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TOWARD A TRANSFORMATIVE VISION AND PRAXIS

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The Great Transition Requires the Earth Constitution

Opening Essay for GTI Forum An Earth Constitution: Has Its Time Come?

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Planet Earth struggles in a state of fragmentation and lawlessness. The COVID-19 pandemic has underscored the catastrophic failure of an every-country-for-itself approach to public health, and national economic interests, rather than global needs, continue to dominate discussions of climate policy, paving the path toward climate chaos. Coordination has never been so needed yet so lacking.

A broader framework of disorder exacerbates this fragmentation. Nation-state actors have declared their "right" to assassinate persons anywhere in the world thought to be "enemy combatants" by secret evidence, without trial or any due process of law. Big money influences how laws are made in nearly every country, industrial-military complexes encourage a war mentality, and mass media propaganda encourage seeing the world as full of enemies and security threats. The capitalist system cultivates both egoism and an unlimited expansionist economic model that has wrought havoc on our finite planet with its multiple intersecting, delicately balanced ecosystems. Unless the people of Earth take charge through a true democratic system more powerful than multinational corporations, big money, global private banking, or militarized imperial nation-states, our planet has little hope for a transformed future.

Why the Earth Needs a Constitution

Some scholars and activists have set their hopes on an expanded and democratized United Nations to achieve such global cooperation. A viable path to rectifying fragmentation and lawlessness, they argue, is a United Nations that lives up to its rhetoric. But the UN system suffers design flaws not easy to reform.

For example, the UN Charter, despite its lofty language, fails to provide democratic law enforceable over all persons. Even the recently developed International Criminal Court (ICC) is but a gesture in this direction. Furthermore, international law, so-called, involves treaties among sovereign nation-states in which the most powerful take precedence. The World Trade Organization and World Bank are dominated by the world's largest economies (that is, by the rich and powerful and their multinational corporations), not by overarching principles of justice and equality under democratic laws.

Finally, the UN General Assembly itself is fundamentally powerless and blatantly undemocratic; even if it had authority, tiny states and large states alike would each have only one vote. In the General Assembly, nation-states vote, not people, and about half the world's nation-states are democracies in name only or not even democracies at all. At any rate, the Security Council locks in real control of UN decision-making by postwar powers.

The fundamental flaw of the UN Charter is that it is based on the "Westphalian System" of sovereign states recognizing no binding laws above themselves, a seventeenth-century artifact. When this system began, nations were fighting on horseback with swords and muskets. Today, advances in both weaponry and our understanding of human rights and dignity, as well as the planetary environmental crisis, make clear that reform of this system is not enough. We need a paradigm shift. We need real, enforceable, democratic law for our planet-as-a-whole.

Law, at least in the United States, is often considered a necessary evil, always a potential threat to personal liberty. However, as developments in the philosophy of law over the past sixty years have incisively shown, law empowers and protects persons, serving not as a threat but as a framework within which one's potential can be actualized, one's accomplishments can be formally recognized, and one's life can be lived with peace and security in the pursuit of freely chosen goals.[1] According to legal scholar Ron Dworkin, the highest meaning of the rule of law involves a framework of "respect and concern" by judges, lawmakers, and officials as they enact their constitutionally mandated moral relationship with the governed.[2] Such insights are negated by the system of militarized sovereign nation-states that primarily substitutes national self-interest, undergirded by violence and the threat of violence, for the moral foundations provided by true democratic laws.

Even a culture promoting widespread kindness and compassion would not suffice apart from a framework of the rule of law. Kant made this very clear in distinguishing between duty and inclination.[3] Law is universal and without exceptions, but the kindest person may experience exceptions in his or her behavior due to fear, passion, instinct, anger, or impulse. The law is not contingent in this way. A culture of kindness and compassion requires law as a framework to declare and ensure its universality.

Some scholars have argued that such solidarity-driven communities are only possible at smaller scales. Indeed, many creative thinkers about the future have advocated the development of small, regional communities dedicated to democratic coherence and establishing a culture of ecological and social harmony among themselves, such as "transition towns," or social withdrawal through varieties of "climate nihilism."[4] However, such a global anarchism of local sustainable communities cannot possibly succeed without planetary democratic coordination and support.

Who would prevent some failed communities from invading and taking the resources of successful communities? Who would deal with the mass migration of those displaced by climate change? Who would prevent a competitive scramble for diminishing essential resources? Who would ensure the end of the manufacture of weapons of war somewhere in the world? If very large-scale environmental projects are required (which almost certainly will be the case), who would finance, undertake, and coordinate these huge efforts?

World law is an absolute imperative for the future of humanity not only as coordinator and educator but as transformer. It is both a means to the next step in human evolution and a milestone within that evolutionary process. Law at the world level inspires universality, world citizenship, species consciousness, and focus on our common global problems. Our problems are truly global, beyond the scope of even the most powerful nations to deal with, yet the UN Charter still stands on the unworkable and antiquated basis of the sovereignty of nations. In contrast, democratic world law is inherently federalist in the sense that every whole is always a whole of parts. Unity in diversity becomes the necessary foundation. Top-down and bottom-up become synergistically united, as in any authentic democracy, giving rise to a transformative spiritual power as yet unknown in human history. Only this transformation can effectively address our lethal global problems.

Guiding Principles and Structures

Written and refined over a period of twenty-three years from 1968 to 1991, the *Constitution for the Federation of Earth* offers a concrete vision and a path forward to democratic world law.[5] The text emerged from a robust process with five international legal thinkers as its main authors, interacting with a drafting committee of twenty-five others, with repeated drafts sent out to a mailing list of hundreds of world citizens who met in four Constituent Assemblies in 1968, 1977, 1979, and 1991. Since then, the World Constitution and Parliament Association (WCPA) has promoted its study, translation, and ratification worldwide.[6]

The Constitution sets out a comprehensive design for a vibrant world democracy under a World Parliament with three houses: a House of Peoples, a House of Nations, and a House of Counselors. Its nineteen Articles lay out in detail the workings for a complete government, functioning on behalf of the common good of the people of Earth. It is not, like the UN Charter, primarily a treaty of sovereign nation-states who retain their military powers and their autonomy as they come together to promote their own national self-interest. Under the Earth Constitution, nations take their proper role as administrative regions within the whole of the Earth Federation, retaining constitutional sovereignty over their internal affairs and participating democratically (along with the direct involvement of their citizens) in the management of global affairs.

The Constitution is designed to address our multiple, interconnected global crises effectively and synergistically. It provides a framework of global cooperative governance for ending war, disarming the nations, protecting universal human rights, minimizing global social disparities, and protecting the ecology of the Earth. Precisely because the Constitution assigns real democratic power and authority to the representatives of the people of Earth, built into its processes, including the procedures of the World Police, it will lead to the progressive diminishing recourse to state violence everywhere.[7] The Earth Federation government will have the authority, the resources, and, if instituted through an organic democratic process, the grassroots support of the people of Earth needed to take the truly transformative actions for creating a decent future.

Under the Constitution, the world's people are represented directly through representatives to the House of Peoples from 1,000 World Electoral Districts (WEDs), substantially equal in population.

Nations are represented in the House of Nations with one, two, or three representatives from each nation depending on population. In order to draw on the knowledge of academia, faculty and students from all institutions of higher learning in each of the Constitution's twenty world administrative regions nominate candidates for the House of Counselors, with the other two Houses of Parliament then electing ten from each of the twenty regions.

The Counselors often combine with the other two houses for votes of the entire World Parliament in joint session, but also have a key role in making nominations for positions of leadership of government agencies. The other two houses elect the leaders of Federation agencies from these nominations. The Counselors (as well as the World Supreme Court system) are also available for consultations, advisements, or draft legislation at the request of the other houses or any agency in the Earth Federation government. The total number of representatives in the World Parliament will include 1,000 from the people directly, 200 in the House of Counselors, and about 300 in the House of Nations. Under the tricameral World Parliament come the four main agencies of the Earth Federation government: the World Supreme Court system, the World Executive, the World Enforcement System, and the World Ombudsman.

The Constitution designs every agency and department of the Earth Federation government on the principle of unity in diversity. No agency or institute has only one director or head. Nearly every agency is run by a group of five persons, all elected by the World Parliament from nominations made by the House of Counselors—and requiring one to be elected from each of the five continental divisions of the world. The Chair of these groups rotates annually. In addition, the enforcement system comprised of the World Attorneys General and the World Police form an organ independent from the World Executive branch, accountable only to the World Parliament. The World Executive has no ability to suspend the Constitution, to declare a state of emergency, or to withhold spending of the budget, nor does it nominate (as in the US) the justices who sit on the World Supreme Court.

The Constitution contains two bills of rights. Article 12 is a comprehensive list of rights and freedoms that are immediately enforceable, such as freedom of speech, freedom of assembly, and equal protection under the law. Article 13 includes a comprehensive list of additional rights that cannot

be realized immediately, such as the right to a sustainable environment, to health care for all, to a decent standard of living for every person on Earth, and to world peace.

These rights, structures, and division of powers are complemented by the World Ombudsman. This worldwide organization, accountable to the World Parliament, is dedicated to protecting human rights worldwide and advocating for implementation of the expanded set of rights. The World Ombudsman serves as a watchdog on the world government itself to protect against corruption, violations of the Earth Constitution, or undemocratic abuses of power. It can investigate any branch of government from the World Police to the World Executive to members of the World Parliament. It is responsible for bringing attention to abuses that are then referred to the courts or some other appropriate agency.

Where Do We Go from Here?

According to Article 19 of the Constitution, the people of Earth are empowered to begin the key elements of the Earth Federation *now*. There is no need to wait for ratification; the world crisis demands immediate action. The first operative stage of the Earth Federation will need all the help it can get from the preparations already being made through the creation of the Provisional World Parliament and other established preparatory agencies. The Provisional World Parliament, begun in 1982, has a permanent office in New Delhi (now preparing for its fifteenth session, taking place next year, and beyond), where it plays a key role in educating humankind about the need for real democratic laws that bind all individuals and empower the cooperative synergy inherent in the Constitution's design. Meanwhile, work continues on delineating the 1,000 World Electoral Districts and preparing for secure online voting by all citizens of the Earth. Once well advanced, this system of districts and voting can be used to ratify the Constitution itself.[8]

The Constitution is ready to go. The first step, which is ongoing, is to elaborate Provisional World Government. Once the structure is operative, any twenty-five nations can adopt the constitution and immediately establish the Earth Federation and begin the First Operative Stage. Any ten nations of sufficient size along with majority votes from any fifty World Electoral Districts, or majority votes from any hundred WEDs, can also initiate this new stage.

A living document, the Constitution is designed for revision as needed, with a constitutional review required within ten years. This is crucial because the Constitution as it exists today cannot be considered just a draft, to be endlessly argued over and debated—it is a finished document ready for ratification. If we want to make the Great Transition happen rapidly and effectively, any changes need to reflect the experiences and challenges of implementation. The time for amendments is immediately after the First Operative Stage has been reached. When 50% of the world has joined the Federation, the Second Operative Stage can begin. It continues the demilitarizing process begun in the First Operative Stage (and works with non-Federation nations to integrate and demilitarize them all, first and foremost weapons of mass destruction). It strengthens the authority of the Federation over all the essential resources of the Earth, such as the oceans, the atmosphere, and essential rain forests of our planet. The final, full operative stage encompasses the entire world within a global democracy of peace, justice, freedom, sustainability, and ecological regeneration.

The world has languished too long in a state of fragmentation and lawlessness. Only within a new, comprehensive governance structure as embodied in the Earth Constitution can we hope to achieve the universal flourishing of a Great Transition.

Endnotes

1. H. L. A. Hart, *The Concept of Law*, 2nd ed. (Oxford, UK: Oxford University Press, 1994).

2. Ronald Dworkin, *Law's Empire* (Cambridge, MA: Harvard University Press, 1986).

3. Immanuel Kant, *Groundwork of the Metaphysic of Morals*, trans. H. J. Paton, (New York: Harper & Row, 1964).

4. Richard Heinberg, *The End of Growth* (Gabriola Island, BC: New Society Publishers, 2011); Sally Goerner, et al., *The New Science of Sustainability* (New York: Triangle Center for Complex Systems, 2008); David Wallace Wells, *The Uninhabitable Earth* (New York: Penguin Random House, 2019).

5. For further analysis, see Glen T. Martin, ed., *Constitution for the Federation of Earth. With Historical Introduction, Commentary, and Conclusion* (Appomattox, VA: Institute for Economic Democracy Press, 2010). For the full text of the Constitution, visit https://earthconstitution.world/text-of-the-earth-constitution/.

6. To learn more about the World Constitution & Parliament Association (WCPA)'s work, visit https://earthconstitution.world/about-wcpa/.

7. For background to this idea, see Hannah Arendt, *On Violence* (New York: Harcourt Brace & Company, 1970).

8. This work is under the auspices of the World Constitution & Parliament Association (WCPA).

About the Author

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