

11-1-1984

## The Quest for World Order: The Legacy of Optimism Re-Examined

Richard A. Falk

Follow this and additional works at: <https://digitalcommons.schulichlaw.dal.ca/dlj>



Part of the [International Law Commons](#)



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 4.0 License](#).

---

### Recommended Citation

Richard A. Falk, "The Quest for World Order: The Legacy of Optimism Re-Examined" (1984-1985) 9:1 DLJ 132.

This Article is brought to you for free and open access by the Journals at Schulich Law Scholars. It has been accepted for inclusion in Dalhousie Law Journal by an authorized editor of Schulich Law Scholars. For more information, please contact [hannah.steeves@dal.ca](mailto:hannah.steeves@dal.ca).

---

Richard A. Falk\*

The Quest for World Order:  
The Legacy of Optimism  
Re-Examined

---

President MacKay, ladies and gentlemen, it is a great honour for me to be here as a Killam lecturer. Let me start by telling a story that illustrates the direction of what I want to say. A Frenchman, an American and a Jew were all suffering from an incurable disease. They were told by a doctor that they had three weeks to live and each was asked what he would like to do. True to stereotype, the Frenchman said that he would take his mistress to the country and dine every night at a three-star restaurant. The American said that he would move to Philadelphia because it would make the three weeks seem so much longer. The Jew replied, "I'll go to another doctor for a second opinion." What I would like to do is to offer this lecture as a second opinion on the condition of the world, which I think one would have to be very depressed about at this time from almost any point of view.

If one looks back to 1945, to the end of World War II when the United Nations was created, the Western liberal democracies offered an image of a future that looked as if it would moderate the disposition toward warfare, toward unilateral use of force and toward the kind of geopolitics that had brought two earlier world wars to this century. I think that from the point of view of 1983, those earlier hopes have been fundamentally destroyed. There is very little serious expectation attached to the whole idea of international organization at present, except for very technical matters which, though important, don't reach the kind of peace and security agenda that I want to concentrate on tonight. Also I think the superpowers have substantially discredited themselves as leaders of any kind of effort to moderate the role of power in international affairs. All the while the march of technology has

---

\*The author is the Albert G. Milbank Professor of International Law and Practice at Princeton University. His talents in the fields of law and political science have been brought to bear in numerous distinguished published works. He has been a prominent critic of Western approaches to international law, organization and diplomacy. This was the second in the 1983 Dorothy J. Killam Lectures Series, "Law on the Eve of 1984", presented at Dalhousie Law School on November 10, 1983.

meant that the consequences of conflict, both for the participants and for the world as a whole, are much more severe than they had been at an earlier stage.

Let me try to address this topic from this general perspective: that it is hard to look the world in the eye and not be very pessimistic about the future. This is not just a matter of approaching 1984, though that helps, because I think one of the reasons to be pessimistic is that the sovereign state (which is the main source of power and influence in the world) is, as Orwell anticipated, not a liberating source in the late twentieth century but, rather, is a constraining force. Although Orwell was preoccupied with the problem of state socialism and those societies where the state occupied the entire political space and the relations between the state and society, I think that his negative prophecy applies far more generally than that. I think we have reached a point, unfortunately, in political development where when it comes to national security there are no political democracies left in the world. I am making what may sound like a provocative statement deliberately. But I think if one looks back at the history since World War II, one will see that what has gradually emerged, particularly in the United States but generally in the liberal democracies, is an invisible government that consists of the military sector of the bureaucracy together with the intelligence agencies that have enormous influence over the allocation of resources, shaping of information and opinion; virtual control over the range of responsible debate, the range of candidates that can be elected to high offices, and it has substantially nullified the electoral process and representative institutions as ways of challenging existing policy. In other words, formal democracy exists but it doesn't have the capabilities of producing any real challenge to the national security consensus that has been shaped by this invisible government that is not accountable or elected, but persists in a way that considerably constrains the electoral process and political leaders that occupy the commanding heights of government.

Prometheus, we know, incurred the wrath of Zeus, the greatest among the Greek gods, because he defied Zeus' will and befriended mankind. In Aeschylus' play, *Prometheus Bound*, Prometheus explains this undertaking on behalf of humanity to an inquiring Chorus:

The Chorus asks: "Did you perhaps go further than you have told us?"

Prometheus replies: "I caused mortals to cease foreseeing doom." In other words, the gift of Prometheus was to allow humanity to conceive of its future without foreseeing doom.

And the Chorus asks: "What cure did you provide them with against that sickness?"

Prometheus: "I placed in them blind hopes."

Chorus: "That was a great gift you gave to men."

Prometheus: "Besides this, I gave them fire."

In most portrayals of the Prometheus legend the gift of fire and from it, technological prowess, are treated as the essence of Prometheus' defiance of the gods and of his empathy with humanity. In this fifth century B.C. interpretation by Aeschylus the material part of Prometheus' contribution to human development is subordinated and the spiritual gift is highlighted. And the essence of this spiritual gift is that humanity can only function creatively when it hasn't foreclosed its future by foreseeing doom. In other words, it needs blind hopes in order to be able to cope with the challenges confronting it. Therefore, it is only these blind hopes that allow human existence, not only to be tolerable, but to build towards a future better than the past. In a sense, optimism about the larger problems of society has always rested on this possibility. We are liberated to act for the future we prefer by this blindness to the threat of doom.

This insight of Aeschylus' into Prometheus' gift is almost too obviously relevant to our world to require any extended comment. The threat of nuclear and ecological disaster overhangs our circumstances with an ominous plausibility. Our dominant political consciousness continues to pride itself on realism; thinking the unthinkable, and on somehow either being immobilized by the proximity of the apocalypse or by escaping into some form of mind-numbing addiction. The addiction may be drugs or false hopes in the form of believing in the possibility of recovering from nuclear war, or of finding the technological fix that performs some kind of miracle that will bring prosperity to everyone on earth or uncover a way to migrate from our troubled planet to a network of space colonies located somewhere in the asteroid belt, where the gravitational fields of the earth and moon converge. In other words, realism in this sense reduces to either a form of complacent failure to acknowledge danger or some kind of very trivializing escape that rests on the very technology that produced the danger.

I intend a sharp distinction here between "blind hopes" and

“false hopes.” Blind hopes are a necessary angel for human development creating confidence or perhaps faith in the unseen but desirable. They are a confidence that is premised upon conviction and commitment and is not deterred by the calculation of odds or the scale of obstacles. False hopes, in contrast, adjust us to an intolerable destiny by a refusal to see things as they are. They counsel passivity and acquiescence and keep humankind stuck in present distortions. What I want to affirm here is that we need Prometheus’ gift of blind hopes if we are to summon the vision and energy to create a future for our species that both upholds our will to survive and our aspiration to create something better. The quest for world order is a political expression of this outlook and can be concretized by the conviction that a world without war can be achieved at some point in the future, however distant and unlikely such an achievement may now appear. The weak expression of this outlook is that the process of making such a future, regardless of the difficulty of attainment, is essential for the human spirit. The German playwright Gerter put it this way: “He who strives, him we may save.” If we renounce striving, then we have acquiesced in this destructive spiral of circumstances that leads us to be very dependent upon a perpetual balance of terror to avoid some kind of catastrophe. That very dependence is itself a catastrophe over time, because it so undermines the premise of human solidarity that is at the base of any kind of civilizational identity. Even if a nuclear war were never to occur, the constant readiness to engage in that kind of ultimate destructive behavior is itself extremely debilitating for the kind of human spirit that is necessary to build a better future.

The stronger expression of this outlook is that there are various processes of change that are already under way around the world that provide some solid foundation for thinking that it is not implausible to alter the framework of the political life of the planet and that we cannot meaningfully assess what the prospects are for a new type of world order to emerge. What I am really trying to express here is that even if the odds were less than a tenth of one percent that a warless world could be achieved, its pursuit has become a normative necessity given the character of modern weaponry and the implications of its threatened use. But it is not necessary to feel that one is engaged in such a heroic act, because there is no real way of determining that the prospects are quite that unlikely.

I emphasize this perspective as strongly as I do because it collides

so directly with what is becoming the prevailing cultural mood in the West. This mood is dominated by what I would call the realist consensus which says that an alternative to the present arrangement of power and of disposition toward conflict is not attainable, and furthermore that the present set of circumstances is not really so terrible and is probably sustainable. I can illustrate this by reference to the problems of nuclear weaponry, but the same analysis pertains to environmental decay, world poverty, and the alarming trend toward the militarization of both internal and international politics virtually everywhere in the world. Recently, and partly in response to the Euro-American peace movement, and to apocalyptic warnings sounded by a variety of voices, spokespeople for the dominant elite have begun to address the issue of nuclear weapons, thus breaking an eerie silence of some thirty years after their appearance at the end of World War II. Michael Mandelbaum's *The Nuclear Future*, and Harvard University's collective study *Living with Nuclear Weapons*, are specimens of a broader tendency to attempt to reformulate the realist consensus in the nuclear age. Their fundamental position is that it is not feasible to contemplate nuclear disarmament; war is inherent and unconditional in international affairs and can be mitigated only by the avoidance of irrational wars or features of warfare. Nuclear war can be avoided because it is a form of irrational warfare. In fact some supporters of the realist consensus claim more. They argue that nuclear weapons have actually contributed to war prevention by inhibiting recourse to war, at least between advanced industrial countries, and that it's very likely that had nuclear weapons not existed a third world war would have occurred by now and that we owe, to some extent, the peace that has existed in the advanced industrial sector of the world, to the presence of these weapons. It would also be true that given the technology of non-nuclear weaponry a third world war would have been extraordinarily destructive, and therefore this is not a small consideration in evaluating the overall world situation. At the same time, I think it has to be said that peace in the First World has been achieved partly at the expense of tremendous militarization and accentuation of turmoil and conflict in the non-Western Third World. The rather disturbing pattern that has emerged in the nuclear age is that the white prosperous part of the world has fundamentally lived at peace while the non-white poorer parts of the world have done 99% of the fighting and dying, and will continue to do so. There is in effect a kind of global apartheid that exists when it

comes to issues of war and peace, which is partly a consequence of this kind of technology.

The realist consensus argues that it is not feasible to contemplate nuclear disarmament as this would presume trust between sovereign states of rival disposition, that it could only be made reliable by establishing a new political framework that would entail the creation of what amounts to world government, and that this framework is virtually impossible to imagine given the vitality of state sovereignty and nationalism as a continuing focus for human loyalty. Beyond this the results of science and technology are presumed to be essentially irreversible. In effect, now that nuclear weapons have been produced and used there is no way back into the Edenic garden of nuclear innocence. It is also argued from this realist perspective that since the initial use of the weapons against the cities of Hiroshima and Nagasaki both superpowers have exhibited a due concern for the avoidance of their subsequent use. The purpose of nuclear weapons, it is argued, is mainly to deter their use by others. Deterrence assures that no sane leader would risk the consequences of their use given the prospect of devastating retaliation. In this central respect there are reasonable grounds to believe that deterrence can keep the nuclear peace for the indefinite future. This summary of the realist position oversimplifies its argument to some extent, but I think it accurately captures its central thrust. I think it is fair to say that from the point of view of logical probability and instrumental reason, there is a continuing plausibility to this way of thinking about the future. But its difficulty is that it rests its hopes on a very inadequate conception of the dangers, risks and costs of continuing on the present path. It exhausts its positive energy by the calculation of possibilities by way of past patterns and current conventional wisdom. As such it excludes genuine improvement and suppresses the terrible moral consequences and reckless political risks of perseverance. I find this realist view of how to adjust to the nuclear age as totally unacceptable, because it really does rest so fully on what I have called false hopes. As our most ancient wisdom reminds us, people perish without a vision.

At this time there is a desperate need for some kind of credible mobilizing vision in Western civilization. We live in a period when throughout the world there is an extraordinary disenchantment with what has been the source of hope for the future. The source of hope for much of the liberal West has been largely premised on a mixture

of political moderation and technological progress. Both of these foundations of hope have been constrained partly by the kind of technology that has emerged and the consequences and effects of it and partly by the fact that the scale of problems in the world today is global. Yet our organizational framework for handling so many of the problems continues to be partial, fragmentary, and fundamentally rests on the problem-solving capacities of separate and very unequal states.

But there is an equal disillusionment with revolutionary perspectives associated with Marxism and with state socialism, which had been expected to both make production more efficient and the distribution of production much more equitable. It was also believed that state socialism would liberate the state from serving the dominant and exploiting classes of society. But the experience has been that state socialism has had a very disillusioning record of performance. The state has dominated its own society and rather than being a source of liberation, has proved to reproduce oppression in a very extreme form. In this sense the world is at a point where none of the ideologies or ideological perspectives that had been thought to be the carriers of progress are any longer endowed with vitality and mobilizing power, so that an ideological and normative vacuum exists.

The kind of world order vision that is needed seems to me to rest on three kinds of foundations. Partly it has to be built upon some conception of human nature and the potential for human development in new directions that encompass the species as a whole. There is nothing that we know from the studies of cultural anthropology that would preclude the possibility of an emerging species identity that allows part of our sense of participation to be citizens of the globe as well as citizens of particular communities in the world. A second dimension can be conceived either historically or functionally as based on the particular urgencies and capabilities of this historical epoch, which suggest that without a globalist orientation the problems of war and peace, of poverty, of ecological defense and ecological balance, cannot be dealt with in any sustaining fashion. In other words an objective foundation exists in the actual challenges confronting human society that suggests the basis of reordering the underlying political framework. The third element of the foundation of a vision of world order is normative. It is based on the imagery of what is desirable and what would be life enhancing at this stage of human development. That also invokes a

conception of the planet as a whole created in part by the very vivid portrayal of the earth that we have received in our lifetimes from early space missions, when for the first time we saw the earth as a whole. That wholeness is much more compelling as a reality for the imagination than are the separations that are drawn by the political maps of the world.

For the first time we also have the kind of communication and awareness that could provide the grounding of a normative order that encompassed the planet without in any way altering the diversities of particular identities, many of which are much smaller than those identities associated with the sovereign state. In that sense, many of the actual identities of people around the world are trapped within larger and abstract political entities that have emerged throughout the history of the state system. What I am really suggesting as the direction of this vision is the liberation of society from the state, both from below and from above. The state is, in this sense, simultaneously too large to satisfy the particular identities of many people living within it and too small to deal with the functional and aspirational identities of a planetary culture.

The organization of the world into sovereign states and the possibility and aspiration for a global civilization and a global political order is analogous to the kind of transitional reality that Hugo Grotius, the founder of international law, confronted when he dealt with the transition from feudal Europe to the state system in the early seventeenth century. As is generally known, Grotius was appalled by the carnage of the 30 Years War, when a mixture of sectarian, religious, and political passions in the early seventeenth century produced a period of unrestrained warfare that left many medieval cities in central Europe in ruins and caused casualties that have been estimated to be a half to three-quarters of the population of those areas.

Grotius wrote in a famous passage:

Throughout the Christian world I observed the lack of restraint in relation to war such as even barbarous races should be ashamed of. I observed that men rushed to arms for slight causes or no cause at all, and that when arms have once been taken up there is no longer any respect for law, divine or human. It is as if in accordance with a general decree frenzy had openly let loose for the committing of all crimes.

This observation could obviously be transposed as a description of the current world situation. If one looks at the world today there are more than a dozen wars raging out of control and barbarous tactics

are often quite prominent. The periodic genocidal massacres of civilians in the course of the Lebanon strife, the criminal tendency by Iran to use unarmed children to detect mines on the battlefields separating Iranian from Iraqi armed forces, the recent characteristic wave of killings of the Tamil minority in Sri Lanka, the bloodthirsty tactics of the counterrevolutionary forces in Central America, and the apparent reliance on poison gas in the form of yellow rain by Communist forces in Afghanistan and Kampuchea, are among the instances that come most quickly to mind.

The Grotian achievement was to perceive in that circumstance of apparent decay of civilizational decency an opportunity to recreate the future along far more secure lines than conventional wisdom would have allowed in the seventeenth century. There is a particular kind of genius that perceives a positive possibility in defiance of the despair that is prevalent at a time of disintegration. This important possibility was expressed by Tolstoy in *War and Peace*. Hovering over Moscow during the winter of 1812 was Haley's Comet which was widely regarded by Russians at the time as an ominous indication of what was to come. Looking into the same sky at the same comet Count Pierre, Tolstoy's highly individualistic hero found hope and inspiration. The Chinese put the same duality of underlying symbols in less decisive terms in their proverb, "Two men sleeping in the same bed have different dreams." Grotius somehow understood that latent within the turbulence and warfare of the seventeenth century in Europe was a shared community of values arising from a common adherence among rulers to Christianity in the broad sense. On the basis of appeals to conscience, the medieval Christian heritage of normative unity, and to a common framework of law serving the interests and outlook of sovereign states that were then emerging, Grotius was able to put forward a conception of an ordered international society that found increasing adherence. This reconciliation of medieval and statist perspectives provided a means to put realistic restraints on recourse to and conduct of war by way of a set of normative guidelines. The conscience of Christian rulers was expected, not totally without reason, to substitute for an enforcement mechanism and to allow an international order that lacked central institutions to still avoid the relapse into barbarism that had prompted Grotius to write in the first place.

In the decade subsequent to Grotius as statism gradually triumphed over the nonterritorial spiritualism of the middle ages,

the more positivist strain in Grotian thought about international law held sway. That is, the natural law basis of rules was supplanted almost totally by the notion of consent of the representative of the sovereign state, either expressly in treaty form or implicitly in the form of customary international law. In the middle of the eighteenth century, Emmerich de Vattel, the Swiss international jurist, supported this tendency to shift the locus of normative authority from the Catholic Church to the governmental centers of the leading powers. However, Grotius writing prior to the Peace of Westphalia of 1648, which is usually treated as the threshold date of the modern state system, anticipated this shift. The radical nature of Grotius' vision was duly acknowledged by the inclusion of a scholarly treatise on the Papal Index as allegedly dangerous to the maintenance of the faith. In a fundamental sense, the quest for world order, its claim of possibility, always rests on challenging the established wisdom and authority of the day, shattering the realist consensus of its particular day. We may not now rely upon a Papal Index, but we have a status frame of reference that makes it appear like tilting at windmills to seriously propose a framework for political community that does not rest upon the primacy of the state and perseverance of war as a social institution. The ideological power of the state to intimidate, especially intellectuals who are notoriously frightened of seeming foolish, dampens our capacity to mobilize the energies of our people behind the quest for a world order liberated from statism and militarism.

It is also intriguing to note that Grotius was concerned with excluding more radical conceptions of world order that might otherwise have gained acceptance if his proposals were not allowed to provide a normative grounding for the diplomacy of his time. He writes:

Confronted with such utter ruthlessness many men, who are the furthest from being bad men, have come to the point of forbidding all use of arms to the Christian, whose rules of conduct above everything else comprises the duty of loving all men. To this opinion sometimes John Ferus and my fellow-countryman Erasmus seem to incline, men who have the utmost devotion to peace in both Church and State; but their purpose, as I take it, is, when things have gone in one direction, to force them in the opposite direction, as we are accustomed to do, that they may come back to a true middle ground.

In effect, Grotius does not deem it practical or beneficial to propose pacificism as the implication of membership and participation in a

Christian community of sovereign states. He regarded total opposition to war as extreme. It was an understandable extremity in light of the excesses of unrestrained warfare that were contemporary with his observations, yet in his judgment deeply undesirable because it was ill-suited to the domain of separated sovereignties and aggressive diplomacy. At minimum, Grotius felt, defensive force must be authorized to safeguard the security and interests of the state. In effect, Grotius can thus be understood as restoring viability in his time to the realist consensus that then prevailed rather than mounting what I would call an idealist challenge of the sort associated with Erasmus' espousal of a full pacifism. Possibly this restoration that Grotius proposed was always flawed to the extent that it seemed to promise political leaders discretion to wage war on behalf of the state provided they at least pretended to adhere to some broad framework of norms. In effect, Grotius can be indicted for having invited the whole tradition of hypocrisy on the part of governments with respect to international law where it is very frequently invoked to berate ones enemies or to rationalize one's own conduct, but very rarely used as an independent source of guidance that might indeed fulfill the dictates of conscience. In the eighteenth century this prompted Montesquieu in "The Persian Letters," to dismiss international law as, in his words, "a science which explains to kings how far they can violate justice without damaging their own interests. What a dreadful idea, to systematize injustice in order to harden their consciences, and then turn it into sets of rules. . . ." That is, up until now the realist consensus with its absolute statism and unconditional endorsement of military necessity in warfare has made a mockery of those claims that over time international law would humanize statecraft around rules and procedures of restraint.

If we return briefly to the contemporary situation, there is an interesting parallel to Grotius' conception of what is possible in some recent statements by former high government officials in the United States. McGeorge Bundy, Robert McNamara, and George Kennan are prominent instances. Also relevant here is the issuance of the recent Pastoral Letter by the United States Catholic Bishops which again reflects a sign of disturbance by those who had been very much part of the established order with the shape that the realist consensus was assuming under contemporary conditions. In effect, there is a loss of confidence in the prevailing formulations of the realist consensus that deterrence as such is sufficient to avoid the

impression that a continuous arms race and an unqualified disposition to fight wars of extermination is not itself a relapse into barbarism on a scale that imperils the survival of political culture; and that if it is not corrected will agitate more radical resistance of the sort that these relatively moderate critics are eager to avoid. By and large, this neo-Grotian formulation insists that the role of nuclear weapons be minimized as much as possible, regardless almost of the practical arguments to the contrary that are advanced on behalf of their geopolitical utility. McNamara recently has declared that nuclear weapons “are totally useless except only to deter one’s opponents from using them.” All these revisionist positions share an advocacy of an unconditional renunciation of first-use options, a position interestingly enough that has already been taken unilaterally by the Soviet Union.

At the same time, these authors, all of whom share an underlying acceptance of the realist consensus and are not advocates in any real way of a new world order, are very eager to preempt the reformist position so as to avoid more extreme proposals for revision. McGeorge Bundy, for instance, says “we cannot escape from the world of nuclear deterrence.” He regards E. P. Thompson’s “anti-nuclear polemics” and Jonathan Schell’s “absolute demand for an end to national sovereignty and a turning toward world government” as unacceptable distractions from the real challenge — reducing the dangers that stem from nuclear deterrence, while continuing to rely on it. In other words, these thinkers are responding to people like Thompson and Schell much as Grotius responded to Erasmus. They say it’s understandable that people are worried by what the current leadership is doing, but that they are going overboard and what is needed is not some radical alternative vision but an adjustment of the realist consensus that takes account of these criticisms but still recognizes the inevitable centrality of war in human experience and the inability of sovereign states to really get rid of nuclear weaponry in any total sense because of its connection with the defense of state interests against potential enemies.

In this regard, the views of George Kennan are particularly interesting because he is an archetypal realist, having written very generally on the role of power and interests as properly controlling the shape of international relations. Kennan in a quite remarkable passage says that he now has come to a conclusion that he calls a concession, a turn of mind of such recent origin, as he puts it, that it

is not reflected in any of his earlier writings. Kennan writes that he had always resisted the suggestion that war, as a phenomenon of international life, could be totally ruled out, partly because demands for the outlawing of war were usually cast in universal and therefore wholly impractical terms, partly because it was so hard to see what other ultimate sanction for the protection of national interests could be devised. But Kennan now writes, and I quote,

I am now bound to say that while the earliest possible elimination of nuclear weaponry is of no less vital importance in my eyes than it ever was, this would not be enough in itself to give Western civilization even an adequate chance of survival. War itself as a means of settling differences, at least between the great industrial powers, will have to be in some way ruled out, and with it there will have to be dismantled, for without this the whole outlawing of war would be futile, the greater part of the vast military establishments now maintained with a view to the possibility that war might take place.

In effect, Kennan seems to be suggesting that the realist consensus can no longer be reconciled with human well-being, possibly even with human survival. When conversion experiences of this sort occur at this level of society it suggests that the culture as a whole may be crossing a threshold of new possibilities. At the very least, the legitimacy of the old ordering framework is being seriously questioned by those who had previously been its ideological architects. Yet Kennan's view remains one of suggesting that the existing elite mend its ways. There is little evidence, at this time at any rate, that the elite is listening. It is continuing basically to pursue its traditional ways of handling problems of state power and although it is conscious of rising opposition, it has essentially turned a deaf ear and new weapons systems are being developed. One cannot find a great effort anywhere to create a public mood of receptivity to bolder experiments in international affairs.

What I am trying to argue, then, this evening is that it is beginning to be possible to believe that something better is emerging into view as a possibility. But that something better is not a continuation of the traditional reformist line of world order thinking founded more or less during the birth traumas of the modern state system in Europe some four centuries ago. Such a perspective saw the rise of the state as a step forward at the time in terms of economic efficiency and political order and regarded the state system as reforming itself over time with the help of the growth and spread of civilizing ideas and the gradual removal of

misery by way of economic expansion. This outlook was greatly strengthened by the Industrial Revolution, the early 19th century, and the wider notion that technology would constantly enable human society to further extend its mastery over nature. There were of course many road blocks and periods of economic depression and warfare, but reason, economic growth and the framework of state seem quite consistent with a generally optimistic view of the future of human society. This statist vision of progress seems to have come close to the end of its line. At best, it can operate at this stage as a holding operation, staving off the worst and muddling along. But it is under a variety of darkening shadows: a continuous arms race of global scale; periodic food shortages causing widespread famine; a rising risk of nuclear war; an explosive mixture of mass poverty and population pressures in non-Western countries; a variety of fundamental ecological hazards involving contamination and climate change; a declining capacity, of even democratic governments, to obtain the consent of their citizenry for fundamental policies; and a sickening series of terrorist assaults and official instances of counter-terror and torture.

To look to the state under these circumstances as a liberating actor with respect to world order is to be dangerously deceived. To expect from international law a framework for moderating conflict among states is also fanciful, although law will continue to provide some assistance to governments in handling exceedingly complex relationships across their borders. If there are grounds for optimism, as I believe there are, then they consist in the reawakening of societal forces, within states and across boundaries, that are the bearers of new conceptions of political and legal order, as well as new conceptions of internal security and national security. These new societal energies are reacting to the menace and inadequacies of statism in both internal and external dimensions. More concretely, I have in mind the worldwide growth of grassroots and informal politics, of non-governmental organizations and movements, of peace movements with links across frontiers, of citizens who yearn for participation in natural political communities that correspond with their true ethnic and national identities, and of citizens who conceive of themselves as caught up in a struggle to save the species as a whole, and not just any one part of it, and also of a variety of groups, movements, and individuals who resist the abuses of state power in all parts of the world.

In this emerging encounter between state and society that is

taking place in different forms everywhere, religious perspectives are playing an increasing role in providing auspices and a liberating sense of alternatives. The future of world order depends on the course and outcome of this encounter between state and society, as well as on the fashioning and embodying of demilitarizing conceptions of security for societies to assure their survival and autonomy.

I think it is important, in locating one's optimism for the future in the awakening societal energies and the more active religious role in challenging the primacy of the state, not to be overly romantic about popular sentiments. There still is an attachment to war and to military victory. We have seen it in the United States in relation to this Grenada intervention. It was evident in the Falklands war, in what is now sometimes called the Thatcher factor. We can't pose a militarized state versus a pacific society as rigid alternatives, but I do think that the creative energies based on possibilities for the future are emerging outside of these formal structures of state power. And I think in this struggle international law will have a special, largely unexplored role to play. If law begins to be conceived as an instrument of society, as well as of the state, then it can be used to express political grievances and expectations. Citizens can begin to demand that their own government adhere to international law as part of a wider quest for world order. Nuclear activists are increasingly using domestic courts and other arenas with some success to argue a civic duty to obstruct state behavior that violates international law, especially through preparations for aggressive war or initiating uses of nuclear weapons.

The idealist challenge to statism does not seek to demolish the state as a political form but only to eliminate its oppressive features. The central quest is to reconstruct the state to serve human needs in political, economic, and cultural spheres of activity; to create a responsive state in place of the autonomous state and thereby to encourage a political leadership that is at last alive to the growing challenge of global problems.

Let there be no illusions. This is a long process, one that will be filled with many disappointments. It is a process that needs to begin where it can begin and then to spread as far as it will. Such an evolution will not succeed unless societal energies challenge statism within the Soviet bloc as well as within the West. At some stage it will also have to transform the character of many Third World countries as well as those in the advanced industrial regions. The

world is objectively moving toward this global phase. What it requires now is a positive ideology that will guide this transition and encourage its implementation on a political, psychological, and legal level, and to inspire confidence that a new world order is emerging and is worth supporting; that one isn't, in other words, entrapped in the constraints of the realist consensus. Until such a vision begins to inform our political action there is bound to be a sense that what we try to achieve through the existing framework of the state is not going to work.

Let me bring these assessments of the present situation to a conclusion by setting forth in a very schematic form what I regard as the program for this new world order. It seems to me that it can be divided between immediate goals, longer goals, and even more remote goals. In the immediate category are those that will buy time, and I list just five. First, expose the realist consensus as crackpot realism. Secondly, adopt a no-first-use posture toward nuclear weapons. Thirdly, limit the development of weaponry and strategic doctrine to defensive categories and roles. Fourthly, formulate some version of a freeze on the arms race. And finally, work toward declarations and treaties of prohibition on the use of weapons of mass destruction of any kind under any circumstances.

The longer-term aspect of this program for a new world order concentrates on its domestic dimension. To me it is absolutely necessary that democracy be revitalized in relation to national security. In effect the state within the state that has grown up during this period of permanent preparation for war needs to be substantially dismantled and reoriented. Perhaps this whole revitalization of democracy can be focused in terms of the need for a Magna Carta for the Nuclear Age. In other words, the citizens demanding of the state a new framework of action built around an acceptance of international law and of the Nuremberg Obligation, not toward other countries but towards one's own society as a matter of self-interest and of the dignity of ones own society. In effect, the purposes of revitalizing democracy are to reclaim the control of security for society, to take it away from experts and from those that monitor secret information on behalf of intelligence agencies, and to unleash the imagination of society to work toward less militarized forms of societal resistance against external enemies. In its essence, the purpose is to find the political will as widely as possible to initiate a movement for the abolition of war as a social institution. War has become as antiquated in the twentieth century as slavery

was in the nineteenth century, and there is, it seems to me, a great latent willingness on the part of the peoples of the world to join in an abolitionist struggle of this sort. And finally to conceive of global citizenship and grassroots citizenship as the foundation of human solidarity at a local and global level that supplements the kind of political identities that most of us now feel. I think that even more remote than these very ambitious objectives is the eventual need, if we want, to have a world order that rests on genuine peace. But there will have to be a much greater capacity on the part of all societies to find ways to orient production much more around genuine needs than is currently the case.

The poet W. H. Auden once wrote: “We who are about to die demand a miracle.” Perhaps it only seems like a miracle because whatever we may say in our words, in our hearts we are secret adherents of that realist consensus. From the point of view of the realist consensus, a new world order of the sort I have been describing would indeed be a miracle.

For those who join in supporting the idealist challenge, moving toward this new state in world order, what is being proposed seems to me to be much less a miracle than a project based on common sense, surely more plausible than accepting the bizarre claim of fifteenth century astronomers that the earth was not flat. Clearly, it seems to me, we have reached the point where this kind of globalist conception of political community is as real to our prospects for survival and development as in a physical sense the roundness of the world was real for those who navigated it.

# **The Dalhousie Law Journal**

---

## **Editorial Committee**

### *Faculty*

John A. Yogis, Q.C.  
Chairman and Editor

Hugh M. Kindred  
Associate Editor and  
Articles Editor

Norman G. Letalik  
Comments Editor

C. L. Wiktor  
Book Review Editor

R. St.J. Macdonald, Q.C.

### *Students*

David Chodikoff  
Gerard Hayes

### *Editorial Assistant*

Sandy Tse.

---

The Dalhousie Law Journal is published by the Faculty of Law of Dalhousie University. Communications having to do with editorial matters should be addressed to The Editor, Dalhousie Law Journal, Faculty of Law, Dalhousie University, Halifax, Canada, B3H 3J5. The Editorial Committee welcomes the submission of material for possible publication and advises potential contributors that a style sheet is available from the Editor. Views expressed in a signed contribution are those of the writer, and neither Dalhousie University nor the Faculty of Law accepts responsibility for them.

This issue of the Journal was printed by Earl Whynot and Associates. All communications concerning subscriptions should be addressed to The Carswell Company Limited, 2330 Midland Avenue, Agincourt, Ontario, M1S 1P7. The price of an individual copy is \$12.50 "Indexed": Index to Canadian Legal Periodical Literature.