

# Globalization from above: actualizing the ideal through law

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## Becoming

We, human beings and human societies, are processes of becoming. We are what we have been and what we will be. What we have been, what we call our *past*, exists nowhere else than as an idea in our minds. What we will be, what we call our *future*, exists nowhere else than as an idea in our minds. What we call the *present* is the vanishing-point between the past and the future, a mere idea within our minds of the relationship between what we have been and what we will be. In the continuous present of our idea of our becoming, we present the past and the future to ourselves as a contrast between an actuality and a potentiality.

In the continuous present of our idea of our becoming, we can constantly re-imagine the actuality of our past, through the mental processes which we call personal *memory* and social *history*, but that is the limit of the potentiality-for-us of the past. Otherwise the past is beyond our power. And we can imagine, and constantly re-imagine, the potentiality-for-us of the future, imagining what we could become, what we will be. But, in the case of the future, the human mind understands its relationship to the future in the form of a strange paradox, a strange feature of the way in which the human mind seems to have evolved within the evolution of all living things, within the development of the universe of all-that-is. We can make the future but we cannot determine it. What will be will be what we do, but not only what we do. The future will also be made by the willing and acting of other human beings and other human societies, and by all other organic and inorganic processes of becoming, as they actualize themselves within the becoming of the universe of all-that-is.

So it is that the strange paradox of our relationship to the future is also a strange fate. We can imagine the future; we can choose to actualize this potentiality rather than that; and we can will and act to actualize our chosen potentiality. But we cannot be certain that our chosen future will become an actuality, a presence within our past. We may be able only to console ourselves by imagining what might have been, or by re-imagining and re-evaluating, through personal memory and social history, what has been, making it conform, so far as we are able, to the potentiality which we chose or might have chosen—the road we might have taken, the words we might have spoken, the unintended effects of wanted and unwanted events, the war we won by losing it or which we lost by winning it, the revolution which created new possibilities by destroying old potentialities, the suffering which made us better. The future of the human species is within the power, and beyond the power, of the human species.

The strangest feature of our paradoxical relationship to the future, the central fact of our evolved destiny, lies in the fact that the vanishing-point which we call the *present* is filled with the idea of *responsibility*, the permanent and inescapable burden of choosing the future, of choosing what to do next. Our life, as it presents itself to our minds, as human individuals and as human societies, is a process of becoming, but, above all, it is a process of choosing to become. The human species is a species of *moral* beings, because we cannot avoid the burden of choosing, of willing with a view to acting. Moral freedom is moral duty.<sup>1</sup>

The way in which we understand the past affects the future because it affects the way in which we understand the potentialities of the future, and hence the way in which we understand our moral responsibility in relation to the future. In this sense, the past is always an active presence in the present, in the place where we are doomed to play our part in making the future. The moral burden of choosing the future includes the moral burden of choosing our idea of the past, of forming our idea of what we were, as individuals and as societies. We are what we have been, whether we remember it or not. But what we remember, and the way in which we choose to remember it, are added to what we have been in making what we will be. Memory and history shape the process of our becoming, up to and including the becoming of all-humanity.<sup>2</sup>

## Minds

International society is a society like any other human society, except that it is the society of the whole human race, the society of all societies.<sup>3</sup> A society is a socializing of the human mind. From the society of the family, through the society of a nation or state, to the international society of the whole human race, a society is a form of functioning of the human mind. The mind of a society—social consciousness or the *public mind*, as we may call it—functions in ways which are characteristic of the functioning of the *private mind* of the human individual and in ways which are particular to the public mind of society. The role played by the mind in the *becoming* of a society is accordingly concordant with, and distinct from, the role of mind in the becoming of the human individual.

As human individuals, we have four minds. We have the *personal consciousness* by which we constitute our self within our ultimate solitude. We have the *interpersonal*

<sup>1</sup> 'We human beings do not possess freedom; ... freedom possesses [*besitzt*] us.' M. Heidegger, *Wegmarken* (Frankfurt am Main: Vittorio Klostermann, 1967), p. 85 (present author's translation). Heidegger's discussion of 'the nature of freedom' formed part of a lecture (on the nature of truth) first given in 1930 and included in this volume in a revised version first published in 1943.

<sup>2</sup> On the nature and social function of *history*, see Philip Allott, 'International Law and the Idea of History', *Journal of the History of International Law* (1999), pp. 1–21.

<sup>3</sup> For an exposition of this conception of international society, see Philip Allott, *Eunomia—New Order for a New World* (Oxford: Oxford University Press, 1990). Since the Reformation of the sixteenth century no single reified unifying conception of the social aspect of human existence has established itself, leaving the speculative field open to competing ideas: a universal society of human beings or of states or nations, an international society of states, the international community, an anarchical society of states, the international system, world order, and so on. Greek and Roman thought, and pre-Reformation Christian thought, had produced many such ideas: *homonoia*, *kosmopolis*, *humanitas*, *civitas maxima*, *concordia*, *the earthly kingdom*, *the City of Man*, *Christendom*.

*consciousness* by which we constitute our self in contact with the minds of others. We mutually construct each other. We have the *social consciousness* by which our mind participates in the public minds of societies, and by which the public minds of societies enter into our personal and interpersonal consciousness. We have the *spiritual consciousness* which integrates and transcends all the other forms of consciousness and which manifests itself in, but not only in, religious belief and practice.

The public mind of a society is also a multiple mind. Human societies have a *personal consciousness* by which a society constitutes its self in communion with itself, through its own social processes, including the private minds of society-members and the public minds of the subordinate societies which it contains. A society also has an *interpersonal consciousness* through which it constitutes itself in contact with the public minds of other societies—for example, a nation or state in its relations with other nations and states. Societies mutually construct each other. A society also has a *social consciousness* formed as the society participates in the public minds of the superordinate societies to which it belongs—including, for example, intergovernmental organizations—up to and including the international society of all-humanity, the society of all societies. Finally, a society shares in the integrating power of *spiritual consciousness*, not least, but not only, because of the extreme socializing of religion in human practice.

All human consciousness, individual and social, is thus both an aspect of the *phylogeny* of the human species, our shared evolutionary inheritance, and an aspect of the *ontogeny* of each individual organic system, human being or human society, the product of its own life-history.

## Realities

The reality of reality has for ever been the central question of philosophy, that is to say, the central question raised by the self-contemplating of the human mind. All cultures—and, especially, all religions—have sought to find a satisfactory way of resolving the question. In the Western philosophical tradition, originating in the philosophy of ancient Greece, it was very soon accepted that there could be no one answer, let alone one final answer. On the contrary, the clash of opposing solutions to the problem itself became the means of powerfully enriching the substance of human self-contemplating, especially the philosophy of being (metaphysics—what is it to use the word *is*?) and the philosophy of knowing (epistemology—what is it to say that I *know* that something is or is-so?).<sup>4</sup> The

<sup>4</sup> 'One party is trying to drag everything down to earth out of heaven and the unseen ... and strenuously affirm that real existence belongs only to that which can be handled and offers resistance to the touch. They define reality as the same thing as body, and as soon as one of the opposite party asserts that anything without a body is real, they are utterly contemptuous and will not listen to another word ... and accordingly their adversaries are very wary in defending their position somewhere in the heights of the unseen, maintaining with all their force that true reality consists in certain intelligible and bodiless forms ... and what those others allege to be true reality they call, not real being but a sort of moving process of becoming. On this issue an interminable battle is always going on between the two camps.' Plato, *Sophist* (trans. F. M. Cornford), 246b–c, in E. Hamilton and H. Cairns (eds.), *The Collected Dialogues of Plato* (Princeton, NJ: Princeton University Press, 1961), p. 990.

dialectic of idealism and realism, and of the countless intermediate positions, continues to the present day.<sup>5</sup>

The problem of the reality of reality presents itself in a quite special way in relation to the reality which the human mind has itself made. Human beings inhabit a *human world*, entirely made by the human mind, a world parallel to the natural world, a self-made second human habitat, a human mind-world with its own *human reality*. Human reality is one reality and countless realities. On the one hand, human reality is constructed collectively through the interaction of consciousness in the activity of what have been referred to above as our interpersonal, social, human, and spiritual minds. The becoming of international society—the society of all-humanity and of all human societies—contains the actuality and the potentiality of a universal human reality. But, on the other hand, the human world also contains countless particular human realities. Every person's idea of human reality is 'my reality' or a 'reality-for-me'. Like a Leibnizian monad, every human being and every human society has its own unique point of view from which the human world is seen, a perspective which contains the whole human world seen from that point of view.<sup>6</sup>

Over the course of the last three centuries, significant intellectual attention has been devoted (if not always *eo nomine*) to the problem of *human reality*, and we may regard ourselves as now being exceptionally well placed to offer a fruitful response to that problem. That we are able to do so may be seen as a side-effect or after-effect of what might crudely be called a Kantian revolution, a revolution which, as is the way with revolutions in general, was a restoration and a recapitulation rather than a new beginning, a provocation rather than a programme.<sup>7</sup> We have come to understand much more clearly the way in which human reality—including, of course, the reality of international society—is constructed. In particular, we are able to identify more clearly the existence and the interaction of four *vectors* of human reality-making—the rational, the social, the unconscious, and the linguistic.

<sup>5</sup> The negating of idealism has been called, at different times: sophism, pyrrhonism, scepticism, empiricism, nominalism, materialism, relativism, nihilism, positivism, naturalism, realism, pragmatism, logical positivism, phenomenology, neopragmatism, postmodernism. For contemporary examples of characteristically American fundamentalist anti-idealism, see: J. B. Watson, *Behaviorism*, 2nd edn. (London: Kegan Paul, 1931); H. S. Sullivan, *The Interpersonal Theory of Psychiatry* (New York: Norton, 1953); H. J. Morgenthau, *Politics among Nations: the Struggle for Power and Peace*, 6th edn. (New York: McGraw-Hill, 1985); R. Rorty, *Philosophy and the Mirror of Nature* (Princeton, NJ: Princeton University Press, 1969); E. O. Wilson, *Sociobiology* (Cambridge, MA: Harvard University Press, 1975); R. A. Posner, *Economic Analysis of Law* (Boston, MA: Little, Brown, c. 1986); D. Dennett, *Consciousness Explained* (London: Allen Lane, 1992).

<sup>6</sup> 'And so, since what acts upon me is for me and for no one else, I, and no one else, am actually perceiving it ... Then my perception is true for me, for its object at any moment is my reality, and I am, as Protagoras says, a judge of what is for me, and of what is not, that it is not.' Plato, *Theaetetus* (trans. F. M. Cornford), 160c, *Collected Dialogues*, p. 866. Plato's Socrates is here speaking about a subjectivist conception of the reality of reality (that is, of universal reality, not merely of what we are here calling human reality). G.W. Leibniz (1646–1716) conceived of the universe as being formed from ultimate indivisible 'monads' each of which contains the whole order of the universe organized around its unique 'point of view' [*point de vue*], so that each 'simple substance' is 'a perpetual living mirror of the universe'. *The Monadology*, §§56, 57, in his *Philosophical Papers and Letters* (ed. and trans. L. E. Loemker, 2nd edn. (Dordrecht: D. Reidel, 1969), p. 648.

<sup>7</sup> Kant compared his own work to the Copernican revolution, resituating the human observer in relation to universal reality by making the human mind an integral part of the constructing of the reality of the universe. I. Kant, *Critique of Pure Reason* (1781–87), 2nd edn., trans. N. Kemp-Smith (London: Macmillan, 1929), pp. 22, 25. 'What a Copernicus or a Darwin really achieved was not the discovery of a true theory but of a fertile new point of view [*eines fruchtbaren neuen Aspekts*].' L. Wittgenstein, *Culture and Value* (trans. P. Winch, ed. G. H. von Wright) (Oxford: Blackwell, 1980), p. 18c.

(1) It is possible to accept the idea that there is a *rational* component within human reality without taking any fundamental metaphysical or epistemological position relating to reality in general. The idea merely acknowledges that the human mind constructs relatively stable representations of reality, natural and human, which are communicable from mind to mind and which are thus able to have effect in all aspects of human consciousness from the personal to the spiritual, including social consciousness.<sup>8</sup> In social consciousness, such *models* of reality acquire world-changing power, equivalent not only to the most effective hypotheses of the natural sciences but even to the natural forces which those hypotheses rationalize. It is to such creative rationalizing that we owe all the flora and fauna of the human mind-world—*state, nation, people, law, treaty, rule, war, peace, sovereignty, money, power, interest*, and so on and on.

(2) The *social* component in the making of human reality means that a given society—from the family to the international society of all-humanity—constructs a mental universe, a social world-view, which has the extraordinary characteristic that, although it is necessarily the product of particular human minds at particular moments in time, it somehow takes on a transcendental life of its own, in isolation from any particular minds and persisting through time, as society-members are born and die, join and leave the society. It is the mental atmosphere of the society within which the society forms itself and which forms the minds of society-members, that is, the public minds of subordinate societies and the private minds of individual human beings. It is retained in countless substantial forms—buildings, institutions, customs and rituals and conventions, the law, literature, the fine arts, historiography, cultural artefacts of every kind. It contains a network of aspirations and constraints—moral, legal, political, and cultural—which are internalized by society-members and take effect in their everyday willing and acting.<sup>9</sup>

(3) Whatever theory of the structure and functioning of the human mind we may accept, if any, it is difficult now not to acknowledge a powerful *unconscious* component in the formation of human reality. The mind finds within itself a *self-consciousness*, in which it seems to be aware of itself, the master of its own reality, the writer, the director, and the actor in its own drama. And, in each of our minds, there is an area which surpasses and eludes us, off-stage, out-of-sight—the *unconscious mind*, as it has come to be called—the area behind and beneath and

<sup>8</sup> In the philosophy of the natural sciences, the Kantian point of view was reflected in the influential ideas of Ernst Mach (1838–1916) for whom science is a product of biological evolution which enables us to create ‘economical’ (simple, coherent, efficient) representations (primarily mathematical) of the universe, the ‘necessity’ of the universe being logical rather than physical. See R. Haller, ‘Poetic Imagination and Economy: Ernst Mach as Theorist of Science’, in J. Blackmore (ed.), *Ernst Mach: A Deeper Look. Documents and New Perspectives* (Dordrecht: Kluwer Academic Publishers, 1992), pp. 215–28. For an exposition of the analogous role of *models* in the social sciences, see P. Winch, *The Idea of a Social Science and its Relation to Philosophy* (London: Routledge & Kegan Paul, 1958/90).

<sup>9</sup> ‘The phantoms formed in the human brain are also, necessarily, sublimates of [active man’s] life-process, which is empirically verifiable and bound to material premises. Morality, religion, metaphysics, all the rest of ideology and their corresponding forms of consciousness, thus no longer retain their independence.’ ‘Consciousness is, therefore, from the very beginning a social product, and remains so as long as men exist at all’. K. Marx and F. Engels, *The German Ideology: Part One*, 1845–46 (trans. W. Lough, ed. C. J. Arthur) (London: Lawrence & Wishart, 1977), pp. 47, 51.

beyond self-consciousness.<sup>10</sup> And we have reason to believe that there is the same duality in the minds of those we meet in interpersonal consciousness, in the public mind of society, and in the spiritual mind, the mind of all minds. It means that psychic reality is analogous to the putative real reality of the physical universe (the *noumena*, to recall the Kantian term),<sup>11</sup> in that the ultimate contents of our minds are unknowable. Our self-consciousness is placed between two unknowable realities.<sup>12</sup> We live our lives with an unknowable world within us, a social order which we make but which is both within us and beyond us, and a natural universe of which we form part but which we cannot know except as we represent it to ourselves in our minds. The power of the unconscious mind is nowhere more apparent than in social reality, including the reality of international society, as feeling and imagination lend to rationally formed ideas the social power of life and death, and socialized forms of the psychopathology of the individual mind inflict suffering of every kind and degree on individual human beings.

(4) Although the role of *language* in the formation of human reality was an obsessive subject of study in the twentieth century, the general problem of the nature and origin of language is as old as philosophy, and as crucial as ever in humanity's never-ending search for self-awareness. We may usefully distinguish between language as a biological phenomenon present in many species of animal, language as a specific system within human consciousness, and language as a necessary component of social reality.<sup>13</sup> Biological evolution has conferred certain species-characteristics on human language, and the socializing of human language has transformed it into the means of expressing a specific form of human reality. Connecting the personal mind, where we speak to ourselves in isolation, to the interpersonal and social minds, and by integrating the personal and social minds with the spiritual mind, language has made the human species what it is for-itself and what the universe of all-that-is is for us human beings.

For those who have lived in the long twentieth century (from 1870), amazing and terrible as it was, the world-making and world-changing power of words is a lived and vivid experience. The human world is a world of words. Nouns and names rule our minds. We live and die for words. They give form to our feelings, determine our willing and acting, define our possibilities, as individuals and societies. The long history of the philosophy of language—mind contemplating the possibility of the

<sup>10</sup> 'I received the profoundest impression of the possibility that there could be powerful mental processes which nevertheless remained hidden from the consciousness of men.' 'But the study of pathogenic repression and other phenomena which have still to be mentioned compelled psycho-analysis to take the concept of the "unconscious" seriously. Psycho-analysis regarded everything mental as being in the first instance unconscious; the further quality of "consciousness" might also be present, or again it might be absent.' S. Freud, *An Autobiographical Study* (1925), in *Standard Edition of the Complete Psychological Works*, vol. XX, trans. and ed. J. Strachey (London: Hogarth Press, n.d.; revised version of translation published separately in 1935), pp. 17, 31. In the first sentence quoted, Freud is recalling the effect of his observation in 1889 of the effects of hypnosis.

<sup>11</sup> For Kant, the *noumena* (plural of *noumenon*) are conceived by the mind (*nous*) as that of which the *phenomena* are the appearances available to us.

<sup>12</sup> 'The unconscious is the true psychological reality; in its innermost nature it is as much unknown to us as the reality of the external world, and it is as incompletely presented to us by the data of consciousness as is the external world by the communications of our sense organs.' S. Freud, *The Interpretation of Dreams* (1900), in *Standard Edition*, vol. V (1953), p. 613 (emphasis in original).

<sup>13</sup> Saussure proposed analogous distinctions (*langage, langue, parole*) which have been influential in the modern study of language. F. de Saussure, *Course in General Linguistics* (1915, posthumous), trans. W. Baskin, eds. C. Bally and A. Sechehay (New York: Philosophical Library, 1959).



public mind—now offers to the public mind of the twenty-first century a powerful collection of ideas on the nature and origin of language, an unprecedented opportunity for a new human self-enlightening, a New Enlightenment.<sup>14</sup>

The metaphor of enlightenment has been a dominant archetype of many religions and philosophies across the world. It affirms the possibility that the human mind can raise itself by its own effort, can speak to itself, and about itself, in qualitatively new ways, and hence that humanity can repeatedly re-humanize itself.<sup>15</sup>

## Constitutions

A society does not have a constitution. A society is a constituting, an unceasing process of self-creating. A society constitutes itself simultaneously in three dimensions—as ideas, as practice, and as law. Each society, including the international society of all-humanity, the society of all societies, is a unique but ever-changing product of its threefold self-constituting. In its *ideal* constitution, a society presents its becoming to itself as actuality and potentiality, forming a *reality-for-itself* which includes its *history*, its self-explanatory *theories*, and its *ideals*. In its *real* constitution, the willing and acting of individual human beings is socialized as they exercise *social power* in the course of their own personal self-constituting. In its *legal* constitution, social power is given the form of *legal power*, so that the willing and acting of individual human beings may serve the *common interest* of society in its self-constituting.<sup>16</sup>

Since a society is a socializing of the human mind, there is a direct and necessary concordance between the self-constituting of a society and the self-constituting of an individual human being. The constitution of a society is its personality. The

<sup>14</sup> The history of ideas about language is a striking instance of what Augustine and other optimists have called ‘the education of the human race’. (1) In an exceptionally inconclusive dialogue worthy of the later Wittgenstein, Plato’s Socrates says: ‘How real existence is to be studied or discovered is, I suspect, beyond you and me. But we admit so much, that the knowledge of things is not to be derived from names. No, they must be studied and investigated in themselves’. Plato, *Cratylus* (trans. B. Jowett), 439b, *Collected Dialogues*, p. 473. (2) Aristotle proposed a conventionalist view of language. ‘A noun is a sound having meaning established by convention alone ... No sound is by nature a noun; it becomes one, becoming a symbol.’ *On Interpretation*, II (trans. H. P. Cooke; Loeb Classical Library), p. 117. (3) A naturalist view of language was proposed by Lucretius. ‘But the various sounds of the tongue nature drove them to utter, and convenience (*utilitas*) moulded the names for things.’ *On the Nature of Things*, V, 1028–29 (trans. W. H. D. Rouse and M. F. Smith; Loeb Classical Library), p. 459. For the view that the way in which language expresses meaning has an evolutionary origin, see R. M. Allott, *The Motor Theory of Language Origin* (Lewes: Book Guild, 1989). (4) For the view that it is possible to establish the logically necessary *substantive universals* of language, see N. Chomsky, *Language and Mind* (New York: Harcourt Brace Jovanovich, 1968/c.1972). (5) For the view that language, as social reality, is a set of languages, connected by ‘family resemblances’, see L. Wittgenstein, *Philosophical Investigations*, trans. G. E. M. Anscombe (Oxford: Basil Blackwell, 1974).

<sup>15</sup> In the cultural history of western Europe, five enlightenments, at intervals of three centuries, have been identified since the end of the Roman Empire in the West: western monasticism (6th century: the Rule of St. Benedict); the Carolingian renaissance (9th century: centred on the court of Charlemagne); the 12th century renaissance (centred on the University of Paris); the 15th century renaissance (centred on Italy); the 18th century Enlightenment. For the idea of a 21st-century enlightenment, see Philip Allott, *Eutopia—New Mind for a New Humanity* (forthcoming).

<sup>16</sup> For further discussion of the three dimensions of a society’s self-constituting, see Philip Allott, *Eunomia*, ch. 9.

personality of human beings is their constitution. My personality, which includes my reality-for-myself, is also a unique and ever-changing product of my ideas, my practice, and my law-for-myself, that is, my moral order. Like my reality-for-myself, society's reality-for-itself contains social poetry as well as social prose, the contribution of the imagination and the unconscious to the work of rationality.<sup>17</sup> Social practice is a product of ideas and law. Law is a product of ideas and practice. The ideas which take the form of *theories* within a society's ideal self-constituting and which help to form its reality-for-itself are that society's explanation of itself to itself, a society's philosophy-for-itself, one part of the totality of the self-contemplating of the human mind. As *practical* theory, they express themselves in the course of social practice, the programme of actual willing and acting. As *pure theory*, they act as the theory of practical theory, the programme of society's programmes.<sup>18</sup> As *transcendental theory*, they act as the theory of theory, a society's epistemology.

The present essay is proposed as a contribution to the self-explaining of international society at the level of transcendental theory and pure theory, with a view to modifying the practical theory of international society, and thereby the willing and acting of all who participate in its real and legal self-constituting. The history of human societies contains many examples of revolutionary change not only in the real constitutions of societies but also in their ideal self-constituting, revolutions in the mind. Such events are moments of human self-enlightenment which transform the potentiality and the actuality of those societies. There is no reason why international society should be incapable of such self-enlightening, and every reason, derived from the lamentable history of its own self-constituting, why it should find a new potentiality for human self-creating at the level of all-humanity, the self-evolving of the human species, a revolution in the human species-mind.

### The ideal

The potentiality of human self-creating takes the particular form of the *ideal* when the mind *conceives* of the present in the light of a *better* future, when the mind *judges* the actual by reference to a *better* potentiality, when the mind dedicates its moral freedom to the *purpose* of actualizing that *better* potentiality. The ideal is the

<sup>17</sup> The term 'social poetry' is particularly associated with the names of Giambattista Vico (1668–1744), for whom historiography is the social reconstructing of the story of the social self-constructing of human consciousness, and Georges Sorel (1847–1922), for whom social consciousness is both a weapon and the target of revolutionary social change. '[As] force is always on the side of the governed, the governors have nothing to support them but opinion. It is therefore, on opinion only that government is founded.' D. Hume, 'Of the first principles of government', in *Essays Moral, Political, and Literary*, I. IV, eds. T. H. Green and T. H. Grose (London: Longmans, Green, 1907), p. 110. 'For a society is not made up merely of the mass of individuals who compose it, the ground which they occupy, the things which they use and the movements which they perform, but above all is the idea which it forms of itself.' E. Durkheim, *The Elementary Forms of Religious Life* (1912), trans. J. W. Swain (London: George Allen & Unwin, 1915/76), p. 422.

<sup>18</sup> This distinction between pure theory and practical theory is analogous to Aristotle's distinction between speculative reason and practical reason (*Politics*, VII.14) or, as he expresses it in the *Nicomachean Ethics* (I.vii), the difference between the thinking of the geometer and the thinking of the carpenter. For further discussion, see *Eunomia*, §§2.52ff.



better potentiality of the actual, acting as a moral imperative in the present, with a view to making a better future.

The idea of the ideal was made possible by three developments in the self-knowing of the human mind.

(1) It was first necessary for philosophy to produce the idea of *rationalized abstraction*. Reflecting upon the thesis of Heraclitus that all reality is *change*, Greek metaphysics and epistemology identified a capacity of the human mind to postulate the unchanging in the midst of change, that to which the process of becoming applies. It did so by postulating the universal aspect of every particular process of becoming—from the becoming of material objects (whose formal substance remains) to the becoming of living things (whose integrating form remains) to language itself (whose structure of rationality remains beneath the infinite diversity of actual communication). In this way, every single particular element in the universe could be seen as an instance of something more general, up to and including the universality of the universe itself (*kosmos* or *god*).

It became possible to see a particular collection of human beings living together as a particular instance of a universal idea of *society* (*koinōnia*) and, perhaps, of a *constituted society* under law (*polis*). It thereupon became possible to compare particular instances by reference to a universal model—Athens and Sparta, Greek and Egyptian, the governors and the governed, monarchy and oligarchy, oligarchy and democracy. It became possible to objectify and even to personalize particular cases of the generic universal (this state, that nation, all-humanity). It became possible to universalize and substantiate standards of comparison (values)—freedom, tyranny, justice, the rule of law, well-being. It even became possible to universalize the standards behind the standards of comparison, the value of values—the good, the true, the beautiful, virtue, happiness.

(2) Reflecting on another insight of Heraclitus, that change is the product of negation, the human mind became conscious of another remarkable feature of its functioning, namely, its propensity to present ideas to itself in the form of *duality*. It seems likely that we are biologically programmed—perhaps literally so, in some binary process within the systematic functioning of the brain—to construct reality by integrating opposing ideas ( $1 + 1 = 1$ ). Philosophy very soon identified and appropriated this mental process as the amazing universal power of *dialectical thought*.<sup>19</sup> What may be an aspect of the physiology of the human brain, which has determined the functioning of the human mind, and which has been reproduced in the structure of human language through the long process of socializing, has given to human reality a peculiarly *dualistic* structure—life and death, being and nothing, appearance and reality, essence and existence, mind and matter, good and evil, pleasure and pain, true and false, the past and the future, the actual and the potential.

The dyad of *appearance and reality* has allowed us to make a human reality which is a mental reconstruction of a reality which we suppose to be not mind-made, enabling us to take power not only over the physical world (through the mental reconstruction effected by the natural sciences) but also over the human world

<sup>19</sup> The idea of the dialectic, made explicit in Plato's dialogues, retained its extraordinary power within pure theories of society up to and including the work of Hegel and Marx in the 19th century, and has continually haunted practical theories of society, up to and including the power-legitimizing political parties and elections of democracy and the value-determining competitive struggle of capitalism.

(through the power of thought communicated through language). The dyad of *the actual and the ideal* has allowed us to make human reality into a moral order in which the actual can pass judgement upon itself by reference to its better potentiality, which is the ideal.

(3) Reflecting on human practice, especially social practice, philosophy was able, finally, to see that the power of the ideal stems from the fact that the idea of the better contains both the idea of the possible and the idea of the desirable. It generates a powerful attractive force inclining us to seek to actualize it. It engages, in our spiritual mind, something which is akin to physical love in our interpersonal mind. As evolutionary biology has used the power of physical love to negate physical separation with a view to the creation of new life, so it has made possible the power of spiritual love to negate the opposition between the present and the future with a view to the creation of better life, including better life in society. From the spiritual mind, energized by the idea of the ideal, come our most passionate moral feelings—of anger (for example, in the face of injustice and oppression), of hope (for example, for freedom and self-fulfilment), of joy (for example, in the face of the good and the beautiful)—feelings capable of inspiring limitless self-surpassing and self-sacrifice. Moral freedom is moral desire.<sup>20</sup>

These developments have given a particular form to *human reality*, the world made by the human mind. It is a form which we so much take for granted that it is difficult to see that it might have been otherwise—and that, at different times and in different places, it has been otherwise. Humanity discovered within itself a self-transcending power of self-conceiving, self-evaluating, and self-making, an inexhaustible source of human progress, of the self-evolving of the species. The idea of the ideal is the permanent possibility of the moral transformation of human beings and human societies, the permanent possibility of revolutionary human self-perfecting. We would not be as we are without the idea of the ideal. We will not be what we could be without the idea of the ideal.

## The legal

The idea of the ideal has entered into the *ideal* self-constituting, and the revolutionary transformation, of countless societies. It has had a particularly powerful effect in the *legal* self-constituting of societies. It is present, if at all, only embryonically and immanently, in the *legal* self-constituting of international society, the society of all societies.

The law is another of the wonderful creations of the human mind. It enables a society to carry its structures and systems from the past through the present into the future. It enables a society to choose particular social futures from among the

<sup>20</sup> '[Love] is the ancient source of our highest good ... For neither family, nor privilege, nor wealth, nor anything but Love can light that beacon which a man must steer by when he sets out to live the better life. How shall I describe it—as that contempt for the vile, and emulation of the good, without which neither cities nor citizens are capable of any great or noble work.' Plato, *Symposium* (trans. M. Joyce), 178 c–d, *Collected Dialogues*, p. 533. 'We live by Admiration, Hope and Love; / And, even as these are well and wisely fixed, / In dignity of being we ascend.' W. Wordsworth, *The Excursion* (1814), IV, lines 763–6.

infinite range of possible futures. Above all, it enables society to insert the *common interest* of society into the willing and acting of every society-member, human individuals and subordinate societies, so that the energy and the ambition, the self-interest of each of them may serve the common interest of them all. Law is the most efficient instrument for the actualizing of the ideal, universalizing the particular in law-making, particularizing the universal in law-application, a primary source of a society's survival and prospering within the self-perfecting of all-humanity.<sup>21</sup>

It is possible to identify rather precisely the way in which law achieves its wonder-working. Within general human reality, and within the social reality of a particular society, there is a *legal reality* in which everything without exception—every person, every thing, every event—has legal significance. Legal reality is created by means very similar to the way, discussed above, in which the human mind constructs human reality generally—that is to say, by representing to itself in the form of ideas what it conceives as being the 'real' world. Legal reality is a language-reality, made from words. Law is a language-world, in which special words, and words from other language-worlds, have their own self-contained life-process. Law shares in general ideas of human psychology, but has its own methods of explaining behaviour and attributing responsibility. Law shares in general rationality, but has its own methods of analysis, argument, and proof. In particular, legal relations are a special application of the capacity of the human mind for abstract generalizing, followed by the substantializing and even personalizing of abstract ideas.

Legal significance is given to that idealized reality in the form of what are called *legal relations*—that is, rights, duties, freedoms, powers, liabilities, immunities, disabilities—conferred on legal persons (human beings or legally recognized social forms). Legal reality is a network of infinite density and complexity in which everything, without exception, is the subject of countless legal relations.

My *freedom* to conclude a contract engages with your *freedom* to conclude a contract, and the resulting contract creates *rights* and *duties* upon each of us; gives me the *power* to invoke the protection of a court of law, if you fail to carry out a *duty* under the contract (unless you have an *immunity* from legal proceedings); gives to the court the *power* to make orders which alter the *rights* and *duties* of the parties to the contract, including, perhaps, the imposing on you of a *duty* to pay damages; thus giving a *power*, and imposing a *duty*, on a court official to enforce the court orders; all because a legislator exercised a *power* to enact a law about contracts and a law about courts; and because someone exercised a *power* to appoint judges and court officials under legislation on those matters—and so on, *ad infinitum*.

A legal relation is an abstracted pattern of potentiality into which actual persons and things and situations may be fitted. It is a *matrix* which identifies persons and

<sup>21</sup> 'How can it be that all should obey, yet nobody take upon him to command, and that all should serve, and yet have no masters, but be more free, as, in apparent subjection, each loses no part of his liberty but what might be hurtful to that of another? These wonders are the work of law. It is to law alone that men owe justice and liberty. It is this salutary organ of the will of all which establishes, in civil right, the natural equality between men. It is this celestial voice which dictates to each citizen the precepts of public reason, and teaches him to act according to the rules of his own judgment, and not to behave inconsistently with himself. It is with this voice alone that political rulers should speak when they command; for no sooner does one man, setting aside the law, claim to subject another to his private will, than he departs from the state of civil society, and confronts him face to face in the pure state of nature, in which obedience is prescribed solely by necessity.' J.-J. Rousseau, *A Discourse on Political Economy* (1755), in *The Social Contract and Discourses*, trans. G. D. H. Cole (London: J. M. Dent, Everyman's Library, 1913), p. 124.

things and situations in an abstract form distinct from their status in general reality (person, corporation, state, contract, treaty, judge, plaintiff, government, parliament, property, territory, money). It is an *heuristic* which connects aspects of those persons and things and situations to each other in a particular way (contracting parties, shareholders in a corporation, parties to legal proceedings, sovereign of territory, government of a state, voter in an election). It is an *algorithm*, a mini-programme of action, which triggers a succession of consequences (especially the application of other legal relations) when actual persons, things, and situations fit into the pattern of potentiality (you step onto a pedestrian crossing, you ratify a treaty, you speak falsely about another person, you put money into a slot-machine). When the legal relation is applied, social reality is modified accordingly, by the conforming behaviour of actual human beings, actualizing a possible future which had been selected by society in the common interest. From the selection-by-election of the members of a parliament, through the way in which the accounts of a commercial corporation are presented, to where you park your car, every aspect of human behaviour may be modified by law in the common interest.

It is the function of the *legislative process* to insert the common interest into legal relations, by resolving conflicting conceptions of the common interest into a single conception reflected in the substance of the law. It is the function of the *judicial process* to interpret the common interest when the abstracted patterns of the law are applied to particular situations. It is the function of *politics*, in the most general sense, to provide the forum in which conflicting conceptions of the common interest are brought into the dialectical competition of the *real constitution*. It is the *ideal constitution* of the society, its total self-constituting in the form of ideas, which generates the values and purposes which are the raw material of politics and which may ultimately be reflected in the law.

There are three primary functions of the law which are especially significant for the actualizing of the legal potentiality of international society.

(1) Law makes the economy. Whatever the naturalist fantasies of the pure theories of an economy, not least theories of free-market capitalism, the economy is a legal structure, that is to say, an artificial structure, made possible by the creation by the law of all the paraphernalia of the economy, from property and money to the corporation. The common interest which is supposed to guide the invisible hand of the market must first make itself visible in the superstructure of the law. Crucial question for the future of international society—what is the legal basis of the global economy?

(2) Law makes the public realm. The public realm consists of legal powers which are to be exercised *in the public interest*. A legal power generally gives to the power-holder a choice of possible decisions within the limits of the power, which may include decisions which are chosen to serve whatever interest the power-holder chooses to serve (to vote or not to vote; to vote for this candidate or that). A *public-realm legal power* limits the choice of possible decisions to those which serve the public interest, as determined explicitly or implicitly by the terms of the power itself or by the status of the power-holder.<sup>22</sup> If we take seriously capitalism's own story

<sup>22</sup> Locke similarly defined *political power* as the right to make and execute the laws and defend the commonwealth from foreign injury, 'and all this only for the Publick Good'. J. Locke, *Two Treatises of Government* (1690), II. §3, ed. P. Laslett (Cambridge: Cambridge University Press, 1960), p. 286.

about itself, namely, that private wealth-seeking is justified because it is public wealth-creating, then we should regard economic power as a form of public-realm power, to be exercised in the common interest. Crucial question for the future of international society—in whose interest are the international powers attributed to states and other international actors to be exercised?

(3) Law makes constitutionalism. In countless societies, throughout the course of human history, social theory has been able to generate ideas whose common feature is that they place the ultimate source of the authority of law in something other than the will of the person or persons currently making or enforcing the law.<sup>23</sup> All law, and especially public-realm power, is essentially a delegation of power. Crucial question for the future of international society—what is the ultimate source of the authority of law at the global level?

## The real

Who or what has caused the scandal of international unsociety, the unsociety of all-humanity, an inhuman human reality of everyday social evil and social injustice, of cynical parodies of law and social order, an unnatural state of nature in which social predators oppress, abuse, and kill human beings in their millions, a world seething with fraudulent democracies and criminal presidential monarchies, a social reality in which some human beings worry about the colour of the bed-linen for their holiday-home in Provence, while other human beings worry about their next meal or the leaking tin-roof of the shack which is their only home?

In a society's *real constitution*, a society creates itself through the actual day-to-day practice of actual human beings, including, above all, the decisions of the holders of public-realm powers, their behaviour being conditioned by every aspect of social reality, as society also creates itself, as ideas and as law, in its ideal and legal constitutions.<sup>24</sup> The real self-constituting of international society has produced a

<sup>23</sup> The 'higher' source of everyday law has been identified, at different times and in different places, as divine order, the sovereignty of law, natural cosmic order, and natural social order—with the last idea being used in the pure theory of liberal democracy (social contract) and in the practical theory of many national constitutions. See Philip Allott, 'Intergovernmental Societies and the Idea of Constitutionalism,' in V. Heiskanen and J.-M. Coicaud (eds.), *The Legitimacy of International Organisations* (Tokyo: UN University Press, 2000).

<sup>24</sup> 'The laws reach but a very little way. Constitute Government how you please, infinitely the greater part of it must depend upon the exercise of powers which are left at large to the prudence and uprightness of Ministers of State ... Without them, your Commonwealth is no better than a scheme on paper, and not a living, active, effective constitution.' E. Burke, *Thoughts on the Cause of our Present Discontents* (1770), in P. Langford (ed.), *The Writings and Speeches of Edmund Burke*, vol. II (Oxford: Clarendon Press, 1981), pp. 251–322, at p. 277. '... the real constitution (*wirkliche Verfassung*) of a country exists only in the true actual power-relations which are present in the country; written constitutions thus only have worth and durability if they are an exact expression of the real power-relations of society.' F. Lassalle, 'Über Verfassungswesen' (On the Nature of the Constitution) (1863), in *Gesammelte Reden und Schriften*, vol. II (E. Bernstein (ed.) (Berlin: P. Cassirer, 1919), at p. 60 (present author's translation). Lassalle, a follower of Hegel and, less faithfully, of Marx, and the founder of the General Union of German Workers (the first political party of the working-class), contrasted the real constitution with the written (or legal) constitution, the former but not the latter (in the Germany of the 1860s) being the expression of the real power of the nobles, great landowners, industrialists, bankers, and major capitalists.

diseased social reality, a psychopathic condition which threatens the survival of the human species.

Given the relative simplicity and transparency of international society, it is relatively easy to explain the present tragic state of international society. The root cause has been the emergence, in the period since the end of the fifteenth century, of a discontinuity in human reality, a duality in the social self-constituting of the human species—a duality reflected in *practice*, especially in the practice of war and diplomacy, as international society was isolated and insulated from the amazing development of national social systems; in *ideas*, especially through the conceiving of separate national and international human realities; and, not least, in *law*, as the development of international law was isolated and insulated from the amazing development of national legal systems.

(1) The universal and perennial dialectic of the duality of the One and the Many has shaped the constituting of human societies throughout human history. The development of the modern (European) idea of the 'state' is a world-transforming product of that dialectic. The post-medieval (Renaissance and Reformation) individualizing of the human being was accompanied by an equal and opposite individualizing of society, so that the historical development of particular societies would be an endless succession of particular resolutions of the forces of individualism and collectivism, and the historical development of international society came to be a mere side-effect of that process.<sup>25</sup>

(2) The One of the Leviathan state was then personalized through the operation of the universal and perennial dialectic of the Self and the Other which has shaped the self-constituting of societies throughout human history.<sup>26</sup> The holders of public-realm power, kings and public officials, could identify their self-interest with the public interest of the One they so nobly served, and could, by force or by mind-manipulation, induce the people to suppose that it was their patriotic and moral duty to kill and be killed by their neighbours on behalf of their own so-called commonwealths.<sup>27</sup> Again and again, the agonistic relationship has produced a third thing ( $1 + 1 = 3$ ), a fantasy construct within the interpersonal consciousness of each

<sup>25</sup> The leading role in Act One of the drama was taken by Thomas Hobbes (1588–1679), who managed to proceed from an heuristic model of the personality of the individual human being to the total socializing of the individual person in the individualizing and substantializing and personalizing of the 'commonwealth' that is to say, 'the Multitude so united in one Person'. The 'sovereign', to whom they have transferred their powers, 'may use the strength and means of them all, as he [or it, in the case of a collective sovereign] shall think expedient, for their Peace and Common Defence'. (*Leviathan*, ch. xvii).

<sup>26</sup> The word 'state' acquired two senses, referring to an aspect of a society's internal constitution and, externally, referring to a society's participation in international relations. But the semantics of the word soon took on a great weight of additional semiotic significance. After 1789, the word 'nation' (*Volk*) also took on great semiotic power, referring to a society in its genetic individuality and subjectivity. See Philip Allott, 'The nation as mind politic', *Journal of International Law and Politics*, 24 (1992), pp. 1361–98.

<sup>27</sup> 'The wonder of this infernal enterprise is that each leader of the murderers has his standards blessed and solemnly invokes God before setting out to exterminate his neighbour.' Voltaire, *Dictionnaire philosophique* (1764–5), article on *War* (Paris, GF-Flammarion; 1964), p. 218. The heroes of Act Two of the drama were the masterful makers of the modern states: kings and courtiers and politicians and their obsequious acolytes. See Philip Allott, 'International Law and the International *Hofmafia*. Towards a Sociology of Diplomacy', in W. Benedek, et al. (eds.), *Development and Developing International and European Law. Essays in Honour of Konrad Ginther* (Frankfurt am Main: Peter Lang, 1999), pp. 3–19.



society, a *folie à deux* which reached a sublime level of insanity in the so-called Cold War of the later twentieth century.

(3) The third Act was an act of omission. Social philosophers, despite their achievements in the revolutionary reconceiving of national society, mysteriously failed to extend their vision to encompass the condition of humanity as a whole. Philosophy is surely universal or it is not philosophy. Moral philosophy is surely universal or it is not moral philosophy. The moral order does not contain political frontiers.<sup>28</sup>

(4) Pure and practical theories of international law filled the vacuum left by social philosophy, dissolving the perennial and universal dilemma of justice and social justice into a vapid simulacrum of law. Spawning an exiguous vocabulary of concepts, adding fashionably 'democratic' overtones to their medieval feudal land-holding, a new international language-world re-empowered the powerful in their relations with each other, using the language of the law to dignify, as right and duty, the self-seeking of those who could continue to behave externally as if they were *ancien régime* monarchs, more or less free from the tiresome requirements of political or moral accountability, free from the burden of any form of self-justification beyond the anti-morality of *raison of state*.<sup>29</sup>

(5) The becoming of international society came to be practised as a permanent game of social Darwinism, in which the national game of politics extruded a misbegotten form known as 'foreign policy' pursued through the rituals of diplomacy and war. In the nineteenth century, the game took on a substantial economic aspect, as industrial capitalism became a central feature of the national struggle to survive, a determining factor in the causes and the conduct of war.<sup>30</sup> The condition of all-humanity came to be a random by-product of the national struggle to survive. Social Darwinism is not merely an anti-idealism. It is an anti-philosophy, a pragmatic default-theory. Democracy-capitalism is the institutionalizing of social Darwinism, with democratic *public opinion* and the capitalist *market* acting as dynamic myth-forms within a mental absolutism whose high-values (*consent* and *efficiency*) are functional rather than transcendental.

(6) In the twentieth century, the volume of the internationally abnormal came vastly to exceed the volume of what was supposed to be the normal. The externalizing and the interpenetration of economic systems, and of the national legal systems which subtend the economic systems, were anomalous in relation to the continuing isolation of the national political systems. The assertion of high-level principles for controlling the exercise of public-realm power (human rights), and the naïve or cynical extrapolation of internal constitutional forms (courts, assemblies), were anomalous in relation to the continuing isolation of national constitutional

<sup>28</sup> The most striking failures of vision were those of Locke, Rousseau, and Hegel.

<sup>29</sup> The benign *maître à penser* of the new world order was Emmerich de Vattel (1714–67) whose simplistic ideas were both comprehensible and delightful for the holders of public power. Nations or states, he said, may be regarded as so many free persons living together in a state of nature. They are free, independent, equal, and sovereign. Their duties to themselves clearly prevail over their duties to others. The law of nations consists of various constraints which they choose to impose upon themselves. War remained, in the formula cherished by Louis XIV of France, the 'ultimate reason of kings' (*ultima ratio regum*).

<sup>30</sup> Herbert Spencer (1820–1903), anguished apostle of 19th-century optimism, believed that human progress is a form of biological evolution, including a Lamarckian inheritance of acquired mental characteristics. Competitive industrial capitalism could be seen as the continuation of war by other (better) means.

systems. The development of conceptions of international public order was anomalous in relation to the continuing 'territorial integrity' of states. The development of complex systems of international government was anomalous in relation to the 'political independence' of states, and the emerging hegemonic international public realm was anomalous in relation to 'sovereign' national public realms. The bureaucratized international redistribution of wealth was anomalous in relation to the institutionalized *laissez faire, laissez aller* of the global economy. The formulation of masses of international legislation, in the form of treaties and decisions of international institutions, was anomalous in relation to a conception of international law as setting the minimum conditions of the coexistence of neighbouring feudal land-owners. Above all, a gathering global revolution of rising expectations as to human flourishing, a moral revolution in people's ideas about the good life in society, was anomalous in relation to the structural inequality and injustice and atavism of the international system.

(7) In the twentieth century also, we experienced extremes of the pathology of human socializing, as evil minds corrupted the minds of millions, as episodes of insanity possessed the public minds of whole societies, and whole nations paid the price in suffering. The growing complexity of law and government, at every social level, revealed itself, as it has throughout human history, as the growing sophistication of structures of social inequality. So-called 'human rights' in legalistic formulations, and technocratic programmes of 'good governance', revealed themselves as new forms of the age-old mask which conceals the exploitation and the oppression of the many by the few. The twentieth century taught us once more a lesson which is as old as human society. The only constant in human social history is the ruthless self-protecting of social privilege. The only human right which is universally enforced is the right of the rich to get richer.<sup>31</sup>

### Globalization from below

The problem of social evil is as old as human socializing. Social evil is humanity's self-wounding and self-destroying through the operation of social processes, from

<sup>31</sup> 'Consequently, when I consider and turn over in my mind the state of all commonwealths flourishing anywhere today, so help me God, I can see nothing else than a kind of conspiracy of the rich, who are aiming at their own interests under the name and title of the commonwealth. They invent and devise all ways and means by which, first, they may keep without fear of loss all that they have amassed by evil practices and, secondly, they may then purchase as cheaply as possible and abuse the toil and labour of all the poor. These devices become law as soon as the rich have once decreed their observance in the name of the public—that is, of the poor also! ... What is worse, the rich every day extort [*abradunt*] a part of their daily allowance from the poor not only by private fraud but by public law ... and finally, by making laws, have palmed it off as justice.' Thomas More, *Utopia* (1516), in E. Surtz and J. H. Hexter (eds.), *The Complete Works of St Thomas More*, vol. 4 (New Haven, CT & London: Yale University Press, 1965), p. 421. 'Laws and government may be considered ... as a combination of the rich to oppress the poor, and preserve to themselves the inequality of goods which would otherwise be destroyed by the attacks of the poor ... The government and laws ... tell them they must either continue poor or acquire wealth in the same manner as they have done.' Adam Smith, *Lectures on Jurisprudence* (lecture of 22 Feb. 1763), eds. R. L. Meek, D. D. Raphael and P. G. Stein (Oxford: Clarendon Press, 1978), pp. 208–9. '... the art of becoming "rich", in the common sense, is not absolutely nor finally the act of accumulating much money for ourselves, but also of contriving that our neighbours shall have less.' J. Ruskin, *Unto This Last. Four Essays on the First Principles of Political Economy* (1860) (London: George Allen & Sons, 1862/1910), pp. 45–6.

war and genocide to social oppression and social injustice of every kind. Humanity in the twenty-first century has inherited from the self-inflicted suffering of the turbid twentieth century an unprecedented and unbearable legacy of world-wide social evil.

Social evil is a systematic product of social systems, caused by human beings acting in their official capacity in the public interest, alienated from their moral responsibility as individual human beings, or caused by social systems so complex that their products can be attributed to no human beings in particular. Social systems and their products escape moral judgement. They are beyond good and evil. But the wages of social evil are paid in *suffering*, the suffering of actual human beings, of whole peoples, of all humanity. The price is paid in *corruption*, the corrupting of all human values, down to and including the values of the most intimate interpersonal consciousness of individual human beings. And the price is paid in *destruction*, the relentless degradation of the natural habitat of the human species.

It so happens that we have also inherited from the twentieth century an unprecedented degree of human socialization, unprecedented possibilities of the good that social systems can do, unprecedented possibilities of social evil. What is called 'globalization' is seen, like the political and economic imperialism of the nineteenth century, as an extrapolating of the national realm into the international realm. The risk now facing humanity is the globalizing of all-powerful, all-consuming social systems, without the moral, legal, political and cultural aspirations and constraints, such as they are, which moderate social action at the national level.<sup>32</sup>

In particular, and above all, international society now contains the potentiality of a human future in which the globalizing of economic and governmental social systems will be merged with a rudimentary international social system inherited from the past, a system which has been the cause of so much social evil, local and global. It is a social system in which the highest value continues to be the maximizing of the advantage of the particular social formations known as 'states', and in which the maximizing of the survival and prospering of each human individual and of all-humanity is conceptually secondary, in practice and in theory. It is an international system which, with the overwhelming political and economic energies generated by globalization, is perfectly designed to maximize the risk of every form of international social evil.

### Globalization from above

So it is that international society now contains the potentiality of a human future determined by the unrelenting force of the social actual, unmoved by the self-surpassing power of the social ideal. It is a burden made almost unbearable by crude historicism, by self-disempowering in the face of the human future, by the belief that humanity is beyond self-redeeming, and that social evil is an unalterable fact of

<sup>32</sup> In the parable of the Grand Inquisitor (*The Brothers Karamazov*, bk. 5), Dostoevsky expressed, with passionate intensity, what he saw as the paradox of Roman Christianity, that a liberating human enlightenment had become an absolutist social system. We need a Dostoevsky to express the paradox of democracy-capitalism, that a system dedicated to 'freedom' has produced social systems of totalitarian social power, systems that are now being globalized.

social life. The idea of the end of history is a vision of the end of humanity. The idea of the clash of civilizations is a vision of the end of civilization. Social evil, and our despair in the face of social evil, are the symptoms of a diseased human reality. The great task of the twenty-first century is to install the idea of the ideal in dialectical opposition to the fact of the actual as a creative force in the making of the human future. International social idealism is the dialectical negation of international social Darwinism.

To redeem international society requires a fundamental reconceiving of our inherited international world-view, a psychological and philosophical reconstituting, a revolution-from-above in the public mind of all-humanity. It is possible already to diagnose the symptoms of diseased international social reality and so to prescribe a cure, identifying the guiding principles of a new international reality, a new ideal self-constituting of a true international society, a charter of international social idealism, a New Enlightenment.

- A social reality (international society or the international system) which is commonly supposed to be merely the interaction of instances of a certain kind of reified concept (states)<sup>33</sup> is a dehumanized social reality.
- A social reality in which social consciousness is formed, not by the interacting of the private minds of all human beings and the public minds of subordinate societies, but primarily through the systematic interacting of agents of subordinate societies (governments), can never be a fully human social reality.
- A social reality conceived as the actualizing through foreign policy, diplomacy, and war of a pragmatic highest value (the prospering of each particular state) is a demoralized social reality.
- A social reality in which war and the use of force are seen as the ultimate instruments of social cohesion is an anti-social social reality.
- A social reality in which law is seen, not as the source, the limit, and the judge of social power but as merely an incidental by-product of social power, is an illegitimate social reality.

Globalization from above means the application of every self-creating potentiality of human consciousness to the self-constituting of international society. It is to set the human-world-transforming attraction of the ideal in dialectical opposition to the human-world-affirming force of the actual, the universal in dialectical opposition to the particular.

- There is only one human world, one human reality, one moral order, and one social order extending from the family and the village up to the international society of the whole human race.
- Our culturally diverse ideals of human existence, our ideas of the good life as individuals and as societies, are, for each human being, one and indivisible. And those ideals include not only our ideas of justice and injustice, good and evil, but

<sup>33</sup> A 'state', on this traditional view, is a generic society whose public realm is under the authority of a 'government' and which is recognized as a state by other governments. A 'state' is then treated as being an entity and a legal person, with some of the characteristics of a natural person (will, purposes, interests, and so on). The primary social process of the international society or system so formed is supposed to consist of intergovernmental behaviour, especially through the practices known as 'foreign policy' and 'diplomacy'.

also our transcendental ideas of the particularity of human existence within the order of the universe of all-that-is.

- The rule of law is one and indivisible. All public power is derived from law, and is subject to the law, at the global level as at the level of individual societies. International law will be the true law of an international society truly conceived.<sup>34</sup>
- All legal power exists to serve the common interest. International law exists to serve the common interest of all humanity and of all subordinate societies.
- The common interest of international society is the survival and prospering of all human beings within a natural habitat shared by all.

Our capacity to form the idea of the ideal allows us to undertake our moral self-transforming, to actualize our revolutionary self-recreating. Our spiritual consciousness allows us to desire human self-perfecting. Our moral freedom allows us to recognize a moral duty to make a better human future. We are what we think. We will be what we think. We must make a revolution-from-above in the name of the ideal, a revolution in the private mind of every human being, in the public minds of all societies, and, eventually and at last, in the public mind of the society of all-humanity.

*How beauteous mankind is! O brave new world,  
That has such people in 't!*  
W. Shakespeare, *The Tempest*, Act V, sc.1.

<sup>34</sup> For the blueprint of a true international law of a true international society, see Philip Allott, 'The Concept of International Law', in *European Journal of International Law*, 10 (1999), pp. 31–50, and in M. Byers (ed.), *The Role of Law in International Politics. Essays in International Relations and International Law* (Oxford: Oxford University Press, 2000), pp. 69–89.