN headquarters in Geneva for a week, sometimes two, with the task of negotiating the standards of protection. The room was always full of state and Indigenous delegates, led by the working-group panel of experts. The working group set new precedent in allowing Indigenous Peoples to participate in the meetings on basically an equal footing with states.

When Indigenous Peoples þrst arrived at the UN, it was clear that they were to be given a backseat, to sit on the periphery and watch as observers while states negotiated the declaration's language. But that made a mockery of the whole process. Indigenous Peoples were at the UN largely because policies and laws had been made about them, without them. So Indigenous representatives began lobbying for inclusion, and the working-group experts quickly accepted the principle. That meant that Indigenous representatives had speaking rights in the plenary session of the working group, could propose new language for the declaration, and could engage directly with states.

The debate was mostly about language: what could the declaration say about Indigenous rights to lands, for example. State delegates would offer their views, Indigenous representatives theirs. Some of the discussion could be on the technical side: international law on self-determination, for example. But often it was simply Indigenous people telling their histories in their own words. They talked about cultural survival. They talked about how, as communities, they had endured generations of laws and policies that tried to either absorb them into the culture of the other, or place them out of sight. Treaties factored large in this context, as pacts made between sovereign nations. So did the loss of lands and autonomy, disease, warfare, and discrimination. And states of course had to take these claims seriously: they were present in the room, shoulder-to-shoulder with other state delegates, listening, responding, denying violations, or sometimes assuring the working group that they would investigate allegations.

Indigenous Peoples reformed the UN process. It is now practically unthinkable to ignore Indigenous Peoples in something as fundamental as the setting of standards of protection. And the idea is now there for other communities and people to use — if you want to write policy or law about me, then you need to have me at the table.

Of course, there's an important cathartic quality to all of this: the right to talk, to speak truth to power, to know that states are hearing your statements and to know that it all

proved worth the many years of struggle. This, for me, was transitional justice at work. The experience tells us that to be effective, any transitional justice system will need the active participation of Indigenous Peoples. It also demonstrates the importance of real commitment by states to address the issue. Indigenous Peoples did not establish the declaration on their own, but with the active support of states. Transitional justice will only come if states are fully committed to creating a process with Indigenous Peoples' full engagement, in a manner that meets their needs, and with outcomes that recognize Indigenous histories and the legacy of history.

The Big Picture

INTERVIEW: **Rodolfo Stavenhagen**

Joanna Rice

This interview another part of the set of articles on "Indigenous Rights and Truth Commissions" in the Spring 2011 edition of *Cultural Survival Quarterly*.

Other parts:

Å òThe Reckoningó, by Fien Jarangga and Galuh Wandita – about a truth commission launched by a group of Papuan women to give support to victims of violence "both outside and inside their homes for the past 40 years" and to "pressure the government to change its behavior";

Å òIndian Residential School Truth and Reconciliation Commission of Canada", by Joanna Rice – about the government's truth commission dealing with "100 years [when] the Canadian government ran a system of boarding schools speciþcally designed to destroy Indigenous culture and language, and they required all Native children to attend";

Å òHomemade Justiceó, by Esther Attean and Jill Williams – about a group of Wabanaki women in Maine who have "launched their own truth commission to explore the effects and implications of the state's child welfare system, hoping to heal some of the damage, promote cultural decolonization, and change the way Native children are cared for" in foster care.

Reprinted by permission of Cultural Survival.

Rodolfo Stavenhagen served as the UN Special Rapporteur on the Rights of Indigenous Peoples from 2001 to 2008, the þrst person to hold that ofþce. He conducted rigorous on-the-ground investigations of violations of Indigenous rights in a dozen countries, interviewing victims and collecting hard data on government actions. He also issued comprehensive reports that made speciþc recommendations for changes, restitution, and reconciliation. Although different in form than a conventional truth commission, his work involved many of the same principles, and offers many of the same beneþts. Joanna Rice, an associate at the International Center for Transitional Justice, interviewed him in January [2011] to get his perspective on truth-seeking processes as tools for defending Indigenous rights.

Joanna Rice: In your work as the Special Rapporteur, and in your many roles since, were you involved in the work of a truth commission or other truth-seeking process that looked into violations of Indigenous rights? Could you describe the goals and impacts of these processes?

Rodolfo Stavenhagen: My work as the Special Rapporteur on the Rights of Indigenous Peoples included country visits that took the form of fact-þnding missions. While I was not formally involved in truth commissions as such, I did receive a number of such reports (Canada, Guatemala, Chile), which I was able to use to prepare my reports to the Human Rights Council. My country visits included extensive meetings and conversations with government ofþcials, judges, Indigenous Peoples, and individual members of existing or former truth commissions or similar processes, as well as access to documents referring to various kinds of violations of Indigenous rights. The results of these inquiries were summarized in my reports and enabled me to make speciþc recommendations to governments and the UN system. Sometimes my communications with government ofþcials and with Indigenous organizations appeared as a form of public hearings, during which complaints were aired and facts were presented. But being a UN-mandated rapporteur, I always pointed out that I could not act as a judge but only as an objective observer who would transmit his þndings to national authorities and the Human Rights Council and General Assembly.

In the years following the end of my UN mandate, I have undertaken some other fact-þnding missions, invited by international nongovernmental organizations, to report on speciþc situations involving human rights violations of Indigenous Peoples, for example in Peru, Mexico, and Israel.

JR: I've heard you liken the work of the UN Permanent Forum on Indigenous Issues to a truth commission with international scope. Would you explain that further?

RS: The Permanent Forum and the former Working Group on Indigenous Populations of the UN Human Rights Commission both provide opportunities to Indigenous Peoples to present their case to an international human rights body. Although not structured as formal truth commissions, these two spaces at the UN allow Indigenous Peoples from all over the world to draw attention to their plight, and they also give state representatives the opportunity to respond.

These public dialogues in Geneva and New York have helped heighten world awareness of these issues, and their efforts resulted in the adoption of the UN Declaration on the Rights of Indigenous Peoples in 2007. However, being international bodies, they cannot pursue particular country situations beyond a certain point, and therefore their speciþc impact is limited.

JR: Where has transitional justice failed Indigenous rights? What can be adapted in the way truth commissions, speciþcally, have been approached in the past to make them better reÿect the speciþc rights and goals of Indigenous groups?

RS: Up to now, the work of truth commissions focused speciþcally on the rights of Indigenous Peoples has not had, in my opinion, a particular impact on transitional justice for these peoples. In some countries, an independent judiciary can conceivably follow up on recommendations made by such bodies, but progress has been slow and piecemeal. For example, several years ago the Canadian federal parliament carried out an extensive commission of inquiry on the situation of Aboriginal people that presented important þndings and recommendations that were not immediately acted upon by the federal authorities. Only years later has another commission of inquiry come into existence to deal with the outstanding issue of the victims of the Indigenous residential schools. And Canada is, up to a point, a model of justice for Indigenous Peoples, when compared to other countries in the world.

JR: Does transitional justice reÿect an Indigenous approach to justice?

RS: Yes, I think it does, although it is difþcult to obtain consensus around this point. Certainly the acknowledgement by a modern state of historical harm done to Indigenous Peoples is considered by Indigenous organizations as a necessary step to move forward. The next issue raises the problem of reparations and compensation, which has become a very controversial political issue in many countries, particularly when Indigenous territories are involved. Domestic judiciaries are usually not yet sufþciently prepared to deal with these issues.

JR: How can Indigenous Peoples þnd the terrain to start a process like a truth commission when it seems there is no political will to look at past and ongoing crimes?

RS: It is easier for Indigenous Peoples to obtain access to a justice-seeking process, at least in Latin America, after a regime change (such as the post-Pinochet-dictatorship democratic transition in Chile) than in a state during a period of stable governance. Political will must be generated, and therefore a strong Indigenous social movement would be a plus to start such a process. When land ownership is part of the problem, then strong private economic interests make it very difþcult for Indigenous communities to obtain justice, particularly when there has been little or no progress in the passing of adequate legislation.

JR: No one has a broader and better knowledge of the status of Indigenous rights globally than you do: Do you have anything to add regarding the value and the possible risks of truth-seeking efforts involving indigenous rights work?

RS: Truth-seeking efforts must be þrmly grounded in political support nationwide and, if possible, in strong legislation. The media must help in getting widespread public support for such efforts. Professional associations (lawyers, environmentalists, educationalists, anthropologists, etc.) must also be enlisted. Political parties must be persuaded to support such efforts. Whenever possible, strategic litigation should be undertaken to pave the way for further judicial involvement. International organizations (the UN, the Inter-American system, the European Union, the African Commission of Human and Peoples Rights) must continue to work closely with Indigenous Peoples and the international human rights organizations.

A possible risk is that truth commissions, once established, have a relatively short "shelf-life" and can be used to distract public attention from more persistent involvement by legislatures, courts, executive task forces, or political campaigns. The commissions themselves must include follow-up procedures in their recommendations, including time-tables and evaluation processes.

James Anaya, now in his 2nd term (until May 2014) as Special Rapporteur on the Rights of Indigenous Peoples, has released his annual report on communications with governments concerning 25 cases of speciþc violations of human rights of Indigenous Peoples in 15 countries ñ including, in some cases, detailed observations with speciþc recommendations or descriptions of follow-up measures he has taken (Cultural Survival, 2 September 2011). See page 59 for news of his later report to the UN.

See also *Minerva* #30 (May 2006) for James Anaya's essay on "The Current State of International Law (& Indigenous Peoples)".

"Maori wisdom puts it best: *He waka eke noa* – we are all in this canoe together," **Secretary-General Ban Ki-moon** said at Auckland University in New Zealand on 6 September, noting that there is no opt-out clause for global problem-solving. "In other words, we must unite and squarely face the anxieties and the opportunities of the 21st century."

Six Scenes of Endeavor

Joshua Cooper

October 2011

In July more than 100 Indigenous nations, peoples, and organizations met with representatives from 34 countries in Geneva at the 4th meeting of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP), created four years ago as an advisory body to the UN Human Rights Council (see *Minerva* #37).

Our regular correspondent **Joshua Cooper**, lecturer at the University of Hawaii and director of the Hawaii Center for Human Rights Research & Action, continues his reports on the efforts and aspirations of the EMRIP, the ASEAN Civil Society Conference / ASEAN People's Forum (ACSC/APF), the UN Human Rights Council (17th session), the UN Permanent Forum on Indigenous Issues (10th session), the Threatened Island Nations conference at Columbia Law School, UN Security Council consideration of climate change, and the World Intellectual Property Organization.

All accompanying photos are provided by Joshua Cooper.

I Å EMRIP ~ The most recent mechanism created to promote and protect the human rights of indigenous peoples, the UN **Expert Mechanism on the Rights of Indigenous Peoples** (EMRIP), has transitioned successfully with its þrst election of new members. In its fourth session, held from 11–15 July at the Palais des Nations in Geneva, three new members began their terms, and a review of the progress report on "Indigenous Peoples and the Right to Participate in Decision-Makingó was discussed for the þnal time before being presented to EMRIP's parent body, the UN Human Rights Council.

The three new members assumed responsibility in leadership roles. Vital Bambanze (Burundi) was elected as chair and Anastasia Chukhman (Russian Federation) was elected as vice-chairperson. Beginning his three-year term on EMRIP, Willie Littlechild (Canada) continued his career of reconciliation and realization of rights for indigenous peoples that began with the inaugural delegation of indigenous peoples in 1977 at the United Nations. The terms of Jannie Lasimbang (Malaysia) and Jose Carlos Morales (Costa Rica), both former chairs, are continuing.

This exempliþes an important EMRIP tradition. A new chair has been elected every year, maintaining a commitment in the new mechanism to share leadership and responsibility. This is a signiþcant change from the previous UN Working Group on Indigenous Populations (UN WGIP), where one member dominated for decades, becoming a genuine champion for indigenous rights. The all-indigenous membership is also a signiþcant sign of evolution of engagement in the UN system, where not a single indigenous person served in the over two decades of existence of the UN WGIP.

The core of the annual EMRIP session is to author, assess, advise and advance an authentic report reÿecting the advice accumulated from indigenous peoples around the world for approval by the UN Human Rights Council. The agenda continues to be dedicated and deepened to include important issues impacting indigenous peoples, historically and holistically denying dignity. Each session witnesses the working of indigenous peoples and civil society along with a small circle of states to realize the human rights recognized in the UN Declaration on the Rights of Indigenous Peoples (UN DRIP).

"Indigenous Peoples and the Right to Participate in Decision-Making" is the second study prepared by EMRIP; the latest version was the main agenda item at the fourth session and was advanced to be accepted on 20 September with an interactive dialogue at the 18th session of the UN Human Rights Council. A half-day panel on the role of languages and culture in the protection of well-being and identity of indigenous peoples is scheduled following the interactive dialogue with the UN Special Rapporteur on Indigenous Peoples and the Chair of EMRIP.

This page: Maori activist performing opening thanksgiving in front of HCHR Pillay and EMRIP; next page: EMRIP members

Before the beginning of EMRIP's 4th session, the Indigenous Peoples Preparatory Meeting took place at the World Council of Churches. The normal full weekend session was replaced with a one-day meeting. Indigenous peoples heard a presentations by the EMRIP secretariat and EMRIP members developed strategies for the þve-day session. There was also discussion of follow-up to the thematic studies before the mechanism as well as how to implement the earlier report on the right to education. There was also strategic development on the Organization of American States declaration, the Rio+20 summit, and the upcoming World Conference on Indigenous Peoples 2014. For the þrst time, there was no creation of a drafting committee to do a joint

caucus statement representing the will of the world's indigenous peoples. Usually, this statement summarizes the consensus and prioritizes speciþc positions for the EMRIP members to include in the þnal report. The pre-session still serves the important task of updating one another on urgent matters and focusing on the upcoming session.

A new feature at the 4th session was an expert consultation focusing on National Human Rights Institutions (NHRIs) and the realization of the UN Declaration on the Rights of Indigenous Peoples (UN DRIP). Representatives of NHRIs from Kenya, Canada, Philippines, El Salvador, Namibia, New Zealand, Panama, South Africa, Russian Federation, Peru, Australia and Malaysia shared their best practices and also held discussions on the operationalization of the UN DRIP. An important result from the consultation was the sharing of an outline of an operational guide being drafted by the Australian Human Rights Commission and Asia-Paciþc Forum. This guide provides background and the legal basis for the UN DRIP and practical guidance for NHRIs and states through case studies. On top of the expert consultation, the NHRIs also played a signiþcant participatory role throughout the 4th session.

At the opening plenary, Rosslyn Noonan, Chief Commissioner of the New Zealand Human Rights Commission and Chairperson of the International Coordinating Committee of National Human Rights Institutions, addressed the aspirations of the developing partnership to improve the human rights of indigenous peoples in their homelands. "National human rights institutions are among the key actors that can help promote the work of the Expert Mechanism in country," Noonan said. "They are domestic actors that work to bridge the gap between the international system and national realities."

Noonan also noted the importance of the primary purpose of producing studies by EMRIP in their work to implement indigenous rights, claiming: "The studies you produce serve as important guidance for national actors as they work to translate the aspirations of the Declaration into tangible and meaningful processes, policies and outcomes."

High Commissioner for Human Rights Navanethem Pillay spoke for the þrst time since the UN DRIP gained acceptance by all states, and she noted its signiþcant purpose for partnerships on the planet: "A milestone of indigenous peoples' advocacy is the UN Declaration on the Rights of Indigenous Peoples, which provides a common roadmap and framework for action at both the national and international level. Its value is now globally recognized." She noted the work ahead for the world: "The Declaration sets out a blueprint for future partnerships between indigenous peoples, States, and other stakeholders, including the private sector."

Pillay spoke on the topic of participation in decision-making and promoting dignity of indigenous peoples. She shared her experience on missions monitoring the human rights situation, noting that indigenous peoples "continue to suffer the consequences of colonization and century-long-dispossession. To confront and put an end to such exclusion and inequality, indigenous people must be included in decision-making."

A signiþcant contribution was the meeting between HCHR Pillay and the Indigenous Peoples Caucus during the 4th session. Pillay's positions and perspective on the implementation challenges were positive. The candid conversation allowed for an exchange of common concerns and commitment to upcoming global gatherings relating to racism and the environment (Rio+20). There was also concern about special protocols and conventions such as the Convention on Biological Diversity and the World Intellectual Property Organization, relating to lack of participation in decision-making, as well about incorporation of the rights of the UN DRIP in the process and instrumentation of international law.

The UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, continued to develop a productive, participatory role with the UN EMRIP and indigenous peoples in attendance. Representatives of indigenous peoples could request meetings in regard to matters within Anaya's mandate, including violations of human rights. Anaya was available for four of the þve session days, receiving written reports from the seven regions providing substantive insight as to the status of indigenous peoples. Anaya also met with representatives of North America about an upcoming visit to the United States to focus on implementation of the UN DRIP, following adoption on 16 December 2010.

The foundation of EMRIP's agenda format is review of best practices and cases in thematic studies that have already been

adopted, this time the study focusing on education, followed by discussion of the current study. Another signiþcant agenda item is a review of how the UN Declaration on the Rights of Indigenous Peoples is being implemented in communities and countries. The most dynamic discussion with a rapid result, usually in the þnal days of the session, is the agenda item on proposals to be submitted to the UN Human Rights Council for consideration and approval. Indigenous peoples and civil society present their þve-minute interventions and, before leaving Geneva, can see if their proposal will move forward to the next phase. This July, ten proposals were directed to the UN Human Rights Council. The proposals included a continuation of the discussion on decision-making, with speciþc focus on extractive industries on indigenous peoples lands.

The þrst proposal put forward the necessity for states to strengthen NHRIs and þr increased future partnership between NHRIs and EMRIP. The second proposal focused on the UN Human Rights Council prioritizing indigenous peoples rights with regular panels relating to the studies and imminent issues. The third proposal recommended that the UN Human Rights Council implement the study on decision-making by including indigenous peoples at the earliest possible stages of the process relating to the Councilõs þve-year review and other pertinent matters. The fourth proposal ensured that the agenda item on the UN DRIP would continue to review developments and provide possible steps to secure the objectives of the UN DRIP. The þfth proposal built on the aspiration of achieving the articles of the UN DRIP to adopt administrative and legal measures that ensure respect for realization of rights.

The sixth proposal focused on expansion of the UN Voluntary Fund for Indigenous Populations to allow for indigenous engagement with the UN Human Rights Council along with the human rights treaty bodies. The seventh proposal focused on Universal Periodic Review results, including recommendations for states. It called for a compilation of the recommendations relating to indigenous peoples rights. The eighth proposal requested an international expert seminar on truth and reconciliation processes. The ninth and tenth proposals called for adequate resources of secretariat support and UN specialized agencies to promote and protect the rights in the UN DRIP.

The þfth session of the UN Expert Mechanism on the Rights of Indigenous Peoples will continue the important work launched by the UN Working Group on Indigenous Populations in the early 1980s. EMRIP has a new mandate under the UN Human Rights Council and is maturing in a manner to ensure equality and demand dignity for indigenous peoples.

II Å ACSC/APF ~ Asia is often seen as an abyss in regional activities, especially concerning human rights promotion and protection. For decades, Europe, Africa, and the Americas plodded along, providing commissions & courts and increasing their inÿuence toward more jurisprudence for justice. The grassroots peoples' movements in Asia are mobilizing to bring values of human rights to the forefront of campaigns for fundamental freedoms.

The Association of Southeast Asian Nations (ASEAN) is a forum where freedom is being forged. The10-state regional mechanism has begun to listen to the voices of its citizens pressing for the values of dignity, democracy, and human rights to be included in its daily work. Civil society is spearheading strategic planning and structural possibilities for initiatives to inÿuence this regional body.

The creation of the ASEAN Intergovernmental Commission on Human Rights (AICHR) is the beginning. There are other initiatives in speciþc þelds of rights that also are creeping onto the agenda of ASEAN, aiming to move this state-centered mechanism beyond economics and military security to include solidarity and equality in its principles and policies. The ASEAN Commission for the Promotion and Protection of the Rights of Women and Children (ACWC) and the ASEAN Committee on the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW) are two institutions mandated to monitor rights that have grown from grassroots initiatives. And a recent addition to the annual summits, serving as an incubator of ideas and initiatives for ASEAN, is a the ASEAN Civil Society Conference, a parallel process aiming to add peoples' perspectives to the heart of the regional body's annual agenda.

The 7th annual **ASEAN Civil Society Conference / ASEAN Peopleõs Forum** (ACSC/APF) took place from 3–5 May 2011 in Jakarta, Indonesia, just prior to the ASEAN summit. Human Rights Working Group of Indonesia served as the secretariat for this session. Since the introduction of the ACSC at the 11th ASEAN Summit in Malaysia in 2005, the participation of grassroots movements continues to grow, gaining greater recognition in the decision-making process of ASEAN.

During the seven years, a common agenda has ensured citizen participation and engagement with ASEAN leaders while enhancing the range of rights for a more inclusive institution. The 7th ACSC/APF continued the tradition of a parallel process with the aspiration of an interface with ASEAN Heads of State based on workshop submissions in recommendation format for the þnal statement. The country and thematic workshops continue to enhance engagement, allowing the human rights community in the region to enhance mutual understanding and unity. The workshops are where lessons are shared about past shortcomings and successes, aiming toward best practices and bold policies to promote and protect human rights in the region.

The ACSC/PC program is a combination of keynote speeches by heroes of human rights, plenary panels of leading scholars and social justice advocates, workshops of strategy and networking, and cultural performances sharing beauty of art in Asia. Of course, the sense of solidarity developed during all of the above creates a culture of human rights.

Aung San Suu Kyi launched the 7th ACSC/APF with a videotaped message calling for civil society in the ASEAN region to unite for genuine participation in national government, gender justice, and

protection of natural resources. Her presence shaped the main challenge emerging at the event. While it is most obvious for Burma, there are similar struggles elsewhere for legitimate leaders — from community to country level — to participate in this annual gathering. Peoples' movements from across the region showed their support, wearing Aung San Suu Kyi "Freedom to Lead" T-shirts with "Free Burma" emblazoned in all ten languages of ASEAN members. In most states, such as Vietnam and Cambodia, the struggle for legitimate representation continues through the workshop recommendations.

The phenomenon of "people power" to make a difference in the global human rights movement caused governments to respond. One of the most ÿattering responses has been the creation of faux NGOs. Governments sponsor groups to represent ofþcial interests at international institutions and ASEAN meetings. The GONGO (Government Organized NGO) is a staple of repressive regimes throughout the region.

During the workshops this is played out in the creation of recommendations. There were 16 thematic workshop tracks with multiple sessions during the three-day peoples' summit. The core themes cover important issues in individual communities and the international arena, including natural resources, þsherfolk, gender and women's rights, climate change, child rights and youth, disability rights, civil liberties, democratization, transformative social protection, agriculture, economic justice, labor rights, peoples' regional alternatives, refugees and migration, peace and security, and minorities/indigenous peoples and LGBT (sharing a workshop). Health was a special focus for the Jakarta ACSC/APF.

The main process for participation begins in the workshops. After each workshop, the organizers send the inputs from their theme to the conference statement, sharing analysis along with the top three recommendations. All of the inputs are edited into one submission by the drafting committee and then debated, edited, and þnalized in the concluding plenary, to be presented to the ASEAN Heads of State.

Because of the demands of civil society, ASEAN is showing signs of addressing shortcomings with regard to human rights by way of new institutions. What is important will be if civil society can continue to shape these new entities. The adoption of the ASEAN Charter in 2007 was a signiþcant step toward a more legal institution with provisions endorsing human rights. Shortly thereafter, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was created on October 23, 2009, and the ACWC on the rights of women and children was created on April 7, 2010. Both are important instruments that civil society must organize to allow for individuals and communities to be included. The democratization of these institutions is essential for future engagement to guarantee freedom. So far, only two states — Thailand and Indonesia — have nominated human rights advocates as commissioners. The important work will be to gain representation of more human rights practitioners among the 10 positions of the AICHR. The human rights mechanisms of ASEAN are a milestone in its history. However, much more must be done to enhance equality and dignity for the peoples of the ASEAN region.

In Jakarta, civil society stood up for rights, demanding that their governments live up to international human rights standards. They called for ratiþcation of various international instruments and implementation of speciþc articles to improve living conditions. There was a call for AICHR to move beyond its non-interference principle to examine human rights in each country and not only focus on regional issues. The monitor and respond functions must extend to speciþc state situations. There were also calls for greater transparency in the AICHR and for increasing inclusion of civil society in the deliberations. The 7th ACSC/APF strengthened solidarity in the region and was an important incremental initiative for ASEAN to contribute to a just global community.

Every year, peoples' movements creatively coordinate campaigns that transform regional institutions to reÿect the interests of citizens. With the development of the ACSC/APF there is measurable progress toward peace and human rights. The 2012 ACSC/APF in Cambodia offers another possibility for the new institutions for human rights to guarantee dignity and liberty instead of allowing member governments to limit their role in promoting and protecting human rights in ASEAN.

Civil society came together in the closing moments of the 7th annual ACSC/APF, playing their *angklung* instruments in unison as a chorus of humanity for human rights. This song of struggle must continue into Cambodia.

7th annual ASEAN Civil Society Conference / ASEAN People's Forum, 3–5 May 2011, Jakarta, Indonesia

III Å UNHRC ~ The **United Nations Human Rights Council** completed its initial þve-year phase at its June session. At the conclusion of the 17th session, it is important to examine what has been accomplished with the agreement brought by the inaugural Human Rights Council President, Luis Alfonso de Alba, at the midnight hour on 18 June 2007 that redesigned the institution and procedures of the international human rights system.

In only half a decade, civil society and a small number of countries have challenged the UN Human Rights Council to live up to its mandate for the people of the world that need human rights to be more than words on paper. So far, there have been signiþcant steps to create processes where campaigns can be waged to promote and protect planet-wide human rights on the world stage at the UN Human Rights Council.

The most recent UNHRC session provides an example of the small but signiþcant steps to secure human rights in areas usually suffering a lack of attention. Yet, a redoubling of political will by the coalition of civil society and certain countries along with new members interested in serving on the 47-member council is necessary for the new Human Rights Council to improve on the six decades of work of the UN Commission on Human Rights.
There is still much more work that must be done; however, there were several resolutions and new developments indicating on the þfth anniversary of the UN Human Rights Council that strategic campaigns planned by NGOs and skillful diplomacy by states can result in innovation covering the cutting edge issues of international public law such as sexual orientation; gender identity; business & human rights, including guiding principles on business, a working group and a forum; an improved Universal Periodic Review process; and a þrst woman chair elected to preside.

In a council that doesn't like to conduct a vote favoring a consensus motion, the decision regarding a resolution on human rights violations based on sexual orientation and gender identity, presented by South Africa, was adopted with 23 in favor, 19 against and 3 abstentions. The vote was a groundbreaking achievement resulting from passionate advocacy by grassroots and global activists. It was the þrst UN resolution focusing speciþcally on sexual orientation and gender identity regarding human rights violations. Brazil supported the leadership of South Africa, calling to open the closet doors with full dialogue. This will be done with a study by the UN High Commissioner for Human Rights, along with a panel discussion at the March 2012 UNHRC session to discuss the study and suggest appropriate follow-up. The vote and the subsequent study recognize the vulnerability of the lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) community and the responsibility of states to protect rights and safety. The resolution is an important þrst step toward integration of sexual rights in the UN charter body instruments. It afþrms the universal values in the Universal Declaration of Human Rights ensuring all people are treated as free and equal in dignity and rights, including on the grounds of sexual orientation and gender identity.

One of the most signiþcant gaps in human rights relates to the role and responsibility of business. The 17th session featured a closing of one chapter, with adoption of "Guiding Principles on Business and Human Rights", operationalizing the Special Representative of the Secretary General for Business & Human Rights John Ruggie's "Protect, Respect and Remedy" framework, and creation of a new þve-expert Working Group on Business and Human Rights along with a new Forum on Business and Human Rights to perpetuate the meaningful dialogue with multiple stakeholders that Ruggie facilitated during this term. The "Guiding Principles on Business and Human Rights" did not create binding obligations for business; instead, they serve more as a blueprint for a legally binding instrument.

Norway led the resolution discussions with a cross-regional group of fellow co-sponsors. Civil society followed the negotiations intently, aiming for a continuation of Ruggieõs work to cover the unþnished agenda. It was important to disseminate the "Guiding Principles on Business and

(At left) HR Council President and UPR Secretariat review ýnal drafts of new UPR modalities and 2nd cycle schedule; (at right) at the 17th UNHRC session, ñall diplomatic delegates were eager to take the þoor for the ýve-year reviewò

Human Rights". The establishment of a working group on the issue of human rights and transnational corporations and other business enterprises, consisting of þve independent experts to be appointed at the 18th session in September 2011, is a signiþcant step toward building a culture of human rights. The resolution did have some important negotiated paragraphs, such as country visits, along with numerous mentions recognizing the disproportionate impact on indigenous peoples due to corporations, and potential identiþcation of best practices to serve as models. It will be seen whether þve experts, instead of the previous one expert, will be more beneþcial for people whose lives are impacted by industries. Also, the agenda and capacity to advocate at the new Forum on Business and Human Rights remains to be determined, but is a potential opportunity.

One of the most signiþcant contributions of transition from the UN Commission on Human Rights to the UN Human Rights Council was the creation of the Universal Periodic Review. While states believed the peer review would reduce politicization and eliminate the singling out of states, with a universal review of rights for all states equally, it has turned out to be an important opportunity for stakeholders to pose questions and make recommendations for states to improve their human rights record. The 17th session showed interest in continuing to improve the process for greater participation. The Moroccan ambassador played a pivotal role in the review of the UPR and new modalities for the second cycle.

Decision A/HRC/17/L.29 outlines speciþc shifts in the second cycle for stakeholders and states. The key factor is an increase in the time for the duration of the review. The current 3-hour review in the þrst cycle was seen as inadequate, with states lining up early and still not being able to participate. Therefore, the new review of states will be 3.5 hours. States will get 70 minutes instead of 60 and other states 140 minutes for questions, adding around 10 more states to the speakers list. There will also be 14 sessions per cycle as opposed to the current 12, and 14 states reviewed instead of the current 16. States will have 4.5 years in between each UPR review instead of 4 years.

The second cycle will begin in May/June 2012. National Human Rights Institutions achieved a dedicated section in the summary of the stakeholder information. NHRIs also will be given the ÿoor directly after the state under review.

On the þnal days of the 17th session, it became clear that another hurdle would be overcome. Laura Dupuy Lasserre, a Uruguayan diplomat, would become the þrst female president of the Human Rights Council, six decades after Eleanor Roosevelt held the post of Chair of the UN Commission on Human Rights. Dupuy Lasserre is a human rights defender shaped by her life experience; her father was arrested and tortured as a union leader by a dictatorship for demanding a democracy. Freedom was a banned word in her country. Now she will head the UN body with the task of guaranteeing all people on the planet a right to freedom. Dupuy Lasserre also brings experience focusing on gender justice and environmental issues to her presidency.

The 17th session and special focus on the "Arab Spring" indicate a shift in human rights consciousness in the world. At future meetings of the UN Human Rights Council, civil society will continue to exert leverage for transformation with the language of human rights.

My personal commitment to this cause, apart from deriving from shared national values where democracy and social justice go hand in hand, also involves having seen from very close by the injustices of dictatorship. These directly affected my family. My father was a political prisoner and tortured, like many other victims who I wish to honour today.

~ **Laura Dupuy Lasserre**, from Uruguay — new president of the UNHRC, replacing Thailand's Sihasak Phuangketkeow (UN Radio, 12 July 2011)

IV Å UN PFII ~ The tenth anniversary of the **United Nations Permanent Forum on Indigenous Issues** signals a signiþcant development for indigenous peoples in the international arena. It allows one to reÿect on the important initiatives that have been inspired by indigenous ingenuity at this international institution.

The most important is being welcomed into the family of nations, as was done by former Secretary General Koþ Annan, and being treated as equals in dignity along with respect for indigenous wisdom as is being gained with regard to global environmental issues.

On 16 May, the two-week annual PFII meeting was launched by Secretary General Ban Ki-moon in the UN General Assembly. "The road has been tough, but the rewards are real," he noted. "The United Nations Declaration on the Rights of Indigenous Peoples þnally has the consensus it deserves. Now we need to make the Declaration's principles a reality. To those who do not grasp the Declaration's importance, I say: protecting and promoting the rights of indigenous peoples beneþts us all."

Indeed, it was the annual meeting every Spring that the world's indigenous peoples used as a springboard to secure the votes of states for the adoption of the UN Declaration on the Rights of Indigenous Peoples. To achieve universal adoption on the anniversary of its decade of existence was extraordinary, with the United States of America þnally reversing its position.

Secretary General Ban Ki-moon understands the need for genuine partnership with indigenous peoples, pointing out about the planet: "Indigenous peoples have been living in a 'green economy' for centuries. When economists today look for new ways to achieve sustainable development, they should look at old practices in indigenous communities. Ancient indigenous traditions can help overcome modern problems. The goal is not to appropriate your knowledge — to extract it or exploit it — but to respect indigenous peoples and help preserve their traditions."

[continued]

While indigenous peoples have only been at the UN headquarters for a decade, Ban Ki-moon aspires for their philosophy to guide governments for the future: "From the forests to the oceans, from the mountains to the deserts, around our world you are guardians of nature. We need you to help inÿuence the decisions we make today on energy and the environment — decisions which will affect generations to come."

An important improvement in the UN Permanent Forum on Indigenous Issues is the secretariat that serves the 16 members. In the inaugural session, there were no permanent positions. The Ofþce of the High Commissioner for Human Rights Indigenous Peoples Unit and the United Nations Development Program in Asia assumed responsibilities. Interestingly enough, the UNDP staff member who drafted the initial report from notes of NGOs and staff a decade ago is now the director of the PFII secretariat – Chandra Roy, a Chittagong Hills Tract advocate. Roy also maintains excellent relationships with the previous director, Elsa Stamatapouli, who masterfully mainstreamed indigenous peoples into the United Nations headquarters under the Department of Economic and Social Affairs (DESA) advising the UN Economic and Social Council (ECOSOC). The secretariat has been able to bring in many talented indigenous peoples — from John Scott, now at the Convention on Biological Diversity in Montreal, in the beginning, to the current core of Miriam Masaquiza of Ecuador and Sonia Smallacombe of Australia. The secretariat works throughout the year so that the two-week program propels indigenous rights forward.

The list of expert members of the UN PFII elected and empowered by indigenous communities has always read like a global all-star assembly, with the 8 members representing some of the original participants in the UN since 1977. In the most recent election, even governments nominated emerging and elder indigenous statesmen to serve in the 16-member body. For the tenth session, there were many new experts elected, with 14 of 16 starting their þrst term bringing energy from their grassroots communities as academics, advocates and activists with lifetimes of experience in liberation of indigenous peoples around the planet. The spirit of the new members is exempliþed by Chief Ed John in his statement about even amending the title of the annual meeting: "I'm tired of being an issue, we are peoples with the right of self-determination." The experts are seen as a clean slate, combining the next generation of professionals with an experienced group that accomplished the difþcult task of drafting the articles of the UN DRIP and also advocated creation of the three UN bodies for indigenous peoples over the decades.

The tenth session continued the tradition of launching new opportunities for indigenous peoples to overcome obstacles of colonization during the centuries. One existing UN specialized agency, International Food and Agriculture Development, announced its creation of an annual forum for indigenous peoples to promote rural development and reduce poverty. The inaugural session will take place in 2013, based on the model of an earlier forum for farmers. The mandate of the IFAD forum is overcoming poverty by building on respect for identity and community-driven development rooted in indigenous values. IFAD promises that it will not duplicate the PFII, but will focus on assisting rural people to realize their economic, social and cultural rights.

New initiatives from coalitions of UN specialized agencies, programs and funds also announced new ideas at the PFII. The tenth session witnessed one of the most innovative ones, bringing together members of the EMRIP and PFII along with the special rapporteur in partnership with agencies dealing directly with indigenous peoples. An entirely new joint initiative, the UN Indigenous Peoples' Partnership (UNIPP) was launched in the lobby of UNICEF. UNIPP is focusing on democratic governance, human rights, and equality, bringing together ILO, OHCHR and UNDP to focus on joint country programs to guarantee indigenous rights based on principles of trust and equality, incorporating the UN Declaration on the Rights of Indigenous Peoples and ILO Convention 169 as the normative framework for any actions by the UNIPP.

There is also a sincere effort of the PFII to reach out beyond international institutions to regional human rights and þnancial mechanisms. In the past, the Asian Development Bank and the InterAmerican Development Bank have made presentations. At the tenth session, the human rights mechanisms of the Americas and Africa were the focus. The president of the InterAmerican Commission on Human Rights (IACHR) and the chairperson of the African Commission on Human and Peoples' Rights Working Group on Indigenous Population/Communities (WGIP) both addressed the forum, providing historical perspectives to the regional bodies relating to indigenous rights and sharing developments in speciþc cases and studies relating to human rights of indigenous peoples. The current president of the IACHR is also tasked with a role as special rapporteur on indigenous peoples in the regional bodies of the Americas.

Dinah Shelton, president of the IACHR, spoke about the social exclusion and structural racism evident in states and contributing to the detriment of their wellbeing and development. She also highlighted important cases recognizing collective rights to land upheld in the regional human rights commission and court.

Musa Ngay Bitaye, commissioner and chairperson of the African commission WGIP, called for greater cooperation among the various indigenous initiatives, requesting "a closer collaboration in the promotion and protection of the rights of indigenous peoples on the African continent. The collaboration we seek is the institutionalization of linkages in our activities, programs and country missions and the sharing of information, so as to build the required synergy for the better promotion of the rights of indigenous peoples."

The role of UN Special Rapporteur on the Rights of Indigenous Peoples has been an important institution for the UN PFII. The þrst rapporteur, Rodolfo Stavenhagen, and then James Anaya, the current rapporteur, undertook to address the annual assembly and also to confer with the former Working Group on Indigenous Peoples and the current Expert Mechanism on the Rights of Indigenous Peoples to coordinate ef-

forts. SR Anaya has elevated the proþle with individual appointments made by concerned communities, living up to the mandate to check on speciþc situations with procedures for urgent action and even on-site visits.

It is also important that, by way of the annual PFII, indigenous peoples can organize meetings to prepare for upcoming important international conferences and world summits. The tenth session was signiþcant for three world conferences: the 20th commemoration of the Rio earth summit on environment and development; the 10th commemoration of the Durban summit on racism; and the 2014 World Conference on Indigenous Peoples.

Land is Life played a pivotal role at the Yakoana preparatory meeting for the Rio Earth Summit. Marcos Terena was the only indigenous person able to address the global assembly (a þve-minute presentation). Terena was present in New York to speak at a side event and gather support for the June 2012 summit. Land is Life also held discussions with Indigenous Environmental Network and Tebtebba leadership to coordinate the upcoming global gathering along with the regional preparatory committee sessions that shape the þnal declaration and program of action.

The World Conference on Indigenous Peoples is already getting attention even though it is years away. Indigenous peoples met with ambassadors of states and senior staff to ensure that the right of free, prior and informed consent will be included in the process. They want to draft the agenda and be genuine partners, from preparing the modalities to molding the þne points in the þnal document.

Another valuable initiative built on tradition of one of the ally associations is the Quaker House Dinners. Within walking distance of the UN in New York and Geneva, the Quakers' mission serves as a neutral space to host PFII members, indigenous guests, and governments for informal mealtime conversation on important issues facing indigenous peoples in the international arena. The tenth session of the PFII continued this useful activity at the Quaker House, bringing people together to discuss initial ideas for the World Conference on Indigenous Peoples.

There is also regular networking and strategizing on initiatives relating to climate change and the annual UN Framework Convention on Climate Change summits, with weekend workshops bringing experts together to train indigenous peoples in the latest developments and to respond to challenges to protection of land rights.

Another tradition initially brought together members of the Unrepresented Nations and Peoples Organization (UNPO), hosted by the Khmer Kampuchea Krom Federation in Philadelphia, to share common cultures respecting the earth. This has developed into an annual Youth Conference with a speciþc theme ñ under Democracy, Liberty and Human Rights — at the National Constitution Center, with a visit to the Liberty Bell. At the tenth session, Orren Lyons, traditional leader of the Haudenosaunee, gave the keynote address, sharing the values of indigenous peoples enshrined in constitutions such as those of the US and Canada — the very countries that had rejected the UN Declaration on the Rights of Indigenous Peoples. Lyons spoke on "Deconstructing the Doctrine of Discovery & Origins of the US Constitution". Already there are plans for the next Philadelphia summit to focus on the ofþcial theme, allowing for it to shape the þnal report of the 11th PFII.

The side events are an essential component of the PFII. There has been a trend of reducing the number of sessions because of UN reconstruction. However, indigenous peoples still meet wherever and wherever possible in New York, predominantly in the UN headquarters, the UN Church Center, neighboring friendly state missions, and also local NGO ofþces.

One of the most important annual side events is a commemoration of the life of Ingrid Washinawatok, with The Flying Eagle Woman Fund, recognizing the work of indigenous women. The annual dinner and discussion is a celebration of the spirit of solidarity among sisters and their supporting circle of humanity to realize human rights. This year a group of women who did work in Colombia where Ingrid was murdered shared their current projects to improve the lives of indigenous women. Nobel Laureate Rigoberta Menchu Tum is often in attendance, along with many of the pioneers of international indigenous initiatives for peace.

One of the recent additions to the traditional side events is an annual march and rally for speciþc indigenous peoples in struggle with an oppressive state or corporation. Last year the focus was the Bel Monte Dam in Brazil. At the tenth session, a rally spearheaded by members of Land is Life focused on human rights of indigenous peoples in Southeast Asia,

Former PFII Chair Vicki Tauli Corpuz advising new Chair Myrna Cunningham

speciþcally Bangladesh. The rally is usually supplemented with trainings about realizing human rights in the United Nations system. Land is Life offers courses to allow indigenous peoples to engage in every UN mechanism, from the treaty bodies to the charter bodies, including the regional mechanisms, developing best practices and strategies to ensure promotion and protection of indigenous rights.

An important role of the UN PFII is to bring together indigenous peoples from the same state to work together for two weeks in an environment away from the daily challenges. The UN PFII allows for reÿection and recommitment to the core causes in one's country and indigenous community. At the 10th session of the PFII, it was noteworthy to observe the achievements of the Aboriginal and Torres Strait Islander movement in Australia. The Australian delegation, as it is known, bolsters over 50 representatives from community activists to college academics including allies in the Australia Human Rights Commission. It is powerful to have an entire nation of indigenous peoples in attendance, thus shaping the agenda with an annual commemoration of Sorry Day to acknowledge the wrongs perpetrated by the Australian government with the stolen generation policy and other human harms. At the tenth session, there was the collective statement read and the moment of silence along with a reception hosted by Australia near the closing of the annual meeting. Australia also shows considerable coordination with morning meetings sharing updates and joint interventions. While this is signiþcant, it is also important to be as creative as the founding circles of indigenous leaders. It is important to continue such innovation considering the resources at stake. One alternative or addition would be a national Permanent Forum on Indigenous Issues where 8 government agencies heads could meet with elected indigenous peoples such as the National Congress of Australia's First Peoples. There could be a week assembly in Australia just like at the UN where an agenda is drafted and deliberated on every year to address issues facing the indigenous peoples of Australia. Just as over 2,000 now come to the UN PFII, such numbers could attend a national meeting closer to the communities to change the daily living conditions and protect indigenous rights.

The PFII has accomplished a great deal in its initial decade of existence. Indigenous peoples will continue to shape the structures and systems they created to overcome challenges created by colonization and realize equality and dignity. "In its ten years, it has been slowly þnding its way," Chief Ed John said. "It isn't at the place yet. It is looking for its place where it becomes very strong. Yet, it is a powerful place for our peoples" to share our common struggle against colonization and for self-determination.

The leaders of the UN understand the global movement for the human rights of indigenous peoples. Secretary General Ban Ki-moon will continue to ensure that indigenous peoples are represented in the international arena where their values and vision can shape global policy. "We must end the oppression, and we must ensure that indigenous peoples are always heard," said the Secretary General. "Raise your voices here at this Forum and beyond. I will urge the world to listen."

V Å Threatened Island Nations ~ Climate change is bringing together affected communities and concerned advocates to ponder potential political, cultural and legal strategies to reverse rising seas and protect indigenous cultures' existence on earth. The Columbia Center for Climate Change & the Republic of the Marshall Islands recently hosted "Threatened Island Nations: Legal Implications of Rising Seas and a Changing Climate" at Columbia Law School in New York. The conference convened experts from around the world to discuss legal questions arising from the impacts of global climate change, particularly rising sea levels, on small island nations.

The creative diplomats, committed law professors, and compassionate campaigners asked the important questions and also focused on the necessary responsibility to respect human rights regarding climate change: What is causing it and who is causing it?

From 23–25 May, there were different themes each day, with four panels combining heads of state, human rights advocates, and heads of UN agencies, programs and funds to examine potential paths to pursue to prevent violations of human rights and policy choices to assure active participation in global decisions regarding climate change.

The themes of "The Status Quo: Shifting Legal Options in a Changing World", "What Can Be Done to Help, and How to Do It", and "Domestic Options for Small Island States" were covered in panels on Statehood and Statelessness; Preserving Marine Rights: Fishing and Minerals; Existing Legal Structures; Legal Remedies; The Way Forward; and A New International Convention?

The focus on þnding solutions to sea level rise facing small island states illustrates the proactive approach at the heart of the seminar. The speakers note that complex risks can be reduced through results in practical adaptation measures including global action through international instruments. There must a dialogue equipped with direct action and diplomacy to deepen the understanding of difþcult long term risks including low-lying small island states no longer being livable for future generations.

Beyond the immediate human rights violations of right to water, food, health, the long term issues related to security as well as the ultimate right to self-determination are acute with sea level rise facing Paciþc Island States. It is important to address the uncharted territory of the United Nations and world community regarding sovereignty in international law of citizens and their nations along with the option to redeþne statehood depending on what future holds for the people of Oceania.

A review of the international institutions unequipped to handle these environmental scenarios include the United Nations High Commissioner for Refugees, the UN Ofþce of the High Commissioner for Human Rights, the UN Framework Convention on Climate Change. Yet, the conference noted how the human rights violations and harms might be addressed

adequately in their current conditions. There was also an examination of the various international courts and councils that could address harms and subsequent remedies that would include the restoration of human rights and dignity of people affected by rising seas submerging their homelands. The commitment to creative adaptation options to remain as long as possible with structural projects through innovative designs was also included respecting the desire of indigenous peoples to remain in their own sacred lands.

Marshall Island President Jurelang Zedkaia gave the keynote address, "As one of the world's lowest-lying island nations – comprised of narrow atolls less than two meters above sea level – our very statehood is at risk. We know this not only because of what scientists tell us, but because we are seeing it every day with our own eyes. It is as though everything around us, our culture, our communities, our traditions, our land – and in fact our very livelihoods – are now in jeopardy. "

Zedkaia stated that time for merely talking is over: "We can no longer afford only to draw your attention to our unique vulnerabilities. We must now work together to recognize and directly address these risks. There has been enough talk. Now — starting tonight — it is time for a reality check. It is time for action. It is time we took charge of our future."

The president noted that casual conversations about climate change has to change its tone, as people will be affected directly in unimaginable ways around the world, especially Oceania. His statement emphasized that what small islands face soon eventually will swallow the larger states' concerns about basic human rights but also national security. "As a leader, I can assure you that casual discussions on relocation are an irresponsible political exercise. But it is now … not so distan[t] — relocation is also an undeniable threat knocking at our door, and something which could well unfold in decades to come. It is a threat that the international community is presently unprepared to address, and it can no longer be ignored." He closed: "In all eventualities, the sovereign state, the security and human rights, and the culture of the Marshallese must and will be protected. I am committed to no less…."

Marshall Islands Ambassador Phillip Mueller expressed the sentiment of sacredness regarding climate change and its impact on island communities: "Land is our identity not an interchangeable commodity. It is the center of our lives and collective culture. The impact of climate change must be addressed in [terms] of our sovereignty but also [as] a threat to our very identity."

The Marshall Islands Ambassador concluded: "We are a small island state but we are unique. Losing our islands would mean losing something beautiful in our world we share. We are small. We need the help of the international community. But, we are the ones making decisions now and it is our responsibility."

Another representative of the Marshall Islands, Senator Fred Mueller, stated: "Land is more than an asset. Is the very fabric of our familial identity…Why don't we just move somewhere else is not a simple solution and would not be asked if people understand the fundamental relationship we have with our land."

Law Professor Michael Garrard, who heads the Center for Climate Change Law, pointed out: "The residents of these countries want to stay as long as they can. They are no way surrendering their ancestral homelands to the rising seas." Jenny Grote Stoutenburg (University of California-Berkeley) noted: "There is a moral and legal duty to continue to recognize island states."

Cape Verde Ambassador Antonio Lima summarized the core concern facing humanity in the 21st century: "If we are not united to struggle and understand, if we don't take the point of view of the Small Island Developing States as our common survival…, we are not doing the right thing." He continued calmly: "There are consequences. Can we have solidarity with these islands that will disappear? They are only the þrst to go. We are the sentinels of the world. It will happen to all tomorrow. If we don't succeed to save them, we are condemning ourselves…. We are all linked together."

A strength of the seminar was linkage of human rights and climate change in public international law for a strong strategy of steps forward to secure fundamental freedoms. The meeting inspired a coalition movement to address climate change through a human rights framework. The movement's momentum continues through various conferences, conventions, and councils in international law. Climate change is an important issue that will continue to be on the diplomatic agenda but requires action in our daily living practice augmenting diplomatic pressure on all states to strengthen and respect environmental law.

VI Å UNSC and climate change ~ The primary institution dealing with security issues in international affairs is the **United Nations Security Council**. Once in its history, in 2007, the Council's time was dedicated — beyond traditional war & security formulations — to discussion of global warming and human security. This year, with the leadership of Germany and support of Portugal, the UNSC scheduled a meeting on 20 July to consider climate change and security impacts. The Open Debate on Climate Change and Security went beyond allotted time into the evening hours; yet a majority of states agreed that there is much more to be said and even more action necessary to promote peace.

Secretary General Ban Ki-moon opened the debate, challenging states questioning whether such a topic is appropriate. "We must make no mistake," he said. "The facts are clear: climate change is real; it is accelerating in a dangerous manner; and it not only exacerbates threats to international peace and security, it is a threat to international peace and security."

The Secretary General laid out the reasoning for authentic action by the Security Council and all member-states of the UN, while announcing alarm about the new era of environmentally sparked security challenges. "Around the world, hundreds of millions of people are in danger of go-

ing short of food and water, undermining the most essential foundations of local, national, and global stability," he claimed. "Competition between communities and countries for scarce resources – especially water – is increasing, exacerbating old security dilemmas and creating new ones. Environmental refugees are reshaping the human geography of the planet, a trend that will only increase as deserts advance, forests are felled and sea levels rise."

The Secretary General knows too well that if a preventative approach isn't adopted world peace will be even more at peril. "Mega crises may well become the new normal," he said. "These are all threats to human security, as well as to international peace and security."

The President of Nauru, Marcus Stephen, insisted that the recent trend to deal with root causes of conÿicts extends directly to climate change: "The Security Council has recognized that it has a role in preventing conÿict before it occurs, not just facilitating its resolution afterward."

UN Under-Secretary General and Environment Program Director Achim Steiner understands that "humanity is at a point in it history where it has, for the þrst time, the power to fundamentally alter within one or two generations the conditions upon which societies have evolved over millennia. It is the speed of environmental change, including climate change, that will be increasingly at the heart of our collective concern and response." Steiner pointed out to policy-makers: "The question is less and less one of whether climate change is a security threat or a threat multiplier, but one of how we can assess and manage the risks associated with climate change and its security implications as an international community."

UNEP Director Steiner understands a holistic perspective on security and the interconnectedness of the concerns: "Many experts argue that climate change will aggravate or amplify existing security concerns and give rise to new ones, especially but not exclusively in already fragile and vulnerable nations." He states that everything from ecology to economy is connected with the climate crisis: "Nationally and regionally, climate change has the potential to sharply intensify human displacement bringing communities into increasing competition for þnite natural resources with world-wide repercussions for the stability of the global economy."

Throughout the debate, states concurred with the Paciþc Island States regarding the implications for security and even continued existence due to climate change. The Republic of Nauru represented the countries of Oceania in its joint statement. Nauru President Marcus Stephen asked some pointed questions and demanded that the conscience of each country should attend to what Paciþc Island States are facing and what must be done. "In my frustration, I often wonder where we would be if the roles were reversed," President Stephen said. "What if the pollution coming from our island nations was threatening the very existence of the major emitters? What would be the nature of today's debate under those circumstances? But that is not the world we live in, and, for us, this is not a hypothetical exercise. Many of our countries face the single greatest security challenge of all from the adverse impacts of climate change: our survival. It is for this reason that we have come to the Security Council today."

President Stephen commented: "In climate change, our islands face dangerous and potentially catastrophic impacts that threaten to destabilize our societies and political institutions. Our food security, water security, and public safety are already being undermined. Sea level rise is eroding our coastlines and in some cases damaging critical infrastructure. Territory loss could disrupt traditional systems of land ownership and spark conÿicts over this and other increasingly scarce resources. Eventually some islands may disappear altogether and with [them] thousands of years of cultural heritage. This would force large numbers of our citizens to relocate; þrst internally, then across borders. Even with an ambitious new agreement to address climate change, many of these impacts are now unavoidable."

EU Representative Pedro Serrano supported the Paciþc Island Statesõ collective position and signaled solidarity: "We fully share the view that Small Island Developing States are among the world's hardest hit by climate change. In particular, Paciþc Islands face unique structural constraints due to their combined remoteness, small size, limited natural resources and vulnerability to natural hazards. Adaptation to climate impact is indeed vital for the future of Paciþc Islanders; but the Paciþc Ocean also represents a vital resource for the future of our planet."

Secretary General Ban Ki-moon's tone toward responsibility for climate change and the role of each state suggested that we must move beyond blame toward bold action together. "Developed countries must lead, while at the same time emerging economies must shoulder their fair share," he said. "We cannot ignore history. But we must clearly recognize that there can be no spectators when it comes to securing the future of our planet."

UNEP Executive Director Steiner called for the world leaders to work now to prevent conÿict tomorrow: òIndeed there is no reason why the international community cannot avoid escalating conÿicts, tensions, and insecurity related to a changing climate if a deliberate, focused and collective response can be catalyzed that tackles the root causes, scale, potential volatility and velocity of the challenges emerging." He concluded: "In bringing forward a response that enhances global security and cooperation on the climate challenge, the world can perhaps also better manage risk from numerous other challenges and in doing so diminish tensions between nations and lay the foundations and possibilities of a more sustainable and equitable peace."

The next steps taken by the UN Security Council or the UN Framework Convention on Climate Change as well as the UN Human Rights Council must incorporate the perspective put forward at the July session understanding the holistic nature of climate change.

The planet has now begun to protest.

~ Barbados Prime Minister
Freundel Stuart

Joint NGO Statement on Traditional Values

4 March 2011

This statement was provided to the UN Human Rights Council Advisory Committee 7th Session by the following organizations:

Å Action Canada for Population and Development*
Å ARC International
Å Arcigay Italy
Å Asia Paciþc Forum on Women, Law and Development (APWLD)*
Å Asia Paciþc Transgender Networks (APTN)
Å Asian Forum for Human Rights and Development (FORUM-ASIA)*
Å Association for Womenõs Rights in Development (AWID)* - International
Å Cairo Institute for Human Rights Studies (CIHRS)*
Å Canadian HIV/AIDS Legal Network*
Å ¢avaria VZW - Belgium
Å Center for Legal and Social Studies (CELS) - Argentina
Å Center for Reproductive Rights* - International
Å Center for Womenõs Global Leadership (CWGL)* - International
Å Coalition of African Lesbians - Pan-African
Å Cook Islands Womenõs Counselling Centre
Å Development Alternatives with Women for a New Era (DAWN)* - Philippines/ Global
Å Drodrolagi Movement - Fiji/Paciþc
Å East and Horn of Africa Human Rights Defenders Project - Uganda
Å Equal Ground - Sri Lanka/South Asia
Å Forum de la Femme M®nag¯re (FORFEM) - Democratic Republic of Congo
Å Fundaci·n Tri§ngulo, por la Igualdad Social de Lesbianas, Gais, Bisexuales y Trans - Spain/Europe
Å Gay Japan News
Å Global Action for Trans Equality (GATE)* - International
Å Global Alliance for LGBT Education (GALE)
Å Horizon Community Association - Rwanda
Å Human Rights Institute of South Africa (HURISA) South Africa/Africa
Å Human Rights Watch* - International
Å Idaho Committee (International Day Against Homophobia and Transphobia)
Å Inter-American Center for Human Rights - USA
Å International Alliance of Women
Å International Commission of Jurists (ICJ)*
Å International Federation for Human Rights (FIDH)*
Å International Gay and Lesbian Human Rights Commission (IGLHRC)* - USA
Å International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)* - Belgium
Å International Movement Against All Forms of Discrimination and Racism (IMADR)*
Å International Planned Parenthood Federation (IPPF)*
Å International Service for Human Rights (ISHR)*
Å International Womenõs Health Coalition*
Å Ipas*
Å Italian Association for Women in Development*
Å Lesben-und Schwulenverband (LSVD)
Å LGBT Centre Mongolia
Å Moscow Helsinki Group
Å Mouvement pour les Libert®s Individuelles - Burundi
Å Other Sheep Africa (OSA) - Kenya
Å Out-Right Namibia (ORN)
Å Partners for Law in Development - India
Å Pembe Hayat LGBTT Solidarity Association - Turkey
Å Realizing Sexual and Reproductive Justice (RESURJ) - International
Å Salmmah Womenõs Resource Center - Sudan
Å Sexuality Policy Watch - Brazil
Å Sexuality Policy Watch - Brazil/Global
Å Shustha Jibon - Bangladesh
Å The Federation for Women and Family Planning* - Poland
Å The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL)*
Å The Union of solidarity with political prisoners - Russia
Å Transgender and Intersex Africa - South Africa
Å United and Strong Inc. - Saint Lucia
Å Violence is Not Our Culture Campaign - Global
Å Women for Womenõs Human Rights (WWHR) ñ New Ways* - Turkey/EU/Asia/MidEast
Å Women Human Rights Defenders International Coalition (WHRD IC)
Å Women Living Under Muslim Laws - Global
Å Womenõs Action for Change (WAC) - Fiji/Paciþc
Å Womenõs Global Network for Reproductive Rights (WGNRR) - Philippines
Å Womenõs International League for Peace and Freedom*

* NGOs in consultative status with the UN Economic and Social Council (ECOSOC)

HRC Resolution 16/3, "Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind", stresses that "traditions shall not be invoked to justify harmful practices violating universal human rights norms and standards", thereby acknowledging that traditions are sometimes invoked to justify human rights violations.

Concerns with a traditional values approach to human rights

"Tradition" is frequently invoked to justify maintaining the status quo, ignoring the fact that cultures and social norms have always evolved and will continue to change with time; by contrast, a human rights-based approach often requires changes to the status quo in order to ensure compliance with international standards. Simply because a practice or belief has existed over a period of time or is practiced by a majority does not provide it with worth or validity. The obligation must always be to promote and protect human rights, which may require that traditional values and practices evolve in order to meet international standards.

Many practices that fall under "tradition" are of long-standing origin, but others that claim to be "traditional" are in fact relatively recent. Tradition itself changes over time and all cultures contain diverse and contradictory traditions. Most importantly, many "traditional values" may be inconsistent with international human rights, and "traditional values" are frequently invoked to justify human rights violations. In previous decades and centuries, mixed-race marriages, desegregation, women having the right to work, to vote, to hold public ofþce, or to own property would have been thought by many to be inconsistent with "traditional values".

As many marginalised groups have experienced, "traditional values" are frequently invoked to restrict access to human rights for those segments of society who, from the conservative viewpoint or perspective of those in authority, challenge the mainstream or fall outside the dominant norm. For example, a Government Minister of State for Ethics and Integrity defended a Bill that would have included the death penalty for certain forms of consensual same-sex conduct on the basis that it was needed to maintain "traditional Christian values as prescribed in the Bible" ("Ugandan MPs debate Bill proposing death penalty for gay sex", Times Online, December 18, 2009). UN Secretary General Ban Ki-moon recently noted that "deeply-rooted cultural sensitivities can be aroused when we talk about sexual orientation" but underlined that "cultural considerations should not stand in the way of basic human rights".[1]

[continued, next page]

Women are frequently the subject of traditions — often linked to national, cultural or ethnic practices — which violate human rights and freedoms. For example, reports of the Special Rapporteur on violence against women have repeatedly addressed harmful traditional practices such as: female genital mutilation; honour killings; spousal abuse; dowry-related violence; and customary laws that deny women's equality. Last year a [Human Rights Council] resolution on discrimination against women recognized that "laws, policies, customs and traditions that restrict women's equal access to participate fully in development processes and public and political life are discriminatory" (A/HRC/12/L.3/Rev.1).

The link between traditional values and traditional practices

Harmful traditional practices are frequently legitimised by the values on which they are founded. Building on the work of independent experts, including the former Special Rapporteur on harmful traditional practices, the OHCHR has emphasized:

"Every social grouping in the world has speciþc traditional cultural practices and beliefs, some of which are beneþcial to all members, while others are harmful to a speciþc group, such as women. Despite their harmful nature and their violation of international human rights laws, such practices persist because they are not questioned and take on an aura of morality in the eyes of those practising them."

As one NGO representative pointed out in a statement to the Human Rights Council during discussions around the resolution on traditional values:

"Today, women and other marginalized communities in my region and around the world have made signiþcant gains. Yet there are some who still advance so-called 'tradition' as an argument against many attempts to remedy injustices or protect human rights:
- calling on the State to protect women from domestic violence, we are told, would violate the 'traditional value' of familial privacy;
- combating marital rape allegedly contravenes the 'traditional value' of women's duty to obey their husbands;
- equality in marriage similarly goes against the 'traditional value' of male guardianship, or *qawama*.

òEven when [our] government þnally decided to ban the practice of female genital cutting last year, it was accused of standing against the 'traditional value' of protecting the chastity of girls."[2]

UN Precedents on Tradition, Culture and Human Rights

Many UN instruments and resolutions recognize key principles and standards regarding the relationship between tradition, culture and human rights. In particular:

(i) While cultural, traditional and regional speciþcities must be borne in mind, States have an obligation to promote and protect all human rights and fundamental freedoms, "regardless of their political, economic and cultural systems";

(ii) Tradition and culture may not be invoked to violate human rights nor to limit their scope;

(iii) States have a positive obligation to work towards the elimination of harmful traditional or cultural beliefs, values, stereotypes or practices that are inconsistent with human rights.

For example:

Å **The Convention on the Elimination of Discrimination Against Women** afþrms that "a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women" (CEDAW, preamble), and requires State parties to "take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (CEDAW Art. 5).

Å **The Vienna Declaration and Programme of Action** calls upon States to work towards the elimination of "the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism" (VDPA, para. 38).

"All human rights are universal, indivisible and interdependent and interrelated. ... While the signiþcance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms" (VDPA, para.5).

Å **The Declaration on the Elimination of Violence against Women** (A/RES/48/104) recognizes traditional practices harmful to women as a form of violence against women, and includes amongst these harmful traditional practices: "battering, sexual abuse of female children in the household, dowry-related violence, marital rape, and female genital mutilation".

Å **HRC Resolution 7/29 on the Rights of the Child** expresses concern at "the horriþc scale and impact of all forms of violence against children, in all regions, in their homes and families, in schools, care and justice systems, workplaces and in communities, and urges States … to take measures to change attitudes that condone or normalize any form of violence against children, including cruel, inhuman or degrading forms of discipline, harmful traditional practices and all forms of sexual violence" (OP 14(e), 2008).

That resolution also calls upon States to take all necessary measures "to eliminate all forms of discrimination and violence against girls, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, son preference, marriages without free and full consent of the intending spouses, early marriages and forced marriages, and forced sterilization, including addressing their root causes" (OP 24(b)).

Å **HRC Resolution 6/37 on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief** emphasises the need to address "the situations of violence and discrimi-

nation that affect many women as well as individuals from other vulnerable groups in the name of religion or belief or due to cultural and traditional practices" (PP 10 and OP 11(b)).

Å **HRC Resolution 10/23, on the Independent Expert in the þeld of cultural rights**, afþrms that òno one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope".

Å **The UN Declaration on the Rights of Indigenous Peoples** afþrms the spiritual traditions of Indigenous Peoples, while also underscoring that the "human rights and fundamental freedoms of all shall be respected" (art 46).

Å **The Beijing Declaration and Platform for Action** (A/CONF.177/20) requires governments to "refrain from invoking any custom, tradition or religious consideration to avoid their obligations".

Å **The African Womenõs Protocol** requires States to "eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the … tolerance of violence against women".

Å **HRC Resolution 16/3** – mandate of the study, "Promoting human rights and fundamental freedoms through a better understanding of traditional values of humankind", stresses that "traditions shall not be invoked to justify harmful practices violating universal human rights norms and standards". It tasks the Advisory Committee to "prepare a study on how a better understanding and appreciation of traditional values of dignity, freedom and responsibility can contribute to the promotion and protection of human rights".

In light of the previous discussion and examples, it cannot be assumed that these "traditional values" will contribute to the promotion and protection of human rights. This is why the Advisory Committee has been requested to prepare a study which will fully explore the impact of these "traditional values" on human rights. This means understanding and appreciating both the positive and negative impacts.

Dignity as a traditional value

The concept of "dignity", particularly after a reference to "traditional values", can be misused to justify human rights violations, through concepts such as the "dignity of women". Such problematic uses suggest a particular òdigniþedó role for individuals within society based on the extent to which they play a traditional role. Dignity is in fact inherent to the human person and, thus, it is important that the Advisory Committee's report focus on the language from the preamble of the UDHR that afþrms òthe inherent dignity and worth of the human person".

Responsibility as a traditional value

It is unclear what is intended by "responsibility" as a traditional value of humankind. It is also unclear under what basis in international human rights law would justify elevating "responsibility" to a principle on an equal footing with "the inherent dignity and worth of the human person" and "freedom". The dangers of such a lack of clarity around the concept of "responsibility" as a traditional value can be illustrated by cases where it has been invoked to justify abuses of an individual's human rights. For example, a woman's "responsibility" to maintain the "honour" of the family:

"In patriarchal and patrilineal societies maintaining the honour of the family is a woman's responsibility. In these societies, the concept of women as commodities and not as human beings endowed with dignity and rights equal to those of men is deeply embedded. Women are seen as the property of men and they have to be obedient and passive, not assertive and active" (Special Rapporteur on Violence against Women on "honour" crimes, 2002).[3]

The principle of universality reafþrms that all human beings are entitled to the full enjoyment of all human rights. This can never be conditional on ill-deþned notions of "responsibility". Under international law, the State clearly has the responsibility to promote and protect universal human rights consistently with the universal values of equality and non-discrimination, amongst others. Any report to the Human Rights Council should clearly state the potential negative implications of an understanding of responsibility which relates to traditions, whilst underlining an appreciation for the responsibility of the State in protecting the fundamental rights and freedoms of the individual.

The role of family, community, society and educational institutions

Finally, the resolution notes "the important role of family, community, society and educational institutions in upholding and transmitting these values". It is problematic to promote the "role of family, community, society and educational institutions" without acknowledging that human rights violations may also come from within these institutions, e.g. in the case of spousal abuse or marital rape. The Special Rapporteur on violence against women dedicated an entire report on cultural practices within the family that are violent towards women (E/CN.4/2002/83), including female genital mutilation, honour killings, the pledging of girls for economic and cultural appeasement, witch hunting, incest, forced/child marriage, rape, widow rites, female infanticide, and caste-based discrimination and violence.

Furthermore, the study should acknowledge that, through the ICPD Programme of Action (para 5.2a), the international community has recognized that "family" takes a plurality of forms, including single-parent families, households with extended families, families with parents of the same sex or gender, etc. This recognition challenges traditional forms of relationships such as marriage between a man and a woman as the only kind with "value" and welcomes the value and worth of alternative forms of relationships as well.

Universality of human rights, equality, and non-discrimination

The common "values of humankind" underpinning international human rights law are already inscribed in the Universal Declaration of Human Rights and other international human rights instruments. These include equality and non-discrimination ð speciþcally to protect groups that have "traditionally" faced marginali-

sation or exclusion. Injecting undeþned concepts of "tradition" into this framework risks upsetting the careful balance found in existing instruments and subordinating the universality of human rights to cultural relativism. The study should therefore include consideration of equality and nondiscrimination as cross-cutting values underpinning the entire human rights framework.

Methodology of the study

We urge the Advisory Committee to:

Å Form a drafting team that reÿects appropriate regional and gender balance – this is particularly important for a subject matter relating so closely to cultures and traditions, and their impact on women's rights;

Å Prepare a questionnaire to facilitate consultations with Member States, civil society, human rights experts such as Special Procedures mandate-holders, UN organisations (such as UNAIDS and UNFPA), and all relevant stakeholders on both the positive and negative impacts of "traditional values" on human rights;

Å Ensure that the study focuses on the promotion and protection of universal human rights, underlines that "traditional values" may not detract from the international human rights framework, and afþrms that traditional values and practices may need to evolve to ensure conformity with international human rights standards.

1 UN Secretary General, Statement to High-level panel on Ending Violence and Criminal Sanctions based on Sexual Orientation and Gender Identity, 17 September, 2010.

2 Oral statement, item 8, Egyptian Initiative for Personal Rights, 30 September 2009.

3 E/CN.4/2002/83

Source: Association for Women's Rights in Development (www.awid.org)

Human Rights, Fundamentalism, Power and Prejudice

INTERVIEW: **Vijay Nagaraj**

Cassandra Balchin

27 November 2010

International human rights law is not a sufþcient basis for responding to religious fundamentalism. Fundamentalisms are about power as well as prejudice.

CB: How can human rights activists strengthen their responses to religious fundamentalisms?

VN: The question of religious fundamentalism is not merely a question of tolerance, and a human rights critique of this phenomenon which uses the framework of religious intolerance is not enough to capture the entire political spectrum religious fundamentalisms cover.

For example, states have positive obligations under human rights law to enable freedom of belief, freedom to choose or practice one's religion, etc., but also a negative obligation to ensure that other parties — non-state actors — do not create conditions in which religious intolerance leads to human rights violations. While this is relevant and important as a safeguard, in terms of addressing religious fundamentalisms the question is not one of tolerance or intolerance, although bigotry and prejudice is often at

Vijay Kumar Nagaraj is Executive Director of the Geneva-based International Council on Human Rights Policy (www.ichrp.org), "a forum for applied research, reÿection and forward thinking, grappling with the challenge of translating universal human rights principles into policy realities" Before joining ICHRP, Vijay Nagaraj was Assistant Professor at the Tata Institute of Social Sciences in Mumbai, served as Director of Amnesty International in India, and worked with the He Mazdoor Kisan Shakthi Sangathan, a rural peoples' movement in Rajasthan, and Oxfam (India) Society. Vijay Nagaraj speaks in a personal capacity in this interview.

Cassandra Balchin is Chair of the Muslim Women's Network, UK. She was a journalist based in Pakistan for many years and was part of the Women Living Under Muslim Laws network. She is a freelance researcher, writer and human rights advocacy trainer.

This article is part of Open Democracy's òReligion Å Gender Å Politicsó dialogue. It was originally published in the independent online magazine <www.opendemocracy.net >.

the core of religious intolerance; religious fundamentalisms encapsulate very conscious political projects. While religion itself might be invoked in support of a whole host of claims that are being made, it is important to understand that fundamentalisms are about power, and not just about prejudice.

This brings me to the second challenge facing those who critique religious fundamentalisms within a human rights framework. Religious fundamentalism poses a threat to human rights not simply because of the speciþc acts of fundamentalist groups which may be recognised as concrete violations of human rights standards; the real threat comes from the political aims or the political project that is at the heart of fundamentalisms, which is essentially to transform the way identities are ascribed and negotiated.

The human rights question is about us having rights as human beings. The fundamentalist claim is very different: it is about ascribing humanity on the basis of a certain religious claim which has to be legitimated by certain authorities, and which in turn lays down a whole set of other obligations and subject relationships with self and others to a certain kind of regime. To critique this core of the politics of religious fundamentalisms, human rights actors will have to look beyond just the obvious standards against which violations can be assessed. They will actually have to go deeper into the human rights framework and look into those values and principles which constitute the ethical universe that is at the heart of the human rights project. International human rights law in itself is not a sufþcient basis for a political critique of fundamentalism.

CB: Why do you think human rights law is an inadequate basis for a political critique of religious fundamentalisms?

VN: Precisely because of the fact that international human rights law is basically a negotiated compromise between political entities or authorities with many conÿicting interests. When we are confronted with religious fundamentalisms we are facing a very pernicious re-ordering of relationships between self and others, and a challenge to our autonomy to deþne our being and way of relating. This demands a strong moral critique because it is so deeply personal. The character of this phenomenon requires us to call on ethical universes or pluriverses that can actually challenge it at the same fundamental level. Which is why I think that while international human rights law can be a very important instrument in responding effectively to religious fundamentalisms, we have to draw upon much deeper resources morally to inform our politics and law-making.

CB: Would you say that ethics have been an area of weaker development in the responses of both human rights organizations and feminists to religious fundamentalisms, and is that an area that needs strengthening?

VN: Yes, that is an interesting way of asking the question. At one level, there's always a tension between organizing a response to any kind of human rights violation and looking at the root causes of that violation and where it is coming from. I think those responses which advocate institutional change, legal change, behavioural change — or all three — are important and always raise these ethical questions. These violations are however only a symptom underlying religious fundamentalism, because at the heart of religious fundamentalism is the project to redeþne human agency in a very profound way and hence at one level politics alone is not sufþcient to respond. Retrieving the self as well as individual and social relationships from spaces mediated by fear — divine or human — and from the totalitarian ethos of fundamentalism is a challenge of ethics.

CB: Activists confronting religious fundamentalisms in the South sometimes þnd that donors and foreign governments suggest to local human rights activists that they should engage in dialogue with religious fundamentalists and not complain when donor-county governments meet with what local activists deþne as religious fundamentalist groups and politicians. A Bangladesh activist highlighted this in research by AWID when she said that British Government ofþcials, when challenged as to why they were meeting senior members of the Jamaat-e-Islami, responded that "these parties are a normal part of the political process". But what you are pointing out is that religious fundamentalisms are so much more than that?

VN: Yes precisely, they are part of the political process to the extent that they are present amongst us and active in the polity, but I think it would be a mistake to presume that their ambitions are for instance only to capture power. Of course they are about power. But they are much more than that. Unlike many other political actors, religious fundamentalisms seek to fundamentally transform and essentialise our relationships with ourselves — between individuals, within the family, within intimate relationships, within institutions, within communities and ultimately the state itself. It is the manner in which they transform agency, that disempowerment which religious fundamentalisms stand for and which makes them dangerous.

Human rights work has a lot to learn from engaging with feminist practice and with women's rights groups in this context, because feminism has engaged at the same difþcult, complex level by challenging the way we think fundamentally about ourselves and the way we relate to each other. To the extent that religious fundamentalisms also seek to redeþne these relationships but in disempowering ways, we have something to learn from feminist practice about transforming these individual and societal relationships in an empowering way.

CB: Do you think it would be more effective for human rights organizations to have speciþc projects ñ such as sexual and reproductive rights — on religious fundamentalisms, or to "mainstream" awareness of religious fundamentalisms and take this into account in all their human rights activities, or to do both? Many women's rights activists want human rights organizations to take a more active role in responding to religious fundamentalisms.

VN: There is already a mountain of work that seeks to understand religious funda-

mentalism The þrst step for human rights organizations is to engage further with that work. There are some areas in which human rights organizations are already confronting fundamentalism and responding to it, for example in the area of sexual and reproductive rights. But let's face it: there are other areas. We have seen in our work there is a need for a far greater engagement of human rights organizations with the question of family law, which the women's movement has long considered. Many aspects of family law have been subject to standard-setting for decades, so it's not the absence of standards; it is really a need to consider family laws as an area which the human rights community should engage with, and that is where they will encounter religious fundamentalisms re-ordering relationships with the self and intimate others.

I'm not convinced that a project approach or rather saying that "we will now look at religious fundamentalism" will work. What is needed is a far deeper consciousness of religious fundamentalisms within human rights organizations. For instance, working with staff, holding discussions internally, looking also at how in subtle ways responses of human rights organizations might well be actually invoked by religious fundamentalist groups themselves. We know that they use the human rights language too; they understand how to mobilize the language of rights, they understand how to capitalize on the awareness of rights, and the legal consciousness associated with it.

I also think human rights groups need to understand their own moral and political preferences when addressing human rights questions and take into account how religious fundamentalisms inÿuence relationships in formulating their responses.

CB: I tend to agree with you that a project focus may not be the best way to go. On the other hand, women's rights activists' experience of "mainstreaming" has been quite a bitter experience in terms of gender rights. If we say that we should mainstream awareness of religious fundamentalisms, how can we ensure that is not reduced to a one-line meaningless sentence at the bottom of the analysis to the effect that "Religious fundamentalisms have a role to play in this and need to be taken into account". How can it become something more profound?

VN: Responding effectively to fundamentalisms requires a sincere, detailed and informed reÿection on how individual autonomy and social relationships are constructed in the world today. Those engaged in human rights work need to strive harder to understand the nuanced political, social realities that shape interactions between individuals within families, within communities, societies and even nations and states. It's not just a question of having some workshops on religious fundamentalisms for example. It's about reÿecting deeply on what kinds of forces in different social contexts shape individual and social relations.

CB: You seem to be quite comfortable with the term, and yet within certain sectors of the human rights community there is a level of discomfort with using the term "religious fundamentalisms". Can you explain why you feel comfortable as a human rights activist with using the term?

VN: Maybe it's because coming from South Asia I understand almost intuitively what this means and others who come from other contexts may understand it less so. However, I also think that it's because I don't rely on international human rights for my political direction. I see international human rights as an extremely important framework that can deþne relationships between people, between states and between states and people. That doesn't mean I have an instrumental view of human rights: I think human rights values are an end in themselves, but at the same time we need something more.

I am also comfortable with the term because those of us who are engaged in reÿection on how to change the world we live in for the better, must be prepared to reÿect on every aspect that inÿuences the way we want to change it, including religion.

CB: Research into strategies for resisting and challenging religious fundamentals has questioned the utility of labelling individuals and pointing a þnger: òThat is a fundamentalist". There are indications that a more effective way of approaching this would be to label agendas — recognizing that at times it can also be strategic to unmask a speciþc individual ñ a politician for example. This is both because focusing on agendas not individuals can be more likely to help build alliances, and because in some countries there may be actors who pursue a fundamentalist agenda but who outwardly appear secular or they're operating within a secular framework. So to start labelling them "religious fundamentalists" creates problems of taxonomy and debates over deþnitions, losing sight of the impact of what they do. Is that something that you can relate to in your work as a human rights activist?

VN: We all probably agree more or less that when we challenge key individuals we are challenging what they stand for and represent — the agendas they translate into action. Eventually we have to focus on agendas at some level… I'm just afraid that — to paraphrase Victor Hugo — religious fundamentalisms are an idea whose time has come and we won't be seeing the end of its inÿuence by focusing on some individuals; fundamentalism is something whose seeds have been planted and which needs a long, sustained effort at de-seeding. This means clearly focusing where necessary on individuals and eventually on the agendas too, seeking not so much to de-legitimise "them" but on legitimising other more empowering, enabling ideas. This is where human rights can be a very important idea, as a counter narrative, not an anti-narrative, that focuses on reclaiming agency.

Vijay Nagaraj

NOTES ON DEHUMANIZATION

Regarding the roots of genocide, **David Berreby**, author of *Us and Them: The Science of Identity*, reviewed **David Livingston Smith**'s ***Why We Demean, Enslave, and Exterminate Others*** (St. Martin's Press) in the *New York Times* (4 March 2011). "Dehumanization is a mindset, as Smith writes, that 'decommissions' our 'moral inhibitions' about mistreating fellow human beings. Encased in law and custom, this psychological process has often licensed slavery, genocide and countless other cruelties."

Tracing this tendency through history — from the pharoah Amenemhet boasting nearly 4,000 years ago of having "made the Asiatics do the dog walk" to Muammar el-Qaddaþõs description of his critics a "stray dogs" — and in contemporary cognitive science, Smith argues that "dehumanization is rooted in human nature, not culture", reports Berreby, rendering us "for better or more often for worse — predisposed to believe that racial or ethnic identity is immutable." Asserting "ethnic essences", we default to hierarchies, and "[w]hen we dehumanize people," Smith writes, "we think of them as counterfeit human beings". Furthermore, he posits that "[s]ubhumanity is typically thought to be a permanent condition".

David Berreby thinks this scheme leaves out "much of the reality of dehumanization".

(a) "For example, he writes of the immense guilt of soldiers who have dehumanized their enemy in combat, but then, back in peacetime, recognize their victims as actual people, just like the folks at home. Shrewdly, he notes how military training and rituals aim to undermine this feeling that the enemy is human. But he seems not to recognize that this sort of soldier — who sees his enemy as human, then subhuman, then human again — cannot exist if dehumanization depends on a stable belief in permanent essences."

(b) There are historical examples of "former slaves re-entering society and rising to responsible and even powerful positions", as in ancient Rome.

(c) "[B]ecause essences must be consistent and well deþned, Smith is forced to claim that all dehumanization makes its targets seem, as his title says, 'less than human'. But many forms of dehumanization work by making their targets out to be more than human — to be ageless vampires, for instance, or world-spanning conspirators who control the United Nations & the Federal Reserve."

Berreby is more interested in the "drama of dehumanization, rehumanization, then more dehumanization, and so on" that we "wouldn't have, or need" if we really could "settle for good who is essentially human and who is a zombie vampire squid. … Instead, the who-is-and-isn't-human question is never truly settled. In fact, it is the dynamic, even mercurial nature of "real human" status that makes this mystery of our psychology so fascinating.

Berreby quotes Adam Gopnik's observation that "'[w]e don't humiliate vermin, or put them through show trials, or make them watch their fellow-vermin die þrst.õ Right: we do that to people. Because we readily see others as human, we need reminding that our enemies are supposedly different. Which often works, because we also readily see others as not human. Smith has explored the nature of those conceptual boxes 'human' and 'not human'. But what really needs explaining is the constant, restless travel that the mind makes between them."

. . . AND ON EXTERMINATION

In **òWar Without Humansó**, a revised and updated version of the afterword to the British edition of *Blood Rites: Origins and History of the Passions of War* (2011), **Barbara Ehrenreich** proposes to deþne war, generally, as òa self-replicating pattern of activity that may or may not require human participation".

"It was the ascending scale of war that originally called forth the existence of the nation-state as an administrative unit capable of maintaining mass armies and the infrastructure — for taxation, weapons manufacture, transport, etc. — that they require. War has been, and we still expect it to be, the most massive collective project human beings undertake. But it has been evolving quickly in a very different direction, one in which human beings have a much smaller role to play. … Just as war has shaped human social institutions for millennia, so has it discarded them as the evolving technology of war rendered them useless. When war was fought with blades by men on horseback, it favored the rule of aristocratic warrior elites. When the mode of þghting shifted to action-at-a-distance weapons like bows and guns, the old elites had to bow to the central authority of kings, who, in turn, were undone by the democratizing forces unleashed by new mass armies."

Now, "after at least 10,000 years of intraspecies þghting ñ of scorched earth, burned villages, razed cities, and piled up corpses, as well, of course, as all the great epics of human literature — we have to face the possibility that the institution of war might no longer need us for its perpetuation. Human desires, especially for the Earth's diminishing supply of resources, will still instigate wars for some time to come, but neither human courage nor human bloodlust will carry the day on the battleþeld.ó

War may òcontinue to fascinate its aþcionados, in the manner of computer games", Ehrenreich surmises. "But there will be no triumphal parades for killer nano-bugs, no epics about unmanned þghter planes, no monuments to fallen bots. And in that may lie our last hope. With the decline of mass militaries and their possible replacement by machines, we may þnally see that war is not just an extension of our needs and passions, however base or noble. Nor is it likely to be even a useful test of our courage, þtness, or national unity. War has its own dynamic or — in case that sounds too anthropomorphic — its own grim algorithms to work out. As it comes to need us less, maybe we will þnally see that we don't need it either."

Meanwhile, the dehumanizing effects, even of remote-control war, do not wane.

A new series of articles in "think." examines the main themes of the three issue areas on which the Stanley Foundation focuses its programming: global leadership, nuclear material security, and genocide prevention. Other portions have appeared in earlier editions of *Minerva*.

Rachel Gerber is a program ofþcer in the Stanley Foundation's Policy and Outreach Department where she is responsible for human protection programming. Earlier, she worked for UNHCR and the United Nations Ofþce at Geneva on issues related to refugee resettlement, UN system-wide coherence, interagency collaboration, and the Millennium Development Goals. From 2004 to 2006, her work in the US Peace Corps in Ukraine centered on secondary-level education, curriculum development, and local capacity building. Rachel Gerber's academic background at Cornell University and the Graduate Institute of International and Development Studies in Geneva (IHEID) includes specialization in conÿict analysis, human rights, and humanitarian law.

The Trials and Tests Faced by R2P

Rachel Gerber

August 2011

In a snapshot of the current debate surrounding the Responsibility to Protect (R2P) and global efforts to prevent large-scale violence against civilians, Libya and Syria would dominate a frame of amorphous þgures with blurred edges, each shifting haphazardly in unknown directions.

In the midst of such a muddle, it's easy to get caught up in the moment. We seek to isolate individual crises, actors, positions, and decisions, and wonder how they will impact the future of political principles like the Responsibility to Protect — which asserts that all states have the responsibility to protect civilians from genocide, crimes against humanity, ethnic cleansing, and war crimes.

As NATO's mandate in Libya enters its sixth month and the Syrian government clings to power with increasing violence, some claim R2P has failed to deliver its promise to ensure protection for civilians whose governments have turned against them. While it would be foolish to claim that unfolding events and global action (or inaction) will have no inÿuence on the long-term development of the Responsibility to Protect principle, pointing to today's snapshot as evidence of failure ignores its broader context. When taken at a wider angle, the current picture reveals many positive trends.

The United Nations, a product of the experience of two world wars, was created to prevent violent conÿict between nations, not within them. For much of its existence and within very recent memory, insistence that the UN could not intervene in any matter that was "essentially within the jurisdiction of any state" kept state-generated violence against civilians off the agenda of decision-making bodies like the UN Security Council.

Such arguments, however, were marginal to debates over threats to civilians in Libya and Syria. UN member nations questioned whether and what kind of action the Security Council should take to counter such threats, but never the basic right of the council to do so. "It's not your business" is no longer a viable argument to give the international community when it comes to internal violence targeted at civilians—a recent and striking shift in the history of global politics for which R2P deserves its share of credit.

Far from a checklist that mandates uniform action, R2P is a dynamic policy framework that is meant to twist, bend, and adapt as best it can to the complex realities of the world it hopes to improve.

Beyond Libya and Syria, it informs many and diverse approaches to crisis, each of which gives it a chance to prove its mettle in the long run. Efforts have been long under way to usher South Sudan into statehood without resort to civilian-targeted violence. Stabilization support continues in Southern Kyrgyzstan to prevent a resurgence of violence against ethnic Uzbek populations.

Such policies may be isolated — and as yet imperfect — but broader initiatives are also underway to improve global prevention and response capacities. A network of capital-based government ofþcials focused on the national-level implementation of R2P continues to grow. On August 4, the Obama administration issued a presidential directive to establish an Atrocities Prevention Board of top leaders within the US government to ensure better and more consistent responses to global threats of genocide, crimes against humanity, ethnic cleansing, and war crimes.

All of these efforts reÿect a sense of obligation to protect civilians from mass atrocity violence — a sense that continues to root itself deeper within the psyche of global leaders. The fact that this sense has begun to compel action, however imperfect, reÿects an early success for the Responsibility to Protect.

Moving forward, novel approaches and compelling moral sentiments must eventually meet the messy realities of the world.

Many have classiþed the campaign in Libya as a mistake because the conÿict has proven more protracted and complex than initially anticipated. Struggle is equated with error. Though, as decades of peacekeeping experience have taught us, civilian protection is rarely a simple endeavor.

We learn by doing and, until very recently, inaction has been the global response to mass violence. As R2P is applied, mistakes will be made, as must adjustments. Translating a sense of obligation into effective policies requires experimentation and adaptive learning.

Global leaders must take care that this inevitable process of trial and error does not automatically become trial by þre for the broader commitments made in adopting the Responsibility to Protect.

A recent debate on the Responsibility to Protect within the UN General Assembly suggests that governments understand this problem, and remain committed to preserving R2P, even when its application in cases like Libya raises more questions than it provides answers.

As global events unfold, R2P is facing the tests and trials that both its supporters and skeptics always knew it would. But the real world is where we all must come of age. In the end, we are stronger for it.

Speech at Closing of Lubanga Case

Benjamin B. Ferencz

International Criminal Court, The Hague, August 2011

Beginning in 1945 with his prosecution of war criminals during the Nuremberg Tribunal, the work of **Benjamin Ferencz** has long focused on issues of international criminal justice and world peace. A strong supporter of the International Criminal Court, Mr Ferencz vigorously advocates steps to replace the "rule of force with the rule of law".

Mr Lubanga was taken into custody by the ICC on 17 March 2006 to face charges relating to the enlistment & conscription of child soldiers and forcing their participation in the armed conÿict in Ituri, Democratic Republic of the Congo.

In a *Los Angeles Times* op-ed column (4 June 2010), Citizens for Global Solutions Executive Vice President **Robert A. Enholm** wrote: "The United States led in helping the world understand the meaning of 'aggressive war' in the Nuremberg and Tokyo war crimes trials. The US should cooperate with the ICC and resolve over time the impediments to the US formally joining the ICC …." Meanwhile, "Evidence shows that prosecution by the ICC for conscripting child soldiers has caused combatant leaders in other countries to release child soldiers and spurn their use. The establishment of global standards can have a positive deterrent effect. A country without the military power of the United States might reasonably conclude that the rule of law is valuable protection against the use of aggressive force.

This is a historic moment in the evolution of international criminal law. For the þrst time a permanent international criminal court will hear the closing statement for the Prosecution as it concludes it þrst case against its þrst accused, Mr. Thomas Lubanga Dyilo [president of the *Union des patriotes congolais* and commander-in-chief of the *Forces patriotiques pour la libération du Congo*].

I witnessed such an evolution. As an American soldier, I survived the indescribable horrors of World War II and served as a liberator of many concentration camps. Shortly thereafter, I was appointed a Prosecutor at the Nuremberg War crimes trials which mapped new rules for the protection of humanity. I was 27 years old then. I am now in my 92nd year, having spent a lifetime striving for a more humane world governed by the rule of law.

I am honoured to represent the Prosecutor and to share some personal observations regarding the signiþcance of this trial.

The most signiþcant advance I have observed in international law has gone almost unnoticed; it is the slow awakening of the human conscience. The 1948 Universal Declaration of Human Rights proclaimed inalienable, fundamental rights of "all members of the human family as a foundation of freedom peace and justice in the world". Countless human rights declarations have been made over many years by many dedicated persons and organizations. But legal action to enforce the promises has been slow in coming.

In Rome in 1998, when the Statute that binds this Court was overwhelmingly approved, over a hundred sovereign states decided that child recruitment and forcing them to participate in hostilities were among "the most serious crimes of concern for the international community as a whole". Punishing perpetrators was recognized as a legal obligation.

What makes this Court so distinctive is its primary goal to deter crimes before they take place by letting wrongdoers know in advance that they will be called to account by an impartial International Criminal Court. The law can no longer be silent but must

instead be heard and enforced to protect the fundamental rights of people everywhere.

The Prosecutorõs Ofþce spoke at length, meticulously detailing grim facts establishing the responsibility of the accused for the crimes alleged. The evidence showed that waves of children, recruited under Mr. Lubanga's command, moved through as many as 20 training camps, some holding between eight and sixteen hundred children under age 15.

Words and þgures cannot adequately portray the physical and psychological harm inÿicted on vulnerable children who were brutalized and who lived in constant fear. The loss and grief to their inconsolable families is immeasurable. Their childhood stolen, deprived of education and all human rights, the suffering of the young victims and their families left permanent scars. We must try to restore the faith of children so that they may join in restoring the shattered world from which they came.

Imagine the pain of mothers crying and pleading at the door of the camps still suffering and wondering what happened to their children. Picture the agony of the father who said : ò é He is my þrst son. All of my hopes were laid on him. … The child was ruined. … Today he can do nothing in his life. He has abandoned his education. And this is something which affects me greatly."

All of the girls recruited could expect to be sexually violated.

All of these events which the Prosecution has carefully presented have been proved beyond reasonable doubt. Once again, "the case we present is a plea of humanity to law". It was a call for human beings to behave in a humane and lawful way.

The hope of humankind is that compassion and compromise may replace the cruel and senseless violence of armed conÿicts. That is the law as prescribed by the Rome Statute that binds this Court as well as the UN Charter that binds everyone. Vengeance begets vengeance. The illegal use of armed force, which is the soil from which all human rights violation grow, must be condemned as a crime against humanity. International disputes must be resolved not by armed force but by peaceful means only. Seizing and training young people to hate and kill presumed adversaries undermines the legal and moral þrmament of human society.

Let the voice and the verdict of this esteemed global court now speak for the awakened conscience of the world.

War Crimes Reparation Right

The International Court of Justice should reafþrm the century-old right of victims of war crimes to reparation by denying immunity claim

Amnesty International

12 September 2011

The submissions of Germany, Italy and Greece on the merits had not been made public until the day Amnesty International issued this public statement. When the oral hearings have been concluded, Amnesty International "intends to address the arguments of the parties on this important issue".

On 23 December 2008, Germany initiated proceedings against Italy before the International Court of Justice seeking to permit civil claims by victims of war crimes committed in Italy by members of the German armed forces during the Second World War to proceed against Germany in Italian courts. In the 2004 case of *Ferrini v. Italy*, the Italian *Corte di Cassazione* (Court of Cassation) had concluded that Italian courts have jurisdiction to consider reparation claims against Germany, leading a number of victims of the Second World War to institute civil proceedings against Germany in Italian courts. Germany, for its part, denied its obligation to pay reparation based on its claim of state immunity, leading to the seizure of German assets in Italy to enforce reparation judgments.

On 4 July 2011, the Court granted an application by Greece to intervene in this case. A Greek court had issued a judgment in 1997 holding Germany responsible for the massacre by members of its armed forces of civilians in the Greek village of Distomo on 10 June 1944. Once again Germany refused to provide reparation to the victims, claiming it was immune. After the Greek Minister of Justice refused to enforce the award,

upholding Germany's claim to state immunity, the victims sought unsuccessfully to challenge this ofþcialõs decision in the European Court of Human Rights and then obtained a judgment from an Italian court permitting enforcement of the Greek court judgment in Italy. The International Court of Justice directed that one week of oral proceedings take place beginning on Monday, 12 September 2011.

Right to reparation for war crimes. All victims of war crimes have been entitled since 1907 to obtain reparation from states for war crimes. Article 3 of the 1907 Hague Convention IV Respecting the Laws and Customs of War on Land, which was proposed by Germany, expressly provides: "A belligerent party which violates the provisions of the said Regulations shall, if the case demands, be liable to pay compensation. It shall be responsible for all acts committed by persons forming part of its armed forces."

When proposing the inclusion of this obligation, the German delegate explained: "if . . . individuals injured by breach of the Regulations, could not ask for compensation from the Government, and instead they had to turn against the ofþcer or soldier responsible, they would, in the majority of cases be denied their right to obtain compensation."

This obligation in Hague Convention IV (ratiþed by Germany), which contains no exceptions on the ground of state immunity, was included without signiþcant change in 1977 in Article 91 of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conÿicts (Protocol I).

This obligation to provide reparation is not simply a treaty obligation, but it is now part of customary international humanitarian law. Rule 150 of the International Committee of the Red Cross Rules of Customary International Humanitarian Law provides: "A State responsible for violations of international humanitarian law is required to make full reparation for the loss or injury caused." This obligation was reinforced by two UN instruments adopted in 2005, the *UN Basic Principles and guidelines on the right to a remedy and reparation for victims of gross violations of international human rights law and international humanitarian law* and the *UN Updated set of principles for the protection and promotion of human rights through action to combat impunity*, both of which conþrm the right of victims of war crimes to reparation.

Responsibility of states to individuals. Under international law, states incur a responsibility for crimes under international law committed by their armed forces not only to other states, but also, in some instances, to individuals. Article 33 (2) of the International Law Commission's Draft Articles on Responsibility of States for Internationally Wrongful Acts, adopted in 2001, provides that "[Part II of the Draft Articles (Content of the international responsibility of a State)] is without prejudice to any right, arising from the international responsibility of a State, which may accrue directly to any person or entity other than a State". The Commentary by the Commission to this provision explains:

"When an obligation of reparation exists towards a State, reparation does not necessarily accrue to that Stateõs beneþt. For instance, a State's responsibility for the breach of an obligation under a treaty concerning the protection of human rights may exist towards all the other parties to the treaty, but the individuals concerned should be regarded as the ultimate beneþciaries and in that sense as the holders of the relevant rights."

In the *Advisory Opinion about Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (Advisory Opinion, I. C. J. Reports 2004, para. 152) the International Court of Justice concluded that there is "an obligation [for a state] to compensate, in accordance with the applicable rules of international law, all natural or legal persons having suffered any form of material damage".

Any claim that a state is immune to a civil claim to reparation for war crimes should be rejected. The absolute obligation of states to provide reparation to victims of war crimes should not be completely negated by a claim to state immunity, rendering it a nullity. Upholding a claim of state immunity in such circumstances would be a devastating denial of justice to victims of war crime. There are simply no meaningful alternatives for victims to seeking reparation in a civil case against the state responsible. States have repeatedly asserted when seeking reparation from other states for their nationals on the basis of exercising diplomatic protection that they are asserting their own right, not the right of their nationals, and have frequently declined to pass on to the victims any reparation provided by the responsible state. Even when they have passed on money to their nationals, the amounts agreed with the responsible state have often been derisory, as in the cases of women victims of war crimes and crimes against humanity involving sexual violence committed by Japanese soldiers during the Second World War. When the victims are stateless or their governments are unwilling to seek reparation from the other state, the victims may have no recourse whatsoever.

A claim to immunity from providing reparation to victims of war crimes which is coextensive with the obligation of states under international law to provide such reparation cannot be accepted any more than the similar claim rejected by the House of Lords in 1999 in the *Pinochet* case to an immunity in foreign courts. …

Assertive Action To Protect — Without War

Lucy Law Webster

Lucy Law Webster is a retired UN Political Affairs Ofþcer who is an ofþcer of the international World Federalist Movement and of Economists for Peace and Security. She is also Executive Director of the Center for War/Peace Studies.

There is no easy way to protect human rights in clique-owned nations to prevent the deliberate killing of civilians who want change. Nonetheless when transition councils (as in Libya) ask for help, it is right that the UN Security Council and other international cooperative bodies (like the Arab League) give a green light for protective action.

It is important to note that the real cry for help by people facing death and displacement imposed by internal security forces as in Syria, or by an autocratic regime opposed by insurgents as in Libya, is totally different from the effort of émigrés from Iraq to get the United States to invade their country. Urgent requests for help from people on the ground are serious cries to protect life; some other reasons given for action such as those that preceded the U.S. invasion of Iraq are mainly just excuses for war.

Our aim should be to avoid war and to empower the international community to help to protect people whose most basic human rights to life and security are deliberately violated by rulers who use the police power of the state to protect themselves while killing and violating other citizens.

While there is no simple formula for assertive action to protect that would not involve potentially-escalating violence with some measure of collateral damage, there are ways to maximize protection while minimizing violence:

1. Civil society groups such as Citizens for Global Solutions have asked UN Security Council permanent members to take “Responsibility Not to Veto”. Similarly, President Nicolas Sarkozy recently asked President Vladimir Putin to refrain from using Russia’s veto to block a UN resolution criticizing Syria.

2. Non-NATO nations, as well as those in NATO, should make maximum use of the legal opportunities to deploy UN Standby Peacekeeping forces to protect civilians in areas of danger before potential slaughter occurs.

3. Regional groups such as ASEAN, the Gulf Cooperation Council, the African Union and the European Union should explore ways to act in concert with each other and within the UN Charter rules to protect citizens against war and violence.

4. To enhance the credibility of the Responsibility to Protect norm, all countries should refrain from using it as an excuse for military action that is not held to the minimum level of violence and destruction possible. In discussing Syria with President Sarkozy, President Putin recently pointed out that the war in Iraq had not served the interests of most Iraqis. It deþnitely did not help to advance the R2P norm.

5. Monitoring who is responsible for killing civilians (for example in Côte d’Ivoire or Syria) mainly provides data for post-conÿict justice. It also helps to establish accountability to ICC norms that will deter future killing. Thus it is of value, but not as important as diplomatic and peace force action to prevent war and internal conÿict.

6. In the longer run, the UN needs a relatively small directly recruited UN Emergency Peace Service that can put highly trained UN security forces on the ground, who will risk their own safety for the protection of civilians.

7. Also in the longer run, the UN Security Council should replace the veto power of the victors in WWII with a system of weighted voting that represents all regions and all nations in an equitable manner.

Eliminating Nukes

REVIEW: 17 Books

James T. Ranney

September 2011

James T. Ranney is Adjunct Professor of Law (International Law) at the Widener Law School and on the board of Project for Nuclear Awareness (Philadelphia).

BOOKS UNDER REVIEW:

Beyond Arms Control: Challenges and Choices for Nuclear Disarmament (2010), by Ray Acheson, ed., Reaching Critical Will publishing, 250 pp

Elements of a Nuclear Disarmament Treaty: Unblocking the Road to Zero (2010), by Barry M. Blechman & Alexander K. Bollfrass, eds., The Henry L. Stimson Center publ.;313 pp

Apocalypse Never: Forging the Path to a Nuclear Weapon-Free World (2010), by Tad Daley, Rutgers University Press, 296 pp

Securing Our Survival: The Case for a Nuclear Weapons Convention, by Merav Datan, Felicity Hill, Jurgen Scheffran, & Alyn Ware, International Physicians for the Prevention of Nuclear War, International Association of Lawyers Against Nuclear Arms, and International Network of Engineers & Scientists Against Proliferation; 177 pp <www.ican.org/securing-our-survival>

Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers (2009), by Gareth Evans & Yoriko Kawaguchi, eds., International Commission on Nuclear Non-proliferation and Disarmament; 294 pp

Security Without Nuclear Deterrence (2010), by Commander Robert Green, Astron Media and the Disarmament & Security Centre; 272 pp

Cultivating Conþdence: Veriþcation, Monitoring, and Enforcement for a World Free of Nuclear Weapons (2010), by Corey Hinderstein, ed., Nuclear Threat Initiative & Hoover Institution Press; 322 pp

Getting to Zero: The Path to Nuclear Disarmament (2011), by Catherine McArdle Kelleher & Judith Reppy, eds., Stanford University Press; 404 pp

The Challenge of Abolishing Nuclear Weapons (2010), by David Krieger, ed., Transaction Publishers; 281 pp

Banning Weapons of Mass Destruction (2009), by Frederick N. Mattis, Praeger Security International; 129 pp

A Skeptic's Case for Nuclear Disarmament (2010), by Michael E. O'Hanlon, Brookings Institution Press; 174 pp

Abolishing Nuclear Weapons: A Debate (2009), by George Perkovich & James M. Acton, eds., Carnegie Endowment for International Peace; 377 pp <www.carnegieendowment.org/pubs>

Arsenals of Folly: The Making of the Nuclear Arms Race (2007), by Richard Rhodes, Alfred A. Knopf; 388 pp

The Twilight of the Bombs: Recent Challenges, New Dangers, and the Prospects for a World Without Nuclear Weapons (2010), by Richard Rhodes, Alfred A. Knopf; 369 pp

How We Stopped Loving the Bomb: An Insider's Account of the World on the Brink of Banning Nuclear Arms (2011), by Douglas Roche, James Lorimar & Co.; 205 pp

Reykjavik Revisited: Steps Toward a World Free of Nuclear Weapons (2008), by George P. Shultz, Steven P. Andreasen, Sidney D. Drell, & James E. Goodby, eds., Hoover Institution Press; 510 pp

The Partnership: Five Cold Warriors and Their Quest to Ban the Bomb (2012), by Philip Taubman, HarperCollins Publishers; 496 pp

On November 20, 1985, at the Geneva Summit, President Ronald Reagan and Soviet General Secretary Mikhail Gorbachev issued a joint statement that "a nuclear war cannot be won, and must never be fought." We are still working out the implications of this fundamental proposition.

Less than a year later, at the October 1986 Reykjavik Summit, Reagan and Gorbachev followed up on their Geneva statement with proposals for total abolition of nuclear weapons, which foundered upon Reagan's commitment to missile defense. Although Reagan was immediately criticized by "nuclear realists" such as Senator Sam Nunn

and former Secretary of State Henry Kissinger for proposing abolition, twenty years later Nunn and Kissinger joined former Secretary of Defense William Perry and former Secretary of State George Shultz in adopting Reagan's ideas. The Four Horsemen of the Non-Apocalypse, in their justly famous *Wall Street Journal* editorial of January 4, 2007, boldly called for "a world free of nuclear weapons." Having looked for decades at the various dead-ends to which nuclear weapons led, and the "increasingly hazardous" and "more precarious" nuclear future in which (a) even unpredictable third world dictators were now capable of acquiring nuclear weapons and (b) nuclear materials could more easily fall into the hands of non-deterrable terrorists, they endorsed Reagan and Gorbachev's vision of a nuclear free world.[1] Similarly, dozens of statesmen from all over the world have come out for abolition, as have dozens of retired military generals and admirals and the like (just to name a few: Admiral Noel Gaylor, Admiral Eugene Carroll, General Lee Butler, General Andrew Goodpaster, General Charles Horner, George Kennan, Melvin Laird, Robert McNamara, Colin Powell, and George H.W. Bush).[2] In short, the idea of abolishing nuclear weapons has moved from being the view of a prophetic few[3] to being the new consensus position,[4] held by approximately 80% of the American public.[5]

And yet, despite this shift of both elite and public opinion, twenty years after the supposed end of the Cold War, we still have thousands of nuclear missiles ready to go off in minutes, with a collective force 150,000 times the power of the Hiroshima bomb. With "a decision window for each country's president of four to eight minutes" (after deducting time for missile attack detection and conþrmation, and the time for the response launch sequence and ÿy-away),[6] the increasingly decrepit Russian C-3 (command, control, communications) systems, and a long history (largely unknown to the American public) of "near misses" with nuclear war,[7] it is no wonder that those in the know have become disenchanted with our current strategic posture. As one very knowledgeable nuclear weapons industry insider puts it:

> It has always been acknowledged that an international security system based on the willingness of nations to commit mutual suicide in order to protect themselves is a suboptimum solution to the security dilemma.[8]

Suboptimal indeed. George Shultz summed up the situation about as concisely as anyone when, confronted by the neoconservatives about what almost transpired at Reykjavik, he responded simply: "What's so great about a world that can be blown up in 30 minutes?"[9]

In short, we þnd ourselves in a paradoxical situation where both candidates for president in 2008 ran on a platform of abolishing nuclear weapons, where we are already theoretically obligated to eliminate them pursuant to the 1968 Non-Proliferation Treaty (Article VI), and yet, for whatever reason — bureaucratic inertia or the machinations of the military-industrial-congressional complex — we have thousands of nuclear weapons still ready and waiting to more or less end the world in the course of one rather long afternoon.[10] Despite all this, however, there is a growing sense, a building momentum, a feeling that now is the time for abolition. The books under review all reÿect this consensus.

Two basic arguments are being made for abolition: (1) that nuclear weapons, on balance, do not **add** to our security, but **detract** from it (the strategic argument); and (2) that they are barbaric relics that have no proper place in military armories (the moral argument). Most emphasis has been placed upon the þrst of these arguments. What is involved is a rather complicated assessment of relative risks. Those who have looked longest and hardest at the paths where continued reliance upon nuclear weapons leads have, with surprising unanimity,[11] concluded that this is simply "too frightful and dangerous a way to live indeþnitelyó.[12] As Robert McNamara, the man who (as Secretary of Defense) was Manager of Our Missiles for longer than anybody, puts it:

> Among the costs of maintaining nuclear weapons is the risk — to me an unacceptable risk — of use of the weapons either by accident or as a result of misjudgment or miscalculation in times of crisis…. Human beings are fallible. In conventional war, mistakes cost lives, sometimes thousands of lives. However, if mistakes were to affect decisions relating to the use of nuclear forces, there would be no learning curve…. **The indeþnite combination of human fallibility and nuclear weapons carries a very high risk of nuclear catastrophe**.[13]

These and other risks are well described in Tad Daley's important book, which is perhaps the single best collection of all the arguments favoring abolition. For those interested in the historical evolution of nuclear strategic thinking, Richard Rhodesõ magniþcent *Arsenals of Folly* collects in one place what was previously to be found in two dozen books on the contradictions and occasional illogic associated with the topic.[14] Indeed, for a full ground-level feel for the awesome nature of nuclear weapons and their historic development over the past six decades, all of his books on nuclear issues, starting with his Pulitzer-Prize-winning *The Making of the Atomic Bomb*, are essential reading. Of the many very good "collections", the Carnegie collection, *Abolishing Nuclear Weapons: A Debate*, offers a brilliant concept: an initial set of papers by the lead authors (George Perkovich and James Acton) followed by "responses" from some 18 writers with varying viewpoints from all over the world. Many of the most invaluable insights (e.g., chiding the lead authors for over-cautious thinking) are to be found in these responses. The very helpful Kelleher-Reppy collection features detailed analyses of the nuclear strategic thinking in each of the nuclear weapons states; a focus on the role the labs might play in transitioning to zero (Judith Reppy); a nice analysis of the possible future psychodynamics of social change (Matthew Evangelista); and a good discussion of the role of conventional arms balancing (Dennis Gormley). Also of great value, especially for a very detailed and thoughtful draft of a model nuclear weapons abolition convention, is the *Securing Our Survival* compilation. Several of the volumes, especially Daley's, Carnegie, *Securing Our Survival*, and the Evans-Kawaguchi International Commission, provide key insights into the question of

how strategically we might move toward abolition.

Many if not most of the books (the notable exception being Douglas Roche's new book), despite talking about the need to "de-legitimize" nuclear weapons, give slight attention to the moral question. It is as if they are so eager to avoid being characterized as too "idealistic" and insufþciently òclear-eyedó and òhard-headed" as those strategic brainiacs of old who coolly calculated and contemplated worldwide gigadeaths (deaths in the billions) that they repeatedly miss opportunities to note the obvious. That these are not "military" weapons; that they are, as Ronald Reagan and Mikhail Gorbachev pointed out, "irrational and inhumane". They are designed to boil, fry, incinerate, evaporate, and irradiate very large numbers of innocent human beings. Cambridge Professor Philip Allott nicely captures the enormity of their evil:

> In the 20th century, the crazy idea that the human race might not survive was treated as a suitable topic for rational discussion and rational decision-making. People who are otherwise sane and sensible could talk about Mutual Assured Destruction and the End of Civilisation. People who are otherwise sane and sensible could make and manage total war, wars with no necessary geographical limit, no effective limit to the methods of death and destruction, no limit to the suffering to be endured by powerless and blameless human beings. In the 20th century, people who are otherwise decent and caring could regard it as regrettable, but natural, that countless millions of human beings should live in conditions of life which are a permanent insult to their humanity….[15]

The Objections to Abolition. Of the many possible objections to abolition, the following seem to be the leading ones.

1) <u>You cannot dis-invent nuclear weapons</u>. This is of course true, but it is no objection to abolition. You cannot dis-invent chemical and biological weapons, but we did abolish them in the Biological Weapons Convention (1972) and the Chemical Weapons Convention (1993). Secondly, as Jonathan Schell þrst pointed out, the very fact that the nuclear genie is permanently out of the bottle is what will permit a sort of virtual nuclear deterrence to continue to work in a nuclear-free world, but without the actual weapons sitting there ready to go off in minutes. There remains a disquieting problem with this concept, however, which is that it is arguably inconsistent with the abolitionist/de-legitimization mission. Thus, while there may be some inevitable role for virtual deterrence, there appears to be a growing consensus that we need to set our face determinedly against any ideas of reconstituting nuclear weapons. If we ever do need to confront a recalcitrant nuclear law breaker, conventional forces will easily sufþce (as a last resort).[16]

2) <u>Abolishing nuclear weapons would make the world "safe" for conventional war</u>. This is probably the most serious objection to abolition.[17] But despite a certain surface plausibility, when one looks at it carefully, it gradually loses its force. For one thing, it is fair to ask, as Barry Blechman does: "Has there been peace in Europe (Yugoslavia aside) for the past 60-plus years because Britain, France, and Russia have nuclear weapons, or because the national rivalries that led to the wars of the 20th century have been replaced by a common understanding in that part of the world that the price of modern war, even with conventional weapons, is horrendous and that international cooperation and integration is by far the better course?"[18] Moreover, as various authors point out: (a) even in a world of zero nuclear weapons, Schell's "knowledge is deterrence" concept would be operative to some extent; (b) the United States has a huge edge over every other country in conventional weapons, and this would deter just as well as nuclear weapons;[19] (c) at bottom, a nuclear-weapon-free world would be much safer than one with such weapons; and (d) nuclear weapons are in the end sociopathic and immoral weapons which, like mustard gas or the gas chambers of the Holocaust, can no longer be tolerated.

3) <u>Breakout possibility</u>. Probably the single most frequent objection to abolition is the possibility of "breakout".[20] But this objection is actually rather easily rebutted upon close examination. It turns out that if you run various simulations on what a breakout state might accomplish with a few or even a great many nuclear warheads, "it would not be able to do much of anything with them at all".[21] Far from suddenly being able to "rule the world," as postulated by abolition objectors, they would be confronted with not only the USA's awesome conventional forces but the combined military might of the whole world.[22] Moreover, worldwide moral outrage would condemn them as an international pariah, something that "nuclear realists" tend to discount, but something that in the real world tends to make quite a difference.[23]

4) <u>Veriþcation & Enforcement Concerns</u>. It has been objected that a treaty abolishing nuclear weapons could not be satisfactorily veriþed. With each passing year, in which we gain new means of veriþcation — including radioisotope monitoring, portal and perimeter continuous monitoring, environmental sampling, wide area surveillance, real time surveillance, on-site sensors, hydroacoustic and seismic and infrasound monitoring — this will not be a valid objection to an abolition regime. It is true that nothing less than a very intrusive and solid veriþcation regime will be necessary. It will take hard work, and it will be costly, but there is a broad consensus that it can be done.[24]

As to the key issue of enforcement: in addition to adequate veriþcation, it will also be necessary to set up a robust and well-deþned system for enforcing an abolition regime, if the nuclear weapons states are to have conþdence that they can safely give up their weapons. Some of the issues here are only beginning to be explored. Most of the commentators admit that it is difþcult to predict at this point what it will take or what might be negotiated, but it will need to be more thoroughgoing that what we now have.[25] Moreover, the consensus view is that, unlike most treaties, withdrawal from an abolition treaty must be prohibited.[26] Finally, accompanying an abolition convention, the use or possession of nuclear weapons and materials must be made an international crime punishable as a crime against humanity.[27]

Although all of the above sounds like (and will be) a lot of work, it has been pointed out that there will be various òspin-off beneþtsó from such efforts: "Thus, the mechanisms and possible new bodies created by our efforts could, if successful, þnd additional roles in resolution of disputes, regional security problems, and other international challenges that have eluded solution."[28] Indeed, contrary to what some analysts have suggested, it may not be necessary to actually **resolve** all the biggest conÿicts in the world in order to secure a nuclear weapons abolition convention; rather, it may only be necessary to secure agreement on **an international dispute-resolution system**.[29]

With a little luck, we are about to enter a whole new era of human endeavor and development, in which we þnally develop a new moral compass that views nuclear weapons as irredeemably evil, in which alternative dispute resolution systems (a four-stage global dispute resolution system: negotiation, mediation, arbitration, and adjudication) are used to resolve international conÿicts, and where human resources are shifted from military hardware to human needs. Some will say that all this is too idealistic. It **is** "idealistic". But where would we be without idealism? Precisely none of the major social advances in human history would have come about without idealism. Abolishing nuclear weapons is a do-able worthwhile project, one that is do-able within the lifetimes of at least some of us, and perhaps many of us.

NOTES

1 While their bona þdes have been questioned by a few, see Darwin BondGraham, Jacqueline Cabasso, Will Parrish & Ray Acheson, "Rhetoric vs. Reality: the Political Economy of Nuclear Weapons and Their Elimination", ch. 1 in Ray Acheson, ed., *Beyond Arms Control: Challenges and Choices for Nuclear Disarmament* (2010) (calling, without any evidence, the Gang of Four's campaign "a clever new kind of nuclear militarism"), there is no reason to not take their statement at face value.

2 See <www.globalzero.org> (list of retired military and the like from all over the world).

3 Most notably Jonathan Schell. His classic 1982 book *The Fate of the Earth* was a clarion call for abolition. See also Jonathan Schell, *The Gift of Time: The Case for Abolishing Nuclear Weapons Now* (1998). Cf. generally Lawrence S. Wittner, *Confronting the Bomb: A Short History of the World Nuclear Disarmament Movement* (2009). Cf. also Roger Molander & Earl A. Molander, *Nuclear War: What's in it For You?* (1982) (another classic).

4 Even the Terminator! The Four Horsemen, in their renewed (Jan. 15, 2008) call for "a nuclear-free world", quote Governor Arnold Schwarzenegger to the following effect: "Mistakes are made in every other human endeavor. Why should nuclear weapons be exempt?"

5 See www.icanw.org/polls (polls showing, variously, 77% and 87% of American public favoring abolition).

6 Gareth Evans & Yoriko Kawaguchi, eds., supra, at 3, 27.

7 See, e.g., Daley, supra, at 68-69 (one DoD count lists 563 incidents of "nuclear mistakes, malfunctions, and false alarms"; on September 26, 1983, Soviet Lieutenant Colonel Stanislav Petrov saw on his computer screen what appeared to be full scale nuclear attack, and only because he violated his instructions to alert higher authorities to initiate launch-on-warning procedures was WWIII narrowly avoided); Michael Krepon, *Better Safe Than Sorry: The Ironies of Living With the Bomb*, at 36 (2009) (in the midst of the Cuban Missile Crisis, on October 27, 1962, Soviet submarines were being subjected to depth charges to make them surface; despite orders not to use their nuclear torpedoes absent authorization from Moscow, the 3 Soviet ofþcers had agreed to use theirs if under attack and unable to reach Moscow and all 3 ofþcers agreed; in the end, Vasili Alexandrovich Arkipov decided not to start WWIII); Robert Green, *Security Without Nuclear Deterrence*, at 120-121 (2010) (on January 25, 1995, technicians at Olengrosk early warning radar station detected what appeared to be a US-made missile [which it was, but it was actually a Norwegian research rocket researching the Northern lights] heading for Russia; President Yeltsin's nuclear "briefcase" was activated and Russian missile subs ordered to battle stations; with 3 minutes to spare, the missile was correctly identiþed); and Michael E. OðHanlon, *A Skeptic's Case for Nuclear Disarmament*, at 35-41 (2010) (other amazing incidents, including one on the evening of October 25, 1962, in the midst of the Cuban Missile Crisis: a sentry at a military base near Duluth "spotted someone climbing the base fence, shot at the þgure, and sounded the sabotage alarmó; as airþeld alarms all over the region went off, at Volk Field, Wisconsin, the **wrong** alarm, the one signaling nuclear war [the "P.S. we mean it, this is not a drill" alarm] went off and pilots were scrambled and headed down the runway, being stopped at the last second by the post commander; the intruder was a bear; if the Soviets had had at that time the sophisticated surveillance equipment which they now do have, they would have seen us scrambling our nuclear bombers and a false alarm could easily have generated the real thing).

8 James E. Doyle, "Eyes on the Prize: A Strategy for Enhancing Global Security", in George Perkovich & James M. Acton, eds., **Abolishing Nuclear Weapons: A Debate**, at 222 (2009) (Doyle is in the Nuclear Nonproliferation Division of Los Alamos National Laboratory).

9 It turns out that the reason he had this snappy little one-liner readily available was that it was "simply a repeat of what President Reagan said many times". Email communication from Susan Schendel, assistant to George Shultz (05-08-2011; relaying what Mr. Shultz said).

10 Nor is this, unfortunately, the only "doom and gloomó possibility. A recent study þnds that even a small 100-nuke "exchange" between India and Pakistan (latest estimates are that India has 70 nukes and Pakistan has 80) could result in a worldwide nuclear winter crippling agriculture for up to ten years. See Jonathan Schell, *The Seventh Decade: The New Shape of Nuclear Danger*, at 15 n.* (2007).

11 Even the most hard-headed of Cold War warriors, such as Paul Nitze. In 1999, at age 92, in his last op-ed, Nitze announced his change of mind in favor of abolition. See J. Peter Scoblic, "Disarmament Redux", *Bulletin of the Atomic Scientists* (Mar/April, 2008), at 35.

12 Herbert York, "Reducing the Overkill", 16 *Survival* 2 (Mar/April, 1974) (York was a Manhattan Project physicist who was Director of Defense Research under Eisenhower and the þrst director of Lawrence Livermore National Laboratory).

13 *Securing Our Survival*, supra, at 17 (emphasis added).

14 One small example. It was argued by one strategic thinker that the leader of a nuclear weapon state might need to act a little "mad" so that an opponent would take nuclear threats seriously. Is there anything wrong with this strategy? Well, yes, it is obviously inconsistent with the need to discourage your opponent from having a "hair trigger" on the nuclear button.

15 Philip Allott, "The Emerging Universal Legal System", 3 *Int'l L. Forum* 12, 12 (2001).

16 See Harald Muller, "Enforcement of the Rules in a Nuclear Weapon Free World", ch. 2 in Corey Hinderstein, ed., *Cultivating Conþdence: Veriþcation, Monitoring, and Enforcement for a World Free of Nuclear Weapons*, at 34, 39-40, 54-55, & 58-60 (2010)(At 55: "relying on…virtual arsenals carries the risk of preventing one of the most important preconditions for a zero-nuclear world from emerging, namely a robust framework of trust") and Jonathan Schell, *The Gift of Time*, supra, at 140-147 (excellent discussion).

But see O'Hanlon, supra, at 5, 9-10, 18-20, 24, 82-84, 95-107 (while "[c]apricious or blatantly self-serving reconstitution must be avoided", the ability to rebuild is "an asset…not a liability", although òbomb-ready þssile materials should not be retained", such that some nuclear inventory could be rebuilt "within a number of months").

17 This argument has been set forth most fully by Keith Payne. See Brookings Institution, "The Nuclear Posture Review and the Future of Nuclear Weapons", at 13-15 (March 29, 2010 conference) (transcript) & Keith B. Payne, "The Case against Nuclear Abolition and for Nuclear Deterrence", *Comparative Strategy* 17 (Jan. 1998), 3-43.

18 Barry M. Blechman, "Why We Need to Eliminate Nuclear Weapons—And How to Do It", ch. 1 in *Elements*, supra, at 8-9.

19 See, e.g., Daley, ch. 8.

20 The best collection of such arguments (by various commentators) is in Schell's *Gift of Time*, supra, at 31-34.

21 Daley, at 190. Cf. also Alexander K. Bollfrass, "Breaking Out of Zero: Would Cheating Be Worth the Risk?", ch. 8 in Blechman & Bollfrass, supra; and Muller, supra, at 39, 53.

22 Daley, at 191. Cf. id. at 200-201 (Gen. Lee Butler notes that such an international law-breaker would risk being removed, forcibly if necessary).

23 Id. at 191-194 (proving the point with historical instances).

24 See, e.g., Corey Hinderstein, ed., *Cultivating Conþdence*, supra; Steve Fetter & Ivan Oelrich, "Verifying a Prohibition on Nuclear Weapons", ch. 2 in Blechman, *Elements*, supra; and Perkovich & Acton, eds., *Abolishing*, supra, ch. 2.

25 Cf. generally Muller, supra, ch. 2 (may need some body other than the veto-impaired UN Security Council, or have a treaty provision disallowing use of vetoes re the abolition treaty); James E. Goodby, "Internationalizing the Nuclear Fuel Cycle", ch. 10 in George P. Shultz, Steven P. Andreasen, Sidney D. Drell, & James E. Goodby, *Reykjavik Revisited: Steps Toward a World Free of Nuclear Weapons*, at 363-366 (2008) (various ideas, including Jessica Mathews' proposal for robust "Inspections Implementation Force"); and *Securing Our Survival*, supra, at 90, 175 (compliance and dispute-settlement procedures of model convention; need for changes in "international governance").

26 See, e.g., Muller, at 49.

27 See, e.g., Rebecca Bornstein, "Enforcing a Nuclear Disarmament Treaty", ch. 6 in Blechman & Bollfrass, eds., *Elements*, supra, at 159. And enforced by a UN Peace Force. See Raymond J. Juzaitis & John E. McLaughlin, "Challenges of Veriþcation and Compliance Within a State of Universal Latency", ch. 4 in George Shultz, et al, *Reykjavik Revisited*, supra, at 199.

28 Edward Ifft, "Political Dimensions of Determing ôEffectiveõ Veriþcationó, ch. 1 in Hinderstein, supra, at 29.

29 This is the subject of a book I am completing. Among the few glancing references to this topic in existing literature, see, e.g., Evans & Kawaguchi, supra, at 198 ("The development of more cooperative approaches to conÿict prevention and resolution may well prove more productive… than focusing entirely on arms limitation measures."). Cf. also Douglas Roche, "A World Free of Nuclear Weapons," ch. 14 in Krieger, supra, at 212 ("It [nuclear-free world] cannot wait for the peaceful resolution of conÿict around the world, as if regional tranquility must be achieved before the nuclear weapon states will give up their arsenals.").

From "The Way Forward After a New START", remarks by **Assistant Secretary of State for Arms Control, Veriþcation and Compliance Rose Gottemoeller**, at the Institute of International Relations and Political Science, Vilnius University, Lithuania, 9 February 2011:

Ratiþcation of the CTBT [**Comprehensive Nuclear Test Ban Treaty**] *represents an essential step on the path toward a world without nuclear weapons. We believe that the national security of the United States, and all states, will be enhanced when the test ban enters into force.*

Achieving a veriþable FMCT [**Fissile Material Cutoff Treaty**] *is an essential condition for a world free of nuclear weapons. If the international community is serious about drawing down, we must constrain the ability to build up. We are working hard to keep the Conference on Disarmament in Geneva focused on this goal.*

Each of these steps will move us closer to President Obama's vision of reducing — and ultimately eliminating — nuclear weapons.

The agenda is ambitious and will require enormous efforts from governments, NGOs, think tanks, academics, scientists, advocates and the global community.

As President Obama said when he signed the New START Treaty saying: "this is a long-term goal, one that may not even be achieved in my lifetime. But I believe then, as I do now, that the pursuit of that goal will move us further beyond the Cold War, strengthen the global nonproliferation regime and make the United States and the world safer and more secure."

Extreme Injury

Elaine Scarry

September 2011

Elaine Scarry, Walter M. Cabot Professor of Aesthetics & the General Theory of Value at Harvard University and author of *The Body in Pain*, among other books, most recently has written *Thinking in an Emergency* (the þrst volume in Amnesty International's Global Ethics series) and *Rule of Law, Misrule of Men*.

This essay þrst appeared in the September/October 2011 edition of the *Boston Review*. It is reprinted by permission of the author.

In a 2008 television interview, former Vice President Dick Cheney addressed complaints about the overreaching of the executive branch. In order to defend the Bush administration, he might have argued that reports of presidential overreaching were exaggerated. Instead he argued the opposite: the public, he suggested, has an insufþcient appreciation of how truly vast that presidential power is. Accompanied around the clock by a military aid carrying the nuclear football,

> *[The president] could launch the kind of devastating attack the world has never seen. He doesn't have to check with anybody. He doesn't have to call the Congress; he doesn't have to check with the courts. He has that authority because of the nature of the world we live in. It's unfortunate, but I think we're perfectly appropriate to take the steps we have.*[1]

Cheney makes the transition from the þrst three sentences to the fourth as though his conclusion followed effortlessly from his premises: the president's license to launch nuclear weapons (accurately described by Cheney, and true of every president living in the nuclear age from Eisenhower to Obama) makes his otherwise illegal executive actions — however "unfortunate" — "perfectly appropriate".

What Vice President Cheney seems to be saying is this: if you keep in mind the vast level of injury the president is permitted to inÿict on the world, it will help you keep in perspective the lesser injuries he has actually inÿicted: the 350 people allegedly tortured, the 83 times Abu Zubaydah was water boarded, the 183 times Khalid Sheikh Mohammed was water boarded,[2] the 3x6x7-foot cell (rat-infested and latrine-free) in which the wholly innocent Canadian citizen Maher Arar was kept for a year during which time he was periodically beaten with a two inch–thick cable and threatened with being suspended upside down from a tire and subjected to electric shock.[3] Each time you think that the perpetrators of such acts should be prosecuted, replace that picture of prosecution with a picture of what is always in the presidentõs þeld of vision: the nuclear football.

Of course, neither picture should displace the other. Prosecuting the architects of US torture is critical to restoring the rule of law, as I and countless others have argued and continue to argue. But we should also, as Dick Cheney counsels, think about the 40-pound titanium briefcase that accompanies the president (as well as, in one format or another, the executive ofþcers of other countries) and enables him to launch a nuclear strike. Nuclear weapons need to be gotten rid of þrst and foremost for their own sake and also for the "lesser" brutalities they license.

Our nuclear weapons are, at every minute of the day and night, ready for use. Just as the nuclear briefcase is within the president's reach, so all other steps between the order to launch and the launch itself are relentlessly in place. In his recent biography *Without Hesitation*, former Chairman of the Joint Chiefs of Staff Hugh Shelton describes the period of his career when, as Deputy Director of Operations at the National Military Command Center under Bill Clinton, he was "in charge of our nuclear watch" at the Pentagon "with secure 24/7 links to the President . . . and the key to initiate a nuclear launch at my þngertipsó. He recounts the frequent exercises ñ called òNight Blue" — for presidential launch: "Our guiding philosophy was—and still is—practice, then practice again."[4]

[continued]

As the president is kept ready and the Pentagon is kept ready, so the submarines are kept ready. Each of our fourteen Ohio-class submarines carries 24 nuclear missiles, bright orange vertical shafts vaulting upward through all four stories of the submarine. In some of the submarines, such as the *USS Tennessee*, the orange paint color is increasingly darkened to red across the 24 missiles to give the illusion of greater depth to the crew who will reside in these conþned quarters under the ocean for their three-month long mission.[5] At the moment the submarine leaves its East Coast port of Kings Bay, Georgia or its West Coast port of Bangor, Washington, each missile (each of which in turn carries up to seventeen warheads) already has a dossier of targets programmed into it. Should the commander of a nuclear submarine receive a presidential launch order, that order will specify — by number — which of his 24 missiles he should launch (the launch order may require the submarine crew to alter the pre-programmed target coordinates). According to *New York Times* reporter Douglas Waller—who describes his three months on the nuclear-armed submarine *USS Nebraska* in his book *Big Red*—the US Strategic Command, located at Offutt Air Force Base in Nebraska, demands "that the subs cover all the target packages twenty-four hours a day, seven days a week. No excuses".[6] His book is a nonstop description of emergency exercises: launching a missile, dealing with a dissident crew member, dealing with a commander suffering an òattack of paciþsmó, stopping a þre, stopping a water leak, doing two or three of these exercises simultaneously. No one who expresses hesitation about þring nuclear weapons can be a crew member; still, the daily drills develop procedures to deal with hesitation, should it suddenly arise.[7]

At least some portion of the population also practices mental readiness for a nuclear strike. The countryõs solitary þnal assembly plant for nuclear weapons is located in Amarillo, Texas. Twenty-þve years ago the journalist A. G. Mojtabai set out to understand how the people of this city bear the psychic burden of this work. As she reported in *Blessèd Assurance: At Home with the Bomb in Amarillo, Texas*, many members of the population believe in the Rapture—the end of the world and the gathering of true believers into the arms of Christ. For many of these believers, nuclear weapons, far from being something to repudiate, are vehicles to this blissful end-time event.

The 1995–2007 *Left Behind* series — which has more than 65 million readers—opens with the Rapture: millions of the earth's most godly believers disappear in an instant. This initial event is neither assisted nor accompanied by nuclear attacks.[8] But a seven-year war-torn "tribulation" period then follows during which the people of earth (including our major protagonists) have the chance to become true believers in preparation for the end of the world. Vying with Christ for people's hearts is the Antichrist, a charismatic man named Nicholae Carpathia who overnight has become both the president of Romania and the internationally revered secretary general of the United Nations. How do our protagonists immediately recognize that he is the Antichrist? What is the telltale sign, the sure giveaway? He demands nuclear disarmament: when the United Nations begs him to become its new leader, he stipulates that he will only do so if the nuclear countries destroy nine-tenths of their nuclear weapons and put the other tenth under protection of the United Nations.[9]

Carpathia will turn out to have murderous inclinations, but the key point is that no one on Christ's side, or the Rapture's side, or God's side is anywhere in these books championing a benign form of nuclear disarmament. Indeed when one of our protagonists, the pastor Bruce Barnes, himself becomes an inÿuential leader, he assures his congregation that he never advocates disarmament or peace and is fully accepting of the wars to come: that is how the congregants can be certain that he is not an Antichrist.[10]

Not all readers take the ideas of *Left Behind* literally. But many do. The authors certainly press for literal belief in the Rapture and, seven years later, the þnal Glorious Appearing, even providing an appendix elaborating the biblical bases of the novel's events (the biblical citations are also included, recited, and analyzed in the interior pages of the novels). Jerry Falwell stated: "In terms of its impact on Christianity, [*Left Behind* is] probably greater than that of any other book in modern times, outside the Bible."[11] But whether or not readers believe in the literal claims of the book, they are surely being counseled to regard nuclear disarmament as morally sinister and nuclear weapons as morally good, even godly.[12]

As the study of Amarillo makes clear, the *Left Behind* series does not originate, but taps into, a set of associations between nuclear weapons and evangelical belief that pre-dates and post-dates the books. Those beliefs are held not only by some of the people who assemble nuclear weapons, but by some of the people who are positioned to launch them. Until late July 2011, the Air Force had a mandatory course on Nuclear Ethics and Nuclear Warfare for its missile ofþcers, a course whose materials were recently obtained under the Freedom of Information Act by the Military Religious Freedom Foundation, whose president, Mikey Weinstein is an Air Force Academy graduate and a former Air Force Judge Advocate General. The course — as Weinstein summarizes it — "mandatorily teaches its nuclear missile launch ofþcers that fundamentalist Christian theology is inextricably intertwined with the 'correct' decision to launch nukes".[13] According to *Truthout*, presentations include citations from the Old and New Testaments, including, from the Book of Revelation, the claim that "Jesus Christ is a mighty warrior". Some of the graduates refer to one section of the course as the "Jesus loves nukes" part. The Air Force, in response to adverse publicity, has temporarily suspended and promised to review the course.

The dangers inherent in the redundancy, readiness, and hair-trigger alert of our nuclear stance are further ampliþed by the growing mastery of hacking. Once eight countries have nuclear weapons, people everywhere on earth potentially "have" them. A report by Jason Fritz commissioned by the International Commission on Nuclear Non-Proliferation and Disarmament reviews the ways hackers could enter the command-and-control system of

one of the eight nuclear countries in order to launch a missile directly, issue a false presidential command that would in turn lead to the launching of a missile (here Fritz draws on a US Navy acknowledgment of "back door" access to their Very Low Frequency command systems), or produce a false missile image on a country's radar and satellite screens, causing that country to launch an actual missile in response.

Confronted with a counterfeit image of an incoming missile, US warning crews would have three minutes to assess whether the apparent attack was valid or false; if it were judged valid, the US Strategic Command would then have 30 seconds to lay out for the president the "retaliatory options"; the president would have several minutes to decide how to respond. Fritz draws on the writings of Bruce Blair, a former launch ofþcer working with the Minuteman nuclear missile, and uses the example of a cyber terrorist attempting to foment nuclear war between the United States and Russia:

Cyber terrorists would not need deception that could stand up over time: they would only need to be believable for the þrst 15 minutes or so. The amount of þrepower that could be unleashed in these 15 minutes, combined with the equally swift Russian response would be equivalent to approximately 100,000 Hiroshima bombs.[14]

We have not been informed of any attempts to hack nuclear weapons systems, but in 1998 hackers successfully inserted an image of a mushroom cloud onto the Web site of the Bhabha Atomic Research Center in India;[15] in 2000 a thirteen-year-old boy in Connecticut hacked into the US Air Force plane tracking system;[16] in 2009 Iraqi rebels hacked into the video system of unmanned US aircraft.[17] In his book *Cyber War*, Richard Clarke describes how phantom images can be used to trick sensors, as when Israel in 2007 placed false images of benign night sky on Syria's sophisticated Russian-made air-surveillance screens so that a blanketing formation of F-15 Eagles and F-16 Falcons could ÿy into that country without being detected and bomb what was believed to be the construction site for a nuclear facility.[18] Hacking is usually not noticed until it is successful. Fritz gives the example of the 2001 hacker who, on his 45th attempt, successfully released "up to 1 million litres of sewage into the river and coastal waters of Queensland, Australia"; his earlier 44 attempts went undetected.[19]

Nuclear weapons are the object of intense attention: they are in the presidentõs þeld of vision, in the þeld of vision of Ohio-class submarine crews, in the minds of popular-novel readers and weapons assemblers, on the screens of the nuclear control centers at the Pentagon and at Offutt Air Force Base (where President Bush stopped on 9/11, after þrst stopping at Barksdale Air Force Base in Louisiana, another important location on the nuclear registry), and almost certainly in the aspiration of hackers, some of whom, like the Rapture artists, may believe that the end of the world is acceptable.

But it is not the case that inattention — what most of the rest of us practice — is a better alternative. Inattention is what allowed President Clinton to lose the card containing the presidential launch codes for several months.[20] Inattention is what allowed six nuclear bombs to sit unattended on an open airþeld at Minot Air Force Base and then at Barksdale for a total of 36 hours in late August 2007. Inattention is what led to the collision of two nuclear-armed submarines — the British *HMS Vanguard* and the French *Le Triomphant* — in the Atlantic in February 2009.[21] Our inattention is potentially as lethal as these three accidents, for our indifference and our willed ignorance everyday assist the standing arrangements that entail colossal danger to earth.

Our work on the tenth anniversary of 9/11 should include mourning the dead and restoring the rule of law through prosecution, but now — while the century is still young — we need to dedicate ourselves to ridding the world of nuclear weapons and the extreme injuries they are designed to bring about—injuries from which (as President Obama has observed[22]) we would not be able to recover.

NOTES:

1) Dan Eggen, "Cheney, Biden Spar in TV Appearances", *The Washington Post*, December 22, 2008 (describing Cheney's interview on Fox News Sunday, December 21, 2008).

2) Human Rights Watch, G*etting Away with Torture: The Bush Administration and Mistreatment of Detainees*, New York, 2011, pp. 9, 11.

3) These physical details and many others are enumerated by Second Circuit Judges Sack, Calabresi, Pooler, and Parker in their dissent from the "Opinion of the United States Court of Appeals for the Second Circuit sitting en banc, November 2, 2009" in *Arar v. Ashcroft* pp. 65a–66a.

4) General (Ret.) Hugh Shelton, *Without Hesitation: The Odyssey of an American Warrior* (New York: St Martin's Press, 2010), pp. 174–175.

5) David Ballingrud, "Trident Sub: Roomier for the Long Haul", *St. Petersburg Times*, May 5, 1990, p. 1A. Ballingrud speciþcally describes the *USS Tennessee*.

6) Douglas C. Waller, *Big Red: the Three-Month Voyage of a Trident Nuclear Submarine*, (New York: HarperTorch, 2001), p. 35.

7) Waller, *Big Red*, pp. 158, 161, 166, 168–78, 251, 253, 276–323.

8) Actually, the Antichrist þgure in the novel and his closest colleague (a Nobel prize–winning scientist) believe the disappearances were brought about by nuclear weapons, but the reader is not invited to take this explanation as the accurate one.

9) Tim LaHaye and Jerry B. Jenkins, *Left Behind* (Carol Stream, Illinois: Tyndale House, 1995), pp. 139, 277, 278, 314, 355, 417–19. The insistence on disarmament as a sign of the Antichrist continues in the second book in the series, *Tribulation Force* (1996), pp. 27, 63, 71, 72, 126, 128.

10) LeHaye and Jenkins, *Tribulation Force*, p. 72.

11) Falwell quoted in David Van Biema, et. al., òThe 25 Most Inÿuential Evangelicals in Americaó, *Time Magazine*, January 2005. The category "Evangelical" includes diverse perspectives: the members of the Two Futures Project, for example, are strongly committed to nuclear disarmament, as are contributors to the journal *Sojourners*.

12) The *Left Behind* series portrays nuclear weapons as in one way "ungodly": their power is miniscule compared to God's. In *Soul Harvest*, the fourth book, several huge "burning mountains" are hurled to earth — one, a thousand square miles, "the mass of the entire Appalachian Mountain range" (p. 417), the other made of rotting wood designed to splinter into billions of fragments poisoning one-third of the earth's water supply. Carpathia uses a nuclear weapon in a futile attempt to prevent the second meteor from hitting the earth, but cannot reach it or alter its course: òthe ÿaming meteor the Bible called wormwood split itself into billions of pieces before the missile arrived" (p. 421). The portrayal of nuclear weapons as ridiculously ineffective works to reinforce the reader's sense that disarmament is unnecessary. Their power is too small to worry about.

[continued]

13) Jason Leopold, "Air Force Cites New Testament, Ex-Nazi, to Train Ofþcers on Ethics of Launching Nuclear Weapons", Truthout, July 27, 2011; and Jason Leopold, "Air Force Pulls Christian-Themed Ethics Training for Nuclear Missile Ofþcers After Publication of Truthout Reportó, *Truthout*, July 29, 2011.

14) Jason Fritz, "Hacking Nuclear Command and Control" [PDF], pp. 10, 11. See also Bruce Blair, "Achieving the Vision of a World Free of Nuclear Weapons: Increasing Warning and Decision Time (De-Alerting')" [PDF], 2008.

15) Fritz, "Hacking Nuclear Command and Control," p. 18.

16) "Teen Charged with Hacking into Air Force System," CNN, April 24, 2001. The boy "hacked into the secure connection between the Air Mobility Command System at Scott Air Force Base in Belleville, Ill. and a US Department of Transportation computer system at the Volpe Center in Cambridge, Mass". He also "ran a program that destroyed the electronic data þles that recorded his presence on the system".

17) BBC News, "Iraq Rebels 'Hack into US Drones'", December 17, 2009.

18) Richard A. Clarke and Robert K. Knake, *Cyber War: the Next Threat to National Security and What To Do About It* (New York: Harper Collins, 2010), pp. 1–8.

19) Fritz, "Hacking Nuclear Command and Control," p. 5.

20) Shelton, *Without Hesitation*, 392. The loss of this code, around which elaborate authenticating procedures are designed, may at þrst be reassuring, since it seems to indicate that President Clinton (who did not report the loss to the Pentagon) did not anticipate ever launching a nuclear weapon. However, because the code could have been in the hands of any one of the hundreds of people Clinton encountered inside or outside the White House, its disappearance was a highly dangerous event.

21) See Rachel Williams and Richard Norton-Taylor, "Nuclear Submarines Collide in Atlantic", *The Guardian*, February 16, 2009; and John F. Burns, "French and British Submarines Collide", *New York Times*, February 16, 2009.

22) Bob Woodward, *Obama's Wars* (New York: Simon and Schuster, 2010), pp. 363–64.

My father [John Steinbeck] *valued patriotism above all other social obligations, but he had his own particular interpretation of just how true patriotism was meant to function. His deþnition was directly geared to a socio-political axiom of his own invention, and I knew it by heart by the time I was seven years old. He said, "If the solution to a problem of absolute disagreement extends to a call for bloodshed, then neither party has demonstrated the intelligence to formulate the question properly."*

~ **Thomas Steinbeck**,
on his father's view of
òplanetary patriotismó
(27 September 2010)

Ending poverty takes each and every one of us.

~ retired French football star **Zinedine Zidane**, a UNDP goodwill ambassador, on a Mali visit, October 2011

Notes & Resources

FAIRNESS ~ "Advocates of global fairness, or more formally, of global civics, face a less-than-encouraging picture," acknowledges former Under Secretary General of the United Nations **Brian Urquhart** in his Afterword to Hakan Altinay's 2010 Brookings Working Paper, *Does Fairness Matter in Global Governance?* "In many countries, let alone the world at large, there is a querulous and ungenerous political and social mood; while international relations, freed from the monstrous hazards of the Cold War, are for the most part anxious, cool, quarrelsome and uncertain. Within the United Nations, the world's most universal forum, there is little evidence of enthusiastic solidarity or forward-looking leadership that is needed to resolve threatening global problems successfully, let alone to seek fundamental changes in human attitudes or behavior. While the international humanitarian response to disasters is relatively strong, and the realization of human rights has many active supporters all over the world, the vital concept of fellowship of the human race is honored more in rhetoric than in practice." Urquhart recognizes many achievements, some "inconceivable 70 years ago", that are "indispensable to fairness and the civic conscience both nationally and internationally; but until the actual inhabitants of the planet develop a stronger feeling of mutual responsibility and mutual pride, and communicate such feelings to their rulers, the necessary popular pressure to move us into a new era of global civics will be lacking. … [U]nless and until the peoples of the world, whom the UN Charter names in its opening words, associate themselves actively with the higher aspirations of the international system, the best hopes of our human civilization will remain to some extent unfulþlled.ó

FAIRNESS & EQUALITY REPORT

A report released in October by the Bertelsmann Stiftung of Germany, "Social Justice in the OECD — How Do the Member States Compare?", analyzes aspects of basic fairness and equality among Organization for Economic Co-operation and Development countries, ranking the US among those at the bottom (www.bertelsmann-stiftung.de).

~

DEVELOPMENT REPORT

Mapping Progress, a June 2011 report from the United Kingdom's Overseas Development Institute, asserts that "the best performing countries of the developing world over the past two decades have in common, aside from þnancial assistance, four building blocks — smart leadership, smart policies, smart institutions and smart friends". Weighing in on the aid debates, the report states: "The international community has rarely been the sole determinant of development progress, but smart partnerships have often played a catalytic role in terms of facilitation support." Arguing that, although many countries are "off track" to achieve the Millennium Development Goals, progress is not only possible but already happening, the report identiþes several categories: nine countries where development progress — "movement towards greater levels of wellbeing" — is well underway; "surprises" with a less sustained track record; "potentials" (some headway against especially difþcult odds, such as emerging from armed conÿict); and òconundrumsó, where some strong programs aren't showing much effect on poverty reduction yet (as in India and South Africa).

~

MDG REPORT

A joint report issued in September by six aid organizations urges better coordination between donors, governments, and communities to help reduce poverty and disease. It cites examples from aid projects in 17 countries to show how governments, donors, and policymakers can work together effectively to meet the Millennium Development Goals. *Join up, Scale up: How integration can defeat disease and poverty* (available at <defeatdd.org>) is co-authored by Action Against Hunger, Action for Global Health, End Water Poverty, PATH, Tearfund, and WaterAid.

~

BUSAN AID HLF-4

At the Fourth High Level Forum on Aid Effectiveness (HLF-4), 29 November to 1 December 2011 in Busan, South Korea, "development actors" will gather to assess whether or not previous commitments on the Paris Declaration and Accra Agenda for Action have been met, and to consider additional decisions on the development cooperation agenda. Ana Ines Abelenda and Anne Schoenstein of AWID (Association for Women's Rights in Development) report that women's rights organizations and gender equality advocates – many of whom gathered in Brussels for an "International Consultation on Development Cooperation, Women's Rights and Gender Equality" in early June 2011 (supported by <www.betteraid.org>, a global Civil Society Organization platform) ñ have warned that the þrst draft outcome document of the Busan HLF-4 is unacceptable as it "falls short on mapping out the foundation for a just and inclusive future development cooperation framework that is also responsive and sensitive to women's rights and gender equality". Their detailed recommendations may be studied at <www.awid.org>.

~

AID SUGGESTIONS FROM GATES

Planning a report to the G-20, Microsoft Chairman Bill Gates presented a defense of effective forms of aid in the *Washington Post* (1 November). His recommenda-

tions for improving private sector involvement include diaspora bonds, halving the average percentage of transaction costs in remittances worldwide, reserving a portion of sovereign wealth funds for "key infrastructure projects in poor countries", and a small þnancial transaction tax. He concludes: "Sometimes Americans get the impression that we're shouldering the whole burden of development and that, ultimately, our aid doesn't make a big difference. I see it very differently. We're providing strategic investments that link up with many other investments to systematically make a better, more prosperous and safer world. If we do it right, we can keep shrinking the number of countries where aid is needed to zero."

~

GLOBAL PARTNERS ACT

Women Thrive Worldwide welcomed "the new vision for US international assistance" outlined in the draft Global Partnerships Act of 2011, released for public comment on 8 September by Representative Howard Berman of California. "The landmark legislation includes an unprecedented focus on gender and on the crucial role of women and girls in the success of development efforts. A goal on 'fostering equal opportunity' focuses on reducing legal, political and economic barriers that hold women back and an assessment of gender impact is required in all sectors of assistance. The draft makes permanent the Ofþce of Global Womenõs Issues in the State Department and the Ofþce for Womenõs Global Development at USAID, and also provides speciþc guidance on addressing gender inequality in the areas of food security, access to health care, education, and access to microþnance and microenterprise activities. On a more practical level, gender would be taken into account in areas [such as] procurement, training, and hiring, making it part of the framework and accountability of the aid apparatus."

~

GLOBAL CORPORATE CONTROL

A team of mathematicians connected to the Swiss Federal Institute of Technology in Zurich, concluded that, out of over 43,000 transnational corporations (TNCs), relatively few control almost 80% of the global economy. The authors of this study, "The Network of Global Corporate Control", therefore suggest that "new regulatory mechanisms will have to extend beyond national borders".

~

GLOBAL FINANCE

In Vatican City on 24 October 2011, the Pontiþcal Council for Justice and Peace issued a far reaching statement on the need for a Global Public Authority with regard to "Reforming the International Financial and Monetary Systems". It is available at the *National Catholic Reporter* website <http://ncronline.org/news/justice/pontifical-council-justice-and-peace-urges-major-economic-reform>.

Part of the conclusion of the **Vaticanõs Pontiþcal Council for Justice and Peace statement, òTowards Reforming the International Financial and Monetary Systems in the Context of Global Public Authorityó**:

The time has come to conceive of institutions with universal competence, now that vital goods shared by the entire human family are at stake, goods which individual States cannot promote and protect by themselves.

The conditions exist for going deþnitively beyond a ôWestphalianõ international order in which States feel the need for cooperation but do not seize the opportunity to integrate their respective sovereignties for the common good of peoples.

It is the task of today's generation to recognize and consciously to accept these new world dynamics for the achievement of a universal common good. Of course, this transformation will be made at the cost of a gradual, balanced transfer of a part of each nation's powers to a world Authority and to regional Authorities, but this is necessary at a time when the dynamism of human society and the economy and the progress of technology are transcending borders, which are in fact already very eroded in a globalized world.

The birth of a new society and the building of new institutions with a universal vocation and competence are a prerogative and a duty for everyone, without distinction. What is at stake is the common good of humanity and the future itself.

~

ARMS MARKET

The latest edition of the report on conventional weapons transfers by the Congressional Research Service (CRS) showed that the United States consolidated its domination of a shrinking global arms market in 2010, signing 21.3 billion dollars in new weapons orders with other countries. òThe US also ranked þrst in the value of actual arms deliveries in 2010, supplying foreign clients with some 12 billion dollars worth of weapons, or more than a third of the 35 billion dollars in global arms deliveries last year, according to the report. It was the eighth year in a row that Washington led the world in global arms deliveries" (Jim Lobe IPS, 28 September 2011). The US accounted for 49% of all new weapons orders from developing countries last year. As in previous years, developing countries (with India at the top of the list) were the biggest buyers on the international arms market in 2010, accounting for 76% of all new arms agreements and nearly 63% of actual deliveries, according to the report, *Conventional Arms Transfers to Developing Nations, 2003-2010*. For that period, Saudi Arabia was the top recipient of arms shipments. The report notes that, "[a]s new arms sales have become more difþcult to conclude since the global recession began, competition among sellers has become increasingly intense." And, under unemployment pressures in major exporter counties, this "may be based as much, if not more, on economic considerations as those of foreign or national security policy", according to CRS arms expert Richard Grimmett.