

April 2020

## Global and Going Nowhere: Sustainable Development, Global Governance &(and) Liberal Democracy

James C. Kraska

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>

---

### Recommended Citation

James C. Kraska, Global and Going Nowhere: Sustainable Development, Global Governance &(and) Liberal Democracy, 34 Denv. J. Int'l L. & Pol'y 247 (2006).

This Article is brought to you for free and open access by Digital Commons @ DU. It has been accepted for inclusion in Denver Journal of International Law & Policy by an authorized editor of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

# GLOBAL AND GOING NOWHERE: SUSTAINABLE DEVELOPMENT, GLOBAL GOVERNANCE & LIBERAL DEMOCRACY

BY JAMES C. KRASKA\*

“How we decide and *who* gets to decide often determines *what* we decide.”<sup>1</sup>

## I. THE SUSTAINABLE DEVELOPMENT ORTHODOXY<sup>2</sup>

Nearly one hundred years ago, Roscoe Pound discerned between “law in the books” and “law in action.”<sup>3</sup> Roscoe Pound was a Dean and Professor of Law at Harvard Law School. Prophesying the emergence of legal realism, Dean Pound was a pragmatist who was concerned that lawyers were hiding behind deductive models disconnected from reality. Pound also was a botanist. He understood that the sciences had long since abandoned such deductive modes of thinking in search of inductive reasoning and empirical verification. The “law in the books” was too often at variance with how the law actually unfolds in the real world.<sup>4</sup> Lawyers were admonished by Pound not to behave as “legal monks,” disconnected from the real world.<sup>5</sup> Dean Pound worried about the application of unrealistic models of law and how they confounded the attainment of social justice in the United States, but his wisdom carries valuable lessons for today’s international lawyers and policymakers who are busily constructing the global legal architecture of

---

\* An earlier version of this article was prepared for the capstone Seminar in Contemporary Legal Thought, *The Rule of Law: Controlling Government*, at the University of Virginia Law School, while the author was assigned there on active duty to earn the Master of Laws (LL.M.) degree. The seminar was led by Professor John Norton Moore, and the author is deeply indebted to him for his invaluable review and comments, and especially for his generous mentoring on the rule of law. The views expressed in the article are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government. The author may be reached at james.kraska@gmail.com.

1. WORLD RESOURCES INSTITUTE, WORLD RESOURCES 2002-2004: DECISIONS FOR EARTH: BALANCE, VOICE AND POWER (2004), available at <http://governance.wri.org/worldresources20022004-pub-3764.html>.

2. Inspiration for this article began during the author’s participation with the Academic Council on the United Nations System & American Society of International Law (ACUNS/ASIL) Workshop on International Organization Studies at the University of Namibia, Windhoek, Namibia and the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa, Aug.-Sep., 2002.

3. Roscoe Pound, Law in Books and Law in Action, 44 AM. L. REV. 12, 12-15 (1910).

4. *Id.* at 25.

5. *Id.* at 36.

sustainable development.

There is no doubt that Dean Pound, who dedicated a career to realizing social justice in action, would today be disappointed to cast his gaze at the widening gulf between carefully designed international economic, environmental and human rights regimes on the one hand, and the appalling human condition and environmental degradation that pervades much of the globe, on the other. This article is devoted to better understanding the variance between international policy and law “in the books” and how those international rules are developed and applied “in action” within the sphere of global sustainable development. Understanding the nature of this disconnection produces important insights and has critical implications for global governance.

This article rejects the widely accepted international development orthodoxy and supports a new discourse emerging in development thought that argues that democracy promotion is the best way to achieve sustainable development. Part I reviews the origins of the prevailing orthodoxy of sustainable development. Part II critiques the application of the orthodoxy and introduces fresh narratives and empirical perspectives on sustainable development grounded in human freedom and democracy. Part III concludes with a call to embrace the emerging democratic development norm.

Since World War II, world development has been captive to an orthodox approach emanating from two levels of analysis—at the international level, a Marxist-derived world systems model, and at the state level, an authoritarian regime model. World systems analysis contributes to the orthodoxy by suggesting under-development is a function of world systemic or structural defects that “cause” under-development. It originated in Marxist theory and goes by the names dependency theory, neo-colonialism or neo-imperialism. At the state level of analysis, modernization theory has celebrated the development virtues of authoritarian regimes.

Global environmentalism, which harbors a deep skepticism, and even hostility, toward economic growth and international trade, has reinforced the dependency theorists’ attack on the world system. The result is a powerful international front that has sabotaged the development prospects of many under-developed states. The state level of analysis has contributed to the orthodoxy by positing that authoritarian regimes are better at producing development, when in fact, they are not. The conventional state-level analysis holds that development is a chaotic and unsettling affair; dictatorships are better at managing the period of unstable transition. Democracy, which is also disruptive, can only come later, if at all. This article suggests that the impact of these two approaches—one focusing on the world system and the other on the state—has been counter-productive, actually serving to defeat the goals of sustainable development for many of the poorest nations. A far better approach—centered on democracy—has begun to emerge. This alternative, challenging the conventional paradigm, should be nurtured and promoted.

The orthodoxy has a controlling influence on national and international approaches to sustainable development. Despite the avalanche of empirical

research supporting the connection between democracy and development, changing the consensus is not easy. The international law, global rules and international programs that have sprung from the orthodoxy—the “law in the books”—have failed Dean Pound’s real world test of “law in action.”

An alternative model of development focusing on democracy requires a radical reassessment at the state level of analysis. Liberal democratic regimes better promote vertical and horizontal economic development, and do so while better managing and preserving the natural environment. Moreover, these systems generate prosperity and stability that create the foundation for sustainable development. The emergence of democracy in one country tends to facilitate trade and economic growth regionally. A political system that promotes freedom spins off positive externalities of peace and stability that have a positive impact on neighboring states. Perhaps most importantly, democracy as a modality for development departs from the prevailing approach by promoting a genuinely liberal agenda that celebrates the centrality of individual human freedom, dignity and self-actualization as the central goal of development.

Today we are in the midst of a new normative campaign on sustainable development within the United Nations and around the world, comparable to the campaign for decolonization in the 1960s and anti-apartheid in the 1980s<sup>6</sup> It is particularly critical now that we shape the architecture of sustainable development in a way that best achieves the objectives of economic growth, social development and a secure environment. After thirty years of passionate effort, much well-guided but plenty misguided, as well as some success and no small amount of abject failure, it is worthwhile to take stock of the ideas that gave birth to sustainable development, trace their evolution, and most importantly, to test their assumptions. The interdisciplinary challenge of sustainable development has remained bounded by prevailing normative political and economic assumptions marked by ambivalence and hostility toward solutions based on human freedom. These accepted conventions have weathered the collapse of the Soviet Union, including the moribund notion of central planning. Over the last decade, however, the growing appreciation for the productive power of human freedom and democracy has frayed the orthodoxy. Consequently, now is a promising time in which to engage in a fresh conversation to redefine modalities of sustainable development.

#### *A. Development Paradigms and the Global Orthodoxy*

This is the story of how the progressive idea of freedom as the dispositive ingredient in human development slowly crept from the corners of polite debate on sustainable development to challenge the orthodox view. Along the way, unlikely allies including Democratic and Republican presidents in the United States, the Pope, a labor leader in Poland and a dissident in Burma, all converged to engage

---

6. Mark F. Imber, *The Environment and the United Nations*, in *THE ENVIRONMENT AND INTERNATIONAL RELATIONS* 138 (John Vogler & Mark F. Imber eds., 1996); See Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A. Res. 1514, Dec. 14, 1960 (Doc A/RES/1514/XV) at 66-67 (1960) and International Convention on the Suppression and Punishment of the Crime of Apartheid, G.A. Res. 3068, Nov. 30, 1973 (Doc A/RES/3068/XXVIII) at 75-77 (1973).

the orthodoxy and enlarge the idea of democracy as a development norm.

Ironically, the very global institutions that should have been at the forefront of this campaign were absent from its inception and are even now not entirely committed to the enterprise. The World Bank, the International Monetary Fund (IMF) and the United Nations (UN) only recently have begun to nod in the right direction. Their progress has been slow. Much of the hard work and immense resources funneled through these organizations over previous decades has been wasted, entwined in the grip of banal approaches to development.

Historically, the discourse of sustainable development has congregated around a number of discrete themes springing from environmentalism and central economic and social planning. The environmentalists' view that economic growth is destructive to the environment was popularized by the Club of Rome study, *Limits to Growth*.<sup>7</sup> Grandiloquent French and German "meta-narratives" which sought to reshape man and redesign society remain in vogue in modernization theory, even after the fallacy of central planning lay threadbare. The redistribution of wealth from the North to the South is a product of world systems theories, and still a common feature in sustainable development.

The remainder of Part I discusses the history and maturity of the orthodoxy of sustainable development. Part II turns away from the orthodoxy to explore the interrelationship between democracy, economic growth, ecological sustainability and regional security. The research suggests not just casual linkages among them, but strong correlations, and even causality. Some of this research is new and exciting and not well known; some is older but perhaps mostly ignored by many because it does not complement the accepted paradigm. Liberal democratic government is the fulcrum on which these concepts pivot.

The conclusion, Part III, advocates unapologetically for embracing economic and political models of human freedom in pursuit of development. It is imperative that we seek universal acceptance of the democratic development norm. It will be especially challenging to dismantle the orthodoxy. The global sustainable development movement is populated with a membership that shares a common mind-set. Challenges to the conventional wisdom are excluded or rationalized as mistaken. This article joins the few voices beginning to emerge from outside the paradigm; thus, it has somewhat the quality of an outsider looking in.

While research suggests that everyone is susceptible to falling into the cognitive coherence trap, what political scientists call "groupthink,"<sup>8</sup> asking people to "consider the opposite" reduces this tendency significantly.<sup>9</sup> This article adds value to the debate on sustainable development by asking those tied to the orthodoxy to consider an alternative vision. This case for action is the functional

---

7. DONELLA H. MEADOWS, ET AL., *THE LIMITS TO GROWTH: A REPORT FOR THE CLUB OF ROME'S PROJECT ON THE PREDICAMENT OF MANKIND* (1972) [hereinafter *LIMITS TO GROWTH*].

8. See generally Irving L. Janis, *GROUPTHINK: PSYCHOLOGICAL STUDIES OF POLICY DECISIONS AND FIASCOES* (2<sup>nd</sup> ed. 1982).

9. Dan Simon, *A Third View of the Black Box: Cognitive Coherence in Legal Decision Making*, 71 U. CHI. L. REV. 511, 544 (2004).

opposite of much of the prevailing thought. In the words of the eminent historian Arthur Schlesinger, there is value in intruding upon the "curious atmosphere of assumed consensus."<sup>10</sup> Doing so better informs the discourse and draws choices into greater contrast.

By comparing the research about poverty and economic growth, the environment, and regimes and war, we begin to give shape to an inductive model for realizing sustainable development. That model shows that regime type is the best indicator of a country's ability to progress toward sustainable development. Liberal democratic regimes constitute the most effective systems for achieving sustainable development.

### *B. Realism, Liberalism and Waltz's Images*

This analysis is necessarily interdisciplinary, involving a conversation among comparative politics, international politics, economics and law. Louis Henkin remarked once, "[t]he student of law and the student of politics... purport to be looking at the same world from the vantage point of important disciplines. It seems unfortunate, indeed destructive, that they should not, at the least, hear each other."<sup>11</sup> Integrating international relations theory and comparative politics into international law offers particular value.

Over the last decade, the prospect that interdisciplinary scholarship can produce durable findings seems to have produced more clarion calls for such collaboration than actual examples of combined methodology.<sup>12</sup> Working across methodological and conceptual lines of demarcation poses special challenges, causing some to abandon the task altogether. Prominent scholars say the divide cannot be bridged. In mapping the terrain, Professor Greenberg of Stanford Law School refers to the two opposing world views in international law and international relations and suggests they cannot be reconciled.<sup>13</sup> According to Greenberg, liberal internationalism, which emphasizes the rule of law and the centrality of the individual, and realism, which focuses on the struggle for power, are mutually exclusive.<sup>14</sup>

Realism informs the foundation of international relations, and Greenberg argues it is the polar opposite of liberal internationalism, to which international law

---

10. JAMES SUROWIECKI, *THE WISDOM OF CROWDS: WHY THE MANY ARE SMARTER THAN THE FEW AND HOW COLLECTIVE WISDOM SHAPES BUSINESS, ECONOMIES, SOCIETIES AND NATIONS* 37 (2004).

11. Louis Henkin, *HOW NATIONS BEHAVE: LAW AND FOREIGN POLICY* 6 (New York: Praeger, 1968).

12. See Kenneth W. Abbott, *Modern International Relations Theory: A Prospectus for International Lawyers*, 14 *YALE J. INT'L L.* 335-411 (1989); Anne-Marie Slaughter Burley, *International Law and International Relations Theory: A Dual Agenda*, 87 *AM. J. INT'L L.* 205-239 (1993); *TOWARD UNDERSTANDING GLOBAL GOVERNANCE: THE INTERNATIONAL LAW AND INTERNATIONAL RELATIONS TOOLBOX 1* (Charlotte Ku and Thomas G. Weiss, eds., Acad. Council on the U.N. Sys. Rep. & Papers, 1998), available at <http://www.acuns.org>.

13. Jonathan D. Greenberg, *Does Power Trump Law?*, 55 *STAN. L. REV.* 1789, 1802 (2003).

14. *Id.*

is secured.<sup>15</sup> Combining the two approaches is akin to intellectual warfare, with scholars on both sides willing to ignore or ridicule the other. Professor Greenberg writes, "[t]hese opposing visions suggest a fundamental dialectic in human thought and culture. This dialectic is our inheritance. It cannot be 'resolved'."<sup>16</sup> This article takes exception to that fatalistic conclusion. Both realism and liberalism reflect some part of the complex world in which we live. In the cause of global sustainable development, the risks of inaction, or of failure, are so great, and the opportunities and potential for success so compelling, that we are driven to leverage both perspectives.

One of the chief influences of realist political theory to this charge is found in Kenneth N. Waltz's profound exegesis on the causes of interstate conflict, *Man, the State and War*.<sup>17</sup> Waltz approached his study of locating the cause of war through three "images" or lenses—the individual, the state and the international system.<sup>18</sup> According to Waltz's first image, the primary locus of the most important causes of war resides in the aggressive, selfish and foolish nature of man.<sup>19</sup>

Second image analysis attempts to discern whether the causes of peace and war are products of good and bad states and their governing regimes.<sup>20</sup> From the vantage of Waltz' second image, the focus of progressive policy should be on changing the present condition or character of states and their governments.

Sovereign states make their way in an anarchic world system, and Waltz's third image posits that warfare is an inevitable consequence of their journey. In classic third image analysis, Thucydides wrote that the cause of the Peloponnesian War was, "the growth of the power of Athens, and the alarm this inspired in Sparta," which made war inevitable.<sup>21</sup> Although Waltz invested heavily in the third image to explain international warfare, he also argued that no single image was adequate to understanding international problems of war and peace.<sup>22</sup> It is particularly fruitful to keep in mind Waltz's heuristic of three images in considering the matter of global sustainable development.

Since World War II, many government bureaucrats, academics and activists involved with Third World development<sup>23</sup> occupied the intellectual ramparts of the

15. Jeffrey W. Legro & Andrew Moravcsik, *Is Anybody Still a Realist?*, 5 INT'L SEC. 5, 8 (1999).

16. Greenberg, *supra* note 13, at 1804. Professor Greenberg prefers sustaining a "plurality of voices" in order to fend off realist critiques of liberalism to preserve the dominant "efficacy and influence of liberal international law discourse." *Id.* at 1803-04.

17. KENNETH N. WALTZ, *MAN, THE STATE AND WAR* 12 (1954).

18. *Id.* at 12.

19. *Id.* at 165.

20. *Id.* at 114.

21. THUCYDIDES, BOOK I, para. 23, § 6, *reprinted in* THE LANDMARK THUCYDIDES: A COMPREHENSIVE GUIDE TO THE PELOPONNESIAN WAR 16 (Robert B. Strassler, ed., 1996).

22. WALTZ, *supra* note 17, at 158-161.

23. This article focuses most closely on areas that comprise the "Third World." The term "Third World" ("Tiers Monde" in French) was initially coined by the French demographer Alfred Sauvy in 1952 as an analogy from the "third estate." The third estate described the commoners in France before and during the French Revolution. The term was adopted by twenty-nine African and Asian nations at

second and third image of Waltz's paradigm. Immediately after 1945, and extending into the contemporary period, development thought moored to the world system level of analysis and the state level of analysis. Together, the two images have comprised the theoretical template for international development.

Although the second image is the most fruitful level of analysis for sustainable development, most conventional second image analysis has gone astray. Second image analysis acknowledges the controlling function states and regimes play in the process of sustainable development. Government institutions and the decisions of governing elites are strongly correlated to development. The error in the conventional second image approach, however, is in the belief that authoritarian regimes are preferential to (and certainly no worse than) democracies in achieving development.

It is startling to recall that for decades this was the more liberal component of the development orthodoxy. This approach was espoused by modernization theorists in the 1950s and 1960s based on the apparent development successes inside the communist bloc. It is disconcerting to note that this image has grown more influential since the fall of the Berlin Wall, first because of the rise of the Asian "tiger" economies. Beginning in the mid-1990s, the Chinese economic miracle emerged as the most recent example; its greatest spokesperson is Lee Kuan Yew, the former leader of Singapore.

The third image relies on a world systems approach to development. The individual theoretical approaches within the world systems paradigm center on neo-Marxism, neo-colonialism and structural dependency. Ironically, each of these approaches emerged from Western thought, although they imbibe a rejection of other Western approaches to development. Systems theories seek to explain development in terms of powerful social or historical systemic forces that shape the global structure, producing development for some countries while precluding development in others. These approaches are popular in the Third World because they commemorate a sense of independence, and assuage feelings of anger and resentment left over from the experience of colonization. The dispiriting status of permanent victim, however, has made this approach unsatisfying, even if going through the motions has proved therapeutic.

The intellectual confluence of second and third image dynamics forms the durable, but amazingly counterproductive, global sustainable development orthodoxy. While third image theoretical architecture has been overbuilt, solutions based on second image analysis have been woefully underexploited. The obstacles of economic growth, poverty reduction and ecological well-being are

---

the Conference in Bandung, Java, Indonesia, in 1955, and came to denote those nations neutral to the ideological divide during the Cold War. See *The Asian Language*, ASIaweek, Mar. 5, 1999, at 70. Because the nations of the Third World encompass an immense diversity of culture, economic development, and natural resources, as well as political systems, the term "Third World" is an incomplete, if not inaccurate description. Sometimes, however, the term is useful shorthand for describing nations with greater similarities than difference, particularly in relation to the more developed nations. On the Third World as a collective, see generally, John Ravenhill, *The North-South Balance of Power*, 66 INT'L AFF. 731 (1990).



fundamentally political; they properly reside within the second image and can only be fixed by democratic state regimes.<sup>24</sup>

### *C. The World System Image—Dependency Theory*

The term “international development” did not acquire solid currency in foreign policy until World War II. In thinking about the aftermath of the war at a reception in June of 1942, U.S. Vice President Henry A. Wallace remarked to Soviet Foreign Minister Vyacheslav Molotov that industrialization and improvement of nutrition in “India, China, Siberia and Latin America” would prove to be one of the greatest challenges of the post-war order.<sup>25</sup> Molotov concurred.<sup>26</sup> But international development never became a shared East-West enterprise; the East went its own way. While the theory and practice of development was shaped not by the East-West divide, but by the North-South relationship, the terms of the debate—autocracy and world system dependency—were inherited from Karl Marx.<sup>27</sup>

In Europe, the field of development economics emerged from the post-war work of intellectuals such as Paul Rosenstein-Rodan, Ragnar Nurkse, Tibor Scitovsky and Albert Hirschman. These men were influenced largely by Keynesian economics and ascribed to a general disdain for commercialism and markets. Their ideas were infused with a romantic illusion of the potential for rapid economic development through authoritarian planning. Consequently, early approaches to international development coalesced around government-directed solutions. The major focus was finding prescriptions for market failure, and analysis tended to ignore the catastrophic effects of authoritarian government in sabotaging development.<sup>28</sup> This early work laid the foundation for the ambivalent view of regime type and institutions of governance which informs sustainable development to this day.

At the time, there were a few dissenting voices, but they were pushed aside. In 1951, for example, the UN published the *UN Report on the Economic Development for Under-developed Countries*.<sup>29</sup> The publication, which was roundly criticized after its release, declared flatly that, “economic progress will not occur unless the atmosphere is favorable to it. The people of a country must desire

24. LARRY DIAMOND, STANFORD INST. FOR INT'L STUDIES, CTR. ON DEMOCRACY, DEV. & THE RULE OF LAW, MOVING UP OUT OF POVERTY: WHAT DOES DEMOCRACY HAVE TO DO WITH IT? 1(2004), available at [http://iis-db.stanford.edu/pubs/20669/Moving\\_Up\\_Out\\_of\\_Proverty.pdf](http://iis-db.stanford.edu/pubs/20669/Moving_Up_Out_of_Proverty.pdf).

25. JOHN TOYE & RICHARD TOYE, THE UN AND THE GLOBAL POLITICAL ECONOMY: TRADE, FINANCE AND DEVELOPMENT 17-18 (2004).

26. *Id.*

27. H. W. ARNDT, ECONOMIC DEVELOPMENT: THE HISTORY OF AN IDEA 36-39 (1987). Arndt argues that it was another historical figure, Sun Yat-Sen of China, who first used the term “economic development” in the modern sense of the term when he published his book, THE INTERNATIONAL DEVELOPMENT OF CHINA in 1922. *Id.* at 16.

28. GERALD W. SCULLY, CONSTITUTIONAL ENVIRONMENTS AND ECONOMIC GROWTH 7 (1992).

29. U.N. DEPT. OF ECON. AFFAIRS., MEASURES FOR THE ECONOMIC DEVELOPMENT OF UNDER-DEVELOPED COUNTRIES, U.N. DOC. ST/ECA/10, U.N. Sales No. 1951.II.B2 (1951). For a contemporaneous analysis of the report, see S. Herbert Frankel, *United Nations Primer for Development*, 66 Q. J. ECON. 301-326 (1952).

progress, and their social, economic, legal and political institutions must be favorable to it.<sup>30</sup> The claim that “economic progress depends to a large extent on governments of appropriate administrative and legislative action,”<sup>31</sup> was immediately attacked as implying that a lack of success in development displayed a lack of social will.<sup>32</sup>

From the late-1940s until well into the 1990s, neo-Marxist models had a powerful and often controlling impact on development thought. These models largely focused on problems within the international system; one consequence was the emergence of international development law.<sup>33</sup> The first major milestone in this progression was the UN Convention on Trade and Development (UNCTAD) in 1964.<sup>34</sup>

The conference was held in Geneva, and was attended by governments representing three billion people. In classic Marxist metaphor, it was characterized as a summit of collective bargaining between the nations of wealth and poverty.<sup>35</sup> For many, UNCTAD “exploded the myth that all countries are economically equal.”<sup>36</sup> The cause of underdevelopment lay outside, not within the borders of individual states. Underdevelopment reflected basic structural differences in economic and social organization, development and bargaining power; the system should accommodate those differences in order to iron out inequalities. The theory was that fundamentally, the global system was based on domination and exploitation between industrialized countries and developing countries. Since the global system is organized and enforced through international law, if only international law could be changed, then the system could finally begin to heal. Once the cause of underdevelopment is removed, development naturally will occur.

As would become typical of the mega-conference, little was actually accomplished at UNCTAD<sup>37</sup> other than the venting of pejorative references to a “new order” by Third World representatives.”<sup>38</sup> Undersecretary of State George W. Ball, the U.S. representative to the conference, privately lamented, “less-developed countries have been the victims of a high-class confidence game conducted in elegant economic jargon.”<sup>39</sup>

Lavish theories of dependency and world systems support the belief that

30. U.N. DEPT. OF ECON. AFFAIRS, *supra* note 29, ¶ 23.

31. *Id.* at ¶. 39.

32. See Frankel, *supra* note 29 at 325-26.

33. See generally INTERNATIONAL LAW OF DEVELOPMENT: COMPARATIVE PERSPECTIVES 15 (Francis Snyder and Peter Slinn, eds., 1987) (exploring trends in the theory and practice of development law) [hereinafter SNYDER & SLINN].

34. G.A. Res. 1995, U.N. GAOR, 19<sup>th</sup> Sess., 1314th mtg., U.N. Doc. A/RES/1995 (1965).

35. In Geneva, *Global Collective Bargaining*, NEWSWEEK, Apr. 6, 1965, at 25.

36. Diego Cordovez, *The Making of UNCTAD: Institutional Background and Legislative History*, 1 J. WORLD TRADE L. 243-44 (1967).

37. TOYE & TOYE, *supra* note 25, at 205.

38. *Id.* at 201.

39. *Id.*

international economic dependence breeds the "development of underdevelopment."<sup>40</sup> Dependency theorists argue foreign economic interests inside the developing state and foreign capital inflows into the developing state originating from the outside distort balanced and independent development.<sup>41</sup> The theory was captive to ideology which assumes foreign ownership of production constitutes foreign control of the country, and that such ownership automatically illustrates a global structure of domination by the core on the periphery.<sup>42</sup> Still, dependency theory rose to dominate discussions in the 1960s and 1970s. If these models were not completely accepted among Western political economists, they were not firmly rejected, either. John Kenneth Galbraith wrote in a study in 1962 that, "... the most prominent fact about the very poor country is not that it has free enterprise industry or socialist industry, but that it has no industry at all."<sup>43</sup> Dependency began to lose its allure only toward the end of the 1970s, as the passage of time provided greater data for statistical analysis which disproved the hypothesis that foreign capital impedes economic growth.<sup>44</sup>

During its zenith in the 1960s and 1970s, the ideology was angry, fueling a particularly vitriolic and messianic approach which held capital markets and the developed world in bitter contempt. The acrimony of the North-South divide in the UN General Assembly was leveraged<sup>45</sup> in order to gain concessions from the developed world. The result was an emphasis on paternalistic, global socialism which reached its pinnacle with the campaign to establish a New International Economic Order (NIEO).

The NIEO was a product of the Group of 77 (G77), which was established when developing countries signed a compact at the end of the first session of UNCTAD to express unity and begin a dialogue to address structural inequalities in the global economy.<sup>46</sup> In 1967, G77 adopted the Charter of Algiers at a preparatory meeting for the second UNCTAD conference, which was scheduled for New Delhi in 1968. The Charter set forth the grievances of G77, and included a plan of action to restructure world commodity pricing, development financing and the expansion of world trade.<sup>47</sup> For the first time, the Charter of Algiers sought discrimination in the global trading system wherein less advantaged states would

40. Christopher Chase-Dunn, *The Effects of International Economic Dependence on Development and Inequality: A Cross-National Study*, 40 AM. SOC. REV. 720, 720 (1975).

41. See generally ANDRE GUNDER FRANK, *LATIN AMERICA: UNDERDEVELOPMENT OR REVOLUTION* (1969); Chase-Dunn, *supra*, note 40.

42. Christopher Chase-Dunn, *Reply to Stumpp, Marsh and Lake*, 43 AM. SOC. REV. 604, 604 (1978).

43. JOHN KENNETH GALBRAITH, *ECONOMIC DEVELOPMENT* 18 (1962).

44. Mark Stumpp, et al., *The Effects of International Economic Dependence on Development: A Critique*, 43 AM. SOC. REV. 600, 603 (Aug. 1978).

45. Howard R. Alker, Jr. and Bruce M. Russett, *WORLD POLITICS IN THE GENERAL ASSEMBLY* 231 (1965).

46. Joint Declaration of the Seventy-Seven Developing Countries Made at the Conclusion of the United Nations Conference on Trade and Development, Geneva, Switzerland, Jun. 15, 1964, available at <http://www.g77.org/Docs/Joint%20Declaration.html> (last visited Nov. 2, 2005).

47. First Ministerial Meeting of the Group of 77: The Charter of Algiers, Algiers, Algeria, Oct. 10-25, 1967, available at <http://www.g77.org/Docs/algier%7E1.htm> (last visited Nov. 2, 2005).

be granted more favorable terms.

In 1970, the UN General Assembly announced the Second Development Decade, invoking apartheid, colonialism, and the “occupation of territories of any State”<sup>48</sup> as the essential obstacles to development. The resolution reiterated the language included in the Charter of Algiers that primary responsibility for development resided with the developing states, and it adopted some sensible measures, such as encouraging the reduction in tariffs among developing countries.<sup>49</sup> The resolution, however, contained other provisions for developed states to transfer, by 1972 and annually thereafter, 1% of their gross national product to the developing world.<sup>50</sup> Those states that were already meeting that quota were encouraged to envisage an even greater direct transfer of wealth. A special session of the General Assembly was conducted in April and May of 1974, at which member states were called upon to study the problems of “raw materials and development.”<sup>51</sup> That session produced the Declaration on the Establishment of the NIEO.<sup>52</sup>

With the NIEO declaration, the feeling that the international system was in a state of severe imbalance was running at a feverish pitch. The solution was to erect a new order based on sovereign equality, equity and interdependence, “irrespective of their economic and social systems.”<sup>53</sup> The declaration affirmed that vestiges of racism, apartheid, foreign occupation and “neo-colonialism in all its forms” served as the main impediments to development.<sup>54</sup> Announcing unity among developing countries as a source of new global power, in “all fields of international activity,” the declaration also called for full and equal participation of developing states in formulating and applying decisions of the international community.<sup>55</sup>

The declaration also demanded preferential and non-reciprocal treatment for developing countries in international economic cooperation.<sup>56</sup> The proponent governments, mostly dictatorships and other sundry autocrats, declined to make distinctions among regimes and economic systems, unapologetically valuing the right of “every country to adopt the economic and social system that it deems most appropriate for its own development, and not to be subjected to discrimination of any kind as a result.”<sup>57</sup>

The principles set forth in the NIEO resolution of 1974 were codified by a

48. Development Strategy for the Second United Nations Development Decade, G.A. Res. 2626, 25th Sess., 1883d mtg., ¶ 5 at 40, U.N. Doc. A/8124 (1970).

49. *See id.* at ¶ 11.

50. *Id.* at ¶ 42.

51. Declaration on the Establishment of a New International Economic Order, G.A. Res. 3201, 6th Special Sess., 2229th mtg. at 3, U.N. Doc. A/9559 (1974).

52. *Id.*

53. *Id.* at 3.

54. *Id.*

55. *Id.* at 4.

56. *Id.*

57. *Id.*

complementary Charter of Economic Rights and Duties of States.<sup>58</sup> The charter put NIEO into operation by permitting nationalization and expropriation of multinational corporate property, with compensation paid in accordance with "all circumstances the [expropriating] State considers pertinent."<sup>59</sup> Controversies over expropriation would be settled by the tribunals and the domestic laws of the nationalizing state.<sup>60</sup> Further, every state inherited a right to benefit from advances in science and technology to promote its economic and social development, which meant that productive economies should subsidize those that were unproductive.<sup>61</sup> Finally, the charter mandated that developed nations expand measures to provide special and more favorable treatment to developing states.<sup>62</sup>

For all its indignant protest, many felt that the declaration and charter did not go far enough. These hard-liners argued NIEO represented complicity with a corrupt capitalist-dominated international system.<sup>63</sup> One alternative solution was to take inspiration from the socialist countries' concept of collective autonomy by disengaging from the world system.<sup>64</sup> Developing countries could escape from permanent status on the periphery by setting up their own detached system. Disengagement from the global system would generate a new "sovereign space" or parallel international system for developing countries.<sup>65</sup>

By the inauguration of the Third UN Development Decade in 1980, little had changed. The pronouncement for the Third Decade simply borrowed language from the Second; the centerpiece of development was in restructuring the world system, which was in disequilibrium. The solution was now familiar—redoubling the effort to establish a NIEO.<sup>66</sup> The declaration for the Third decade, however, evinced greater sophistication than earlier work.<sup>67</sup> The World Bank and the IMF were encouraged to conduct their affairs in a way that would accommodate developing nations' strategies. Stable international exchange rates and currencies were sought.<sup>68</sup> Developed states were urged to control rampant inflation, which had a precarious effect on development.<sup>69</sup> In a nod to reality, the target for development assistance from developed states fell from 1.0% to 0.7% of gross domestic product by 1985; the goal of 1% was deferred indefinitely.<sup>70</sup>

---

58. See Charter of Economic Rights and Duties of States, G.A. Res. 3281, 29th Sess., 235th mtg. at 50-55, U.N. Doc. A/Res/3281/XXXIX (1974).

59. *Id.*

60. *Id.* at 52, art. 2.

61. *Id.* at 53, art. 13.

62. *Id.* at 54, art. 18.

63. SNYDER & SLINN, *supra* note 33, at 17-18.

64. *Id.* at 18.

65. *Id.*

66. International Development Strategy for the Third United Nations Development Decade, G.A. Res. 35/56, U.N. GAOR, 35th Sess., 83d plen. mtg., at 106, U.N. Doc. A/35/56 (1980).

67. *Id.* at 120.

68. *Id.* at 115.

69. *Id.* at 108.

70. *Id.* at 108, 113.

The next milestone was the UN Declaration on the Right to Development<sup>71</sup> in 1986. In many ways, it typified global development talk by looking to developed states to provide the Third World with their “inalienable human right” to development.<sup>72</sup> But the document was original and profound in other ways. First, it recognized that the human person, and not the state, should be the subject and beneficiary of development.<sup>73</sup> Second, although the declaration continued to expound NIEO language, it acknowledged for the first time that developing states had a duty to formulate appropriate development policies.<sup>74</sup> While this standard surely was vague, the door was now open to the importance of national policy in development. It was the first glimmer into the “black box” of the state for international development theorists, and a long-overdue recognition that regime type, national economic systems and social modalities mattered.

Through the 1980s and into the 1990s, however, the NIEO model persisted. One fuming neo-colonialist assessment which succinctly illustrates the stale state of the paradigm was expressed by an African from Cameroon in 1991:

[I]nstead of development, it is my view that we are in the most vicious stages of colonization. The so-called development strategies are ways to exploit the riches of Africa. For industrialized countries, Africa is a vast plantation, a huge market, innumerable sales points, an immense dumping ground, a place for leisure, and a reservoir of labor and jobs. She will therefore have to produce raw materials and export them to the industrialized countries for pittance; and she will get so much poorer by consuming manufactured goods purchased at incredibly high prices from the very same countries.<sup>75</sup>

The view is enduring, indicating that the depth of dependency theory and the powerful narrative it invokes. In 1996, Philip Shabecoff, a former reporter for *The New York Times* who served as historian to the Rio Earth Summit, said, “There can be little doubt that the industrialized nations of North America, Europe, and Asia, which control the lion’s share of the planet’s wealth and power, also bear the major responsibility for inequitable distribution of its wealth, degradation of the environment and heightened political tensions between North and South.”<sup>76</sup> For many today, world systems analysis extracted from Waltz’s third image still holds the key to understanding under-development.

#### D. “Fixing” the World System: The Era of the Mega-Conference

Once one accepts that development is caused by certain systemic world

71. See Declaration on the Right to Development, G.A. Res. 41, arts. 1, 2, U.N. GAOR, 41st Sess., Supp. No. 53 at 186, U.N. Doc. A/41/53 (1986).

72. *Id.*

73. *Id.* at 186-87

74. *Id.*

75. PHILIP SHABECOFF, A NEW NAME FOR PEACE: INTERNATIONAL ENVIRONMENTALISM, SUSTAINABLE DEVELOPMENT AND DEMOCRACY 54 (1996) (quoting Louisa Tappa, *Theology of Environment and Development*, in SONED ON UNCED, A SOUTHERN PERSPECTIVE ON THE ENVIRONMENT AND DEVELOPMENT CRISES 64 (1991)).

76. *Id.*

problems, it is inescapable to seek globally-mandated solutions. Globalism may be described as the increasingly dense network of intercontinental and international connections among state and non-state actors, mediated through the flow of people, culture and ideas, information, goods and services, capital and basic materials and raw resources.<sup>77</sup> Economies are globally interconnected, but the temptation to search for global mandates often ignores local and state problems. In considering global *governance*, many writers and practitioners fall into error searching for global solutions and global *government*. Hedley Bull referred to this trap as the “domestic analogy.”<sup>78</sup>

Domestic governance is so familiar that it is exceedingly tempting to hope that the state order experienced in the developed world can be easily stretched to encompass the globe. The sustainable development movement in particular has been prone to succumb to the domestic analogy, in which local and state problems are addressed in sweeping, but ineffective fashion, through global action. For example, the UN Development program’s *Human Development Report 1999: Globalization with a Human Face*, illustrates how development theorists and practitioners cling to the fatigued model of global government, while ignoring policies that would enhance sustainable development.<sup>79</sup> That report advocates transforming global governance architecture by creating a global central bank and a world investment trust to redistribute wealth.<sup>80</sup> A two-chamber assembly would be structured to allow global representation of civil society.<sup>81</sup> Global advocates claim, “[N]o single country or group of countries, however powerful, could effectively solve the problem.”<sup>82</sup> Over the long run, the report envisions “global federalism”—a genuinely global government.<sup>83</sup>

In his opening speech at the first UNCTAD more than forty years ago, U.S. Undersecretary of State George W. Ball attempted to strike a note of realism into the gathering. Instead, his presentation was received by many in attendance as paternalistic—and some regarded it as hostile “negative blast.”<sup>84</sup>

The bitterness from the early days of international economic development was fused with a parallel strand of environmental activism. If UNCTAD ignited modern discourse on global economic development, it was Stockholm that did so for global environmental protection. A “greening” of development economics

77. Robert O. Keohane & Joseph S. Nye, Jr., *Introduction in GOVERNANCE IN A GLOBALIZING WORLD* 1-4 (Joseph S. Nye, Jr. and John D. Donahue, eds., 2000); *see also*, U.N. DEVELOPMENT PROGRAM, *HUMAN DEVELOPMENT REPORT 1999: GLOBALIZATION WITH A HUMAN FACE* (1999) [hereinafter, *GLOBALIZATION WITH A HUMAN FACE*].

78. HEDLEY BULL, *THE ANARCHICAL SOCIETY: A STUDY OF ORDER IN WORLD POLITICS* 46 (1977).

79. *See generally* *GLOBALIZATION WITH A HUMAN FACE*, *supra* note 77.

80. *Id.* at 111.

81. *Id.*

82. RICHARD ELLIOT BENEDICK, *OZONE DIPLOMACY: NEW DIRECTIONS IN SAFEGUARDING THE PLANET* 4 (1998).

83. Dani Rodrik, *Governance of Economic Globalization*, in *GOVERNANCE IN A GLOBALIZING WORLD* 362-63 (Joseph S. Nye, Jr. and John D. Donahue, eds., 2000).

84. TOYE & TOYE, *supra* note 25, at 202.

occurred in the 1970s,<sup>85</sup> and ecology would become formally fused to economics in the 1980s to create the term “sustainable development.” The merger did not mature as ideology until the Earth Summit in Rio de Janeiro in 1992. The alliance between the proponents of Third World development and Western environmental activists would come to sustain anti-globalism into the 1990s. By the time of the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002, it was evident that the alliance was unraveling.

Although the era of the mega-conference began at UNCTAD in 1964, it was not recognized as a new phenomenon until Stockholm in 1972. The age expired in Johannesburg, where malaise captured the mood. The mega-conferences that were features of this thirty years’ expanse each served as powerful political symbols to transmit the message of the orthodoxy. During the heyday, they served as focal points to crystallize sentiment and strengthen the movement. The conferences are remembered fondly by their participants as things accomplished, and opportunities lost.

Political scientist Harold D. Lasswell wrote in his study of political symbols that in non-democratic societies, the insistence of a ritual of action—such as the conduct of elections—serves as a central symbol and reassures conformity.<sup>86</sup> In such cases, discourse becomes highly stereotyped. The sustainable development orthodoxy was caught up in this phenomenon. Measures of effectiveness were gauged by the number of treaties and signatories, and the expressions of good intention, rather than by the consequences flowing from compliance and enforcement. The symbols became ornamental features of discourse at grand summits in exotic locations, sometimes resulting in edifying signing ceremonies. Lasswell wrote, “[b]y elaborating the trappings of an oracle, the ocular message becomes a pronouncement that takes on an authoritative nimbus of mystery and weight.”<sup>87</sup>

In 2002, the WSSD in Johannesburg signaled the end of an era and the demise of expectations organic to the lavishly overwrought conferences. In the decades between Stockholm and Johannesburg, a cadre of entrenched UN and international bureaucrats, non-governmental organizations (NGOs), government officials and academicians had become steeped in the orthodoxy. It is axiomatic to regard the time between Stockholm and Johannesburg as a sort of “golden age” of enlightened cooperation on the environment and development.<sup>88</sup> There is a sense that the early recognition of environment degradation embodied in Stockholm deteriorated after the 1970s, and that chief responsibility for this condition lies

---

85. SCULLY, *supra* note 28, at 7-8.

86. HAROLD D. LASSWELL, ET AL., *THE COMPARATIVE STUDY OF SYMBOLS: AN INTRODUCTION* 24 (1952).

87. *Id.* at 24.

88. Frederick A. B. Meyerson, *Burning the Bridge to the 21<sup>st</sup> Century: The End of the Era of Integrated Conferences?*, 9 ENVIRONMENTAL CHANGE & SECURITY PROJECT REPORT 6, 10 (Spring 2003), available at <http://wwics.si.edu/topics/pubs/ACF23C.pdf> (last visited Sep. 21, 2004). The Environmental Change and Security Project is part of the Woodrow Wilson Center for International Scholars in Washington, D.C.



with the developed nations.<sup>89</sup>

Conference participants comprised a global network constructed from alliances of likeminded representatives who share the same epistemological assumptions.<sup>90</sup> Pursuing common goals, they delivered countless interventions at the negotiating table and fashioned grandiose agreements, often with the effect of advancing their careers.<sup>91</sup> The perpetual mobilization, coordination and technical review embodied public diplomacy that skirted uncomfortably close to conflicts of interest.<sup>92</sup>

### 1. Stockholm—NGOs Get a Seat at the Table

During the 1960s, many began to realize that ecology would touch all aspects of our lives, and that the environment would affect every corner of society. The quality of the natural environment quickly became associated with quality of life in a multitude of ways. In 1968, the UN General Assembly recognized the connection between the quality of the natural environment and human rights.<sup>93</sup> The resolution set the stage for thinking about the environment in social and political terms, although many of the ensuing prescriptions would prove wildly ineffective. That same year, the General Assembly adopted Resolution 2398, which proposed to convene a UN Conference on the Human Environment in 1972 for the purpose of creating a framework within the UN for “comprehensive consideration” of the problems of the human environment.<sup>94</sup>

Writing before the conference, economist Barbara Ward and the microbiologist René Dubos captured the alarming, if not apocalyptic, prognosis of the times:

The two worlds of man—the biosphere of his inheritance, the technosphere of his creation—are out of balance, indeed potentially in deep conflict.... This is the hinge of history at which we stand, the door to the future opening to a crises more sudden, more global, more inescapable and more bewildering than ever encountered by the human species....<sup>95</sup>

The Stockholm Conference met from November 5-16, 1972 and was the first global intergovernmental conference dedicated solely to environmental issues. It was attended by 113 states, including two heads of state. It concluded with the adoption of a declaration which avoided specifics and instead found its influence

89. SHABECOFF, *supra* note 75, at 51.

90. Anne-Marie Slaughter, *The Real New World Order*, FOREIGN AFF. Sept.- Oct. 19, 1997, at 183.

91. PAMELA S. CHASEK, *EARTH NEGOTIATIONS: ANALYZING THIRTY YEARS OF ENVIRONMENTAL DIPLOMACY* 224 (2001).

92. FEN OSLER HAMPSON & MICHAEL HART, , *MULTILATERAL NEGOTIATIONS: LESSONS FROM ARMS CONTROL, TRADE AND THE ENVIRONMENT* 349 (1995).

93. *Problems of Human Environment*, G.A. Res. 2398, U.N. GAOR, 23d Sess., 1733dmtg. at 2 (1968).

94. *Id.*

95. BARBARA WARD & RENÉ DUBOS, *ONLY ONE EARTH: THE CARE AND MAINTENANCE OF A SMALL PLANET* 16 (1972).

and authority in tone, and in its celebratory dedication to establishing basic rules of international environmental law.<sup>96</sup> Embodying 26 general principles,<sup>97</sup> the Stockholm Declaration was hortatory in its essence, but with the distinct hope that, like the UN Declaration on Human Rights that preceded it, it would assume increasing authority.<sup>98</sup> The power of the declaration was in its role as one of Lasswell's symbols of inspiration.<sup>99</sup>

Fundamental Principle 1 set forth in sweeping aspirational language the key to the Declaration. It would have been a timeless statement on the condition of man but for the addition of neo-colonial aura which quickly dated it:

Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being, and bears solemn responsibility to protect and improve the environment for present and future generations. In this respect, policies promoting or perpetuating apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination stand condemned and must be eliminated.<sup>100</sup>

Some delegates thought it more desirable that the Declaration start with an apolitical and general affirmation of every human's "right to a wholesome environment."<sup>101</sup> This right already was recognized in the Universal Declaration of Human Rights<sup>102</sup> and the International Covenant on Economic, Social and Cultural Rights (ICCPR).<sup>103</sup> In the end, more politicized language prevailed. The Tanzanian Amendment, later endorsed by twelve African states, wanted the principle to denounce "expansionism, apartheid, colonialism and racism."<sup>104</sup> Other states felt the political language was extraneous.<sup>105</sup> In the end, a compromise was reached, with the Africans largely successful in their effort to shape the text.

The Declaration condemns certain forms of government abuse that deny fundamental human rights, but the categories mentioned are vastly under-inclusive. More general language indicting all autocratic forms of government and government failure would have been more accurate, and more helpful, in a text with such august aspirations.

96. Louis B. Sohn, *The Stockholm Declaration on the Human Environment*, 14 HARV. INT'L L. J. 423, 513-15 (973).

97. Declaration of the United Nations Conference on the Human Environment, U.N. Doc A/CONF.48/14, 11, 11 I.L.M. 1416 (June 16, 1972) [hereinafter Declaration on the Human Environment].

98. Sohn, *supra* note 96, at 513-515.

99. *Id.* at 428.

100. Declaration on the Human Environment, *supra* note 97, at Part II, Principle 1.

101. Sohn, *supra* note 96, at 452.

102. Universal Declaration of Human Rights, G.A. Res. 217A (III), art. 25(1), U.N. Doc. A/810 (Dec. 19, 1948).

103. International Covenant of Economic, Social and Cultural Rights, G.A. Res. 2200A (XXI), art. II(1), U.N. Doc. A/6316 (Dec. 16, 1966).

104. Sohn, *supra* note 96, at 454.

105. *Id.*

The global environmental movement gained sophistication and energy in the early-1970s, and learned to effectively exercise political power in Western Europe and North America. The groups made their mark at Stockholm. The Conference signaled a shift away from the state-centered negotiation of previous international environmental treaties and toward UN-centered negotiations.<sup>106</sup> This increased the influence of the UN Secretariat and NGOs.<sup>107</sup>

Stockholm marked the first major foray by the global environmental movement into international politics,<sup>108</sup> and it propelled NGOs into a permanent place in international policy-making.<sup>109</sup> Principle 25 welcomed them to the table by calling on states to ensure that international organizations play an "efficient, coordinated and dynamic role."<sup>110</sup> As a consequence, the goals of some of the negotiations became disconnected from the states that would implement the provisions, creating instruments that were unworkable.<sup>111</sup> This phenomenon would incubate throughout UN conferences for thirty years, becoming painfully obvious to NGOs and states alike only at Johannesburg.

At the time, Stockholm was seen as a major success in infusing language concerning the environment with a new social and political content. What was perhaps most interesting about the Declaration is that it gave rise to a sense that the international community—by force of good will, public opinion and activism—could penetrate the sovereign shell of the state and drag it toward emerging normative aspirational goals. The declaration generated an optimistic ambiance of international cooperation, and the bold confidence displayed in the text was a powerful catalyst for generating change. In retrospect, one of the most important observations to emerge from Stockholm was that most environmental problems in the Third World were caused by under-development. Unfortunately, this key tenet has been virtually lost among the cacophony of causes vying for attention in the world environmental movement.<sup>112</sup>

A side meeting at the conference concluded that development not only solves the crises of human poverty, but also is an effective mechanism for environmental conservation. The meeting included only about 30 participants to the Stockholm Conference and met in Founex, Switzerland, located outside of Geneva. The group produced a report which suggested economic development was the only realistic method of achieving ecological protection.<sup>113</sup> Unfortunately, contrary views expressed at the conference had greater influence in shaping international

---

106. Oran R. Young, *Perspective on International Organizations, in* INTERNATIONAL ENVIRONMENTAL NEGOTIATIONS 244, 250 (Gunnar Sjöstedt, ed. 1993).

107. Some of the more state-centered negotiations were the London Convention (1972), the MARPOL Protocol (1978), CITES (1973) and the Convention on Long-Range Transboundary Air Pollution (1979). CHASEK, *supra* note 91, at 223-24.

108. Sohn, *supra* note 96, at 513.

109. SHABECOFF, *supra* note 75, at 39.

110. Declaration on the Human Environment, *supra* note 97, at pt. II, principle 25.

111. Young, *supra* note 106, at 251.

112. Declaration on the Human Environment, *supra* note 97, pt. I, para. 4.

113. See THE FOUNEX GROUP, DEVELOPMENT AND THE ENVIRONMENT: THE FOUNEX REPORT 3-5 (1971).

environmentalism. Abhorring economic development, some viewed economic growth as the *cause* of environmental degradation, rather than a possible *cure*. This approach cautioned against the pursuit of development, not just because it perpetuates structural inequalities, but because it endangers the Earth—and the safety of us all.<sup>114</sup>

The Club of Rome's *Limits to Growth* is the most articulate exposition of the latter approach.<sup>115</sup> Published in 1972, *Limits to Growth* worried about the world bumping up against finite limitations of economic and societal growth.<sup>116</sup> Continued economic growth eventually would precipitate a "sudden, uncontrollable collapse" in global ecology.<sup>117</sup> *Limits to Growth* argued that Earth was in disequilibrium; in order to enter a state of equilibrium, all input rates, and particularly human population and investments of capital, must be minimized.<sup>118</sup> As late as 2000, the Club of Rome was still talking about Malthusian models of finite growth and warning of an impending "ecological holocaust."<sup>119</sup>

## 2. The Brundtland Report—'Sustainable' Development

By the end of the 1980s, there was worry that nations had strayed from the multilateralism of Stockholm, and there was a push to recapture the waning spirit of global environmentalism. In writing the Chairman's Foreword to his report, former Norwegian Environmental Minister Gro Harlem Brundtland pleaded that a return to multilateralism was the "most urgent task today."<sup>120</sup> He argued that the years between 1972 and 1987 had seen deterioration in global cooperation.<sup>121</sup>

Modern usage of the term "sustainable development" emerged from the *Report of the World Commission on Environment and Development* (WCED).<sup>122</sup> The WCED was established by the UN General Assembly in 1983 with a mandate to re-examine critical assumptions on the environment and development. The title of the report was, *Our Common Future*. Referred to as the *Brundtland Report*, the final document of the commission was delivered to the UN General Assembly in 1987.<sup>123</sup>

The report defined "sustainable development" as "development that meets the needs of the present without compromising the ability of future generations to meet

114. GILBERT RIST, *THE HISTORY OF DEVELOPMENT: FROM WESTERN ORIGINS TO GLOBAL FAITH* x (2d ed. 2002).

115. See *LIMITS TO GROWTH*, *supra* note 7, at 9.

116. *Id.* at 24.

117. *Id.* at 158.

118. See *id.* at 171-76.

119. See RAMÓNE TAMAMES, *WORLD ECONOMIC AND ENVIRONMENTAL ORDER 25-27* (final amended ed. UNESCO, Dec. 4, 2000), *available at* <http://www.clubofrome.org/archive/publications/tamames%20eolss-racm%2024.01.01.pdf> (last visited on April. 11, 2006).

120. WORLD COMMISSION ON ENVIRONMENT AND DEVELOPMENT, *OUR COMMON FUTURE* x (1987) [hereinafter *BRUNDTLAND REPORT*].

121. See *id.* at xi.

122. See *id.* at 43.

123. *Id.* at xv.

their own needs.”<sup>124</sup> Significantly, the report acknowledged a commitment to economic growth based on “policies that sustain and expand the environmental resource base.”<sup>125</sup> The report also took sides on the duel between the *Founex Report* and *Limits to Growth* by recognizing that economic growth was essential to turn back deepening poverty in the developing world.<sup>126</sup>

The *Brundtland Report* represented a clear break from the idea that environmental problems had become so unmanageable that the only way out was to stop development through zero-growth solutions. Instead, the report realized that “[m]any essential human needs can only be met through goods and services provided by industry....”<sup>127</sup> The report said the terms “environment” and “development” were “inseparable,” placing the two, for the first time, on equal footing.<sup>128</sup> The report was much more optimistic than its predecessors, concluding that “humanity has the ability to make development sustainable.”<sup>129</sup> Departing from the *Limits to Growth*, it claimed that the concept of sustainable development does not imply limits; present limitations were elastic and could be remade through advances in technology<sup>130</sup> and social reorganization.<sup>131</sup>

The report also rejected the inevitability of poverty, calling it an “evil in itself.”<sup>132</sup> Population growth and the high proportion of young people throughout the Third World meant that there was a larger labor force seeking jobs, and the agricultural sector could not absorb all of them.<sup>133</sup> Industry was called on to provide employment, and to deliver consumer goods and material comforts. The new goal was to fulfill the burgeoning rise in human needs and expectations through economic development. *Limits to Growth* was repudiated.

Despite recognition of the importance of markets, the *Brundtland Report* retained components dependency theory baggage, and in some ways this reinforced the development orthodoxy. Employing Waltz’s third image, the report perpetuated neo-colonial solutions. It advocated a vertical, top-down focus to force global systemic repair, stating that the basis of exchange in world trade must be rebalanced to satisfy developing countries. Moreover, the report ignored the most important lessons that would emerge from second image analysis—that a nation’s political regime often determined the level of development.

---

124. *Id.* at 43. The term “sustainable development” as a sociopolitical concept is thought to have originated from a 1980 IUCN report, WORLD CONSERVATION STRATEGY (1980), and popularized by Lester R. Brown’s book, BUILDING A SUSTAINABLE SOCIETY (1982). See MARIE-CLAIRE CORDONIER SEGGER, ET AL., WEAVING THE RULES FOR OUR COMMON FUTURE: PRINCIPLES, PRACTICE AND PROSPECTS FOR INTERNATIONAL SUSTAINABLE DEVELOPMENT LAW 11-13 (2002) [hereinafter WEAVING THE RULES].

125. BRUNDTLAND REPORT, *supra* note 120, at 1.

126. *Id.*

127. *Id.* at 206.

128. See *id.* at xi.

129. *Id.* at 8.

130. *Id.* at 217-218.

131. *Id.*

132. *Id.*

133. *Id.* at 213-214.

### 3. The Earth Summit at Rio

The next major milestone was Rio. Ninety heads of state attended the UN Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil, in 1992.<sup>134</sup> The Earth Summit was the first major international conference after the Cold War and the apex of optimism. Maurice Strong, who was appointed Secretary-General, had high hope, billing the event, "the most important international conference ever convened."<sup>135</sup>

By the time of Rio, the international environmental movement had moved from the periphery to the center of decision-making. Their presence further deepened political rifts. The four preparatory committees (PrepComs) became a virtual combat zone as blocs of countries and NGOs worked to fashion the capstone documents, the Rio Declaration and Agenda 21.<sup>136</sup> By the Fourth PrepCom, dispute and deadlock characterized every single document, chapter, paragraph, comma, and period.<sup>137</sup> Whereas the NGOs had a place at the table at Stockholm, at Rio often they were driving the agenda. For the first time, NGOs participated in substantial numbers to shape the program. There were over 1,000 accredited organizations at the table. Since many of them lacked familiarity with the labyrinthine UN negotiation process, they slowed negotiations considerably.<sup>138</sup> Many organizations had militantly sharp and competing positions.<sup>139</sup> Even when they agreed in substance, they divided over language, style and strategy. Barbara Bramble of the National Wildlife Federation captured the rancor:

[W]hen we talk about 'reallocation,' we mean a good thing—like taking away fiscal incentives to cut down rain forests for cattle ranches. They use the word to mean a bad thing—taking current official development aid and re-labeling it for the environment. We are asking for reforms of financial institutions. They are just asking for more money. They don't know that in the United States, 'wise use' is a code for the destruction of natural resources by big corporations. The split is a mile wide and 60 miles deep.<sup>140</sup>

Bringing NGOs to the forefront of negotiation was part of an enlightened plan

---

134. U.N. Conference on Environment and Development: Rio Declaration on Environment and Development, U.N. Doc. A/CONF.151/5/REV.1, 31 I.L.M. 874 (June 13, 1992).

135. SHABECOFF, *supra* note 75, at 128.

136. *Id.* at 142.

137. *Id.* at 146.

138. *Id.* at 149.

139. The prevalence of some more extreme positions inspired more than 250 scientists world wide, including 27 Nobel Prize winners, to issue the "Heidelberg Appeal," a letter to heads of state attending the conference to resist the "irrational ideology which is opposed to scientific and industrial progress," impeding economic and social development. They contended, "a natural State, sometimes idealized by movements with a tendency to look to the past, does not exist and has probably never existed since man's first appearance in the biosphere, insofar as humanity has always progressed by increasingly harnessing Nature to its needs and not the reverse." *Beware of False Gods in Rio*, WALL ST. J., Jun. 1, 1992, at A12.

140. SHABECOFF, *supra* note 75, at 150 (Interview conducted by Shabecoff with Barbara Bramble in March 1992).

to nurture civil society. The central assumption was that the organizations were a critical segment, perhaps the most critical segment, of civil society because they engage in democratic processes and could challenge the state.<sup>141</sup> At least in some cases, this assumption appears questionable. The organizations generally held strong and narrow views, serving to Balkanize the negotiations. In some countries, participation by broader groups may have been more representative and effective at building civil society. In South Africa, for example, a social movement, rather than advocacy organizations, brought down apartheid.<sup>142</sup> The sanctimonious behavior of some of the groups at Rio created pause about their expansive role. Shifting power to vocal, savvy, unelected, well-funded and well-organized advocacy groups actually could diminish public representation by empowering special political interests.

The summit was a massive affair, hosting 100 heads of state and 178 countries. Rio is a party city; outside the meetings, the event produced a carnival atmosphere populated by a camp-following of anarchy. The summit even featured a rock music concert and had its own theme song.<sup>143</sup> In contrast, the level of seriousness sometimes was palpable, as normal logistical decisions about the summit acquired greater meaning. In the final days of planning for the event, organizers were forced to make a fateful decision between ensuring present comfort and risking future environmental well-being. Planners finally decided in favor of cooling the conference with potentially ozone-depleting air conditioning, leading the *Wall Street Journal* to question whether "AC is PC."<sup>144</sup> The choice served as a metaphor for the decisions made at the negotiating table.

Of the five major agreements to emerge from the conference, the Rio Declaration and Agenda 21<sup>145</sup> were the most comprehensive. The composite Rio Declaration formed a short statement of sustainable development. Principle 4 declares, "in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it."<sup>146</sup> Of the few human rights dispensed in the

---

141. Marina Ottaway & Thomas Carothers, *Toward Civil Society Realism*, in FUNDING VIRTUE: CIVIL SOCIETY AID AND DEMOCRACY PROMOTION 295 (Marina Ottaway & Thomas Carothers, eds. 2000).

142. Marina Ottaway, *Social Movements, Professionalization of Reform, and Democracy in Africa*, in FUNDING VIRTUE: CIVIL SOCIETY AID AND DEMOCRACY PROMOTION 77, 95 (Marina Ottaway & Thomas Carothers, eds. 2000).

143. Robert S. Greenberger, *North-South Split: With Cold War Over, Poorer Nations Face Neglect by the Rich*, WALL ST. J., May 14, 1992, at A1.

144. Thomas Kamm, *Rio Eco-Fest: Some Big Problems Await World Leaders At the Earth Summit*, WALL ST. J., May 29, 1992, at A1.

145. Agenda 21 is a blockbuster 40-chapter volume spanning 800-pages of goals and potential programs outlining sustainable development for the world. The full text of Agenda 21 is available on the Internet website of the UN Department of Social and Economic Affairs, at <http://www.un.org/esa/sustdev/documents/agenda21/english/agenda21toc.htm>. (last visited May. 19, 2006).

146. Report of the United Nations Conference on the Environment and Development June 3-14, 1992, U.N. Doc. A/CONF.151/26 (I) (Aug. 12, 1992), available at <http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm>.

declaration is entitlement to a “healthy and productive life in harmony with nature,” in Principle 1, a standard so vague as to be essentially meaningless.<sup>147</sup> The rather lengthy Principle 10 alludes to a right of access to the public of information concerning the environment,<sup>148</sup> a right that is not unimportant, but tangential to the far more critical rights delineated years earlier at Copenhagen as part of the Helsinki Process.

The declaration preserved dependency themes developed in the heady days of the NIEO. Principles 2 and 3 assure states that they have the “sovereign right to exploit their own resources,” as though that idea were in dispute, while indicating that the “right to development” should be fulfilled “equitably.”<sup>149</sup> Principle 6 resurrects the call for giving “special consideration” and “special priority” to developing states, without ever defining what the scope of the preference.<sup>150</sup>

Overall, the gaping deficit of the Rio Declaration is a lack of any mention of democracy or the rule of law, let alone anything so *avant garde* as a right to own property or enter markets. Curiously, it even omits the usual amorphous neo-colonial euphemisms for democracy, such as human freedom and self-determination. Working in the shadow of the Copenhagen Document, these omissions only typify the sway that third image themes—systemic neo-colonialism and dependency—held over much of the global body politic.

#### 4. Millennium Goals, But Not Means to Achieve Them

Eight years after Rio, at the time of the Millennium Summit in New York in early September, 2000, democracy had gained currency. In the intervening years, a host of democracies had emerged throughout the world. Some of these democratic states, materializing from decades of communist dictatorship, were particularly strong voices for human freedom and the rule of law.

During this time in the United States, the Clinton Administration had settled into an unapologetic but sensitive campaign of democracy promotion throughout the world. Months before the summit, in June of 2000, the Council for a Community of Democracies was launched in Warsaw, Poland, with 106 member governments.<sup>151</sup> The combination of these events refreshed the global normative foundations of liberal democracy.

The Millennium Declaration was an omnibus template for addressing the world’s greatest challenges over the next fifteen years.<sup>152</sup> The document was

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

151. Michael J. Glennon, *There’s A Point to Going it Alone: Unilateralism Has Often Served Us Well*, WASH. POST, Aug. 12, 2001 at B2. Among democracies throughout the world at the time, France was the sole unilateral hold-out to participating at the founding of the Community of Democracies in Warsaw.

152. United Nations Millennium Declaration, G.A. Res. 55/2, U.N. GAOR, 55th Sess., 8th Plenary mtg., U.N. Doc. A/55/2 (Sept. 18, 2000).



divided into eight sections.<sup>153</sup> Democracy, which should be a central theme of the entire document, is inexplicably absent from sections II, III, and VI, which address peace and security, development and poverty reduction, and protecting the vulnerable.<sup>154</sup>

Section I contains some brief, hortatory language about freedom, but it is not a direct reference to liberalism as a system in which the individual has rights enforceable as against the state.<sup>155</sup> Rather, the section calls for freedom from hunger, freedom from fear, freedom from oppression and freedom from injustice, an amorphous directory of aspirations.<sup>156</sup> Still, the declaration declared, "democratic and participatory governance based on the will of the people best assures these rights."<sup>157</sup> In section V, the declaration asserted that "no effort" will be spared to promote democracy and strengthen the rule of law, and it resolved to strive for "civil, political, economic, social and cultural rights for all."<sup>158</sup> While those aspirations are essential, section V, unlike all the other sections, is devoid of detailed requirements and specific objectives.<sup>159</sup> The opportunity to enlarge the boundaries of democracy and the rule of law into the realm of sustainable development was squandered.

The accompanying 80-page report, *We the Peoples*<sup>160</sup> failed even a single mention of democracy in its chapter on governance. In fact, amazingly, the report of the UN Secretary-General mentioned democracy only once, saying, "Democracy, once challenged by authoritarianism in various guises, has not only prevailed in much of the world, but is now generally seen as the most legitimate and desirable form of government."<sup>161</sup> It is remarkable that the Millennium Declaration, which endured the process of negotiation and compromise in the General Assembly, has far stronger language about democracy than the feckless book prepared for the summit by the UN Secretariat and released under the signature of the Secretary-General. Publication of *We the Peoples* presented an optimal opportunity for the Secretary-General to make a strong and detailed statement about democracy, but it was not seized. In the first annual report on progress of the Millennium Declaration, there were signs of improvement.<sup>162</sup> Democracy was mentioned 13 times, but the citations were rote and democracy

153. These sections are: I Values and Principles; II Peace, security and disarmament; III Development and poverty eradication; IV Protecting the environment; V Human rights, democracy and good governance; VI Protecting the vulnerable; VII Meeting the special needs of Africa; and, VIII Strengthening the United Nations.

154. United Nations Millennium Declaration, *supra* note 152.

155. *Id.* at sec. I.

156. *Id.*

157. *Id.*

158. *Id.* at sec. V.

159. *Id.*

160. Kofi Annan, *WE THE PEOPLES: THE ROLE OF THE UNITED NATIONS IN THE 21<sup>ST</sup> CENTURY* (United Nations 2000), (<http://www.un.org/millennium/sg/report/full.htm>) (last visited Nov. 17, 2004).

161. *Id.* at 68.

162. *Report of the Secretary General on the Implementation of the United Nations Millennium Declaration*, U.N. GAOR 57th mtg, U.N. Doc. A/57/270 (2002).

certainly was not central to the text. Democracy was never invoked with effect; rather, it featured as just one malleable aspiration on a menu—peace, security, democracy, development and human rights.<sup>163</sup>

To obtain greater relevancy, the Millennium Goals should have emphasized the value of increasing political and economic freedom. By 2000 it had become clear that markets already had lifted much of the developing world out of poverty. Primarily as a benefit of greater political economic freedom, global human poverty had decreased dramatically over the previous fifty years. Incomes had risen nearly throughout the entire world since 1950, when the per capita income of the average inhabitant of Earth was only \$1,872. By 1990, per capita income world-wide had leaped to \$4,292.<sup>164</sup> Of course, much of the increase came from strong growth in the developed states, but even the poorest countries improved substantially. In China, per capita income rose from \$470 in 1961 to \$1,324 in 1990. In India, it rose from \$559 in 1961 to \$1,262 in 1990; both nations have experienced even greater growth since then.

Many regions, however, were unresponsive. From 1990 to 1999, the number of Africans living in extreme poverty—living on less than \$1 (U.S.) per day—was barely reduced from 47.7% in 1990 to 46.7% in 1999.<sup>165</sup> In order to have a realistic chance of meeting the goals of the Millennium Declaration of cutting poverty and unemployment in half by 2015, the countries of the African Union must generate economic growth rates of 7% or greater.<sup>166</sup> Establishing aggressive goals is laudable; indeed, anything less is immoral. But the Millennium meeting never bridged the chasm between goals, and the economic and political freedoms that could serve as the means to achieve them.

### 5. Johannesburg, the World Summit & ‘Conference Fatigue’

The World Summit on Sustainable Development (WSSD) was held in Johannesburg South Africa, in 2002, ten years after UNCED in Rio de Janeiro. The event included over 100 heads of state and nearly 25,000 governmental, business and NGOs centered at the Sandton Convention Centre and sprinkled at side events throughout the city. The goal was not to forge a new agenda or introduce new treaties, but to move toward a strategy for implementing Agenda 21.<sup>167</sup>

163. Implementation of the UN Millennium Declaration, Report of the Secretary General, UNGA 57/270, Jul. 31, 2002, UN Doc. A/57/270 (2002).

164. Adam Przeworski, et. al, DEMOCRACY AND DEVELOPMENT: POLITICAL INSTITUTIONS AND WELL-BEING IN THE WORLD, 1950-1990 272 (2000), *hereafter*, Przeworski, et. al, DEMOCRACY AND DEVELOPMENT.

165. SADC Executive Secretary Says Africa Has ‘Little Hope’ of Achieving Millennium Development Goal, JOHANNESBURG SAPA (SOUTH AFRICAN PRESS ASSOC.), Jun. 12, 2003 (Foreign Broadcast Information Service, Document. Id. No. AFP 2003612000112, reproduced from original publication at [www.sapa.org.za](http://www.sapa.org.za)) (Copy on file with author).

166. Juliette Bastin, Desperately Seeking Employment, PARIS JEUNE AFRIQUE L’INTELLIGENT 74-75 (Sep. 5, 2004), African Growth, Development, Fight Against Poverty Said Dependent on Employment (Trans., FOREIGN BROADCAST INFORMATION SERVICE, Document. Id. No. AFP 2004092600001) (Copy on file with author).

167. Paul Wapner, World Summit on Sustainable Development: Toward a Post Jo-burg Environmentalism, 3 GLOBAL ENVTL. POL. 1, 1-2 (Feb. 2003).

Unfortunately, the conference never gained the momentum to accomplish that goal, and instead disintegrated into a series of ad hoc affairs.

The event marks the end of the age of the mega-conference. Environmentalism was under siege, engaged in a desperate fight to prevent a weakening of existing agreements.<sup>168</sup> Like past summits, much of the business at the conference was shrouded in the Byzantine system of UN parliamentary procedure and played out in hallways and side rooms. For the first time at such a conference, there was an effort to reach beyond the bureaucracy and NGOs and invite business interests to the table.<sup>169</sup> The businesses were judge fairly exclusively by their "green pedigree, rather than a more balanced assessment that could have included the value of the jobs and the benefit of the products they produced. The assessment was one dimensional, and the outreach effort that included business interests and the value of economic growth only undermined the unity enjoyed at prior conferences.

Part of the problem with Johannesburg was that even the firmest believers in the conference believed there was very little that was new to discuss. The UN had held a major conference each decade going back to UNCTAD, and a less elaborate conference nearly every year in the period between Rio and Johannesburg, so the ground was fairly well tilled. By the time of Johannesburg, the world community was suffering "conference fatigue,"<sup>170</sup> as the glaring gap between the rhetoric of "law in the books" and the evident failure of "law in action" widened.

The mega-conferences were becoming momentary media events. Although they continued to serve as powerful symbols for the true believers, for the rest they were disintegrating into "sound-bite opportunities without lasting effects on policies or the quality of the environment."<sup>171</sup> It was no wonder that prior to Johannesburg, the chairman of the summit remarked that it likely would be the last of its kind.<sup>172</sup> It had been a long road from Stockholm.

Despite the prominently placed corporate exhibits at Sandton, such as a sparkling, high-technology BMW pavilion, the summit was unable to escape inherent disconnects from its orthodox roots. While First World leaders and NGOs spoke about the environment, many Third World leaders focused on economic growth and free trade, assailing rampant Western agricultural protectionism.<sup>173</sup> Lebohang Ntsinya, the environment minister of Lesotho, argued, "the whole 'sustainable' concept is an invention of the affluent, whose prosperity allows them a margin for mistakes or acts of nature. In Africa, there is no margin, and so [we]

---

168. Powell is Jeered as Divided Summit Comes to an End, WALL. ST. J., Sep. 5, 2002, at A12 (2002 WL-WSJ 3405271).

169. Jeffrey Ball, At Environmental Summit, UN Fails to Shed Cloak of Secrecy, WALL. ST. J., Sep. 4, 2002, at A18 (2002 WL-WSJ 3405149).

170. Comments of Daniel Magraw, Symposium: The Road from Johannesburg, GEO. INT'L L. REV. 809, 839 (Summer 2003).

171. Peter M. Haas, UN Conferences and Constructivist Governance of the Environment, 8 GLOBAL GOVERNANCE, 73-91 (2002).

172. Meyerson, at 6, *supra* note 71.

173. Editorial, Third World Wisdom, WALL. ST. J., Sep. 3, 2002, at A20 (2002 WL-WSJ 340941).

can't afford to put nice-sounding adjectives in front of... 'development'."<sup>174</sup> The conference adjourned with most participants, including your author, greatly disappointed.

*E. The State Image—Rethinking Modernization Theory*

Explanations of sustainable development resident in Waltz's second image are much more accurate and more powerful than deductive third image models. But most of the prevailing second image analysis on sustainable development is stubbornly at odds with the empirical evidence. Cognitive psychology helps to explain why this is so. When people sort through issues of daunting complexity, they tend to reconstruct them into easy and simple models. In the words of Graham Allison, they reflect "assumptions about the character of puzzles, the categories in which problems should be considered, the types of evidence that are relevant and the determinants of occurrences."<sup>175</sup> These themes, moreover, serve as a mutually reinforcing and collective basket of beliefs which perpetuate a paradigm.

The problem is that people who hold strong views on one subject are far more likely to distort evidence in seemingly unrelated areas that support or cohere with that belief, even while perceiving that they are exercising objectivity in their analysis.<sup>176</sup> The strength of the initial belief has a strong and positive correlation with the magnitude of distortion on the evidence that follows.<sup>177</sup> This makes it particularly important that we separate what has worked in sustainable development from what has failed by subjecting policy biases to empirical testing, when possible.

Introducing outside perspectives can raise issues that otherwise would be overlooked, averting disaster. During President Kennedy's attempted invasion of Cuba at the Bay of Pigs in 1961, for example, the administration conducted its operation without consulting outside perspectives. The same people who planned the operation were the ones who were asked to evaluate it.<sup>178</sup> The operation quickly became embroiled in failure, the result of a bizarre neglect to consider the popularity of Fidel Castro, the strength of the Cuban Army, the size of the island and the number of troops required for a successful operation.<sup>179</sup> In order to prevent reoccurrence of this sort of thinking, the military now conducts war-games in which friendly forces are pitted against an opposing, well-positioned and

174. *Id.*

175. Graham T. Allison, *Conceptual Models and the Cuban Missile Crises*, 63 *AM. POL. SCI. REV.* 689, 689 (Sep., 1969).

176. This phenomenon is explained by cognitive coherence in psychology. People assimilate evidence into coherent models. For example, psychological studies indicate that people with strong pro-death penalty attitudes were more likely to convict a defendant than people with anti-death penalty attitudes, who are more likely to acquit. Of course, the question of guilt and the punishment are unrelated cognitive exercises, but people have a general tendency to make the two "fit." Simon, at 542, *supra* note 7. "[M]ental modes of the evidence and beliefs cohered with the corresponding verdicts, so that people with strong pro- or anti-death penalty attitudes interpreted all the evidence in the case in a way that cohered with conviction and acquittal, respectively. *Id.*

177. *Id.* at 545.

178. Surowiecki, *WISDOM OF CROWDS*, at 37, *supra* note 8.

179. *Id.*

intelligent “red team.”<sup>180</sup> The red team’s job is to find fault and exploit weakness in the plans and operations of friendly forces. The red team startles the complacency at work in groupthink—which occurs not so much because dissent is being censored, but because alternative paradigms are understood by everyone within the system to be improbable.<sup>181</sup> Subsection E of Part I, *infra*, discusses the dominant second image paradigm in development thought, which is modernization theory. Part II, *infra*, offers the outside perspective—second image analysis rooted in liberal democracy and human freedom.

### 1. Economic Preconditions for Democracy—Lipset

Second image theories of modernization originated in the European fascist dictatorships of the 1930s, and were given modern currency by academics and officials in developed countries and in post-colonial Africa, Asia and Latin America.<sup>182</sup> One of the earliest thinkers in this regard is the eminent political sociologist Seymour Martin Lipset. In 1959, Lipset argued that economic development increased the general level of education, which then enabled democracy by advancing changes in political attitudes and advancing political culture.<sup>183</sup> Lipset’s research on the relationship between democracy and development had a colossal effect, generating the largest body of academic research of any topic in comparative politics.<sup>184</sup> More importantly, his work influenced the course of modernization and development policy in the decades since, affecting the lives of hundreds of millions of people across the globe.

Lipset compared data on proxies for economic development, including per capita income, education and levels of industrialization, with regime types in Europe and Latin America.<sup>185</sup> In each country, the indices of wealth—including income, but also the number of physicians, motor vehicles, radios, telephones and newspapers per capita—were higher in democratic states.<sup>186</sup> There were sharp distinctions on all indicators of development between democratic and authoritarian governments, and these results were valid throughout the range, with the most democratic states being the wealthiest and the least democratic states being the least wealthy.

The strong correlation between democracy and high levels of educational achievement convinced Lipset that education was a necessary precondition for

180. Charles J. Dunlap, Jr., Joint Vision 2010: A Red Team Assessment, 17 JOINT FORCE Q. 47-49 (Autumn/Winter 1997/1998)

181. Surowiecki, at 37, *supra* note 8. See also, Thomas S. Kuhn, THE STRUCTURE OF SCIENTIFIC REVOLUTIONS (2d. ed. 1970).

182. Thomas M. Franck, The Emerging Right to Democratic Governance, 86 AM. J. INT'L L. 46, 49 (Jan.1992).

183. Seymour Martin Lipset, Some Social Requisites of Democracy: Economic Development and Political Legitimacy, 53 AM. POL. SCI. REV. 69-105 (Mar. 1959).

184. Adam Przeworski and Fernando Limongi, Modernization: Theory and Facts, 49 WORLD POL. 155-183, at 156 (1997). Over the years, Lipset’s work has been “supported and contested, revised and extended, buried and resuscitated.” Przeworski, et. al, DEMOCRACY AND DEVELOPMENT at 79, *supra*, note 131.

185. Lipset, at 74-76, *supra*, at note 150.

186. See, Table II, *Id.* at 76.

democracy to flourish.<sup>187</sup> In poorer democracies, he argued, populism and corrupt leaders manipulate the masses and divert national energies into unproductive endeavors. Lipset concluded that democracy could thrive only in states that successfully created a rising middle class. Economic growth immunizes the population against the appeal of anti-democratic radicalism, especially class and ethnically-based ideologies.<sup>188</sup> These findings suggested that states first must develop economically before they can think about democratizing. Lipset launched the “development first” thesis, which remains a powerful doctrine of state-centered economic development to this day.<sup>189</sup>

## 2. Modernization Theory—Huntington

Lipset’s theory was extended by the distinguished political scientist Samuel P. Huntington. In his classic 1968 study, *Political Order in Changing Societies*, Huntington asserted that autocratic regimes were better than democracies at governing low-income countries because they maintain order.<sup>190</sup> In less developed states, dominant political parties and the military served as unifying institutions.<sup>191</sup> Huntington was a regime agnostic, declaring the most important political distinction among countries was not their form of government, but their degree of government and the regime’s ability to establish order.<sup>192</sup> The real divide among regimes, he contended, was between effective governments in the United States and the Soviet Union, for example, and ineffective governments in Asia, Africa and Latin America, where the political community was fragmented.<sup>193</sup> Huntington downplayed the differences between democracy and dictatorship, arguing that both embodied consensus, community, legitimacy, organization, effectiveness and stability.<sup>194</sup>

In a later study on political participation for the Agency for International Development, Huntington outlined the parameters of a “technocratic model” of development. In this model, “[p]olitical participation must be held down, at least temporarily, in order to promote economic development.”<sup>195</sup> Political participation

187. For example, the only Middle Eastern country that was a democracy, Lebanon, also had the highest levels of education, with literacy at about 80%. *Id.* at 80. “Given the existence of poverty-stricken masses, low levels of education, an elongated pyramid class structure, and the ‘premature’ triumph of the democratic left, the prognosis for the perpetuation of political democracy in Asia and Africa are bleak.” *Id.* at 101.

188. *Id.* at 83-84. See also, G. John Ikenberry, Why Export Democracy?, 79, 82 in STRATEGY AND FORCE PLANNING (Security, Strategy and Forces Faculty, Naval War Coll., eds., 4<sup>th</sup> ed. 2004).

189. Joseph T. Siegle, Michael M. Weinstein and Morton H. Halperin, Why Democracies Excel, 83 FOR. AFF. 57, 57-58 (Sep./Oct. 2004).

190. Samuel P. Huntington, POLITICAL ORDER IN CHANGING SOCIETIES 8 (1968). “History shows conclusively that communist governments are no better than free governments in alleviating famine, improving health, expanding national product, creating industry, and maximizing welfare. But the one thing communist governments can do is to govern; they do provide effective authority.... They may not provide liberty, but they do provide authority.” *Id.*

191. *Id.* 198-208.

192. *Id.* at 1.

193. *Id.* at 2.

194. *Id.* at 1-2.

195. Samuel P. Huntington and Joan M. Nelson, NO EASY CHOICE: POLITICAL PARTICIPATION IN

was merely a by-product of development, rather than an independent goal.<sup>196</sup> Increases in the socio-economic level were believed to encourage higher levels of political participation, and more diverse and complex forms of political participation.<sup>197</sup> These findings helped to develop the basic assumption of modernization theory, which is that there is a trade-off between democracy and development. Generally, dictatorship is needed to generate development.<sup>198</sup> Societies advance along a single linear plane, with the attainment of democracy but the final facet.<sup>199</sup> The emergence of democracy would be an inexorable consequence of the latter stages development. Dictatorship generates development, and development eventually leads to democracy. The best route to democracy was long and circumspect, passing through the theater of authoritarian rule.<sup>200</sup>

Modernization theory convinced many that the countries of Western Europe became democratic only after passing some opaque threshold of economic development—generally measured in per capita income.<sup>201</sup> The search was on—and continues to this day—to define the precise level of per capita income at which democracy takes root. Spain was considered a typical case. Madrid experienced rapid economic growth in the 1950s and 1960s. Only in the 1970s, after experiencing industrialization and urbanization, was Spain considered ripe for the transition to democracy. By the early 1980s, however, two-thirds of middle-income states had reached or surpassed the generally accepted threshold for development of per capita income of \$300-\$500 (in 1960 dollars). Despite this, most of them had not become democratic. The facts did not fit the theory, so the threshold was raised and the theory was altered.<sup>202</sup>

Looking at the South American experience of having undergone economic development, but only to turn toward autocracy, Guillermo A. O'Donnell argued that the strains of economic liberalization and development, and particularly the dislocations caused by import substitution, actually produced longer-lasting authoritarian rule.<sup>203</sup> This new variant of the theory suggested democracy in poor countries breeds economic stagnation and civil unrest.<sup>204</sup> In this rather unforgiving view; democracy itself was the problem. Huntington argued that the apparent relationship between poverty and under-development on the one hand, and political instability and violence on the other, is spurious.<sup>205</sup> "It is not the absence

---

DEVELOPING COUNTRIES 23 (1976).

196. *Id.* at 167.

197. *Id.* at 166.

198. Adam Przeworski, et al, DEMOCRACY AND DEVELOPMENT, at 3, *supra*, at note 131.

199. *Id.*

200. *Id.*

201. Jonathan Sunshine, ECONOMIC CAUSES AND CONSEQUENCES OF DEMOCRACY: A STUDY IN HISTORICAL STATISTICS (Ph.D. Dissertation, Columbia University, 1972), as cited in Samuel P. Huntington, Will Countries Become More Democratic? 99 POL. SCI. Q. 193, 200 (Summer 1984).

202. Huntington, Will Countries Become More Democratic? at 200, *supra*, note 168.

203. Guillermo A. O'Donnell, Modernization and Bureaucratic Authoritarianism 3-15 (1973).

204. Joseph T. Siegle, Michael M. Weinstein and Morton H. Halperin, THE DEMOCRACY ADVANTAGE: HOW DEMOCRACIES PROMOTE PROSPERITY AND PEACE 3 (2004).

205. Huntington, POLITICAL ORDER IN CHANGING SOCIETIES, at 41, *supra*, at note 157.

of modernity but the efforts to achieve it which produce political disorder.”<sup>206</sup> Modernization is the cause of violence.<sup>207</sup>

At best, modernization theory suggests democracy is neither good nor bad, but rather neutral.<sup>208</sup> Hitler came to power within a democratic process, and the Bolsheviks came to power amid a broad and liberalizing upheaval in the czarist order. Modernization theory was open to the idea that struggling democracies such as India, Kenya and Brazil could be caught in analogous circumstances.<sup>209</sup>

In the end, modernization theory contends neither democracy nor development generates stability, and political development can only be successful after decades of ponderous social and economic progress under the direction of a dictatorship.<sup>210</sup> Although the “development first” theory has suffered recent setbacks due to new empirical research, it remains influential and has experienced a revival in recent years.<sup>211</sup> The resurgence of modernization theory is rooted in the success of the Asian “tiger” economies, and the economic rise of China, in particular. The Asian-inspired adjunct to modernization theory is constructed around the idea that economic development is best pursued under the tutelage of a “benign” autocracy.

### 3. “Benign” Autocracy as an Adjunct to Modernization Theory

Former Singaporean premier Lee Kuan Yew often extols the virtues of his model of autocratic development. His central notion is that autocratic government is more disciplined than democracy. Internecine political battles inherent to democracy are inimical to development, crippling decision-making and generating public chaos.<sup>212</sup>

Even some classic economists accept economic and political spheres can remain separate superficially. Milton Friedman observed, “[i]t is... clearly possible to have economic arrangements that are fundamentally capitalist and political arrangements that are not free.”<sup>213</sup> Nazi Germany, Fascist Italy and Fascist Spain, Imperial Japan and even Tsarist Russia all featured capitalism as the primary means of production. Up to a point, market mechanisms can be grafted on to an authoritarian state, although none of the historical examples suggests that such a “free” economy would provide a satisfactory level of economic growth. The new, “benign” autocracies, however, would assert they are different.

206. *Id.*

207. *Id.* Huntington argues that not only does social and economic modernization produce political instability, but the degree of instability correlates to the rate of modernization. *Id.* at 45.

208. Robert D. Kaplan, *A Sense of the Tragic: Developmental Dangers in the Twenty-first Century*, JEROME E. LEVY OCCASIONAL PAPER, ECONOMIC GEOGRAPHY AND WORLD ORDER NUMBER 2, at 6 and 9 (U.S. Naval War College Aug. 2001).

209. *Id.* at 6.

210. *Id.* at 11.

211. Thomas Carothers, *The End of the Transition Paradigm*, 13 *J. DEMOCRACY* 5, 16 (Jan. 2002).

212. *THE ECONOMIST*, Aug. 27, 1994 at 15. See also, Fareed Zakaria, *Culture is Destiny*, A Conversation with Lee Kuan Yew (Singapore’s Senior Minister) (Interview) 73 *FOR. AFF.* 109-26 (Mar.-Apr. 1994) (1994 WL 13290253).

213. Milton Friedman, *CAPITALISM AND FREEDOM* 9-10 (1962).



Look at China today. Through the force of its astonishingly high level of economic growth, China has inserted itself into the center of the development debate. China is now the major engine for intraregional trade, with enormous growth in exports and imports for Asia.<sup>214</sup> Following in the path of the Asian “tigers” and their export-driven economic growth strategies of the 1970s, China’s economy is increasing at a breathtaking annual rate of more than 9%.<sup>215</sup> Living standards have continued to climb even after two decades of impressive gain. In 2003, household incomes in China increased more than 9% in urban areas and more than 4% in rural areas.<sup>216</sup> In recent years at least some authoritarian states have done rather well economically. How do we account for the development miracles of the “benign” autocracies?

First, for every development miracle, there have been several grandiose authoritarian projects that have ended in catastrophe, with dictators stealing and murdering on a massive scale.<sup>217</sup> It is true that the Asian tigers have tended to be dictatorships, but it is also the case that dictatorships generally have not tended to be tigers.<sup>218</sup> As a rule, autocratic governments have wrought untold misery. “Even the economic collapse of communism pales in comparison with the destruction caused by dictatorships in many African countries, or the squandering of resources in the Middle East, or the havoc spawned by military governments in Central America.”<sup>219</sup> Second, we cannot be certain whether a free mainland China would have experienced even higher growth at the beginning stages of its economic trajectory. China started from such a low level, and it is still so poor, that quick gains are not unexpected. Moreover, after being artificially held back for so long, it is no wonder that the talents and industry of the Chinese people produced explosive growth once the yoke of communism was lightened.

Third, autocracy comes with its own price that exacts a cost on human security and well-being, undermining the whole point of development. If development is achieved at the cost of countless lives ruined and even destroyed by autocratic government, then the goal has been sacrificed for the means. If Lee Kuan Yew is the global representative for “benign” autocracy, prominent Burmese human rights dissident Aung San Suu Kyi is his intellectual opponent. She has used her influence to admonish the Association of Southeast Asian Nations (ASEAN) countries for privately invoking the adage that democracy represents a Western value. “To the contrary, democracy simply means good government rooted in responsibility, transparency and accountability. No authoritarian system can assure good government because there is no accountability. The government

---

214. Asian Development Bank, *ASIAN DEVELOPMENT OUTLOOK 4-6* (Oxford University Press, 2004). Exports from other Asian nations to China grew at an annual rate of almost 17 % from 1995-2003, more than three times the world average. *Id.* at 5. China also was the export leader in Asia in 2003, with more than a 40 % increase in exports. *Id.* at 12.

215. *Id.* at 43.

216. *Id.* at 42.

217. Adam Przeworski, et al, *DEMOCRACY AND DEVELOPMENT*, at 4, *supra*, at note 131.

218. *Id.*

219. *Id.*

can get away with whatever it does.”<sup>220</sup>

Fourth, if the objective is to achieve sustainable development, where the economy and ecology co-exist and the goal is a wealthy and liberal society, then the rosy assessment of authoritarian economic growth only shows part of the picture. In many authoritarian states, the environmental bills have yet to come due. The Environmental Sustainability Index (ESI), created by the World Economic Forum in collaboration with research centers at Columbia University and Yale University, rates nations with the best and worst environmental index score. All of the nations with the best ESI, as well as those nations displaying the best improvement in their score over time, are democracies.

China’s remarkable economic progress belies its location among the bottom few nations on the ESI.<sup>221</sup> Interestingly, the connection between democracy and the environment appear to run both ways. Slipping from democracy to less freedom seems to threaten the environment. There is good cause to worry that Hong Kong’s retrocession to China will undo environmental progress in that territory.<sup>222</sup> This is because democracy tends to support efforts to conserve the environment. The movement of Taiwan toward political liberalization, for example, encouraged a new environmental activism that lead to greater government responsiveness on environmental matters.<sup>223</sup> The same is true with India. While uncertainty over Chinese authoritarianism adds risk to its future environmental prospects, India’s democratic form of government reduces the risk to the environment in that country.<sup>224</sup> Democracies are more successful in their approach toward the environment because they tend to promote a liberal view of the individual person with a right, protected by the state, to enjoy a secure natural environment.<sup>225</sup>

Fifth, and perhaps most importantly, authoritarian state power is anathema to a healthy civil society. It prevents the formation of the rule of law and threatens individual freedom, even in autocratic nations with expanding economies. A CIA panel of independent experts recently concluded that states governed by exclusionary political elites are much less stable and likely will fare worse than pluralistic societies in the future. In such states, mostly spread throughout Africa, Asia and the Middle East, but also including Russia, Brazil, India and China, civil

220. Aung San Suu Kyi, *Voicing My Thoughts*, Jul. 13, 1999 (<http://www.burmafund.org/Pathfinders/nld/ASSK/Nudge%20Burma%20toward%20democracy.htm>) (last visited Sep. 21, 2004).

221. World Economic Forum, *ENVIRONMENTAL SUSTAINABILITY INDEX, ANNUAL MEETING 2002 at 3* (Yale Center for Environmental Law and Policy 2002).

222. Bryan Bachner, *Conserving a Legal heritage in Hong Kong: Environmental Regulation After 1997*, 19 *LOY. L.A. INT’L & COMP. L. REV.* 363, 374-75 (1997).

223. Jiunn-rong Yeh, *Institutional Capacity-building Toward Sustainable Development: Taiwan’s Environmental Protection in the Climate of Economic Development and Political Liberalization*, 6 *Duke J. COMP. & INT’L L.* 229, 270-71 (1996).

224. *GLOBAL TRENDS 2015: A DIALOGUE ABOUT THE FUTURE WITH NONGOVERNMENT EXPERTS*, NATIONAL INTELLIGENCE COUNCIL, NIC 2000-02 at pp.50 and 53-54 (Dec. 2000), *hereafter*, *GLOBAL TRENDS 2015*.

225. World Resources Institute, *WORLD RESOURCES 2002-2004 at 2 and 15* (Washington, D.C.: World Resources Institute, 2003).

and minority rights are weak and power is not exercised in accordance with the rule of law.<sup>226</sup> Over time, this corrosive effect will frustrate stability, as is evident in China today, where the government fears protest easily could spin out of control.

Authoritarian rule acts as a drag on every area of society and the economy because it inhibits the proliferation of free ideas and hinders free association. For example, an effective environmental movement is less likely in China than Taiwan. Whereas Taiwan's government is responsive to public elections, the rulers in Beijing are mostly concerned with the maintenance of political stability. The typical response of authoritarian regimes to middle-class radicalism is repression, not reform. Authoritarian governments realize that reforms that cater to the demands of the rising middle class only increase their strength and radicalism, rather than satiating its demands.<sup>227</sup>

A classic example of this dynamic unfolded in the Dominican Republic in 1965. The Reid Cabral government was overthrown by an urban middle-class insurrection only after it began to initiate serious reforms. The Cabral reforms included reducing public corruption, expanding political liberty, and purging some of the most oppressive elements in the military.<sup>228</sup> Yet it was, "precisely at the moment of moderate upswing... that the revolution of April, 1965, broke out; it seems ironic that Reid was ousted at least partially because of the reforms he began to carry out."<sup>229</sup> The Dominican Republic highlights the dilemma faced by autocracies—minimal steps toward reform merely remind the people of the basic illegitimacy of the ruling regime. Because the regimes have no legitimacy, they could implode quickly and unexpectedly.

Modernization theory still has wide appeal. In his influential book, *The Future of Freedom: Illiberal Democracy at Home and Abroad*, Fareed Zakaria argues, "[t]he simplest explanation for a new democracy's political success is its economic success—or, to be more specific, high per capita income."<sup>230</sup> He contends that, with few exceptions, when poor countries become democracies, those democracies die.

Zakaria also argues democracy was inappropriate, or even desirable, for many of the emerging democratic states, such as Russia, Belarus and the Philippines. He asserts these "illiberal" democracies are responsible for a "democratization of violence." Such democracies, he contends, spread poverty, ethnic violence, repression, and civil and interstate war. These charges generally are contrary to empirical evidence supporting the "democratic peace," which is set forth in Part II.

226. GLOBAL TRENDS 2015, at 42-46, *supra*, note 191.

227. Huntington, POLITICAL ORDER IN CHANGING SOCIETIES, at 373, *supra*, at note 157.

228. *Id.*

229. Howard J. Wiarda, THE CONTEXT OF UNITED STATES POLICY TOWARD THE DOMINICAN REPUBLIC: BACKGROUND TO THE REVOLUTION OF 1965 (unpublished paper, Harvard University, Center for International Affairs, 1966) at 30-31, as cited in Huntington, POLITICAL ORDER IN CHANGING SOCIETIES, at 373, *supra*, at note 157.

230. Fareed Zakaria, THE FUTURE OF FREEDOM: ILLIBERAL DEMOCRACY AT HOME AND ABROAD 69 (2003).

D, *infra*. This thinking perpetuates destructive myths about democracy, creating a dangerous ambivalence or even hostility toward liberalization. It also keeps alive the view, expressed more than a decade ago by the UN Development Program, that, “growth-oriented strategies can sometimes afford to be blind to democracy.”<sup>231</sup>

Zakaria’s claims also raise methodological challenges that help to prove the point. The argument that democracy only flourishes at middle income levels is difficult to test since few authoritarian states have achieved middle income status. Since 1960, only 16 autocracies have had per capita incomes above \$2,000. Of these only six—Taiwan, South Korea, Spain, Portugal, Greece and, debatably—Mexico—adopted democracy in the aftermath of economic expansion.<sup>232</sup> Moreover, if we accept \$6,000 as the benchmark for full transition to democracy, it raises a troubling normative suggestion that “all but 4 of the 87 countries currently undergoing democratic transition, including Brazil, Kenya, the Philippines, Poland, and South Africa, are unfit for democracy.”<sup>233</sup>

## II. ENHANCING SECOND IMAGE ANALYSIS

There is nothing more difficult to carry out, nor more doubtful of success, nor more dangerous to handle, than to initiate a new order of things. For the reformer has enemies in all those who profit by the old order, and only lukewarm defenders in all those who would profit by the new order....

—Machiavelli<sup>234</sup>

Over the last thirty years, an avalanche of empirical evidence has emerged revealing that regime type and levels of freedom in a society control whether the social order moves toward sustainable development. Governments with a high degree of political freedom and a liberal democratic government and a market economy are far more likely to achieve development success. Importantly, economic development need not be purchased at the expense of the environment. Liberal democracies actually promote better ecological protection and environmental sustainability. Free societies also are more peaceful and develop deeper and more extensive cultural, political and economic ties with one another. Thus, freedom is interconnected to economic growth, environmental sustainability and regional security, and each of these are mutually reinforcing. In the last five years, the amount of information supporting the choice for freedom has become so overwhelming, and the number of democracies growing so large, that we have neared a “perfect storm” poised to overturn the development orthodoxy.

In Part II.A, *infra*, political freedom is discussed within the context of

231. UN Development Program, HUMAN DEVELOPMENT REPORT 1992: GLOBAL DIMENSIONS OF HUMAN DEVELOPMENT 27 (Oxford University Press, 1992), hereafter, GLOBAL DIMENSION OF HUMAN DEVELOPMENT.

232. Joseph T. Siegle, Michael M. Weinstein and Morton H. Halperin, Why Democracies Excel, at 63, *supra*, note 156.

233. *Id.*

234. NICCOLÒ MACHIAVELLI, THE PRINCE AND THE DISCOURSES 9 (W.K. Marriott, trans. University of Chicago, 1952).

development. Contrary to modernization theory, there is strong empirical evidence that shows that democracy *causes* development. In Part II.B, the connection between market freedoms and economic development is reviewed. Since the emergence of the Washington Consensus in the early 1990s, the relationship between markets and economic growth has become widely—although by no means universally—accepted.

Part II.C reviews the impact of political and economic freedom on ecology and environmental sustainability. While all societies now face the challenge of delivering greater environmental protection, the evidence indicates that free societies best promotes conservation of the natural environment. In contrast, states governed by autocratic regimes, and those with low levels of political and economic freedom, have the poorest environmental records in the world.

Finally, Part II.D reviews how free societies generate positive externalities that buttress regional peace and security throughout the international system. Sustainable development cannot occur in settings torn by conflict and war, so the “democratic peace” generated by democracies is a particularly important component for achieving global progress in the world’s poorest neighborhoods. Democracies tend to be more peaceful in their interactions with neighboring states, engaging in more international trade and being far less likely to initiate aggressive war. The benefits of the democratic peace, however, also extend to individuals and their relationship to the state. National security and regional stability, as well as human security and the individual’s right to be free from fear of the state, are better protected by democratic governments than autocracies.

#### *A. Political Freedom and Development*

Many global development institutions now accept markets as an essential prerogative for successful development, and the importance of economic freedom to development is set forth in Part II.B, *infra*. Too often, the UN wanes agnostic on the issue, but it is becoming difficult to disagree that markets are essential to achieve development. Unfortunately, democracy has not realized the same level of respectability, although it may be even more important than markets. As early as 1970, Dankwart Rustow published an incisive article in *Comparative Politics* in which he warned against the futility of trying to discern “preconditions” for a country’s transformation to democracy.<sup>235</sup> He criticized studies that tended to make broad conclusions from correlations between democracy and often external, but even internal, economic, social, cultural and psychological factors, while ignoring decisive political factors.<sup>236</sup> Nonetheless, an ambivalent view toward democracy persists, even among many democracies. The U.S. Department of State, for example, cited the Lipset-Huntington view that “economic development makes democracy possible...” on its Internet website promoting democracy.<sup>237</sup>

---

235. Dankwart A. Rustow, *Transitions to Democracy: Toward a Dynamic Model*, 2 COMP. POL. 337, 362 (1970).

236. *Id.* at 356-62.

237. See Howard Cincotta, WHAT IS DEMOCRACY? Chapter on Democratic Government (adopting Huntington’s thesis, Democracy’s Third Wave) (online publication from International Information

The democratization of much of the planet occurred through breaking waves of liberalism. Democratic waves are periods in which groups of states transition from autocracy to democracy.<sup>238</sup> The first or long wave of democratization began in the early nineteenth century and ended in 1926.<sup>239</sup> During that time span, which extended nearly one hundred years, thirty democracies rose in North America, Western Europe and certain overseas English dominions.<sup>240</sup>

This long wave was reversed between the world wars, as autocratic governments emerged in Europe and South America.<sup>241</sup> The second, shorter wave of democracy began after World War II, with the democratization of the axis powers.<sup>242</sup> This short wave of democratization ended and the trend was reversed as military governments seized control in South America and the Mediterranean from about 1958-1975.<sup>243</sup>

The third wave of democracy began in 1974, rolling back many of the setbacks experienced in the Mediterranean and South America. It expanded to Asia in the 1980s.<sup>244</sup> The third wave was propelled by the "grand failure" of the Eastern bloc in the 1990s.<sup>245</sup> Democratic waves can be reinforced, or even spurred, by liberalization in the international system and the influence of global institutions.<sup>246</sup> The achievement of democratic waves can also be reversed. For example, despite the second wave, the world was no more democratic by 1984 than it had been in 1954.<sup>247</sup>

In 1950, 41% of the world's population lived in a democracy; by 1990, 48% did, and the number has increased even more over the last fifteen years.<sup>248</sup> Between 1974 and 1990, more than thirty countries transformed from dictatorship to democracy.<sup>249</sup> The third wave unfolded in an almost sequential manner.<sup>250</sup> First, the fascist regimes of Southern Europe stepped aside in the early 1970s; next, autocracy in Latin America and Asia dissolved in the later 1970s and 1980s.<sup>251</sup> Freedom emerged in Eastern Europe in 1989 and in Africa in the 1990s.<sup>252</sup> In 1989, thirty of the forty-eight countries of sub-Saharan Africa were ruled by a

---

Programs, U.S. Department of State), available at <http://usinfo.state.gov/products/pubs/whatsdem/whatdm13.htm> (last visited Sep. 21, 2004).

238. Samuel P. Huntington, *THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY* 15 (1991).

239. *Id.* at 16.

240. *Id.* at 17.

241. *Id.* at 17-18.

242. *Id.* at 18-19.

243. *Id.* at 18-20.

244. *Id.* at 21-23.

245. *Id.* at 23-25.

246. *Id.* at 15.

247. Huntington, *supra* note 168, at 197.

248. Przeworski, et al, *DEMOCRACY AND DEVELOPMENT*, at 272, *supra*, at note 131.

249. *Id.*

250. Paul Brooker, *NON-DEMOCRATIC REGIMES: THEORY, GOVERNMENT & POLITICS* 191 (2000).

251. *Id.*

252. *Id.*

military regime.<sup>253</sup> By 1995, there were only three regimes that were clear-cut examples of military rule in the sub-Saharan region.<sup>254</sup>

### 1. Defining Democracy

There are as many definitions of democracy as there are democracies. Some might draw the circle of democracy so broadly as to include the *jirga* in Afghanistan, the *panchayat* in India, the *shoora* in Islamic societies, the *mawi tiplutmamk* among Native Americans, and countless other community forms of dialogue and decision-making.<sup>255</sup> While any effort to achieve societal consensus can be applauded as a move in the right direction, a thriving liberal democracy is not simply the triumph of a majority or adherence to a culturally-sensitive tribal authority.

The foundation for liberal democracy is at least a thousand years old. The cardinal principle of the *Magna Carta* was the idea, just beginning to germinate in England at the end of the first millennium, that freemen of the kingdom had rights as against the government, and that those rights should be secured to them by laws binding on the king.<sup>256</sup> Montesquieu, writing in *Spirit of the Laws*, distinguished between what he termed limited regimes and despotic regimes.<sup>257</sup> The two traditions—English and French—finally became confused when they merged in the liberal movement of the nineteenth century.<sup>258</sup> The differences would reappear in the twentieth century as a conflict between liberal democracy of the English tradition and social or rationalist democracy of the French.

The French revolutionary thinkers were optimistic about human nature, believing in the power of intellectuals to rearrange society.<sup>259</sup> The English were more pessimistic, seeking to design institutions that would control human nature.<sup>260</sup> Though these two schools are now often lumped together, they demarcate separate philosophical space. The English view, derived from Scottish moral philosophers led by David Hume, Adam Smith, Adam Ferguson, and Edmund Burke, is essentially empiricist.<sup>261</sup> The French approach is informed by the French Enlightenment and Cartesian rationalism. Its most celebrated proponent is Rousseau.<sup>262</sup>

Although democracies need not fit a specific model, the more successful approach falls squarely in the English tradition. The English found the essence of

253. *Id.*

254. John A. Wiseman, *NEW STRUGGLE FOR DEMOCRACY IN AFRICA* 1-2 (1996).

255. GLOBAL DIMENSION OF HUMAN DEVELOPMENT, *supra* note 198, at 26.

256. MAGNA CARTA AND OTHER ADDRESSES 6 (William D. Guthrie, ed., Columbia University Press 1916).

257. MONTESQUIEU, *THE SPIRIT OF LAWS*, 12-13 (Thomas Nugent & J.V. Prichard, trans., William Benton 1952).

258. F. A. Hayek, *Freedom, Reason and Tradition*, 68 *ETHICS: INT'L J. OF SOC., POL. & LEG. PHIL.* 229, 229 (1958).

259. *Id.* at 233.

260. *Id.*

261. *Id.* at 230.

262. *Id.*

freedom in spontaneity, organic growth in society and the absence of coercion; the soul of the French approach lies in the pursuit and enforcement of an absolute and collective purpose defined by doctrinaire deliberateness.<sup>263</sup> While the English concept formed a profound and valid theory that laid the indispensable foundation of liberty, the French rationalist approach has been a disaster, leading many who accepted it to the opposite of a free society.<sup>264</sup>

The philosophical dichotomy was borne out in practice. By 1983, no former French, Dutch or Belgian colony was rated "free" by Freedom House, yet several former British colonies were.<sup>265</sup> Myron Weiner, writing at the time for the American Enterprise Institute emphasized this point, "[E]very single country in the Third World that emerged since the Second World War with a population of at least one million (and almost all the smaller countries as well) with a continuous democratic experience is a former British colony."<sup>266</sup>

A liberal democracy requires its leadership to remain accountable through an elaborate system of checks and balances.<sup>267</sup> It also must be designed to keep the people safe, not only from the horizontal hazards of each other, but from the vertical hazards of the rulers. This is something the French philosophers never understood.<sup>268</sup> This safety function is made even more difficult as it unfolds in the process of public choice, as horizontal hazards between groups (for example, competitive greed or spite) are converted into vertical hazards through transposing private claims as coercive government action.

A central feature of democracy is an electoral component; democracy is a system in which incumbent parties actually lose elections and leave office when the rules dictate.<sup>269</sup> In the United States, Schumpeter emphasized the importance of electoral competition as a cornerstone of the "democratic method" in his 1942 classic, *Capitalism, Socialism and Democracy*.<sup>270</sup> Robert Dahl describes participatory political systems as those either directly or indirectly accountable to the people. Elections serve that function.<sup>271</sup>

Liberal democracy goes beyond mere elections and consists of structures, relationships and ideas that celebrate and promote individual liberty. The individual is protected from predatory groups in society, and from voracious state

263. *Id.* at 230.

264. *Id.* at 231.

265. Myron Weiner, *Empirical Democratic Theory*, in *COMPARATIVE ELECTIONS IN DEVELOPING COUNTRIES* 26 (Myron Weiner & Ergun Ozbudun eds., 1983), cited in Huntington, *supra* note 168, at 206.

266. *Id.*

267. Jon Elster, *Accountability in Athenian Politics*, in *DEMOCRACY, ACCOUNTABILITY, AND REPRESENTATION* 253, 263-64 (Adam Przeworski et al. eds., 1999).

268. John Dunn, *Situating Democratic Political Accountability*, in *DEMOCRACY, ACCOUNTABILITY, AND REPRESENTATION* 329, 331 (Adam Przeworski et al. eds., 1999).

269. ADAM PRZEWSKI, *DEMOCRACY AND THE MARKET: POLITICAL AND ECONOMIC REFORMS IN EASTERN EUROPE AND LATIN AMERICA* 10 (Jon Elster & Michael S. McPherson eds., 1991); PRZEWSKI, *supra* note 131, at 54.

270. JOSEPH A. SCHUMPETER, *CAPITALISM, SOCIALISM AND DEMOCRACY* 269, 273 (1943).

271. ROBERT A. DAHL, *POLYARCHY: PARTICIPATION AND OPPOSITION* 2 (1971).



power. As a form of government, liberal democracy may be defined in terms of three elements: (1) the source of governing authority (generally derived from the will of the people); (2) the purpose served by government (generally, pursuit of the common good); and (3) procedures for constituting the government (generally, popular elections).<sup>272</sup> These broader concepts of liberal democracy include a citizens instilled with civic virtue, effective popular control of the organs of government, transparency in government, equal opportunity to participate in government and promotion of the rule of law.<sup>273</sup>

Open societies possess a multitude of advantages over autocratic societies. An open society promotes discourse on shaping public value preferences regarding government policy. Open societies maintain a healthy tension among contending political forces, moderating extreme views.<sup>274</sup> Freedom of association, assembly, speech and petition encourage the formation of diverse interest groups. Because these groups appeal to wide-ranging and conflicting views and interests, they come to encompass and represent most people in society. The groups, in turn, serve in aggregate to cement rather than fragment civil society because most individuals will come to identify with more than one group. In contrast, in tribal societies, individual allegiance is dedicated solely to the tribe, rather than spread among competing interest group factions.

[T]here is some positive probability that any majority [will contain] individuals who identify for certain other purposes with the minority. Members of the threatened minority who strongly prefer an alternative will make their feelings known to those members of the tentative majority who also, at some psychological level, identify with the minority. Some of these sympathizers will shift their support away from the majority alternative and the majority will crumble.<sup>275</sup>

Democracies also leverage the pragmatic benefits that are a product of tolerating dissent.<sup>276</sup> Dialogue creates the opportunity for public debate about deeply held values of the good life, and this discourse and experimentation is more likely to produce not only rapid economic progress, but also the stability that comes with a moral consensus in society.<sup>277</sup> This iterative process also helps societies make better collective decisions.

[T]here's no real evidence that one can become expert in something as broad as 'decision-making' or 'policy' or 'strategy.' Auto repair, piloting, skiing, perhaps even management: these are skills that yield to application, hard work and native talent. But forecasting an uncertain future and deciding the best course of action in the face of that future are

---

272. HUNTINGTON, *supra* note 205, at 6.

273. *Id.* at 9-12.

274. Lipset, *supra* note 150 at 97.

275. ROBERT A. DAHL, A PREFACE TO DEMOCRATIC THEORY 104-05 (1956).

276. Scott A. Beaulier, *Is Discourse Relevant for Economic Development?*, 8 INDEP. REV. 343, 345-46 (2004).

277. *Id.* at 346.

much less likely to do so.<sup>278</sup>

To be effective, complex planning must exploit vigorous national debate that only comes from democracy.<sup>279</sup>

The most comprehensive exposition of international democracy arose from the Conference on Security and Cooperation in Europe (CSCE).<sup>280</sup> The CSCE was a complex negotiating process involving all of the thirty-five original states to the world's largest regional security organization.<sup>281</sup> The Copenhagen Conference was nothing short of profound, achieving the most dramatic and far-reaching document on human rights and democracy ever concluded.<sup>282</sup> According to Thomas Burgenthal, a public member of the U.S. delegation, the *Copenhagen Document* (Document) proclaimed a new public order based on democratic pluralism that was as important as the Peace of Westphalia.<sup>283</sup> Never before had the principles of political pluralism and human rights been laid out so explicitly or enumerated at such length.

Among the more insightful points of agreement were these "elements of justice" in paragraph 5 which were deemed essential to the full expression of the inherent dignity and equal and inalienable rights of all human beings:

Free elections that will be held at reasonable intervals by secret ballot;

The rule of law, which does not mean merely a formal legality which assures regularity and consistency in the achievement and enforcement of democratic order, but justice based on the recognition and full acceptance of the supreme value of the human personality;

Genuinely representative government;

The duty of the government and public authorities to comply with the constitution and the laws;

Human rights and fundamental freedoms, guaranteed by law and in accordance with international law;

Legislation adopted at the end of a public procedure, and regulations published;

Military authorities serving under, and accountable to, civil authorities;

Effective means of redress against administrative action of the state;

278. SUROWIECKI, *supra* note 8, at 32.

279. JAMES MEADOWCRAFT, PROSUS REPORT 1/97: DEMOCRATIC PLANNING AND THE CHALLENGE OF SUSTAINABLE DEVELOPMENT 18 (1997), available at <http://prosus.uio.no/publikasjoner/Rapporter/1997-01/97-01-txt.html>.

280. In December, 1994, the Conference on Security and Cooperation in Europe became the Organization for Security and Cooperation in Europe (OSCE).

281. The OSCE now has fifty-five member states, stretching from Vancouver to Vladivostok. (Complete OSCE documentation is available at: <http://www.osce.org/index.php>). The Organization for Security and Co-operation in Europe, <http://www.osce.org/index.php> (last visited Nov. 6, 2005).

282. Gregory Flynn and Henry Farrell, *Piecing Together the Democratic Peace: The CSCE, Norms and the Construction of Security in Post-Cold War Europe*, 53 INT'L ORG. 505, 515-16 (1999).

283. *Id.* at 516.

Independent judiciary and independent legal practitioners; and,  
Extensive and neutrally applied criminal procedures.<sup>284</sup>

The OSCE states also declared that the will of the people, freely and fairly expressed through periodic and genuine elections, was the basis of the authority and legitimacy of all government.<sup>285</sup> Paragraph 7 of the Document contains detailed requirements for free and fair elections; including universal suffrage, secret ballots, the right to seek public office and the right of the winner of the election to enter office after the election.<sup>286</sup>

Among the other rights guaranteed are the right of free speech and thought, free assembly, free association, the right to peaceful assembly and the right to organize.<sup>287</sup> Fleshing out these and the other enumerated principles in fine detail, the Document represents not just the establishment of the post-Cold War order, but a "Magna Carta for the internationalization of democracy."<sup>288</sup> Other international declarations about democracy have since added weight to the emerging global democratic norm, especially the *Harare Declaration of the Commonwealth States*<sup>289</sup> and the *Warsaw Declaration*,<sup>290</sup> but *Copenhagen* was there first and in greater detail. Moreover, by announcing that democratic gains were irreversible, the Document abruptly turned Brezhnev Doctrine on its head.<sup>291</sup>

The Document was profound in one other sense. The preamble expressed the conviction that full respect for human rights and fundamental freedom based on the rule of law and democracy is a prerequisite for the lasting order of peace, justice and cooperation on the European continent. For the first time, the domestic order was inextricably bound to the international order. This maxim lies at the center of securing regional peace and sustainable development, and these linkages are explored further in Part II.D, *infra*.

Scholars have developed various checklists to explain what triggered the expansion of democracy in the 1990s, but there is a remarkable degree of convergence on the most critical factors. Huntington and Przeworski, working separately, both believe the abandonment of the Brezhnev Doctrine by the Soviet Union was a key variable in ending communist rule in Eastern Europe.<sup>292</sup> Both

---

284. Conference on Security and Cooperation in Europe: Document of the Copenhagen Meeting of the Conference on the Human Dimension, June 29, 1990, 29 I.L.M. 1305, 1307-09.

285. *Id.* at 1309.

286. *Id.* at 1310.

287. *Id.* at 1311.

288. Professor John Norton Moore, Lecture: The Copenhagen Document, Toward the Rule of Law and the Principle of Democratic Governance, University of Virginia School of Law, Nov. 29, 2004 (Notes on file with the author).

289. The Harare Commonwealth Declaration 1991, available at <http://www.thecommonwealth.org/Templates/Internal.asp?NodeID=141099>.

290. Toward a Community of Democracies Ministerial Conference: Final Warsaw Declaration: Toward a Community of Democracies (2000), reprinted in ENHANCING U.S. LEADERSHIP AT THE UNITED NATIONS 47 (2002) available at [http://www.ccd21.org/articles/warsaw\\_declaration.htm](http://www.ccd21.org/articles/warsaw_declaration.htm).

291. Charles Sampford & Margaret Palmer, *The Theory of Collective Response*, in PROTECTING DEMOCRACY: INTERNATIONAL RESPONSES 28-31 (Morton H. Halperin & Mira Galic eds., 2005).

292. HUNTINGTON, THE THIRD WAVE, *supra* note 205, at 44-45; ADAM PRZEWORSKI,

scholars also cite “legitimacy crises” that eroded the authority of the Eastern European communist regimes as another fundamental condition.<sup>293</sup> Moreover, both Przeworski and Huntington accept that a single democratic state produces a “snowball” effect, stimulating neighboring populations to insist on democratic rule after observing the freedom enjoyed next door.<sup>294</sup> In Eastern Europe, the catalyst was Solidarity in Poland. Democracy was set in motion by the union’s resistance to martial law in 1981, and it was emboldened by its unexpected victory in the upper parliamentary elections in the summer of 1989.<sup>295</sup>

## 2. Democracy at the United Nations

The UN had virtually no role in the two democratic waves occurring after World War II. Indeed, it is not too much to say that these waves occurred in spite of the drift of the UN’s global institutions. Only in the last few years have those institutions replaced their former hostility toward democracy, sometimes with revisionist democratic rhetoric. The increasing influence of democracy in the third wave was achieved often in the face of UN intransigence, rather than through its encouragement and influence. It was not until December, 1988, that the UN General Assembly declared that the authority to govern is based on the will of the people, expressed in periodic and genuine free elections.<sup>296</sup> Armed with this resolution, one might have expected the UN Secretariat to serve as a stronger advocate of democracy over the last fifteen years.

Even after democracy entered the common lexicon, the UN has been more sanguine than realistic about exactly what the term means. Rather than focusing on democracy, and the representation of aggregate choices through state representatives, the UN has set into the habit of promoting “participation” through nongovernmental “interests.”<sup>297</sup> Consequently, the biggest winners have been NGOs, which have proliferated and become increasingly influential in shaping global policy.<sup>298</sup> After Rio, NGOs expanded their influence even further while helping to craft global treaties such as the Ottawa Convention<sup>299</sup> and the Rome Treaty establishing the International Criminal Court.<sup>300</sup>

Speaking before the inaugural conference of the Council for a Community of

DEMOCRACY AND THE MARKET 5 (1991).

293. HUNTINGTON, *THE THIRD WAVE*, *supra* note 205, at 44-45; PRZEWORSKI, *DEMOCRACY AND THE MARKET*, *supra* note 259, at 2. *See also* LESLIE HOLMES, *POLITICS IN THE COMMUNIST WORLD* 100 (1987).

294. HUNTINGTON, *THE THIRD WAVE* *supra* note 205, at 44-45; PRZEWORSKI, *DEMOCRACY AND THE MARKET*, *supra* note 259, at 3-4..

295. Helga A. Welsh, *Political Transition Processes in Central and Eastern Europe*, 26 *COMP. POL.* 379, 386 (1994).

296. Enhancing the Effectiveness of the Principle of Periodic and Genuine Elections, G.A. Res. 43/157, U.N. Doc. A/RES/43/157 (Dec. 8, 1988).

297. *Id.*

298. Dana Priest, *United States Activist Receives Nobel Peace Prize for Landmine Campaign*, *WASH. POST*, Oct. 11, 1997, at A1.

299. *Id.*

300. John R. Bolton, *Should We Take Global Governance Seriously?*, 1 *CHI. J. INT’L L.* 205, 210 (2000).

Democracies, UN Secretary-General Annan said he was particularly gratified that the new coalition of democracies was meeting to support the founding values of the United Nations, as "set out in the [UN] Charter and the Universal Declaration of Human Rights."<sup>301</sup> But from its founding, the UN has had a rather mixed history with democracy, fluctuating from mild support to active hostility, through stages of ambivalence, and then only recently graduating to vague expressions of support that are often devoid of content and rigor.

Contrary to the Secretary-General's platitudes, the word "democracy" does not appear in the UN Charter, although it is surely embodied in its normative force.<sup>302</sup> The International Covenant on Civil and Political Rights (ICCPR)<sup>303</sup> never mentions the word. Nor does the Universal Declaration of Human Rights, although the latter document is particularly important in making numerous references to human freedom—freedom of religion, freedom of thought, freedom of assembly and the right to life, liberty and security of the person.<sup>304</sup> The Articles of Agreement for each of the five organizations comprising the World Bank have no mention of democracy.<sup>305</sup> The charter of the IMF also does not mention democracy.<sup>306</sup> Still, the UN Charter, the ICCPR and the Universal Declaration on Human Rights provide a powerful normative foundation for a leading UN role in promoting democracy. Only very recently has the UN Secretariat begun to fulfill that legacy.

By the end of the Cold War, glimmers of democracy began to surface in orthodox development theory. The overview of the UN Development Program's (UNDP) *Human Development Report 1991: Financing Human Development*, stated: "the basic objective of human development is to enlarge the range of people's choices to make development more democratic and participatory."<sup>307</sup> The document contained no other reference to democracy, which is a somewhat

301. UN Democracy Caucus: The UNA-USA National Convention, 2003, *available at* [http://www.ccd21.org/news/una-usa\\_convention.htm](http://www.ccd21.org/news/una-usa_convention.htm) (last visited on Nov. 6, 2004).

302. Charter of the United Nations, June, 26, 1945, 59 Stat. 1031, T.S. 93.

303. International Covenant on Civil and Political Rights, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (Dec. 16, 1966).

304. Universal Declaration of Human Rights, G.A. Res. 217A, at 72-76, U.N. GAOR, 3d Sess., 1st plen mtg., U.N. Doc A/810 (Dec. 10, 1948).

305. Each of the organizations of the World Bank Group operates according to Articles of Agreement—the founding document which outlines the general principles of operation for the five organizations: the International Bank of Reconstruction and Development (IBRD), International Development Association (IDA), International Finance Corporation (IFC) Multilateral Investment Guarantee Agency (MIGA) and the International Centre for the Settlement of Investment Disputes (ICSID). The World Bank Group, *Articles of Agreement*, <http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/0,,contentMDK:20040600~menuPK:34625~pagePK:34542~piPK:36600~theSitePK:29708,00.html> (last visited on Nov. 5, 2004).

306. Articles of Agreement of the International Monetary Fund, July 22, 1944, 60 Stat. 1401, 2 U.N.T.S. 39.

307. UNITED NATIONS DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 1991: FINANCING HUMAN DEVELOPMENT 1 (Oxford University Press, 1991). Not completely unmoored from its statist roots, however, it defined such choices as, among other things, "access to income and employment." *Id.*

startling omission, coming in the aftermath of Copenhagen. Instead, the report provided grudging acknowledgement that there are new ways of thinking about development, while taking a noncommittal position on which, if any, were preferable.

The 1991 report suggested that two schools of thought now exist—the “self-interest or public choice school of political economy” that argues that all players—citizens, politicians and bureaucrats—seek to influence public policy to their own ends, and the “platonic” theory of government, that maintains government is an active, essential and benevolent guardian of the public welfare, acting in a disinterested manner.<sup>308</sup> The UN’s conclusion accommodated both theories, saying there is “evidence on either side.”<sup>309</sup> Unable to make a determination on which course developing states should follow, the UNDP side-stepped the issue, and offered this: “Political and economic transition is an art, rather than a science. A successful strategy requires pragmatism, not ideological stance.”<sup>310</sup>

At the fifty-first session of the UN General Assembly in 1997, the world body adopted what should have been a landmark, the *Agenda for Development*.<sup>311</sup> This resolution recognized that democracy, development and human rights are all mutually reinforcing. The resolution also named democracy and fundamental freedoms, as well as human rights and a right to transparent government, each as essential to the realization of social and people-centered sustainable development.<sup>312</sup> The central importance of democracy in development, however, was ignored. Much like an outsider peering in, the UN acknowledged, “democracy is spreading everywhere,” without, however, attaching itself to the right side of history.<sup>313</sup>

The primary reason for the lackadaisical approach toward democracy remains the power and influence of the development orthodoxy. Part of the problem also lies, ironically enough, with the growth of American power in the late-1990s. Because the United States is the most powerful nation, as well as the most forceful proponent of democracy in the world, anti-Americanism has a tendency to generate and reflect opposition to democracy more generally.<sup>314</sup> For example, public opinion polls conducted in five Balkan countries in June, 2003, found that, “hostility to the United States correlates with hostility to markets and democracy, as well as hostility toward the Jews.”<sup>315</sup> Members within those foreign publics that

308. *Id.* at 70.

309. *Id.*

310. *Id.* at 74-75.

311. G.A. Res. 51/240, A/RES/51/240/Annex (Oct. 15, 1997).

312. *Id.*

313. *Id.*

314. “[A]nti-Americanism is not a passing sentiment . . . it cannot be explained simply in terms of the unpopularity of the Bush administration or widespread hostility to the American-led war in Iraq. There is growing consensus that anti-Americanism” is a ‘master framework’ with broad and flexible appeal . . .” Ivan Krastev, *The Anti-American Century*, 15 *Journal for Democracy* 5, 6 (2004).

315. *Id.* at 11.

were the most pro-democratic tended also to be the most pro-American.<sup>316</sup> In many countries, the rise of anti-Americanism is a major obstacle to democratization, serving as a surrogate political movement for anti-market and anti-democratic politics.<sup>317</sup>

Anti-globalism is the final major contributor to agnosticism toward democracy. The anti-globalists assert that democracy “limits choices” by compelling governments to make decisions within constraints that are politically feasible, whereas authoritarian states have the “benefit” of making choices without regard for public preferences.<sup>318</sup>

### 3. Regimes Matter—Przeworski

The ambivalence and hostility toward democracy raises the question whether regime type really matters. Recent statistical modeling by a team led by Adam Przeworski at the University of Chicago has resolved the question—it does. In one of the most comprehensive analyses on democracy and development, Przeworski isolated statistical evidence of the impact of dictatorship and democracy.<sup>319</sup> Working inductively, Przeworski compared 111 variables against political regime types for 135 countries for each year from 1950-1990.<sup>320</sup> Although Przeworski tends to give credence to the theory that minimum per capita income is essential for democracy to take root, ultimately he rejects the dictator-to-development model.<sup>321</sup> Przeworski’s research lies in a no-man’s land beyond modernization theory but not entirely committed to democracy promotion.

In an update of Lipset and Huntington, Przeworski argued that it is demonstrable that democracies are more likely to be found in more highly developed countries, but this is because democratic regimes never fall once per capita incomes reach about \$6,000.<sup>322</sup> Per capita incomes rise in both democratic and autocratic regimes, but once income reaches the \$6,000 threshold, democratic governance persists and democracy survives.<sup>323</sup> In 2003, Przeworski concluded, “No democracy ever fell in a country with a per capita income higher than that of Argentina in 1975, \$6,055.”<sup>324</sup> Above \$6,055, “democracy lasts forever.”<sup>325</sup>

Przeworski went beyond modernization theory to challenge its central feature

316. *Id.*

317. *Id.* at 14-16.

318. Adam Przeworski & Covadonga Meseguer Yerba, *Globalization and Democracy*, Paper prepared for the Conference on Globalization and Egalitarian Redistribution, Santa Fe Institute, May 16-19, 2002, at 2. (“Direct external influences on national policies—whether in the form of a general opinion climate or explicit conditionality—seem to be highly policy-specific.”) *Id.* at 15.

319. The team was comprised of Adam Przeworski, now at New York University, Michael E. Alvarez, DePaul University, José Antonio Cheibub, Yale University and Fernando Limongi, University of São Paulo.

320. Przeworski & Yerba, *supra* note 285, at 12.

321. *See generally id.*

322. Przeworski, et al, *DEMOCRACY AND DEVELOPMENT*, *supra* note 131, at 128-32.

323. *Id.* at 137.

324. Adam Przeworski, *Why Do Political Parties Obey Results of Elections?*, in *DEMOCRACY AND THE RULE OF LAW* 115 (José María Maravall & Adam Przeworski eds., 2003).

325. Przeworski, et al, *DEMOCRACY AND DEVELOPMENT*, *supra* note 131, at 106.

that democratic regimes are no better or worse than authoritarian regimes. Writing in *Democracy and Development*, Przeworski argued that political regimes were not dispositive of economic growth, but then concluded that because dictatorships “depend on the will, and sometimes the whim, of a dictator, they exhibit a high variance of economic performance....”<sup>326</sup> In the end, per capita incomes grow slower and people’s lives are shorter in dictatorships.<sup>327</sup> Przeworski’s research is valuable in showing that political regimes affect economic growth as well as political liberty. Development is a process of government policy and not an outcome of simple conditions.

The emergence of democracy is not a by-product of economic development. Democracy is... established by political actors pursuing their goals, and it can be initiated at any level of development. Only once it is established do economic constraints play a role: the chances for the survival of democracy are greater when the country is richer.... If they succeed in generating development, democracies can survive even in the poorest nations.<sup>328</sup>

Przeworski also showed that political stability is not transportable across regime types. The very phenomena that constitute instability in dictatorships—changes in rulers, strikes, demonstrations—are just part of everyday life in a democracy.<sup>329</sup> In a dictatorship, any actual or anticipated change of leadership or political opposition carries such uncertainty that it imposes special social and economic costs on society, arresting development. Even though such phenomena are much more common in a democracy, they are routine.<sup>330</sup> By permitting continual change at slow moving gradations and within accepted political and legal parameters, democracies make change less unsettling.

#### 4. Democracy Causes Development—Roll & Talbott

Many in the contemporary period are uncertain whether Lipset-Huntington were correct or whether Rustow was on to something. For example, the UN’s *Human Development Report of 1992: Global Dimension of Human Development* dedicated an entire chapter to political freedom.<sup>331</sup> The report celebrated political freedom as an essential element of human development, but argued that the link between democracy and development could not be isolated. “The link between freedom and development is seldom in dispute. What is often disputed the causality—the *direction of the arrow*, whether more freedom leads to more development or more development leads to more freedom.”<sup>332</sup>

Although Przeworski determined that regimes matter, his research is sometimes equivocal on whether democracy produces economic growth. Richard

326. *Id.* at 272.

327. *Id.*

328. Adam Przeworski & Fernando Limongi, *Modernization: Theories and Facts*, 49 *WORLD POL.* 155, 177 (1997).

329. Przeworski, et al, *DEMOCRACY AND DEVELOPMENT*, *supra* note 131, at 271.

330. *Id.*

331. *GLOBAL DIMENSION OF HUMAN DEVELOPMENT*, *supra* note 198, at 26-33.

332. *Id.* at 27 (emphasis added).



Roll and John R. Talbott, two scholars at the University of California-Los Angeles, provided a clearer picture of what is going on as a country transitions to democracy, and they buried modernization theory.

Does political and democratic reform produce economic conditions that lead to more rapid economic development? Or conversely, do exogenous improvements in income and economic development precipitate citizen action to push for democracy? Roll and Talbott employed an events-study method to reach some quite dramatic findings on these questions.<sup>333</sup> The events-study method is a statistical technique that financial economists have used for decades to isolate the impact of a particular event, such as a stock split, in the life of a business corporation.<sup>334</sup>

Roll and Talbott examined the impact of events that represent a material change in a country's level of political freedom to determine how a country's political shift affects economic growth. There were two distinct event categories which were derived from the *2001 CIA World Factbook*. The first category included "democratic" events that may be seen as proxies for increasing political freedom, such as a country's first ever free elections, the removal of a dictator or the addition to the ballot of a party other than the ruling party.<sup>335</sup> The second event category included anti-democratic events, such as the establishment of military or one-party rule, or suspension of the constitution.<sup>336</sup>

Roll and Talbott's findings indicated a rather vivid difference in GNIpc following democratic versus anti-democratic events. The average sample country experiencing a democratic event had essentially flat economic growth—0.67 % per year—in the five years preceding the event.<sup>337</sup> After a democratic event, the economies of these same average countries grew quite rapidly, accelerating to 2.2% per year in the first five years after the event.<sup>338</sup>

The growth rate for post-democratic event states fell to an annual rate of 1.7% in the second five-year period after the event, before increasing to 2.7% in the subsequent decade.<sup>339</sup> The average sample country experiencing an anti-democratic event had a 1.6% average economic growth rate in the decade before the event, and a rate of only .85% for the decade after the event.<sup>340</sup> It is not too much for the authors to claim that their research "constitute[s] compelling evidence that democracy-related changes by a country's government *cause* changes in per capita

333. Richard Roll & John R. Talbott, *Political Freedom, Economic Liberty, and Prosperity*, 14 J. OF DEMOCRACY 75, 81 (2003).

334. *Id.*

335. *Id.* at 82.

336. For democratic and anti-democratic events, *see id.* at 85-87.

337. Richard Roll & John R. Talbott, *Political and Economic Freedoms, and Prosperity*, July 2003 J. OF DEMOCRACY, 1, 51, available at <http://www.anderson.ucla.edu/documents/areas/fac/finance/19-01.pdf>.

338. *Id.*

339. *Id.*

340. *Id.*

income.”<sup>341</sup>

When countries undertake a democratic change, such as deposing a dictator, they enjoy a rather dramatic spurt in economic growth. The growth spurt persists for at least two decades. In contrast, an anti-democratic event is followed by a reduction in economic growth. Democratic conditions are causes of cross-country differences in wealth and not the endogenous effects of wealth.<sup>342</sup>

### *B. The ‘Discovery’ of Markets and Economic Freedom*

Economic freedom works to create wealth, but freedom should be valued as an end in itself—as an unqualified human right. The *Universal Declaration of Human Rights of 1948* stated that everyone has the right to own property alone or in association with others, and no person may be arbitrarily deprived of property.<sup>343</sup> This expressed a normative value independent of the power of economic freedom to raise living standards. Market participation is a form of self-actualization, affording people a basis for self-respect and human dignity.<sup>344</sup> Economic human rights, as important as they are for economic growth and the realization of human dignity, are often omitted from rights-based approaches to development.<sup>345</sup> More than a decade ago, Mancur Olson, a former Distinguished Fellow at the U.S. Institute of Peace, remarked that the moral appeal of democracy is almost universally appreciated, but its economic advantages are scarcely understood.<sup>346</sup>

The UNDP reported in 1999 that international and national economic policies shifted sharply toward markets beginning in the 1970s.<sup>347</sup> That assessment is overly generous. The shift toward markets actually began with the Thatcher and Reagan revolutions.<sup>348</sup> It was not until the fall of the Berlin Wall in 1989, which laid out the devastating and embarrassing catastrophe of planned economies, that market-oriented economic reform really gained currency outside of a few select countries. Unfortunately, the UN was not at the forefront of change. The UNDP summed up accurately the mood of old thinking that permeated development thought in 1990, when it declared flatly, “[t]here is no automatic link between economic growth and human progress.”<sup>349</sup> In that same UNDP report, the chapter addressing economic growth did not mention the word “markets” once.<sup>350</sup>

341. *Id.* at 26 (emphasis added).

342. *Id.* at 28.

343. Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810(Dec. 12,1948).

344. See UNITED NATIONS DEV. PROGRAM, HUMAN DEV. REPORT 1993 22 (1993) [hereinafter PEOPLE’S PARTICIPATION].

345. WEAVING THE RULES, *supra* note 103, at 96-99.

346. Mancur Olson, *Dictatorship, Democracy, and Development*, 87 AM. POL. SCI. REV. 567, 575 (1993).

347. GLOBALIZATION WITH A HUMAN FACE, *supra* note 61, at 29.

348. See BRUNDTLAND REPORT, *supra* note 101, at 1 (giving passing mention of the importance of economic growth).

349. U.N. DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 1990: CONCEPTS AND MEASUREMENT OF HUMAN DEVELOPMENT 42 (Oxford University Press, 1990).

350. *Id.* at 42-60.

The fall of the Soviet Union brought forth great introspection and triggered a reassessment in world development, particularly among the developed countries that dispense development aid. The implosion at the Kremlin resolved the debate about whether there was something fatally wrong with a centrally-planned system. Many were disappointed, thinking that beyond the absurdities of the Kafkaesque communist state they could glimpse a genuine alternative to Western approaches.<sup>351</sup> When Soviet socialism failed economically, some scholars held on tightly, producing even more complementary theories that explained development in terms of exogenous factors, such as the availability of natural resources, levels of educational achievement, physical proximity to world markets and, interestingly enough, levels of economic development. Each of these explanation would prove spurious.

### 1. The Washington Consensus

The international development organizations located in Washington, D.C. were the first global players officially to adopt the centrality of markets in economic growth. The World Bank and the IMF reached a consensus on advice offered to the Latin American states in 1989.<sup>352</sup> John Williamson coined the term "Washington Consensus" to describe this set of market oriented reforms that the state-directed economies of Latin America should adopt to spur economic growth.<sup>353</sup>

Although the Consensus formula was geographically and historically specific, it gained acceptance as a distillation of the policies emanating from the Thatcher and Reagan administrations, and reached the intellectual mainstream.<sup>354</sup> Later, the Washington Consensus would be applied to development choices in Asia and Africa.<sup>355</sup> The checklist of principles includes fiscal discipline, tax reform that lowered marginal rates and broadened the tax base, trade and investment liberalization, privatization, deregulation, secure property rights and redirection of public spending towards areas that offer higher investment return, such as healthcare and education.<sup>356</sup>

The Washington Consensus provided an alternative to resource-based and other exogenous models of development, and it filled the vacuum left by central planning, which was discredited.<sup>357</sup> The Consensus soon became a shorthand reference for globalization and neo-liberalism, transforming into a broader and less doctrinaire theory of development. In 1992, even the UNDP would get on board, proclaiming, "Markets are the means, human development is the end."<sup>358</sup> During

351. Rist, *supra* note 97, at 178.

352. John Williamson, *What Should the World Bank Think About the Washington Consensus?* 15 WORLD BANK RES. OBSERVER, 251 (2000).

353. *Id.*

354. *Id.* at 254.

355. *Id.* at 254-55.

356. *Id.* at 252-54. For the inception of the term "Washington Consensus," see, John Williamson, *Democracy and the 'Washington Consensus,'* 21 WORLD DEV. 1329-36 (1993).

357. Jeremy Clift, *Beyond the Washington Consensus*, FIN. & DEV., Sept. 2003, at 1.

358. GLOBAL DIMENSION OF HUMAN DEVELOPMENT, *supra* note 198, at 1.

the next year, 1993, the UNDP expanded its discussion to include the need for markets to be able to work freely in a stable macroeconomic environment, and that the economy should contain a fair tax system and offers rewards for enterprise.<sup>359</sup>

Detractors would argue that individual policy components of the Washington Consensus were not independently correlated with development. But econometric analysis at the IMF showed that the policies were effective in promoting economic development when used as a package of mutually reinforcing policies.<sup>360</sup> The core policies of the Washington Consensus could be expected to greatly increase the chance of a country experiencing rapid economic growth when put in place as a comprehensive plan. The results were far less certain if a country adopted only a single component, selected only some of the components in a cafeteria style, or adopted components on a rolling basis one by one.<sup>361</sup> This suggested that those hoping to cherry-pick a few components of economic liberalization and graft those to an authoritarian system would be disappointed.

By the late 1990s, it had become tragically clear that four decades and billions of dollars in development aid by donor nations to the developing states had been largely wasted on nations lacking sound macroeconomic policies.<sup>362</sup> Without economic reform, the ability of increased aid to make a dramatic difference in developing countries was doubtful. For all the time and energy the developing world expended wringing aid concessions from the developed countries, the means to generate far greater wealth through adoption of market-oriented strategies was already before them.

For example, in 2003, total official global development assistance from all sources was \$77 billion—including \$16 billion from the United States.<sup>363</sup> In comparison, total foreign investment by all Organization for Economic Development (OECD) countries into developing countries was \$192 billion, worker remittances from the OECD to the developing states were \$93 billion and portfolio investments were more than \$27 billion.<sup>364</sup> To give a sense of scale to these figures, it is instructive to note developing countries exported more than \$3 trillion—more than 1/3<sup>rd</sup> of their combined GDP during 2003.<sup>365</sup>

Developing countries could grow their aggregate income by \$532 billion by 2015 if world trade barriers could be reduced. In a World Bank study of fifty-six developing countries from 1970-1993, there was a strong correlation between

359. PEOPLE'S PARTICIPATION, *supra* note 311, at 4.

360. Jahangir Aziz & Robert F. Wescott, *Policy Complementaries and the Washington Consensus* 18-19 (Working Paper of the Int'l Monetary Fund, WP/97/118, 1997).

361. *Id.*

362. Craig Burnside & David Dollar, *Aid Spurs Growth—in a Sound Policy Environment*, FIN. & DEV., Dec. 1997, at 5-6.

363. Bureau of Economic and Business Affairs, U.S. DEP'T OF STATE, FACT SHEET: FINANCIAL FLOWS KEY TO DEVELOPING COUNTRY GROWTH, Oct. 15, 2004, *available at* <http://www.state.gov/e/eb/rls/fs/37162.htm>.

364. *Id.* (Worker remittances from the United States alone account for \$28 billion, almost twice the amount of official development assistance).

365. *Id.*

development assistance and economic growth, but only for those countries that implemented open trade regimes and free markets and exercised fiscal discipline.<sup>366</sup> The findings were particularly strong for the forty-one low-income countries in the sample, which included Bolivia, El Salvador, Mali, Honduras and Ghana.<sup>367</sup> Using market economics and fiscal responsibility, even the poorest countries were able to leverage scarce aid dollars and generate growth.

## 2. Economic Freedom of the World—The Fraser Institute

Forty years ago, Milton Friedman's principles of free markets, individual freedom and dispersed governmental power could not be tested empirically because there was insufficient data. Since then, however, data has accumulated to support his thesis. One of the most comprehensive and detailed studies on economic freedom in the world is conducted each year by the Fraser Institute in Vancouver, Canada. The Fraser data show that as levels of economic freedom increase, so too does economic performance.<sup>368</sup> Unapologetically, the Fraser economists aver, "[t]he key to changing policy in the world is changing the climate of opinion about what works and what does not work in encouraging world development."<sup>369</sup>

The work of the Fraser Institute is collated into an index called Economic Freedom of the World (EFW). EFW gauges the degree of economic freedom in five areas: (1) size of government (government spending, taxes and government enterprise); (2) stable legal structures and protection of property rights; (3) access to sound money; (4) free international trade; and, (5) regulation of business, labor and credit.<sup>370</sup> Each area is comprised of twenty-one components, and a number of these components are themselves made up of several subcomponents.<sup>371</sup>

In total, the index is constructed from thirty-eight subcomponents comprised of economic data, such as the growth of the money supply. Qualitative measures, such as the degree of independence of the judiciary and the integrity of the legal system, are included.<sup>372</sup> Rather than focusing solely on what might be termed "corporate-friendly" practices, EFW is especially concerned with understanding how individuals fare at the microeconomic level in society.<sup>373</sup> In order for individuals, as opposed to corporate entities, to prosper, the system must

366. Burnside & Dollar, *supra* note 329, at 1-3.

367. *Id.* at 2-3.

368. James Gwartney and Robert Lawson, ECONOMIC FREEDOM OF THE WORLD 2004 ANNUAL REPORT (2004). The report is co-published with nearly sixty policy and economic institutions from virtually every area of the world.

369. Brief, Economic Freedom of the World Annual Report 2004, Fraser Institute, Jul. 15, 2004 (Copy on file with the author).

370. Gwartney and Lawson, *supra* note 337, at 28.

371. *Id.* at 6.

372. For example, Area 2, Sound Legal Structure and Security of Property Rights, assembles survey data from the International Country Risk Guide, compiled by a Fraser Institute panel of experts, and the Global Competitiveness Report, created by business leaders. Together, these surveys are a proxy for measuring a nation's legal structure and the security of property rights—whether the law enforcement system protects the property rights of owners and enforces contracts in an even-handed manner. *Id.* at 6-7.

373. *Id.* at 3.

protect and promote individual economic rights as individual civil liberties. Economic human rights include variables such as the extent of personal choice in society, the ability of individuals to conduct voluntary exchanges, the freedom to openly compete and enter markets, and the security of privately owned personal property.<sup>374</sup> The Fraser Institute has compiled an impressive report that chronicles the correlation between freedom and development throughout the world.

### 3. Economic Freedom Causes Development—Roll & Talbott

Many people accept the correlation between wealth and freedom, but finding what causes this correlation has not been easy. Analogous to the question of political development is a parallel question of economic development. Do market reforms bring about economic growth, or are there exogenous improvements in the economy, such as higher incomes, that then generate development?<sup>375</sup> In other words, does economic liberty make people prosper, or do prosperous people seek out and then create a system of economic freedom?

As part of their work on the relationship between democratic and authoritarian political events and GNIpc, Roll and Talbott also searched for causative economic variables by comparing GNIpc as a broad and stable measure of economic wellbeing against fourteen societal determinants<sup>376</sup>. Among the fourteen variables tested, property rights (positive), informal market activity (e.g. black markets) (negative) and regulation (negative) had the highest levels of statistical significance in relation to GNIpc.<sup>377</sup>

The researchers' regression analysis indicated the critical ingredient of successful development was an economic and political system that invites profitable economic exchanges among individual market participants, without risk of expropriation or repudiation.<sup>378</sup> The variables had high levels of statistical significance and directional impact.

The next three most significant variables correlating to economic prosperity were political rights (positive) and civil liberties and freedom of the press (positive), providing additional support for the proposition that economic and political freedoms operate in tandem to make countries wealthy. A complementary study from the World Bank found that there is a strong and consistent link between the measure of civil liberties in a society and the extent of successful economic performance derived from World Bank-sponsored projects.<sup>379</sup>

The weak property rights regimes in many Third World countries discourages investment, diverts energy into black markets and smuggling, and renders external assistance ineffective.<sup>380</sup> The powerful synergy between the rule

374. *Id.*

375. Roll and Talbott, *supra* note 300, at 81.

376. *Id.* at 76.

377. *Id.*

378. *Id.* at 76-77.

379. Lant Pritchett, *Civil Liberties, Democracy and the Performance of Government Projects*, 1998 FIN. & DEV. 26, 27. This article draws from on the study, Jonathan Isham, Daniel Kaufmann and Lant Pritchett, *Civil Liberties, Democracy and the Performance of Government Projects*, 11 WORLD BANK ECON. REV. 219, 219-42 (1997).

380. Roll and Talbott, *supra* note 300, at 78.

of law, democracy and economic freedom is illustrated by Peruvian economist and brilliant maverick Hernando de Soto:

The poor inhabitants of [developing] nations—five-sixths of humanity—do have things, but they lack the process to represent their property and create capital. They have houses but not titles; crops but not deeds; businesses but not statutes of incorporation. It is the unavailability of these essential representations that explains why people who have adopted every other Western invention, from the paper clip to the nuclear reactor, have not been able to produce sufficient capital to make domestic capitalism work.<sup>381</sup>

### C. *Environmental Sustainability & Democracy*

The only realistic, feasible avenue to ecological political reform is through the political institutions of an open society that respects human rights.

—H.J. McCloskey<sup>382</sup>

Postmodern theorists suggest that sustainable development requires the creation of a new democratic rationality, in which the preferences of “virtual groupings,” such as future generations, the distant poor, or other species, must be identified and represented.<sup>383</sup> Arriving at this new rationality operationally is non-democratic. Post-modernists seek to develop mechanisms that can surmount the public’s tendency to assert citizen competence and to overcome the public’s misguided common sense in complex ecological issues.<sup>384</sup> In some cases, democracy actually undermines sustainable development. “Pluralism’s greatest strength can become the ecosystem’s greatest weakness....”<sup>385</sup>

These theorists worry that the “ecological clock is ticking,” and advocate a rebalancing away from representative democracy toward “ecological democracy.”<sup>386</sup> Efforts at rebalancing power in a shift away from democracy are strengthened by voices of authoritarian regimes. The composition of the major environmental conferences, as well as the UN Environmental Program, is rife with autocratic member governments.<sup>387</sup> The views of autocracies magnify those of extreme environmentalists who approach their calling as something akin to a religion.<sup>388</sup>

381. HERNANDO DE SOTO, *THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE* 6-7 (2000).

382. H. J. MCCLOSKEY, *ECOLOGICAL ETHICS AND POLITICS* 159 (1983).

383. William M. Lafferty, *Democratic Parameters for Regional Sustainable Development: The Need for a New Demos with a New Rationality* 18-19 (University of Oslo, Program for Research and Documentation for a Sustainable Society, Working Paper No. 1/00, 2000).

384. *Id.* at 22-23.

385. *Id.* at 23.

386. *Id.* at 25-28, 30.

387. Nils Petter Gleditsch and Bjorn Otto Sverdrup, *DEMOCRACY AND THE ENVIRONMENT*, Paper presented to the 36th Annual Conference of the International Studies Association, Chicago, IL, Feb. 21-25, 1995 at 21.

388. Michael Crichton, *Environmentalism as Religion*, Remarks to the Commonwealth Club, San Francisco, California, Sep. 15, 2003 [http://www.crichton-official.com/speeches/speeches\\_quote05.html](http://www.crichton-official.com/speeches/speeches_quote05.html)

## 1. Autocracy and Environmental Catastrophe

As a rule, autocratic regimes treat the environment with the same purposeful recklessness and brutality that they treat their people.<sup>389</sup> Autocratic states that make the transition states toward democratic governance also make progress toward environmental conservation. This fact was evident to keen observers more than twenty years ago, when the philosopher and ethicist H.J. McCloskey argued it was the democracies that were implementing measures to protect ecology, and it was China and the dictatorships of Africa and the Arab world, that were the worst environmental offenders.<sup>390</sup>

Even more moderate autocratic states show little ecological awareness or sensitivity. The milder flavor of South American dictators in Chile and Argentina in the early 1980s, for example, came to power under the guise of safeguarding human values and the protecting the environment.<sup>391</sup> It quickly became apparent, however, that the regimes constituted greater threats to both than did the governments they replaced.<sup>392</sup> Unfortunately, the dictatorships traded on legitimacy endowed upon them at the time from Malthusian luminaries like Stanford University biologist Paul R. Ehrlich<sup>393</sup> and economist Robert L. Heilbroner.<sup>394</sup> Both men argued that freedom inherent to market democracies was promoting ecological disaster.

(last visited Nov. 21, 2005). See also, Gleditsch and Sverdrup, *supra* note 357, at 21 (environmentalism in its quasi-religious form threatens democracy as much as other forms of fanaticism), and referencing Harald Liebhich, *Naturvern som religion* [Environmentalism as Religion], HUMANIST no. 3, 22-25.

389. Alexander H. Joffe, *The Environmental Legacy of Saddam Husayn: The Archeology of Totalitarianism in Modern Iraq*, 33 CRIME, L. & SOC. CHANGE 313 (2000).

390. McCloskey, *supra* note 349, at 157.

391. *Id.* at 158.

392. *Id.*

393. Dr. Ehrlich's work helped ignite and propel the environmental movement. He is well-known for his notoriously inaccurate prediction of a world population explosion, *THE POPULATION BOMB* (1968). His most recent work, *ONE WITH NINEVAH: POLITICS, CONSUMPTION AND THE HUMAN FUTURE* (2004), is a dire warning of looming environmental catastrophe that threatens to make the world into a new fallen Ninevah. (In the Old Testament, the prophet Jonah prophesies the destruction of Ninevah, the capital of the Assyrian Empire). Ehrlich is perhaps best known for the 1980 bet he made with Dr. Julian Simon, an economist at the University of Maryland. Simon maintained that human ingenuity would solve problems associated with population growth. He contended that if Ehrlich were correct that the world would experience greater scarcity, then the price of natural resources would tend to increase over time. Instead, Simon predicted that commodity prices would fall, and he challenged Ehrlich to a wager. He let Ehrlich pick any commodity and any future date to illustrate his point that commodities would fall over time. Ehrlich accepted, and in October 1980, he purchased \$1,000.00 worth of metals, evenly divided among tungsten, copper, tin, nickel and chrome. If the total value of the metals was higher in 1990, Simon would have to pay him the difference. If the metals fell in price, Ehrlich would have to pay Simon the difference. In 1990, Ehrlich sent Simon a check for \$576; all five metals had declined in value. John Tierney, *The Big City: Optimism by the Numbers*, N. Y. TIMES, Jan.3, 1999, Section 6, at 10.

394. See, e.g., HEILBRONER, *AN INQUIRY INTO THE HUMAN PROSPECT* (1974). In the spirit of Heilbroner, a recent scholar has argued that global civilization is on the verge of collapse and can only be saved by a massive decrease in the human population and resource use. See Geoffrey P. Glasby, *Sustainable Development: The Need for a New Paradigm*, 4 ENV'T, DEV. AND SUSTAINABILITY 333, 339-42 (2002).



Unlike the extensive studies that have established powerful correlations between democracy and economic development, there is a paucity of empirical analysis on democracies and ecology. Although there is a great need for such research, one area of difficulty has been in reducing assessed environmental conditions into measurable metrics, particularly outside North America and Western Europe.<sup>395</sup> Because of the lack of extensive empirical data, one of the best ways to approach a study of the impact of regime type on the environment is the case study.

One case immediately leaps to mind—the environmental calamity of the former Soviet Union and the Eastern Bloc. The well-known economic failures of the USSR have a parallel story in the astounding environmental devastation wrought by the Soviet regime.<sup>396</sup> Moscow's abject disregard for the natural environment is astonishing, revealed only after the opening of the country in 1989. In 1992, Murray Feshbach, at the time a research professor of demography at Georgetown University, teamed up with Alfred Friendly, Jr., the Moscow correspondent for *Newsweek*, to analyze the impact of decades of environmental abuse. Their panoramic study coined the term "ecocide:"

When historians finally conduct an autopsy of the Soviet Union and Soviet Communism, they may reach the verdict of death by ecocide.... No other great industrial civilization so systematically and so long poisoned its land, air, water and people. None so loudly proclaiming its efforts to improve public health and protect nature so degraded both. And no advanced society faced such a bleak political and economic reckoning with so few resources to invest toward recovery.<sup>397</sup>

The Soviet Union was mired in shocking environmental catastrophe at every level of society. The effects of the Chernobyl debacle and the Aral Sea tragedy are still unfolding, and serve as powerful iconography for the cornucopia of pollution, disease and environmental degradation that is a hallmark of autocratic regimes.

One of the critical factors energizing these ruinous policies is a lack of transparency—autocratic governments are notoriously poor in monitoring environmental pollution, collecting information about polluters, tabulating the data and releasing it to the public.<sup>398</sup> Decade after decade, problems persist, exacerbated by government inattention. Moreover, government data that is not subject to probing challenge to its veracity and dissent from independent groups is one-dimensional, and therefore of limited utility.

The Soviet experience was repeated throughout communist Czechoslovakia, Hungary, Romania, Bulgaria and Poland. In those countries, environmental decision-making was considered a secretive process, without public participation or critique by outside experts.<sup>399</sup> Important environmental decisions

395. ENVIRONMENTAL SUSTAINABILITY INDEX *supra* note 188, at 24; Rodger A. Payne, *Freedom and the Environment*, 6 J. DEMOCRACY 41, 42 (1995).

396. See generally P. CRAIG ROBERTS & KAREN LAFOLLETTE, *MELTDOWN: INSIDE THE SOVIET ECONOMY* (1990).

397. Murray Feshbach & Alfred Friendly, Jr., *Facing Facts, in ECOCIDE OF THE USSR: HEALTH AND NATURE UNDER SIEGE I* (1992).

398. Cynthia B. Schultz & Tamara Raye Crockett, *Economic Development, Democratization and Environmental Protection in Eastern Europe*, 18 B. C. ENVTL. AFF. L. REV. 53, 62 (1990).

399. Margaret Bowman & David Hunter, *Environmental Reforms in Post-Communist Central Europe: From High Hopes to Hard Reality*, 13 MICH. J. INT'L L. 921, 962 (1992).

were made, much like judicial decisions, through “telephone law.”<sup>400</sup> Communist party officials would telephone their counterparts in state agencies or in judicial proceedings to inform them of the expected outcome to a particular dispute.<sup>401</sup>

Environmental protection under communism was considered the privileged domain of the state. The secrecy rendered outside voices bare “trace elements” in comparison with official policy.<sup>402</sup> Consequently, governments operated within an incomplete model of decision-making in which a preference was placed on political and economic decisions at the expense of environmental considerations.<sup>403</sup>

## 2. Democratic Action and Environmental Protection

After more than forty years of decision-making behind closed doors, dismantling the Eastern European system posed immense challenge. Yet the emerging democracies have done remarkably well, a credit to the flexibility and resilience of the new regimes in coming to terms with the poisoned environmental legacy of communism.<sup>404</sup> By the late 1990s, the constitutions of Bulgaria, the Czech Republic, Hungary, Poland, Romania and Slovakia were among the most advanced charters in the world for environmental protection.<sup>405</sup>

While the problem of managing contemporary environmental problems exists in all states, many developing countries face a special challenge of cascading environmental degradation.<sup>406</sup> For these nations particularly, liberal democracy and freedom will be essential to protecting the ecosystem. Like the development economists, however, many environmentalists have fallen into the “world systems” trap, suggesting that a decline in the global environment is attributable to an imbalance in the North-South dynamic.<sup>407</sup> The theory is the environmental corollary to dependency theory in economics. Environmental stress tends to flow from the point of most environmental resistance to the least.<sup>408</sup> The most resistance is in the North, composed of democratic countries with strong environmental regulations, active environmental groups and more responsive governments.<sup>409</sup> The

400. Kathryn Hendley, *Demand for Law: Rewriting the Rules of the Game in Russia: The Neglected Issue of the Demand for Law*, 8 E. EUR. CONST. REV. 2 (1999), <http://www.law.nyu.edu/eecr/vol8num4/feature/rewriting.html>.

401. Bowman & Hunter, *supra* note 366, at 962.

402. *Id.* at 962 n.196 (citing Jan Drgonec, *State of Environmental Law in Czecho-Slovakia* (Mar. 1999)(unpublished manuscript)).

403. *Id.* at 962.

404. For example, in the Czech Republic, the government balanced critical environmental needs requiring immediate remedies with a responsible comprehensive and long-term approach in the area of air pollution. David Lu, Note, *Air Pollution Regulation in the Czech Republic: Environmental Protection in the Context of Political and Economic Transition*, 13 WIS. INT'L L. J. 565, 583-84 (1995).

405. Mark N. Salvo, Comment, *Constitutional Law and Sustainable Development in Central Europe: Are We There Yet?*, 5 S.C. ENVTL. L. J. 141, 150 (1997).

406. GLOBAL TRENDS 2015, *supra* note 191, at 34-35.

407. Benjamin J. Richardson, *Environmental Law in Postcolonial Societies: Straddling the Local-Global Institution Spectrum*, 11 COLO. J. INT'L ENVTL. L. & POL'Y 1, 1-3 (2000); Gaetan Verhoosel, *Beyond the Unsustainable Rhetoric of Sustainable Development: Transferring Environmentally Sound Technologies*, 11 GEO. INT'L ENVTL. L. REV. 49 (1998).

408. See Richardson, *supra* note 374, at 2-3.

409. Gregory F. Maggio, *Inter/intra-generational Equity: Current Applications Under*

points of least resistance are in the South, where many countries are governed by insular regimes that do not reflect the will of the people.<sup>410</sup> Poor nations become havens of environmental waste and hazardous substances, and additionally suffer from the North's appetite for natural resources.<sup>411</sup> Typically, the purported solution is to turn toward responses at the global level. A more effective approach, however, is found at the state level. Unrepresentative regimes barter their state's ecology for private gain.<sup>412</sup> One those regimes lose power to democracy, the trend can begin to reverse.

One contemporary criticism of democracies and the environment is that their strong national stake in economic growth, generally propelled by business interests, runs counter to environmental protection.<sup>413</sup> On the contrary, open societies are far more likely to produce effective political counterweights to polluting commercial enterprise. Field research by the World Wildlife Fund in Africa shows a strong correlation between decentralized political control and environmental conservation.<sup>414</sup> This is because the transparency and the widespread distribution of information in a free society encourage better environmental practices and speed technological advance. Even in the absence of technological breakthrough, distributed information empowers locals to more effectively address environmental issues. Democratic regimes tend to distribute information about the environment, around which popular expressions of concern can collect. In a free society, people may gather unhindered to form interest groups and to lobby for stricter regulations. Principles of open debate permit environmentalists to distribute educational materials and promote new ideas. The flow of information in a democracy also informs a free media, making it more likely that the government will be challenged on environmental issues. Of course,

*International Law for Promoting the Sustainable Development of Natural Resources*, 4 BUFF. ENVTL. L.J. 161, 177 (1997) (quoting David A. Sarokin and Jason Schulkin, *Environmental Justice: Coevolution of Environmental Concerns and Social Justice*, 14 THE ENVIRONMENTALIST 121, 128 (1994)).

410. See Bowman & Hunter, *supra* note 366, at 962-63.

411. Marguerite M. Cusack, *International Law and the Transboundary Shipment of Hazardous Waste to the Third World: Will the Basel Convention Make a Difference?*, 5 AM. U. J. INT'L L. & POL'Y 393 (1990) (noting that three million tons of hazardous waste were shipped to Third World nations between 1986 and 1988).

412. Speaking at Georgetown University in December, 1991, then presidential candidate Bill Clinton launched what he called a "new covenant" for national security that would serve as the centerpiece of his foreign policy. Clinton supported President George H. W. Bush on an array of foreign policy decisions, calling his formation and leadership of an international coalition to eject Saddam Hussein's army from Kuwait a "masterful job." Taking exception to other policies, however, Clinton called for a sweeping rearrangement of U.S. foreign policy toward "engagement and enlargement" that would be grounded in the promotion of freedom and democracy around the world. Citing the advantages and benefits of democracies over their non-democratic peers, Clinton argued, among other things, democracies are more likely to protect the global environment. Governor William J. Clinton, A New Covenant for American Security, Remarks to Students at Georgetown University (Dec. 12, 1991), available at [http://www.ndol.org/ndol\\_ci.cfm?kaid=128&subid=174&contentid=250537](http://www.ndol.org/ndol_ci.cfm?kaid=128&subid=174&contentid=250537).

413. JOHN S. DRYZEK, RATIONAL ECOLOGY AND POLITICAL ECONOMY 120-31 (1987).

414. Jesse Ribot, *The Experiences of the World Resources Institute in Africa: An Initiative for Environmental Accountability in Africa—Decentralization*, in GREENING DEMOCRACY AND GOVERNING THE ENVIRONMENT (2000), available at <http://www.worldwildlife.org/bsp/publications/asia/greening/greening.html> (last visited Sep. 20, 2004).

industrial interests also have these rights, but the historical record of widely publicized environmental crises—from Love Canal to Three-Mile Island—suggests that democratic governments are responsive to environmental concerns.<sup>415</sup> Environmental causes do not gather power only through impending crisis, either. When Rachel Carson released her classic, *Silent Spring*, she triggered a nationwide debate on the use of pesticides.<sup>416</sup>

Since the human rights records of democracies generally are better than autocracies, environmentalists are much less likely to be muzzled, harassed, beaten, detained, imprisoned, raped, tortured or murdered for their work.<sup>417</sup> In order for an individual to be an effective advocate for the environment, protection of their civil and political rights is paramount.<sup>418</sup>

Human rights abuses are not restricted absolutely to non-democratic states, but their prevalence and severity are far greater in non-democratic countries. For example, in September, 1999, in the Narmada Valley of India, peaceful demonstrators protesting the construction of the Narmada Dam were intimidated, beaten and arrested by police.<sup>419</sup> They were held for thirteen days, but then released by order of an independent judge.<sup>420</sup> In contrast, abuse by the Burmese Army paints a far more dangerous scenario. In Burma, there is no independent judiciary to monitor the repugnant conduct of the army in its collaboration with industry to construct the Yadana pipeline.<sup>421</sup> Evidence indicates the Burmese Army has forced relocations, impressed citizens into slave labor to work on the project and carried out extra-judicial killings of local activists in association with the pipeline.<sup>422</sup>

Even in former communist countries like Bulgaria that had decent environmental laws, those laws were not enforced effectively.<sup>423</sup> Effective environmental enforcement requires more than a powerful and coherent state—the state must have the authority to establish and enforce a culture of legal compliance.<sup>424</sup> There must be political legitimacy. Under communist rule, Bulgaria placed undue emphasis on a production-driven public industry. The country had a

415. Cary Coglianese, *Social Movements and Law Reform: Social Movements, Law, and Society: The Institutionalization of the Environmental Movement*, 150 U. PA. L. REV. 85, 110-12 (2001).

416. Payne, *supra* note 362, at 44.

417. *Id.* at 43. "Today, in too many countries, it is dangerous business to be an environmentalist." AMNESTY INT'L & SIERRA CLUB, DEFENDING THOSE WHO GIVE THE EARTH A VOICE: ENVIRONMENTALISTS UNDER FIRE—10 URGENT CASES OF HUMAN RIGHTS ABUSE at 3 (2d ed. 2000), available at <http://www.sierraclub.org/human-rights/amnesty/report.pdf> [*hereinafter* DEFENDING THOSE WHO GIVE THE EARTH A VOICE].

418. See, Michael J. Kane, *Promoting Political Rights to Protect the Environment*, 18 YALE. J. INT'L L. 389, 411 (1993).

419. DEFENDING THOSE WHO GIVE THE EARTH A VOICE, *supra* note 384, at 14.

420. *Id.*

421. See *id.* at 5 (noting that the Burma victims needed to resort to the U.S. federal courts for recourse).

422. *Id.* at 4-5.

423. James Friedberg & Branimir Zaimov, *Politics, Environment and the Rule of Law in Bulgaria*, 4 DUKE J. COMP. & INT'L L. 225, 263 (1994).

424. Abram Chayes & Antonio Handler Chayes, *On Compliance*, 47 INT'L ORG. 175, 193 (1993), reprinted in INTERNATIONAL INSTITUTIONS: AN INTERNATIONAL ORGANIZATION READER, at 265-66 (Lisa L. Martin & Beth A. Simmons eds., MIT Press 2001).

corrupt and unresponsive bureaucracy, a lack of respect for neutral legal norms embodied in the rule of law, and the state was governed by ruling communist elites with immense and unchecked discretionary power.<sup>425</sup> It is somewhat counter-intuitive that autocratic states are less effective at enforcing their own laws, but their governments tend to be neither responsive nor accountable. In the Czech Republic, the transition from a communist government to a democratic government and free market economy yielded a dramatic improvement in the state of the natural environment. One critical factor was the increased emphasis of the new government on environmental enforcement.<sup>426</sup> Markets and the rule of law generate useful legal and quasi-legal principles that promote environmental regulation, such as "polluter pays," and create mechanisms such as direct bargaining that shift the cost of externalities onto the polluter.<sup>427</sup>

One of the few empirical studies to approach the question of whether democracy is correlated with environmental protection was conducted by Nils Petter Gleditsch and Bjørn Otto Sverdrup of the International Peace Research Institute in Oslo, Norway, and the University of Trondheim. Their seminal work considered how states performed on some of the most important environmental indicators.<sup>428</sup> They then compared environmental performance against levels of democratization and freedom in the state, as derived from the highly-regarded Polity database. Their results are mixed, but generally supportive of democracy. Democracies have fewer endangered mammal species than autocracies, but more endangered bird species.<sup>429</sup> This is probably because mammals such as whales and panda bears have become important symbols of the environmental debate in democracies. Developed states tended to emit a higher level of green house gases, but their economic production is associated with less deforestation, increased sanitary and public health conditions and a list of other positive environmental indicators.<sup>430</sup> Moreover, democracies have lower overall CO<sub>2</sub> emissions than non-democracies, after controlling for the size of the economy and oil production.<sup>431</sup> As developing states achieve higher levels of development, emission levels taper off.<sup>432</sup>

425. *Id.* at 259-63.

426. J. Cameron Thurber, *Will Retrocession to a Communist Sovereign Have a Detrimental Effect on the Emphasis and Enforcement of Laws Protecting Hong Kong's Environment? The Czech Experience as Contraposition*, 11 J. TRANSNAT'L L. & POL'Y 39, 46 (2001). Under Czech democracy, the communist era preferential treatment for waiving or reducing environmental penalties for foreign or military entities diminished. Dietrich Earnhart, *Enforcement of Environmental Protection Laws Under Communism and Democracy*, 40 J.L. & ECON. 377, 399-400 (1997).

427. *See, e.g.*, Robert Repetto, *Economic Incentives for Sustainable Production*, in ENVIRONMENTAL MANAGEMENT AND ECONOMIC DEVELOPMENT 69, 71, 77-78 (Gunter Schramm & Jeremy J. Warford eds., 1989).

428. Nils Petter Gleditsch & Bjørn Otto Sverdrup, *Democracy and the Environment*, in HUMAN SECURITY AND THE ENVIRONMENT 45, 56-65 (Edward A. Page & Michael Redclift eds., 2002). These included per capita emissions of climate gases, emissions of CO<sub>2</sub> per capita, deforestation, threats to biodiversity, lack of safe drinking water, lack of sanitary services and population growth.

429. *Id.* at 61.

430. *Id.*

431. *Id.* at 62.

432. *Id.*

The empirical study also confirms that democracies have much greater participation in environmental treaties and environmental organizations, confirming that free societies are more involved with other countries to solve environmental issues.<sup>433</sup> In sum, development, irrespective of regime type, tends to introduce some environmental problems, while alleviating others. Democracy, however, tends to mobilize societal counter forces that ameliorate and reduce environmental pollution. The authors concluded that democratic polities do a better job of addressing the environment.<sup>434</sup>

#### *D. Peace and Security—Prerequisites for Development*

So far, we have seen that democracy and free markets better promote ecologically sustainable development. The final piece of sustainable development is regional peace and security. Without peace, sustainable development is doomed. One cannot approach the question of sustainable development seriously without taking some measure of the impact of threats to human security and war on sustainable development. The UN General Assembly has declared that “Warfare is inherently destructive of sustainable development.”<sup>435</sup> Although the General Assembly has recognized that “[d]evelopment cannot be attained in the absence of peace and security,”<sup>436</sup> it has not integrated this fact into its approach to development.

Because democracies are accustomed to achieving political goals through the rule of law rather than fiat, they are better suited to the process of negotiating and then implementing international agreements and institutions.<sup>437</sup> Their openness and transparency encourages the spread of information and promotes verification, generating confidence among parties to an agreement.<sup>438</sup> Democratic governance is slow and complicated, and this assures neighbors that change would come slowly in a democracy, lowering the risk of abrupt change.<sup>439</sup>

### **1. Human Security and Development**

A prerequisite for sustainable development is a general condition of human security and regional peace. The sustainable development orthodoxy has ignored this fact, setting aside one of the most powerful and interesting schools of thought in international relations—the democratic peace. In 1953, Quincy Wright made the prescient observation that absolutism has an undeniable historic association with “international tensions, military destruction, the impoverishment of peoples, [and] the persecution of minorities....”<sup>440</sup> Despite a vast literature

433. *Id.* at 59.

434. *Id.* at 63.

435. Report of the United Nations Conference on Environment and Development, Rio de Janeiro, Braz., June 3-14, 1992, Principal 24, ¶ 31, U.N. Doc. A/CONF.151/26. See generally JUDY OGLETHORPE, ET AL., *Overview C: Conservation in Times of War*, in CONSERVING THE PEACE: RESOURCES, LIVELIHOODS AND SECURITY 361, 361-83 (Richard Mathew et al. eds., 2002).

436. G.A. Res. 51/240, ¶ 4, U.N. Doc. A/RES/51/240 (Oct. 15, 1997).

437. Ikenberry, *supra* note 155, at 82.

438. *Id.*

439. *Id.*

440. Quincy Wright, *Economic and Political Conditions of World Stability*, 13 J. ECON. HIST. 363,

supporting Wright's wisdom, confusion still reigns in thinking about the consequences of dictatorship and the causes of war. It is impossible, therefore, to talk about human security and sustainable development, without making a short detour to look at autocratic government. The World Economic Forum reported in 2004 that, "For most of the past 200 years interstate wars have been the major killers, with the first and second world wars responsible for most combat-related deaths."<sup>441</sup> Over the last hundred years, wars have flared in virtually every corner of the Earth, introducing untold misery and destruction. War easily seems the most tragic experience in the milieu of the human condition.

In fact, while the consequences of war are indeed dreadful, far more deaths result from autocratic governments murdering their own people. The 170 million genocidal and mass murders committed in cold blood by totalitarian and authoritarian rulers against their own people account for more than four times the battle deaths in all the international and civil wars of the twentieth century.<sup>442</sup> The Soviet Union, China under both communist and Kuomintang rule, Nazi Germany, Imperial Japan, Cambodia under Pol Pot, and communist Poland and Vietnam lead the pack as the most horrendous mass murdering regimes of the last 100 years.<sup>443</sup> Autocratic government, not war, is the world's major violent killer.

In recent years, leaders and policy-makers have introduced the concept of "human security" into the global security lexicon. National security focuses on the security of the state, and interstate warfare is the subject of analysis. Human security adds a dimension of "thick description" to the security concept by focusing on the social security and welfare needs of individual people, regardless of whether they are involved in an interstate war.<sup>444</sup> Since far more people were murdered by their own government than were killed in all the wars over the last hundred years, the notion of human security introduces a particularly apt concept into contemporary thought on security.

The concept of human security complements state-centered security considerations with people-centered security considerations, recognizing the fact that states often neglect the physical and social needs of their populations. In 1993, the UNDP declared that security should be reinterpreted as security for people, not

---

366 (1953), available at <http://www.jstor.org/journals/00220507.html>.

441. WORLD ECON FORUM, GLOBAL GOVERNANCE INITIATIVE ANNUAL REPORT 2004, at 3.

442. This popular misconception was exposed by nearly fifty years of empirical research conducted by R.J. RUMMEL, a professor of political science at the University of Hawaii. His book, *POWER KILLS: DEMOCRACY AS A METHOD OF NONVIOLENCE* 92 (1997), is the culmination of a life's work. See also R. J. Rummel, *War Isn't This Century's Biggest Killer*, WALL ST. J., July 7, 1986, at 1; R. J. RUMMEL, *POWER KILLS: ABSOLUTE POWER KILLS ABSOLUTELY* 2-4 (2001) (copy on file with author). For detail on the genocide conducted by communist regimes in the Soviet Union, and the forty-five million murders that have marked the last hundred years in Chinese history, see R. J. RUMMEL, *LETHAL POLITICS: SOVIET GENOCIDE AND MASS MURDER SINCE 1917* (1990); R. J. RUMMEL, *CHINA'S BLOODY CENTURY: GENOCIDE AND MASS MURDER SINCE 1900*, at 15 (1991). Much of Professor Rummel's groundbreaking work on governmental genocide may be found on his Internet website, *Freedom, Democide, War*, <http://www.hawaii.edu/powerkills/welcome.html> (last visited Sept. 11, 2004).

443. *POWER KILLS: DEMOCRACY AS A METHOD OF NONVIOLENCE*, *supra* note 409, at 92, 94.

444. See Human Security Network, <http://www.humansecuritynetwork.org/network-e.php> (last visited Oct. 24, 2004).

security for nations.<sup>445</sup> Human security should be embraced as complementary to national security, and it should recognize autocratic government as the greatest threat to personal security on the planet.

Canada<sup>446</sup> and Norway<sup>447</sup> have been the leading proponents of the concept, successfully forming the Human Security Network (HSN) in 1999. The HSN coalition is comprised of thirteen nations and one observer nation.<sup>448</sup> There is no doubt that the term “human security” is amorphous. At the first Ministerial meeting of the HSN in Lysøen, Norway, in May, 1999, the network committed itself to principles of “human rights and humanitarian law [as] the foundation for building human security.”<sup>449</sup>

The principles recognized, “[h]uman security is advanced... by protecting and promoting human rights, the rule of law, democratic governance and democratic structures, a culture of peace and the peaceful resolution of conflicts.”<sup>450</sup> The principles also recognized that sustainable human development is essential for building human security.

Canada defines human security as “freedom from pervasive threats to people’s rights, safety or lives.”<sup>451</sup> It is fair to scrutinize these definitions and much of the policy research on human security is obscure.<sup>452</sup> Still, the term is an advance because it highlights the incomplete scope of “national security.” Its strength lies in its inclusiveness, forming a distinct branch of security studies that explores the particular conditions that affect the survival and prosperity of individuals, groups and societies, rather than states.<sup>453</sup> It also helps to dispel the false comfort and complacency we sometimes have in assuming that autocratic regimes reflect the preferences of their populations, and that their military and police forces are used to safeguard civilian populations.

445. PEOPLE’S PARTICIPATION, *supra* note 311, at 2, 3.

446. See CANADA DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE, FREEDOM FROM FEAR: CANADA’S FOREIGN POLICY FOR HUMAN SECURITY 15 (2002), available at [http://www.humansecurity.gc.ca/pdf/freedom\\_from\\_fear-en.pdf](http://www.humansecurity.gc.ca/pdf/freedom_from_fear-en.pdf). Canada’s human security program is described at Foreign Affairs Canada, <http://www.humansecurity.gc.ca/menu-en.asp> (last visited Oct. 24, 2004).

447. See Royal Norwegian Embassy in Ottawa. Norway: the Official Site In Canada: Human Security Network, <http://www.emb-norway.ca/policy/humansecurity/humansecurity.htm> (last visited Oct. 25, 2004).

448. The Human Security Network is comprised of the following states: Austria, Canada, Chile, Costa Rica, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Switzerland, Slovenia, Thailand and South Africa as an observer. “The Network emerged from [Canadian-Norwegian cooperation on] the landmines campaign and was formally launched at a Ministerial meeting in Norway in 1999. Conferences at Foreign Ministers level were held in Bergen, in Norway (1999), in Lucerne, Switzerland (2000), Petra, Jordan (2001), Santiago de Chile (2002), Graz, Austria (2003) and Bamako, Mali (2004) and Ottawa, Canada (2005).” Human Security Network, *supra* note 411.

449. Human Security Network: Principles, <http://www.humansecuritynetwork.org/principles-e.php> (last visited Oct. 24, 2004).

450. *Id.*

451. CANADA DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE, *supra* note 413, at 2, 3.

452. Roland Paris, *Human Security: Paradigm Shift or Hot Air?*, 26 INT’L SECURITY 87, 90-91 (2001), available at [http://mitpress.mit.edu/journals/pdf/isec\\_26\\_02\\_87\\_0.pdf](http://mitpress.mit.edu/journals/pdf/isec_26_02_87_0.pdf).

453. *Id.* at 102.



## 2. Democracy and Regional Security

Much like threats to human security, threats to regional state security and interstate wars undermine the pursuit of sustainable development. In attempting to unravel the key source of war, modern scholars have proposed a variety of causes, including character and personality,<sup>454</sup> imbalances in power relationships among states,<sup>455</sup> deterministic world system models,<sup>456</sup> nationalism,<sup>457</sup> natural aggressive tendencies inherent in human nature,<sup>458</sup> economic theories of imperialism,<sup>459</sup> and environmental stress.<sup>460</sup> We now know that war is caused by non-democratic regimes that impose negative externalities of regime behavior onto the regional security system.<sup>461</sup>

Democracies manage their foreign affairs with more predictability and are less prone to create crisis than authoritarian states. Democracies trade with other nations; autocracies tend not to do so.<sup>462</sup> In democracies, the legislative authority to ratify trade bargains struck by the executive leads to the search for lower mutually acceptable trade barriers, producing freer trade outcomes than otherwise would occur.<sup>463</sup> International trade tends to generate positive economic externalities outside of the trading relationship, increasing the stability of the entire region. Free trade and international investment help democracies to socialize non-democratic nations into an interdependent and liberal world system.<sup>464</sup>

454. See, e.g., JOHN G. STOEISSINGER, *WHY NATIONS GO TO WAR* (2nd ed. 2000).

455. See, e.g., HANS J. MORGENTHAU, *POLITICS AMONG NATIONS: THE STRUGGLE FOR POWER AND PEACE* (Kenneth W. Thompson ed., 6th ed. 1985).

456. See, e.g., GEORGE MODELSKI, *LONG CYCLES IN WORLD POLITICS* (1987); GEORGE MODELSKI *WORLD SYSTEM HISTORY: THE SOCIAL SCIENCE OF LONG-TERM CHANGE* (Robert Allen Denmark et al. eds., 2000).

457. See, e.g., KENNETH N. WALTZ, *supra* note 14, at 174-79.

458. See, e.g., KONRAD LORENZ, *ON AGGRESSION* (Marjorie Kerr Wilson trans., 1966); Peter A. Coming, *The Biological Basis of Behavior and Some Implications for Political Science*, *WORLD POL.* 321, 342-44 (1971).

459. See generally, V. I. LENIN, *IMPERIALISM: THE HIGHEST STAGE OF CAPITALISM* (1939); J. A. HOBSON, *IMPERIALISM: A STUDY* (1965).

460. See, e.g., Thomas F. Homer-Dixon, *Environmental Scarcities and Violent Conflict: Evidence from the Cases*, *INT'L SEC.*, Summer 1994, at 5, 35-36; Thomas F. Homer-Dixon, *On the Threshold: Environmental Changes as Causes of Acute Conflict*, *INT'L SEC.*, Fall 1991, at 76, 106-13. For electronic versions of both International Security articles, along with other research by Homer-Dixon, see <http://www.homerdixon.com/academic.html> (last visited Sep. 20, 2004).

461. See John R. Oneal & Bruce Russett, *The Kantian Peace: The Pacific Benefits of Democracy, Interdependence and International Organizations, 1885-1992*, *WORLD POL.*, Oct. 1999, at 1, 34-37.

462. See Edward D. Mansfield et al., *Free to Trade: Democracies, Autocracies and International Trade*, 94 *AM. POL. SCI. REV.* 305, 318 (2000).

463. See generally *id.* (Analyzing international trading relationships from 1960-1990. Interestingly, the authors found that regardless of the legislature's trading preferences and irrespective of whether the legislature and executive were from the same or different political parties, freer trade was still the result. They attribute this to an institutional-structural phenomenon and predict that trade barriers are lowest between a dyad composed of two democracies. Dyads composed of one democracy and one autocracy engage in 15-20% less commerce than those composed of two democracies.)

464. See President William J. Clinton, Remarks by the President in Address on China and the National Interest, *Voice of America* (Oct. 24, 1997), available at <http://www.usconsulate.org.hk/uscn/jiang97/1024a.htm>. "China's economic growth has made it more dependent on the outside world for investments, markets and energy." *Id.*

The findings are robust and extend beyond international trade. Democratic regimes tend to behave more cooperatively in the international system, and non-democracies produce less international cooperation and more conflict.<sup>465</sup> Moreover, non-democratic states are more likely to behave like democratic states, adopting more democratic norms, as the percentage of democratic states in a regional system increases.<sup>466</sup> Democratic and democratizing states are more proactive internationally and more likely than non-democratic states to cooperate with neighbors to build regional security.<sup>467</sup> Moreover, there is a strong connection between regime type and peaceful foreign policy behavior generally. Democratic states create a positive ripple effect throughout the international system, implementing norms of peaceful national behavior and influencing the spread of these norms to other states, even to non-democratic states.<sup>468</sup> In sum, the positive, peaceful externalities that democracies generate for the international system include confidence-building, war prevention and increased international cooperation in trade and foreign relations.<sup>469</sup>

### III. REALIZING DEMOCRATIC DEVELOPMENT

Free political and economic institutions work in a concerted and reinforcing manner to achieve sustainable development. Liberal democracies and free market economies produce greater wealth, a more sustainable environment, and greater human and national security. A development approach centered on freedom and democracy holds promise of enriching countless lives throughout the globe. Free societies, even when those societies are very poor, have proved to be remarkably dynamic engines of economic growth. It is disconcerting that development aspirations in many nations remain unfulfilled, captive to the development orthodoxy.

Over the last fifty years, there persisted an egregious gap between development aspiration and actual achievement. Speaking in Davos, Switzerland in 2001 at the World Economic Forum, UN Secretary General Kofi Annan offered a compelling narrative for thinking about world poverty: "Try to imagine what globalisation can possibly mean to the half of humanity that has never made or

---

465. Brett Ashley Leeds & David R. Davis, *Beneath the Surface: Regime Type and International Interaction, 1953-78*, 36 J. PEACE RES. 5, 15 (1999).

466. Sara McLaughlin Mitchell, *A Kantian System? Democracy and Third Party Dispute Resolution*, 46 AM. J. POL. SCI. 749, 757 (2002).

467. John Norton Moore, *Toward a New Paradigm: Enhanced Effectiveness in United Nations Peacekeeping, Collective Security and War Avoidance*, 37 VA. J. INT'L L. 811, 823-25 (1997).

468. Mitchell, *supra* note 433, at 757 (democracies externalize their peaceful norms of cooperation); *see id.* (analyzing various ways states attempt to resolve international disputes using conflicting territorial claims from the Issue Correlates of War (ICOW) Project to obtain data on disputed international territorial claims and the Polity III dataset to measure the annual proportion of democracies in the international system. She found that third party dispute settlement is sixteen times more likely among state dyads when the number of democracies in the regional system is 50% or greater.); *see id.* at 751 (highlighting that democratic states, such as the United Kingdom and the United States, have tended to served as norm entrepreneurs, generating a pull effect on creating norms such as third party international dispute settlement, such as mediation.).

469. Leeds & Davis, *supra* note 432, at 17.

received a phone call."<sup>470</sup> More critically, basic needs are not being met for hundreds of millions of people. "Half the world's people [still] live on less than \$2 a day."<sup>471</sup> "For billions, especially in Africa and the Islamic world, poverty is spreading and per capita income is falling."<sup>472</sup> Many of the poorest areas cannot hope to improve without a change of direction. Over the next decade, world population will increase to 7.1 billion people, creating problems of food distribution and availability in areas governed by authoritarian regimes.<sup>473</sup> By then nearly half of the world's population could live in areas stressed by water shortage.<sup>474</sup> The explosive population growth and symphony of development in the global South is expected to drive a nearly 50 percent increase in the demand for energy according to some estimates.<sup>475</sup>

Few doubt that new thinking is needed on sustainable development. Frustration and a sense of failure permeate the environmental movement, in particular. James Gustave Speth, Dean of the Yale School of Forestry and Environmental Studies, laments: "[t]wo decades of talk and treaties have not stemmed environmental degradation."<sup>476</sup> These wounds are largely self-inflicted. From the Earth Summit in Rio de Janeiro in 1992, to the World Summit in Johannesburg, the world's body politic has fed on a steady diet of monumental documents. For the most part, they remain trophies, relics unable to overcome the ennui that permeates the global environment. Sustainable development has fallen victim to one of the foremost errors of global policy-making, which is to equate general goals with specific policies without assessing the effectiveness of those policies in actually achieving the goals.<sup>477</sup>

The panache of globalism and the penchant for global solutions ignores the dominating influence of the state and second image solutions to issues of development, security and the environment. From the ancient world to the present, societies have struggled to be set free from the rule of insular elites.<sup>478</sup> We are on the cusp of resolving this debate, and to do so in favor of freedom and liberal democracy could set in motion sustainable development for the world's poorest

470. Orla Ryan, *UN Chief Warns Business*, BBC NEWS, Jan. 28, 2000, available at <http://news.bbc.co.uk/1/hi/business/1141623.stm> (last visited Sep. 11, 2004).

471. President George W. Bush, Remarks by the President on Global Development, Inter-American Development Bank (Mar. 14, 2002), available at <http://www.whitehouse.gov/news/releases/2002/03/print/20020314-7.html> (last visited Oct. 31, 2004).

472. *Id.*

473. GLOBAL TRENDS 2015, *supra* note 191, at 26-27.

474. *Id.*

475. *Id.* at 28.

476. James Gustave Speth, *Recycling Environmentalism*, FOREIGN POL'Y, Jul.-Aug. 2002, at 74.

477. John Norton Moore, *The Legal Tradition and the Management of National Security*, in TOWARD WORLD ORDER AND HUMAN DIGNITY: ESSAYS IN HONOR OF MYRES S. MCDUGAL 321, at 343 (W. Michael Reisman & Burns H. Weston eds., 1976).

478. Two thousand years ago, Plato wrote in *The Republic*, "There is no end to suffering . . . for our cities, and none, I suspect, for the human race, unless either philosophers become kings in our cities, or the people who are now called kings and rulers become, in the truest and most complete sense of the word, philosophers—unless there is this amalgamation of political power and philosophy, with all those people whose inclination is to pursue one or other exclusively being forcibly prevented from doing so." PLATO, *THE REPUBLIC*, Book 5, 473d at 175 (G.R.F. Ferrari ed., Tom Griffith, trans., Cambridge Texts in the History of Political Thought 2000).

nations. For many of these states, realizing development will only come if they embrace the new democratic development norm.

### A. *The Democratic Development Norm*

In the last few years, the attractive power of liberal democracy and peaceful democracy promotion has experienced promising growth. The year 2000 ushered in the inaugural meeting of the Community of Democracies in Warsaw, Poland. Over 100 nations met, agreeing upon a text that encompassed core democratic norms. The gathering expressed a commitment to strengthen democracy at the national and international levels.<sup>479</sup> Arising directly from the influence of Warsaw, the UN General Assembly adopted without dissent Resolution 55/96, Promoting and Consolidating Democracy.<sup>480</sup>

By the end of the Cold War, pursuing democracy—not just among friends and allies, but opponents as well—had become a bipartisan goal in American foreign policy.<sup>481</sup> The United States and other countries have been remarkably effective over the last twenty years in shaping the terms of debate within the UN, bringing the rest of the world closer to realizing the noble principles of freedom contained in the UN Charter.<sup>482</sup> Rather than capitalizing on and leveraging these efforts, the UN sometimes eschewed bold and productive steps toward democracy. Now there is tremendous untapped opportunity for the UN Secretary-General to expend the substantial authority resident in his office for the democratization of development. More than any other world figure, the Secretary-General is able to leverage the norms embodied in the UN Charter as an instrument of effective persuasion.<sup>483</sup>

Clinging to the development orthodoxy threatens progress in sustainable development, and it unnecessarily alienates decision-makers in the United States

479. Community of Democracies, First Ministerial Conference, *Final Warsaw Declaration* (June 27, 2000) available at [http://www.demcoalition.org/pdf/warsaw\\_english.pdf](http://www.demcoalition.org/pdf/warsaw_english.pdf).

480. G.A. Res. 55/96, U.N. Doc. A/RES/55/96 (Dec. 4, 2000).

481. Since the end of the Cold War, the United States has pursued a consistent and bipartisan goal of promoting and nurturing democracy throughout the globe. In 1991, United States interests and objectives were to expand democracy in the former Soviet Union and to, “strengthen and enlarge the commonwealth of free nations that share a commitment to democracy and individual rights.” National Security Strategy of the United States (Aug. 1991), <http://www.fas.org/man/docs/918015-nss.htm> (last visited Oct. 16, 2004). During the Clinton Presidency, promotion of democracy abroad was a central goal of U.S. national security. See, *Preface to A National Security Strategy of Engagement and Enlargement 1996* (Feb. 1996), available at <http://www.fas.org/spp/military/docops/national/1996stra.htm>. More than a decade after the end of the Cold War, American goals and beliefs had become even more explicit and unapologetic, calling “freedom, democracy and free enterprise” the “single sustainable model for national success.” *Preface to The National Security Strategy of the United States of America* (Sept. 17, 2002), at iii, available at <http://www.whitehouse.gov/nsc/nss.pdf>.

482. “Reasserting the Charter’s commitment to free democratic principles and institutions will require a determined willingness to insist that the standards articulated in the Charter and the Universal Declaration of Human Rights be respected and applied consistently to all.” Alan L. Keyes, *Fixing the United Nations*, in *THE NATIONAL INTEREST ON INTERNATIONAL LAW AND ORDER* 131, 139 (R. James Woolsey, ed. 2003).

483. Ian Johnstone, *The Role of the UN Secretary-General: The Power of Persuasion Based on Law*, 9 *GLOBAL GOVERNANCE* 441, 452 (2003).

and elsewhere who are doubtful of its effectiveness. A decade has passed since Congressman Chris Smith (R-NJ) criticized UN-sponsored conferences as "mischief-making" by non-governmental activists who "dictate what the purported solutions are to the world's problems."<sup>484</sup> In the meantime, the opportunity cost of the orthodoxy to the poorest nations climbs higher. The quantifiable and non-quantifiable costs imposed on the world's peoples and environment by autocratic alternatives to democracy are enormous, representing mankind's unrealized human security.<sup>485</sup> For example, Dr. Gyimah-Boadi, a Ghanaian political scientist, describes how the advent of constitutional and democratic rule in Ghana in 1993 has served to bring progress to Ghana.<sup>486</sup> After democracy, the country began to dismantle the *Trokosi* system, which is rooted in traditional culture and has been practiced over centuries:

Under the Trokosi system... prepubescent girls are sent into servitude to atone for sins committed by members of their families. These girls, who are consigned to this form of ritual slavery... serve hand and foot and minister to the needs of a shrine and its priest. They engage in farm work and invariably have sexual intercourse with the priest. Moreover, they are solely responsible for their upkeep and for that of the children begotten out of the sexual relationships between themselves and the priests.<sup>487</sup>

This vignette illustrates that the promotion of liberal democratic norms faces the challenge of overcoming some of the most recalcitrant cultural practices. In order to be accepted, the new norms must be peacefully projected and woven into development programs. Principled education is part of the answer to dismantling each facet of the development orthodoxy. Professor Steve Finkel at the University of Virginia has shown that civic education can dramatically expand citizens' participation in the democratic process in developing countries across a variety of cultural traditions.<sup>488</sup> Just as tribal cultures are evolving, so too should the academics approaches that support the orthodoxy through neo-Marxist dependency theory, anti-Americanism, world systems analysis and relativistic models of development.

Several countries and international organizations have begun to emphasize democracy in their development assistance. The United States, for example, has been especially active in gradually increasing the role of democracy promotion in international development. Building on President Carter's more limited concern with human rights, President Reagan launched "Project Democracy," "The Democracy Program," and the "National Endowment for

484. *Republican Congress to Scrutinize Funds Spent on International Conferences*, GLOBAL WARMING NETWORK ONLINE TODAY, Mar. 17, 1995 (1995 WL 2265596).

485. E. Gyimah Boadi, *The Cost of Doing Nothing*, 10 J. DEMOCRACY 119, (1999).

486. *Id.* at 120.

487. *Id.* at 123.

488. Steven E. Finkel, *Can Democracy Be Taught?* 14 J. DEMOCRACY 137, 140-42 (2003). Finkel tested education and participation in the Dominican Republic, Poland and South Africa. See also Steve E. Finkel, Christopher A. Sabatini & Gwendolyn G. Bevis, *Civic Education, Civil Society and Political Mistrust in a Developing Democracy: The Case of the Dominican Republic*, 28 WORLD DEV. 1851-74 (2000) (exploring the effect of donor-supported civic education programs on levels of citizen trust in institutions in the Dominican Republic).

Democracy<sup>489</sup> to promote democratic institutions in other countries. By the end of Reagan's second term there was a "worldwide democratic revolution" underway.<sup>490</sup> The Reagan-era organizations have been followed by the creation of counterpart institutions in other states, particularly the Westminster Foundation in the United Kingdom and the International Centre for Human Rights and Development in Canada. Together, these institutions are creating a World Movement for Democracy, a network of democracy worldwide.<sup>491</sup> In its founding statement adopted at the Inaugural World Assembly in India in 1999, the World Movement for Democracy sought to engage autocratic societies in dialogue about democracy, as well as aid emerging democratic societies to move from electoral democracy to liberal democracy, with extended political and civil systems based on the rule of law and values rooted in human security and individual rights.<sup>492</sup>

The U.S. Millennium Challenge Account (MCA) is another leading example of peaceful and effective democracy promotion. The MCA, which was announced by President Bush in Monterey, Mexico, at a meeting of the Inter-American Development Bank in March, 2002, seeks a new compact in global development.<sup>493</sup> The program hinges on a new accountability for both rich and poor nations alike. President Bush also increased U.S. development aid by \$5 billion over three years, with more money expected to be tied to MCA criteria.<sup>494</sup> By making development assistance contingent on progress in broadening economic and political freedom, the program builds capacity while strengthening democracy.<sup>495</sup> MCA assistance is available to national, regional and local governments and NGOs in lower and lower-middle income countries that demonstrate a commitment to democratic governance and market reforms.<sup>496</sup> The democratic criteria for eligibility include expanded political pluralism, equality and the rule of law, respect for human and civil rights, protection of private property rights, the encouragement of transparent and accountable government, and

489. See The National Endowment for Democracy Homepage, <http://www.ned.org> (last visited Nov. 11, 2005).

490. Carothers, *supra* note 178, at 6.

491. See World Movement for Democracy Homepage, <http://www.wmd.org> (last visited November 11, 2005).

492. World Movement for Democracy, Building the World Movement for Democracy: Founding Statement adopted at the Inaugural World Assembly, New Delhi, India, Feb. 17, 1999 <http://www.wmd.org/conference/founding.html> (last visited Nov. 4, 2004).

493. Press Release, The White House, The Millennium Challenge Account (Mar. 14, 2002) (quoting President Bush's address to the Inter-American Development Bank in Washington, D.C.), available at <http://www.whitehouse.gov/infocus/developingnations/millennium.html> (last visited Oct. 30, 2004).

494. President's Remarks, The White House, *supra* note 439.

495. For fiscal year 2005, sixteen countries were eligible and invited to submit proposals: Armenia, Benin, Bolivia, Cape Verde, Georgia, Ghana, Honduras, Lesotho, Madagascar, Mali, Mongolia, Mozambique, Nicaragua, Senegal, Sri Lanka and Vanuatu. MILLENNIUM CHALLENGE CORP., FY 2005 Budget Justification at 2-3 available at [http://www.mca.gov/about\\_us/key\\_documents/index.shtml](http://www.mca.gov/about_us/key_documents/index.shtml) (last visited Oct. 31, 2004). Of these countries, 63% are in Africa. *Id.* at 3. The Millennium Challenge Corporation which manages the program requested full funding of \$2.5 billion, up from \$1 billion in FY 2004. *Id.* at 6.

496. Millennium Challenge Act of 2003, 22 U.S.C. §7701et seq. (2000).

effective efforts to combat corruption.<sup>497</sup> Promotion of market economic solutions includes encouraging citizens to participate in global trade and capital markets, the promotion of private sector growth coupled with sustainable management of natural resources, respect for employee rights, including collective bargaining and unions, and investment in people through education and quality healthcare.<sup>498</sup>

The MCA is a radical and pragmatic departure from the global sustainable development orthodoxy. In emphasizing the dispositive role of good governance in achieving progress on sustainable development, the MCA incorporates the best of empirical second image analysis. The program is among the most progressive development ideas of our time, representing an effective post-orthodoxy model for erasing poverty and protecting the environment.<sup>499</sup> Millennium Challenge is a model for sustainable development; it should be replicated by international organizations and particularly by the United Nations. The most effective UN measure would be to move democracy and the rule of law from the periphery to the center of UNDP activities and programs.

It is difficult to underestimate the importance of the interrelationship between liberal democracy and development.<sup>500</sup> Liberal democracy is correlated with economic development, environmental protection, human rights and human security and international peace and security.<sup>501</sup>

### *B. From Prescription to Process*

Policy-oriented studies, which the Lasswell-McDougal team pioneered at Yale, have been instrumental in helping international lawyers to understand that law is not a prescription, but a process.<sup>502</sup> Perhaps in no place is this clearer today than in the realm of sustainable development, where international law attorneys have an opportunity to engage in transforming the orthodoxy. A global vision of sustainable development must be able to come to terms with the reality of the power of democracy and markets, or it risks being marginalized and disregarded, particularly in the United States.<sup>503</sup> Such an occurrence would be a misfortune, seriously damaging the prospects for real global progress and diminishing the benefit of immense American resource, ingenuity and influence in solving

---

497. 22 U.S.C. § 7706(b)(1) (2005).

498. 22 U.S.C. § 7706(b)(2)-(3) (2005).

499. Press Release, Office of Public Affairs, Dept. of the Treasury, John W. Snow, Prepared Remarks before the New York Economic Club (Sep. 14, 2004), *available at* <http://www.ustreas.gov/press/releases/js1918.htm> (last visited Oct. 30, 2004).

500. Pritchett & Kaufmann, *supra* note 346, at 29.

501. By making development assistance (as opposed to humanitarian aid) contingent upon progress toward democracy, we begin to realize genuine sustainable development. Applicants for aid should have to make a showing that their programs are developed and executed through democratic institutions. Recipient nations should have to submit facts and justification reports to articulate how development projects promote democracy, and those reports should be audited by detailed statements to ensure that the proposals promote democracy. Siegle et al., *supra* note 171, at 272-73.

502. MYRES S. MCDUGAL & FLORENTINO P. FELICIANO, LAW AND MINIMUM PUBLIC WORLD ORDER: THE LEGAL REGULATION OF INTERNATIONAL COERCION (1961) *reissued in* THE INTERNATIONAL LAW OF WAR: TRANSNATIONAL COERCION AND WORLD PUBLIC ORDER xix-xxii (1994).

503. Bolton, *supra* note 267, at 206-7.

sustainable development problems. Forty years ago, esteemed international lawyer Louis Henkin penned advice for self-examination for the liberal internationalist who strongly supports the vital work of the UN. In describing his subject, Henkin wrote:

Being far-seeing, he tends to be romantic and sometimes spills over into sentimentalism. Seeing the other fellow's point of view, and having to defend it to the chauvinist, he sometimes identifies with it. Concerned with assuring that others do not reduce moral questions to differences of taste or judgment, he sometimes elevates his own opinion or preference to principle. Pressing for decency, fairness and rationality in international affairs, he is reluctant to recognize the lack of these in others. Concerned with recognizing the interests and the views of others, he may give them more than their due....<sup>504</sup>

Compounding naiveté, internationalists are prone to make the mistake in thinking that the nation-state serves the interest of the United Nations; rather it is the United Nations that serves the interests of its member states.<sup>505</sup> The lack in clarity on this point has caused some to doubt the efficacy of the United Nations and has encouraged criticism of the world body.<sup>506</sup> In thinking about the UN and its proper role in world affairs, Henkin encouraged the internationalists to understand both faces of the world body. Although the UN is an international legal organization governed by the UN Charter—a treaty—it is also a political organization.<sup>507</sup>

The General Assembly and the Security Council are political as well as legal bodies.<sup>508</sup> For international lawyers, the struggle for democracy and development is more a political struggle than a legal effort. Henkin warns that we cannot turn over issues to the UN and expect that something good will happen. Taking an issue to the UN is not a policy—it is part of the political process. What will emerge from the UN depends not only on what goes into it, but also on how it is influenced and managed once it gets there.<sup>509</sup> This sober advice should give us pause when we work with the United Nations to achieve sustainable development. As Henkin said, “to be persuasive, we must be accurate.”<sup>510</sup>

As Huntington's third wave of democratic development unfolds, it is easy to forget the fragility of the process to democratization. Of the 100 or so countries that can be considered transitioning to democracy, only a small number—about twenty—are clearly en route to becoming successful and well-functioning.<sup>511</sup> These few states generally are found in the Baltic region and in Latin America.<sup>512</sup> The vast majority of third wave countries do not seem to be expanding or deepening their democracy.

504. Louis Henkin, *The United Nations and Its Supporters: A Self-Examination*, 78 POL. SCI. Q. 504, 507 (1963).

505. *Id.* at 513-14.

506. *Id.* at 506, 536.

507. *Id.* at 516-19.

508. *Id.*

509. *Id.* at 516.

510. *Id.* at 536.

511. Carothers, *The End of the Transition Paradigm*, at 9, *supra*, note 178.

512. *Id.*



Many transitional countries are precariously positioned at what Thomas Carothers of the Carnegie Endowment for International Peace characterizes as the "gray zone."<sup>513</sup> Countries in the gray zone are often no longer emerging democracies, but rather have congealed into a state of partial-, qualified-, or pseudo-democracy, stubbornly stuck in the consolidation phase of the democratic sequence.<sup>514</sup> This is the most common form of government on Earth today. The outcome for these states is unclear. In many, such as Uzbekistan, Turkmenistan and Togo, autocracy is re-solidifying.<sup>515</sup> In fact, the process is so difficult for many of these states that it has caused some to speculate we have reached the end of the third wave of democracy.<sup>516</sup> Their pace of their journey toward sustainable development is slowed by the ambivalence over democracy in international development institutions.<sup>517</sup>

Through both Republican and Democratic administrations, the United States has placed democracy at the cornerstone of American security.<sup>518</sup> Many democratic nations and international organizations, however, still fail to regard democracy promotion as in their vital national interest.<sup>519</sup> In looking at the decade from 1992 to 2002, the Democracy Coalition Project completed the first systemic attempt to document democratic governments' willingness to defend and promote democracy abroad. The findings of that study suggest that too often parochial security and local economic interests trump global democracy promotion.<sup>520</sup> Ironically enough, it is the newest democracies that are especially eager to enter into mutually binding commitments to defend democracy. They correctly view those efforts as enhancing systemic stability and deterrence.<sup>521</sup> It is clear that democracies become bolder and more assured in promoting democracy when they act in conjunction with other democracies through multilateral institutions.<sup>522</sup>

If findings from key disciplines, including political science, comparative politics, ecology, international relations and economics, are so compelling, then why is it so difficult to effectively focus effort on achieving sustainable development? The compelling link between democracy and development opens up what one World Bank economist describes as a "sensitive and difficult area of discourse" between donors and the developing states.<sup>523</sup> Too many decision-makers have bought into deductive theories that lack application in the real world. It is hard to look an international official or an NGO colleague in the eye and tell

513. *Id.*

514. *Id.* at 10.

515. *Id.* at 9.

516. See generally, Larry Diamond, *Is the Third Wave Over?* 7 J. DEMOCRACY 20, 20-37 (1996).

517. Joseph T. Siegle, Michael M. Weinstein and Morton H. Halperin, DEMOCRACY ADVANTAGE, at 3, *supra*, at note 171.

518. "The great struggles of the twentieth century [ended] . . . with a single sustainable model for national success: freedom, democracy and free enterprise." Preamble, NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA i (Sep. 2002).

519. Robert G. Herman and Theodore J. Piccone, eds., DEFENDING DEMOCRACY: A GLOBAL SURVEY OF FOREIGN POLICY TRENDS 1992-2002 11 (Democracy Coalition Project, Inc., Oct. 11, 2002).

520. *Id.*

521. *Id.*

522. *Id.*

523. Pritchett, at 29, *supra*, note 316.

them that under-development stems from adherence to faulty deductive models rooted in world systems and state authoritarianism. It is analogous to the difficulty, and indeed embarrassment, one might incur by having to sit down with a friend and tell him he has a drinking problem.

*C. Using the Right Tool—Of Case-knives and Pickaxes*

Roscoe Pound relates the story about how Tom Sawyer and Huck Finn freed Jim, the runaway slave.<sup>524</sup> Tom and Huck discovered that Jim was locked in a cabin, and they were determined to rescue him.<sup>525</sup> Although the door of the cabin was securely locked, the structure had a dirt floor.<sup>526</sup> The boys could dig a hole large enough for Jim to escape.<sup>527</sup> It seemed to Huck Finn that some old pickaxes the boys had found were the proper implements to use for digging the hole that would set Jim free.<sup>528</sup> Tom Sawyer knew better. From reading, Tom knew that case knives were the right course in such situations:

‘It don’t make no difference,’ said Tom, ‘how foolish it is, it’s the *right way*—and it’s the regular way....’ ‘I’ve read all the books that gives any information about these things. They always dig out with a case-knife.’ So in deference to the books and the properties, the boys set to work with case-knives. But after they had dug till nearly midnight and they were tired and their hands were blistered, and they had made little progress, a light came to Tom’s legal mind. He dropped his knife and turning to Huck, said firmly, ‘Gimme a case-knife.’ Let Huck tell the rest:

‘He had his own by him, but I handed him mine. He flung it down and says, gimme a *case-knife*.’

‘I didn’t know just what to do—but then I thought. I scratched around amongst the old tools and got a pickaxe and give it to him, and he took it and went to work and never said a word.’ ‘He was always just that particular. *Full of principle*.’<sup>529</sup>

---

524. Pound, at 12, *supra*, note 2.

525. *Id.*

526. *Id.*

527. *Id.*

528. *Id.*

529. *Id.* (emphasis added).

