

THE QUEST FOR WORLD LAW AND ORDER*

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The quest for world law and order is, at least in its earliest stage, a search for the implements of world peace. As of the year of Our Lord, 1948, we, the people of the world, have not accomplished any assurance of the opportunity to live in peace. And as of today one might despair anew of the possibility of any law and order which may assure world peace. Once again, and now, rumors of war and preparations for war—somewhere, sometime—command our daily attention. Once again, and now, young men in our schools and universities are thinking of war; they are amending and temporizing the planning of their careers in apprehension of the eventuality of war.

These are some of the recurring symbols of the frailties and ineptness of civilization in any cooperative undertaking, looking to the assurance of its own survival. We, the people of the world, are brought to realize once again that we have no social-political organization adequate to restrain war. And as our exploitation of science develops, the more accomplished, it seems, become our faculties of killing, and the more wretched our "know-how" in the exercise of the restraints of law and order.

As clouds of war gather once more, as if justified by precedent, we must confess how contradictory war is to the daily principles of most peoples of the world. Rare indeed is the society or state that is not predicated upon enough positive law and order to assure personal safety and security from murder and manslaughter. These primordial elements of civilization are assured with near universality in any society of consequence—indeed, in every society of any consequence as a factor in world affairs. And as these most elementary, but vital, factors of societal existence are assured by positive law, so are they socially accepted as the indispensable mores of the peoples within the community. Established, as they are, in the traditions of practice of local political organization, so are they authenticated by the aspirations and expectations of the members of the communal group.

But, as yet, not even a working conception of a world society, a world community, is in the hearts of men. Accordingly, not even the most basic concept essential to political organization is in the minds of men. Accordingly, there is no core of source for world

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law and order. Accordingly, do we note our beginnings and realize something of the long and tortuous course toward any world law and order—any world law and order effective to serve even the most rudimentary purposes of social and political organization, namely, safety and security from personal harm.

And while there is this negative—the non-existence of any working conception of the world as a social and political organization—there are also positive factors, fully grown, which militate against the future conception of the world as a social-political organization adequate to assure its members the social minima of personal safety and security.

Almost all, if not all, of these factors positively militating against the recognition of the world as a community affair were born and reared in a different world from that which is today's reality.

Science has developed so extensively the facilities for killing that today the wages of war seem truly to be the death of all civilization. At least, so scientists say and seem to believe. Traditions and institutions of earlier times, however, maintain their hold upon the minds of men and underwrite the serious lag in the accomplishment of social and political organization, adequate to cope with the radical accomplishments which science has brought to civilization.

What are these factors—or at least some of them—which militate positively against acceptance of the world as a social-political community?

Without intending an enumeration in any necessary order of importance, I shall mention first that, regardless of functional realities, psychologically the world is an immense affair. Many peoples in many lands will experience extreme difficulty in developing any sense of community neighborliness toward each other and even greater difficulty in taking on conviction that they should participate in any common endeavor to assure their common safety and privileges of peace. Even our own countrymen on the West Coast are prone to tell us when they visit us on the East Coast: "You know, we are so far away from everything, out there." And we of the East Coast do the same when we visit the West Coast. Facilities of communication and transportation should tend to overcome this sense of far-away-ness. But those facilities are the active instrumentalities of the few and it is doubted that even those who use them and note their consequences in world affairs are quickened in their thoughts of a world community or of the neces-

sity of a world law and order which may assure peace. Even the much-travelled Americans are most likely to be diligent sightseers without serious thought of resolving present-day factors which may militate for or against the conceiving of a world society adequately organized for peace. Our British friends may, perhaps, be credited with more sophistication in this respect. In truth, however, world psychology is vigorously provincial and nationalistic.

Again, the many peoples in the many lands will experience great difficulty in developing a consensus to participate in any common cause for peace under world law because of ancient animosities, long-standing suspicions and continuing claims of grievance of each against the other.

Racial jealousies, competing religious traditions, varying principles of family life, variety of economic organization, and varying schemes of acquiring and holding wealth, likewise will inspire continued adherence to the local and nationalistic social consciousness and inspire, in turn, indifference, if not resistance, to any participation in any organization of world society which may implement a world law and order adequate for the maintenance of peace.

Even greater hindrance to any such societal organization of the world doubtless lies in the confusion of tongues among the peoples of the world. Language differences contribute directly and with terrible power to isolation in thought and understanding. These language barriers likewise positively facilitate misunderstanding, regardless of all good intentions, for the word which is of pleasing connotation in one vernacular may well be poisonous in another.

Another deterrent to any societal organization for world law and order is the complex of different legal systems which are extant in the world. They codify and perpetuate even the most acute traditions of nationalism, and make authoritative, both politically and jurisprudentially, what has been described as "the existing anarchy of the community of nations." It is common to identify some sixteen or eighteen different legal systems upon the face of the earth. It also is traditional to recognize and emphasize vital differences among them in matters of underlying political and jurisprudential theory and principle, to recognize and emphasize conflicting and esoteric procedures and mysterious variations of text. Language difficulties, including technical provincialisms in the meaning of languages, almost defy comprehension of the parallels and divergencies of many of these legal systems and even discourage research to ascertain how often differences and parallels are functional and substantial and how often they lie only

in words. In other words, we yet have no competent authority upon the different legal systems of the world, no competent concordance showing how far their differences lie in semantics rather than in functional equivalents. It has been traditional, however, especially in the legal profession and in diplomacy, formally to acknowledge and honor the listings of textual incompatibilities and contradictions.

These legal systems do not, of course, stand alone in deterring the development of world programming of world law and order. They are inevitable implements and concomitants of the political governments within the world.

Governments, in turn, must be recognized as a most powerful deterrent of any programming of a world law. They are manned by persons, who, in turn, are jealous, or if a more polite word is becoming, solicitous, especially in the conduct of all affairs international, of nationalistic power and prestige, and they are custodians and administrators of the nationalistic traditions and impulses of their subjects. There also has been accorded to national governments the extraordinary attainment generally called sovereignty. They are "sovereign" because they need not—may not—do homage to any superior law or order. Each is and must be a law unto itself; each must be supreme in its dominion; each must be its own defender. This is the stuff of which traditional International Law is made. Traditional International Law concedes its own limitations and confines its applicability to such relationships among independent, sovereign states as may be freely accorded by those states. Here is a deeply-rooted, formalized, jurisprudential tenet which embodies perhaps the most powerful hindrance to the furtherance of any conception of world society politically organized to program a world law and order adequate to assure the safety and peace of the peoples of the world. This tenet is expressly honored recently in the Charter of the United Nations.

We who profess faith in the democratic process as the fundamental basis and ideal of political and social life should, it seems, look precisely and directly to the *peoples* (the human beings) of the world as the ultimate authoritative source of any new world law for peace. Experience teaches us the wisdom of this basic conception of the source of law and order. But established national governments and their insistence upon the existing principles of traditional International Jurisprudence seriously challenge the democratic process. Even for their own security and safety it is not clear that the peoples of the earth can organize or collectively

act in any effective way to make sure their hopes and aspirations for world order and peace.

Let us pursue this quandary to its bitter end.

Please note that I am talking about a world law sufficient to assure the safety of life and limb of the *peoples* of the world. My remarks are confined to a consideration of just those most elementary objectives and purposes of political organization and of law and order. For present purposes I do not contemplate any general code upon international affairs, no additional world law in furtherance of any more civil liberties, nor for the general amelioration of world affairs whether economic, political, or social. I confine my remarks to the most elemental of humane considerations—the privilege of personal safety and freedom from organized killing by war.

I have dwelt upon at least some of the positive hindrances to world law and order which may prove more powerful than all the peoples of the world who aspire and hope for their safety and survival. Frankly re-stated, the quest for world law and order is clogged at the very start by a congeries of positive factors, fully grown out of the traditions of an older and different world, which militate against even the formulation of a conception of any world society adequately organized to assure its members as a whole even the social minimum of safety from the harms of war.

Perhaps I should also emphasize that my remarks involve no espousal, directly or indirectly, of any form or principle of any world government, whether by world federation or otherwise. Nor do I intend to imply a disregard for the possible future usefulness of some such program. As yet, however, we are not so far along in the development of a civilized world society as to have an immediate use for any such superstructures of governmental organization. We, the people of the world, are yet confronted with the formidable fact that we have no accepted rationale, no established facility, whereby to speak with authority to request, much less to command, respect for even the most primordial first principle of even the most simple form of societal organization, namely, self-preservation. And in this connection it may not be amiss to emphasize, also, that in light of the ominous signals, already displayed in international relations, time should be recognized as of the essence, if the privileges of world peace are to be preserved.

This is, of course, a weird picture of the predicament of present-day civilization; it is replete with the shadows and grotesque mirages of World War III. Today's headlines on preparations for

war—somewhere, sometime—intensify the realization once more of the wretched ineptness of the peoples of the world adequately to organize for their own survival.

Is there no effective and speedy solution of this situation? The answer seems clear—no. Why? Soviet Russia.

Perhaps I should amend the foregoing question and answer in deference to the United Nations. For present purposes I do not deem it necessary to review the strength and frailty which the United Nations has displayed thus far in its career. As I have previously indicated, however, it is organized by national governments with express recognition in its Charter of the principles of traditional International Law which concede the sovereign independence of each subscribing government. It is a superstructure of government predicated upon the continuing consent of the subscribing sovereign governments. Experience indicates that, as much as one may hope against another world war, one must have doubts that the United Nations carries the assurance of world peace.

But, even if those doubts are resolved in substantial part, the stakes of world peace are so great and so vital to the survival of civilization that there is prudence in not putting all of the eggs in one basket. Is there any other basket?

Are we so immersed in the traditions of political and jurisprudential doctrines and the realities of world organization of today that we must remain bound to them with all of their irrational application to our number-one need of modern world society? Is it inevitable and irrevocable that we, the people of the world, shall remain so far subordinated to the vagaries and expedencies of the national governments of the earth, that they shall ultimately determine whether or not there shall be another world war? Is the democratic process which poses the ultimate of authority in mundane things with the peoples of the world only a theory, and without implements, to function in the situation?

I do not make bold to presume to answer these questions. Time will tell. Soviet Russia will determine a substantial part of the answers.

But I do venture at this University gathering to discuss briefly what I believe may be worthy of further consideration.

I do have the faith that if world opinion could be organized at the "grass roots," and if the peoples of the world were to find facilities of communication to command their common desire for

the maintenance of peace, there would be peace. If this is not true, then the will of the people has no potency in world affairs. One must recognize, however, that Soviet Russia has no time for such truck; the democratic process is as repulsive to it as its totalitarianism is to us in America. Believing as I do in the potential competence of the democratic process in world affairs, I would, were it not for Soviet Russia, have genuine faith that world opinion could be organized and translated into effective command for world peace.

In considering this organization and translation of world opinion into action, it seems plausible to think of negative actions which human beings may engage in as well as positive action. The peoples of the world still have it in their own several powers as human beings *not* to do many things, while their capacity collectively to organize for positive doing may be more speculative and remote. To take from the terminology of labor relations, it seems within the realm of reasonable belief that the peoples of the world, including the present captive peoples of Soviet Russia, might be organized in a world-wide sit-down strike against war. And it is doubted that this facility of human beings *not-to-do* has been wholly absorbed even in totalitarian Russia.

Of course, it is easy to react adversely against any such program and continue on a line of thought of least resistance, that the Lord will provide or that it cannot happen here. It may be dismissed as Quakerism, or Ghandhism, or by some other term with greater connotation of opprobrium. But let me reiterate that I am talking about the promotion and establishment of our democratic process in the resolution of our world problems.

And let me pause at this point to caution upon our thinking as to the nature of World War III. As I understand the scientists and other experts in the use of atomic energy, radio control, jet propulsion and bacteriological and chemical warfare services, World War III will be unique; no one will win, everyone will lose, and humanity and the beasts of the earth will be withered and torn—perhaps beyond repair. We well may anticipate the destruction of Hiroshima as a miniature prototype of the aftermath of World War III.

The difficulties of social rehabilitation following in the wake of World War II, with which we still struggle, should be a warning of what might come in the wake of another world war. Traditional ideas of war that one army shall win and the other shall lose can be, at the most, only a professional memory for the military man of an outmoded past. In other words, and in short language, World

War III seems to spell world suicide. Outside military discipline, I am unaware of instances of the voluntary organization of human beings to engage in the common pursuit of their suicide; on the contrary, an instinct is shared by almost all rational human beings regardless of race, color, creed, economic, social or political status, and whether in adversity or affluence, and whether under one regime of government or another, *to live*. Accordingly, do I believe that most rational peoples of the world would concur in the expediency, the desirability, the indispensability, that war, as it may be tomorrow or thereafter, be banished from the thoughts and actions of men. Accordingly, do I urge the feasibility and necessity of any action, and by all civilized peoples of the world, to make sure that no government of any proportions, whether democratic or fascistic or communistic, be allowed again to experiment with or venture into war. And I rely upon it that even the captive peoples of Soviet Russia may still cherish the number one instinct of human life—life itself.

Of course, there are apparent alternatives to a World War III. Soviet Russia may mend its ways or we the democracies of the world may surrender to absorption by Soviet totalitarianism. Fundamental Soviet code underwrites world domination and, indeed, the expectation of war with the proponents of our democratic ways of life. It also exploits the belief that the Soviet will win the war. And the present government of Soviet Russia appears to be hewing straight to the line of this fundamental tenet. That Soviet Russia will mend its ways seems highly speculative.

Is absorption by Soviet totalitarianism more to be desired by the peoples of the world than death and destruction in World War III? Is the privilege to live to be sold at such a price? As I have observed, purpose to live is a vital instinct of mankind. But this instinct for life is for much more than to remain and be on the borderline from death; it involves the will to do and be within the society in which one lives. It looks to the freedom to think and believe, freedom to speak, to criticize, to complain, to compliment, freedom to learn, freedom to arrange one's relations with others, freedom to choose one's religion and to preach and teach it, freedom to be a man with whom all men count but none too much. All of these freedoms as they bear meanings to us are silly nonsense to Soviet Russia; they are to be stricken from the minds of all men. When all of these freedoms are subtracted from life, from the life of those who once have known them, the instinct to live is depleted to naught. The internal security of Soviet totalitarianism will progress chiefly in response to its inbreeding of its peoples in succeeding generations so that its peoples will be con-

ceived and born into ignorance of the freedoms of democratic society as we know them. Absorption by Soviet totalitarianism of a people once free means the continuing sterilization of their life. Surrender to it seems to pose to free peoples no rational alternative to death at war.

Rejecting then these alternatives whereby Soviet Russia would mend its ways, or whereby the free peoples of the world would submit to absorption by Soviet totalitarianism, we still must reckon with Soviet Russia in any endeavor to exercise the democratic process and facilitate the will of the peoples of the world to command world peace, whether in negative form as I have suggested, or otherwise.

Indeed, if any such program were successfully carried out in other parts of the world, it might well facilitate the expansion of Soviet totalitarianism and its very absorption of the world. Sadly we must recognize that the principles of political totalitarianism, as vouched by the government of Soviet Russia, repudiate the principle that the ultimate and authoritative source of law and government is the people; the democratic process as we respect it is not honored in affairs political or social. Fundamental Soviet code subordinates the people to the state and implements the subordination with the power of the police. And, as I have said before, fundamental Soviet code also underwrites the expectation of war with the proponents of the principles of our democratic process and gives assurances that the Soviet will win that war. It is beyond doubt, therefore, that Soviet Russia will officially slam its doors in the face of any plan whereby the *peoples* of Russia might express themselves for world peace.

But, may there be hope — even one hope — to infiltrate Soviet Russia with the message of peace, and bring the message of world peace to the peoples of Russia and its satellites for approval and for action? “Woe is me,” I am told — because of the extraordinary efficacy of the “Iron Curtain.”

For the moment at least does this seem to be the bitter end of any program to exploit the democratic process to the ends of assuring world peace.

Even so, we should keep in mind that there are millions of Russians behind the Curtain. We also should keep in mind that the Iron Curtain is composed of men. And so long as the Curtain endures, so long is there hope to penetrate it. Furthermore, the very nature of the Soviet Government, its principles and practices, make feasible the hope of some organization of an underground inside at least some parts of Russia.

But to whom may we look eventually to initiate the organization of the peoples of the world against another World War? To whom may we look immediately to circumvent the Iron Curtain and reach the *people* of Russia? Are we wholly dependent upon the formality, rigidity, and protocol of diplomacy?

When the crisis of war has come upon us in the past, we have turned to our youth to liquidate our bankruptcy. We have turned especially to the young men and women in our colleges and universities—not alone for their physical strength—indeed, more for their brains, courage, and daring. As the young men and women in our colleges and universities are useful in war, I have faith in their comparable competence for the missions of peace. They should be able fully to appreciate a world community of interest against war. They are more free than their elders from the prejudices of provincialism and outmoded protocol which have been reared in a world gone by.

We, the people of the world, are faced with miserable alternatives. We must invoke all available talent peaceably to resolve them. I have at least as great faith in youth as in old age. Experience not infrequently spells too much caution. I am inclined to hope, therefore, for a world union of college and university students which will enlist the brains, ingenuity, vigor and daring of college youth, to aid in overcoming the growing instability of world peace. I would have such a union organize aggressively to counteract, both at home and abroad, further extension of Communism. I would urge that it become expert in the techniques of Communist expansion and expert and aggressive in the administration of peaceful counter-action. Let such a union organize aggressively to infiltrate Russia in order to re-establish there the principle of the sovereignty of man in all things worldly and to re-establish recognition of the rights of all men under all governments to be fully free to determine that they shall survive and live in peace.

In the meantime, we in academic halls, and especially in the law schools, can press more earnestly our researches into the fields of comparative law and a jurisprudence for world relations. These studies may well take on extremely serious purpose in searching out and demonstrating how the different legal systems of the world implement and perpetuate nationalistic traditions and clog freedom of communication and intercourse among the peoples of the world. Such studies should bring to light fundamental parallels among the diverse systems and afford creative impetus for the adaptation of one system to the needs of another and for the knitting together of useful devices of the several systems to suggest a possible model

for a world law which will, at least, afford the social minimum of personal safety.

Allied researches and studies should explore and bring to light new principles of political science and new jurisprudential doctrine which may bridge the gap between the tenets of traditional international jurisprudence and a philosophy of law and government which may facilitate the formulation of fit principles for the organization of the world as a social-political unit of law and order.

I also am prone to urge once more that organized legal education press forward in the development of the processes and purposes of "preventive jurisprudence." This aspect of the educational process has for its principal objectives the searching out and demonstrating of the "friction points" and "tension areas" which may breed tomorrow's contraventions of law and order. I believe that the objectives of "preventive jurisprudence" should be undertaken on an extensive scale in connection with any endeavor to formalize any world law because it, in turn, will concern, so directly, the maintenance of safety and security.

And so it is that, at these exercises in centennial commemoration of the founding of the College of Law of The Tulane University of Louisiana, we contemplate once again the hazards which attend our survival and the frailties of our facilities in our quest for world peace under law.