

INTERNATIONAL LAW AND SOCIETY IN THE YEAR 2000

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I. *Introduction.*

The difficulties in anticipating the future of international law and society are overwhelming. The potential range of international law is so great that, in an essay of this length, we can attempt little more than to suggest some of the basic changes likely to occur in the international decision-making and law-development processes.

In brief, it is our thesis that the nation state will continue to be an important actor in the international system. There will, however, be many other kinds of actors, including transnational corporations, claiming rights of participation in international policy-making. Some of these claimants will take on the form of a quasi-state, varying from rich and powerful corporate states lacking territory and population to indigent and powerless shell states representing micro-communities. International society will become increasingly complex, burdened with colossal bureaucracies subject to elites with control over critical areas of technology. Gradually this will engender an atmosphere of aggressiveness which will be felt in varying degrees of acuteness by diverse groups and individuals in many parts of the world. By a gradual coalescing of talents, hastened perhaps by cataclysmic intervention, such as an eco-disaster, there will come into existence a "Peoples' Assembly" heavily influenced by anti-statist, counter-elitist sentiment. The

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main function of this Assembly will be to prescribe overarching guidelines designed to prevent the worst excesses of dependency on technology and to restrain the bureaucratic elites within statist organizations.

Part II of our essay describes the variety of participants in the international policy-making process and anticipates the emergence of new actors. Part III predicts the kind of systemic change that is likely to result from the incremental multi-level transformations anticipated in the international community. Part IV focusses on the illustrative example provided by the vital issue of population and living space and suggests the roles that will be performed and the tactical devices employed by the protagonists. Finally, in Part V we identify some impact areas of international law where intense strain will be felt as a result of systemic changes in international society, and raise some questions about the future of the discipline.

Although we have not set out forecasts of future technological developments as a basis for our essay, we are aware of these and find no cause for optimism in them. We believe it is of the highest importance for law schools to extract the implications of these forecasts for the training of lawyers. It will be obvious to the reader that we are interpreting the year 2000 as a symbolic date and not as a precise point in historic time. It will be equally obvious that, for reasons of space and readability, we have eliminated qualifying phrases that would reflect more accurately the tentative nature of our excursion into the future.

II. *New Participants in the Policy-Making Process.*

The year 2000 will see extraordinary variety in form and substance among the participants in the international policy-making process. Decentralized states, centralized states, blocs of states, mini-states, shell states, international organizations, land-based cities, off-shore cities, international recreation and conservation zones, and various associations of individuals and groups of individuals will be familiar actors in a system that will be characterized by the complexity and diversity of its sub-systems. Technology will be ready to create new communities in underwater and lunar resettlement centres, whose interests will have to be represented in still another form. There will be an extensive network of overlapping jurisdictions, each of which will be recognized as vested with prescriptive or contractual rights of its own. The heterogeneity of the participants will bring about a fundamental incoherence in the present system. The conceptual framework of international law and organization will be radically re-designed to take account of the new structural features and a vastly more complex network of individual and group relations.

We predict that the nation state will persist as an important actor in the international policy-making process. It will be affected, however, by trends and institutions that have already changed the substance, if not the form, of sovereignty. In the pluralistic, open societies of the West, the decision-making functions and control structures of national governments will no longer be recognized as operative over all major institutions within the state. The claim of governments to exclusive authority over the conduct of foreign affairs will be rejected by sub-states of federal unions, multinational corporations, professional organizations, castes and other minority groups, cultural, academic and religious associations, individuals and groups of individuals, all of which will be actively engaged in transnational activities of relevance to their particular spheres of concern. The nation—what is left of it—will speak with many voices.

We anticipate that national society will become increasingly subject to the strain of competing tendencies in the distribution of control. On the one hand, there will be a tendency toward an anarchic, territorially unfocussed, aggregate of individuals for whom there will be no over-riding centre of power from which emanates regularly effective sanctions. Endemic conflicts between higher and lower levels of state authority will be decided more frequently in favour of the latter. In non-violent conflict situations central governments will often be reduced to the role of mediators between semi-independent sectors of the political process, many of which will have rejected traditional loyalties, values, expectations and authority symbols. At the same time, the demand for economic development and the impulse for a richer life-style will erode customary and legal restrictions which are narrow or local in nature. Sentiments of loyalty will not coincide with national boundaries and the national unit will resemble more closely the incipient nation state of the late middle ages instead of the developed state of the nineteenth century. Internally the ideological debates will focus on the drive for the highest possible measure of material advancement, on the one hand, and, on the other, a search for the revitalization of the energy of history and a dynamic application of the spirit of liberty to the technologically-induced problems of the times. The neo-humanists will stress the horizontal movement in the life of global society as a balance between coercion and the unification of the person and the group through internal forces that rise above a surface pseudo-unity.

The countervailing prospect is a trend back to organization, centralization and authoritarian control from the top. This will come about as a reaction to international economic competition and, more precisely, to pressures on the Euro-American elites to share their wealth and "know-how" with the poorer nations. This

reaction, indicative of a siege psychosis at the national level, will impel peoples and governments to withdraw within their existing political frontiers in an effort to maintain and strengthen themselves until such time as the danger passes. Simultaneously there will be a reaction to apprehended breakdowns in various sectors of the open society itself: for example, as a result of crime and delinquency, alcoholism and other addictions, mental illness, and personal and professional irresponsibility. The inculcation of traditional loyalties, the performance of ceremonial and other symbolic functions, and the fulfillment of protective and even benevolent roles may be insisted upon and pursued with an intolerance reminiscent of the era of nation-building in the nineteenth century. Repression, not liberty, may become the order of the day. New scientific awareness of the ways and means of manipulating human behaviour may introduce a range of controls characteristic of the therapeutic state. According to this scenario, the state will continue to function as a right-and-duty-bearing unit in international law in much the same way as it now does.

In summary, we believe that in the rich and powerful states of Euro-America there will be persistent attempts by central governments to retain their classic controlling roles; but at the same time the bureaucracies will encounter increasing resistance to their organizational power. The volume and complexity of trans-"national" activities will be such as to lead inevitably to a de-monopolization of certain state functions. All but a few governments will lose control over a wide range of tasks and responsibilities that are today regarded as falling within their exclusive domestic jurisdiction.

The great authoritarian states, such as Russia and China, will not have been pried open so rapidly. They too will be struggling to accommodate the demands of their linguistic and cultural minorities and of a rising class of dissidents but, generally speaking, they will have contained men's loyalties within a familiar national framework. China, though active in formulating an ethical theory of obligation in international law, is not likely to challenge the basis of the inter-state system. China will continue to operate in the traditional manner at the international political level. Both Russia and China will insist upon clear understandings of contract rules, diplomatic immunities, and strict accountability for non-performance of obligations. The formerly developing states of power and influence (Nigeria and Brazil, for example) will resemble in organization the closed rather than the open societies. They will at that stage be too prosperous and too little threatened by internal forces of dissatisfaction to suffer significant reductions of centralized power and organization. As leaders of large geographical re-

gions they will tend to be traditionalists in their approaches to international organization.

With the still-developing, desperately poor states, the requirements of effective action, internally as much as externally, will legitimate and support the operation of highly centralized control structures from which personal and collective deviation will not be tolerated. Some of these states, for example in Africa and Latin America, will remain rigidly authoritarian. For them, the international policy-making system will tend to be regarded as a system of oppression and repression by the strong over the weak. These governments will appeal for simplicity, flexibility and special concessions in international law and organization. However, since men's loyalties tend to follow shifts in real power—from the village to the town to the nation—it is likely that there will be further transfers of loyalty across national boundaries to larger units of government that are more capable of serving public and private needs. Regional groupings of the federal and confederal variety are likely to be formed in some instances, at least. In other cases there will be free trade areas, customs unions and similar arrangements that in substance will supersede the nation state as a separate operating unit in the system.

The mini-states, the shell states and the great cities of the world will be familiar features of the international scene. They will be active in international organizations, especially the specialized agencies, and in multilateral diplomacy. They will not usually enjoy the capacity to influence developments, though from time to time they will barter votes to their advantage and occasionally participate in joint delegations in order to increase their bargaining power. There will be understandings between the mini-states and inter-city pacts between the larger urban areas. By insisting upon the trappings of statehood, and, when their interests dictate, special status in international law, they will be a further complicating factor in the policy-making process.

In our view the increased erosion of state authority, the rise of diverse new actors, and the proliferation of inter-connected principles, regulations and procedures will mean that the inter-state system will be inadequate to the dynamics of the tasks at hand. We foresee a world so diversified as regards actors and activities as to make it unreasonable to expect the emergence of a single, universal, all-purpose, ordering system. We believe that there will emerge a variety of ordering systems, some more specialized than others, each with its own built-in techniques for correcting disturbances, ironing out deviations, and keeping the system operationally normal. The speciality of these systems will make the task of co-ordination exceedingly difficult.

III. *Technocracy and the Rise of Inter-Populism.*

By the year 2000 there will have come into existence, at various levels of international organization, a bewildering array of inter-governmental agencies. In highly specialized areas of concern, these agencies will be devoted chiefly to the developmental and related problems of member states and associations. What one foresees is a vast complex of interlocking bureaucracies, each striving for super-efficiency not so much in terms of larger budgetary allocations as in terms of easier access to the most sophisticated computers in regional and global data centres. By virtue of their technical mastery of research procedures and data retrieval techniques, technocratic super-elites will have acquired control over the process of implementing decisions taken in the name of each agency and considerable influence on the process of identifying problems. Problems believed to be too trivial, too speculative, or too "issue-related" to be "programmed", will either be ignored or transferred to a technologically less sophisticated forum for primitive modes of debate in "unprocessed" form.

By the year 2000 these international technocratic super-elites serving the intergovernmental agencies will find themselves locked in contest with similar elites serving other interests: transnational entrepreneurial elites serving corporate associations, shell states and other forms of corporate states; and national bureaucratic elites serving the governments of the super-states (America, Russia, Japan and China) and the central government of the European Community. For all three types of elites, the major purpose will be to increase organizational efficiency so as to accomplish a fully rational use of resources. Because power is understood by them to reside in knowledge, inter-elite rivalry will take the form of open competition for autonomy in securing the technology of data collection and retrieval. Success in techno-politics will be sought through attempts to persuade the relevant forum of authority to impose legal checks and restraints on the autonomy of the rival elites. Rewards will be implicitly offered to the appropriate forum in the form of new data previously withheld in order to secure the continued dominance of the "bribing" elite. Accordingly, the political dialogue in the intergovernmental organizations will have had to accommodate itself to the vocabulary of the elites, and politics within these organizations will be fashioned by the members' need for appropriate alignment with any of the technocratic elites which can remedy their technological or organizational deficiencies.

The intergovernmental agencies will attract similarly trained experts, including international lawyers with highly specialized knowledge and techniques of particular utility to the super-elite.

These agencies will require lawyers with a technological or economic education, and with a specialized training in what are regarded as technological areas of international law (for instance, resource and environment law; violence abatement; health regulation and population control; regulation of scientific research; data collection and retrieval) and organizational areas (for instance, international constitutional law; international administrative law; international labour law; international development and investment law).

These "agency lawyers" will be used as "house counsel" in jurisdictional disputes with other intergovernmental agencies, but their chief function will be to argue legal issues related to technological and organizational problems in specialized areas with "advocate lawyers" representing governmental and corporate entities.

The erosion of state authority by the year 2000 will, then, have been accompanied by spectacular gains in the size, technical sophistication and power of intergovernmental agencies, assisted by the contributions of specialized types of international lawyers. But this trend towards intergovernmental control will also have been accompanied by a counter-trend towards inter-popular authority. The rise of inter-populism in transnational relations will have been evidenced first in developed countries by the gradual evolution of a new coalition of anti-statist, anti-bureaucratic, anti-technological, environmental and minority groups. These groups will receive the support of anti-capitalistic and anti-imperialist groups in developing countries. Attempts to form a universal framework of "Peoples' Organizations" will be made more difficult by internal disputes over the applicability of Marxist-Leninist theory regarding the relationship between the "state" and the "people". A consensus will emerge within the inter-populist movement in support of the view that the concept of the "supremacy of the people" should be translated transnationally into institutional form through the establishment of a "Peoples' Assembly", which theoretically would have a higher order of authority than the General Assembly of the United Nations. This trend will be accompanied by increasingly general criticism of the United Nations as a statist, bureaucracy-ridden, computer-bound, growth-minded and majority oriented organization.

By the twenty-first century a universal "Peoples' Assembly" will be meeting on an annual basis. It will be composed of "Peoples' Delegates" from most areas of the world. There will be general agreement in these areas that each individual "citizen" is entitled to dual representation at the level of global authority: first, direct representation in the "Peoples' Assembly", which will concentrate on the formulation of general policy guidelines for the world com-

munity; and, second, indirect representation by affiliation with a nation state in the system of intergovernmental organizations, which will continue to possess authoritative control over resources subject to the consent of member states. Most national governments will have accepted, with varying degrees of reluctance, that the Peoples' Assembly is a permanent feature of transnational society, that it has a degree of legitimacy which transcends that of inter-state organizations, and that the world community is better served by a policy of co-operation between the United Nations and the Peoples' Assembly. There will be unresolved disputes over the nature of the relationships between these inter-state and inter-populist organizations, but a majority of United Nations member states will be obliged for internal political reasons to take the view that the General Assembly is required to debate the resolutions adopted by the Peoples' Assembly, and that the appropriate organs and agencies of the United Nations are required to follow the guidelines of the Peoples' Assembly except as amended by the General Assembly.

The Peoples' Assembly will operate without a large bureaucratic infrastructure. Delegates will insist on the virtue of maintaining the voluntarist tradition of this Assembly and will argue theoretically that power resides not in knowledge but in the will of the people. They will invoke a world-wide feeling of distrust and frustration engendered by increasing dependence on highly complicated technology and organization. They will resist proposals for a highly structured organization and will accept, as the price, that their policy guidelines will have to be implemented within the intergovernmental organizations through the technological-bureaucratic elite that controls these agencies. The inter-populists will, therefore, have to practise the political art of using an expert "constituency" whose skills they need but whose philosophy they oppose. Some inter-populists will point to the relevance of Chinese history in the 1940's and 1950's when the Chinese Communist Party successfully converted the skills of the Chinese national bourgeoisie to populist purposes, but others will criticize this kind of historical analogy by underlining the new elements of antagonism between the international statist and the transnational populists. They will argue that the focus should be on "people", but not on "class". Some delegations, such as those from African tribes and the North American Eskimos, Indians, Aleuts, and Metis, will take the position that the concept of class is meaningless in their history except as an explanation for the conquests that overtook them from the outside. Other delegations representing the Great Lakes and Mediterranean eco-communities will point out that class theory is pre-environmental thinking of limited usefulness in the twenty-first century, except in communities with low

environmental consciousness where environmental problems can be directly attributed to class oppression.

The tension between internationalist and inter-populist levels of authority will be heightened by generational, vocational, and sexual disparities. Successful power-oriented careers in the inter-governmental agencies will be possible only after a long technological training and a period of psychological conditioning designed to test the applicant's capacity to absorb rapidly large amounts of new knowledge and to adjust his personal life to stressful conditions of work, such as extreme mobility between different points of the decentralized system. The most effective members of the intergovernmental elite will, therefore, be over thirty-five and under fifty years old. Most of the inter-populist delegates, on the other hand, will fall outside that middle age group. A large number of youthful delegates (under thirty-five years) will be outnumbered by senior citizens (over fifty) who are entering the third or fourth phase of their serial career. The career profiles of the peoples' delegates will be more diverse than those of the most effective bureaucrats and delegates in the intergovernmental organizations. Peoples' delegations will include, for example, distinguished scientists, scholars, poets, and other persons of talent and insight who have not previously been deeply involved in transnational politics and policy formulation but who now feel they have a commitment to the cause of humanity, which they see as imperilled by a variety of threatening trends in governmental politics and organization. The very heterogeneity of these peoples' delegates will serve to reinforce their claims to be the true representatives of peoples as a whole and to stiffen their collective resistance to the relatively homogeneous elites within the intergovernmental system. Their representative credentials will be further strengthened by the high proportion of women in the Peoples' Assembly (probably fifty to sixty per cent). Some extremely able women will have been elected to the Peoples' Assembly as a result of continued discrimination against them in the sciences, in the legal profession, in governmental politics, in professional diplomacy, and within bureaucratic hierarchies in general.

Although the inter-populist organizations will have small staffs, they will attract to their cause a significant number of academic international lawyers from universities and research institutes. Most of these "observer lawyers", lacking the highly specialized technological perspectives of the "agency lawyers" and "advocate lawyers", will be concerned with the perceived neglect of broad human issues by the technocratic elites. They will identify with the neo-humanists, focussing on unresolved issues in human rights and environmental areas such as that of population and migration, minority rights and individual freedoms. They will also

make themselves available as advisers and advocates to groups within the inter-populist movement, including small states that cannot afford to maintain a staff of technically-expert international lawyers who could compete effectively with the agency and advocate lawyers of the technocratic elites.

IV. *Roles and Tactics in Transnational Society: Population and Living Space.*

The manner in which the complex world ordering system of the next century will function may best be illustrated by examining a crucial issue which seems likely to develop rapidly over the next few decades. While the problem will become a central preoccupation of the world community during this century, its ultimate resolution will be delayed well into the next. The various actors in the fast-evolving system will face the challenge, therefore, of relating the issue to the new machinery and of determining their own roles in dealing with it.

Signs already exist which indicate that, as the year 2000 approaches, a radical, novel claim to living space will become a major source of stress between traditional concepts of the sovereign nation state and the growing concept of transnationalism within the "global village" of the world community. Unlike past claims to *Lebensraum*, the new principle will not involve overt domination of the entire area in question by one expansionist national power but will be promulgated in terms of a newly-recognized, inherent human right: the right to roughly equal living space *per capita*. The achievement of equality will require voluntary large-scale movement of individuals across national boundaries without, in the early stages at least, affecting the continued existence of the national states concerned. Within a generation or two, nevertheless, the widespread implementation of the principle could substantially transform the world and render obsolete some basic concepts which have been cornerstones in the building of international society.

The logic of the right to equal living space follows from existing general acceptance (in theory, if not always in practice) that discrimination based on race or place of origin is unacceptable; that individuals everywhere should be entitled to comparable economic and social opportunities; and, more recently, that everyone can reasonably expect to live his life in an adequate environment. Increasingly, the majority of states (primarily those of the developing world) see resistance to effective equality—whether of economic opportunity, direct access to resources or living space—as essentially racist and elitist in origin, involving a neo-imperialist conspiracy to ensure the continuation of shocking economic dis-

parity between the rich and poor nations.

Occasional statements made in United Nations meetings and elsewhere may already indicate a gathering focus on the inequity of lightly populated habitable areas in some nations in an over-populated world. The reference may be indirect, as when criticism of extended Canadian offshore claims includes a comment that a nation with too few people to develop the potential of its existing land area should hardly be a leader in claiming vast offshore national rights and special interests. The recent suggestion by the Prime Minister of Jamaica that Canada should accept more unemployed and unskilled Jamaicans as immigrants appeared to draw a clearer contrast between a crowded island and the empty space in Canada. Typically, however, the idea of available space was somewhat obscured by references to Canada's comparative wealth in general, the rapidly expanding Canadian economy and the higher rate of unemployment in Jamaica resulting from a relatively stagnant economy. Similarly, the long-continued refusal of the Philippines to establish full diplomatic relations with Canada until the latter opened its doors more widely to Filipino immigrants probably involved a comparable amalgam of objections, including suspicion of racial bias.

Despite its evident association with other egalitarian ideals, the equal space concept is a separate principle which emphasizes the right of an over-crowded state to thin out its population through transnational migration and the corresponding obligation of states with demonstrable absorptive capacity to accept such migrants with only minimal selective restrictions. While the present formulation is in statist terms, the rule could be presented most effectively in populist phrases, stressing living space as the common resource of mankind in the era of the global village. It can be predicted that, over a period of years, the demand for equality of living space will increasingly be put forward less obliquely and in uncompromising terms.

A different facet of the principle—which involved its use as a shield more than as a sword—could be seen in the expressed reluctance of Britain to accept the entire group of British nationals of Asian origin expelled from Uganda. A major premise of the British position was that no one could reasonably expect so crowded a nation to accept and integrate a considerable number of non-resident nationals. Further, it was suggested that it would be a disservice to the expellees to force them to settle in an overcrowded nation. The Canadian Government seemed to accept the validity of the British position and the corollary that less crowded nations had an obligation to take in some of the individuals as permanent residents.

Although the prospects for agreement on the claimed right to adequate living space may, at first sight, appear negligible to resi-

dents of those advanced nations that would be the immediate, attractive targets of migration pursuant to it, the proposition should not be dismissed too quickly. A "territorial imperative" response, to the effect that a nation would not consider losing absolute control of immigrant flow, is simplistic. For one thing, the issue would not be couched in such stark, unalloyed terms in the early stages. It would be presented in carefully selected, limited contexts in combination with other factors designed to evoke sympathy and to make some form of affirmative reaction both easy and desirable. The process of obtaining gradual, progressive acceptance by this "meat-slicer" technique is well-known to diplomats and political tacticians. It is surprisingly successful. Even when put forward in blunt, unvarnished phrases, the principle may sound less ominous and alien when years of tireless repetition and persuasive argument have worn down initial mental defences. This mode of blunting resistance to "unthinkable" ideas through a blend of mesmerizing repetition, prolonged pressure and sheer mental fatigue has sometimes achieved striking success in changing public attitudes towards major international questions, especially where, as here, the proposition contains elements of equity and appears generally consonant with the broad trend of history.

It will not be easy to oppose the claim to equitable sharing of the planet's limited living space effectively, despite the countervailing, internal pressures which may amount to a "backlash" in some situations. The domestic resistance may flow from emotional racial bias or other parochial responses. On the other hand, it may result from considered concern for the hard-core domestic unemployed or an apprehension that massive immigrant inflows could ultimately lead to social instability, with increased national centrifugal strains and possible new secessionist tendencies. Rational internal debate about immigration policy in light of increasing demands from the populous third world could well be extremely difficult. The moderate protagonists would largely be deterred by the threat of being labelled racist, on the one hand, or a threat to national unity, on the other.

The advanced nations to which large-scale migration would flow will make repeated efforts to elaborate legal formulae and regulatory schemes that will give the appearance of liberal, non-discriminatory immigration practices, while in reality protecting narrow national interests. For example, the United States' "open quota" system, with its off-setting requirement of certification that no one is available in the United States to do the work awaiting the prospective immigrant, may prove attractive. The current Canadian approach, which is prepared to skim the cream of the candidates from all parts of the world, will be touted as the ultimate in wide-open, non-discriminatory legislation. Attempts may

be made to elicit promises from prospective immigrants to work or settle in less attractive areas of the receiving country.

It seems obvious that these stratagems will be transparent and unacceptable. The latter scheme would undoubtedly raise suspicions of a proto-Apartheid, Bantustan policy, especially where a high proportion of the immigrants were of a pigmentation and culture sharply at variance with that of most inhabitants of the recipient state. The Canadian philosophy will increasingly be recognized as an elitist, restrictive outlook that does positive harm to developing nations by stripping them of their scarce resources of trained professionals, skilled technicians and experienced administrators, while leaving the great mass of unqualified applicants to be the continuing concern of their native countries.

The counter-arguments raised by the "empty" nations in their steadfast resistance will probably be rejected almost mechanically by the developing nations and the transnational actors supporting them. For instance, proposals for the curtailment of population growth by family planning and other programmes *in situ* will be termed inadequate, unrealistic and too long-term to meet the critical needs of the third world. They may be characterized as Utopian, since the population in some areas would still be intolerably large if zero population growth could be achieved at present levels. It will be argued that, even if massive migration cannot in itself provide a total solution, it must be utilized fully to gain the utmost relief—marginal though it might be—from the population pressures of the twenty-first century. Little credence is likely to be given to the argument that pollution levels in the developed nations and in the world at large will be seriously heightened by substantial increase of the population of the developed nations through immigration. The attitude already displayed by most third world governments may be taken as confirmation that the environmental argument would be perceived as a red herring and an admission of the wealthy minority's intent to keep the third world in an inferior economic situation.

The target states, of which group Canada would be a leading member, will attempt to deal with the threat in the classic unilateral fashion of the sovereign national state. They will try, in any event, to treat it as an inter-state matter, in so far as they are prepared to concede that any aspect legitimately goes beyond simple domestic jurisdiction. They may cautiously explore bilateral arrangements or work toward a common front with like-minded national governments. The national bureaucrats of the target states may be prepared to consult with the technocrats of intergovernmental specialized agencies having an interest in migration questions, since the conceptual orientation on both sides will be comfortably familiar and the agency elite will tend to share the national

technocrats' rather conservative view of the world system and its ordering processes. On the other hand, the national bureaucrats will resist any involvement by the General Assembly, or other inter-state organs in which the secretariat does not sufficiently overshadow national delegations to have effective control of the agency's operations. With a highly sensitive matter at issue, debate in a volatile forum where the outcome cannot always be predicted, or better still arranged, will not be welcome.

Unfortunately for their purpose, the national state technocrats will not be equipped to win the decisive battle. They will, in fact, find themselves on a subsidiary battleground while the main action is fought elsewhere. As outlined earlier in this article, the national official will have undergone long, specialized training, with subsequent intensive work on career-development assignments, prior to being accepted as an experienced, reliable member of the technocratic elite. This almost certainly means, however, that the career official's preparatory work will be too specialized to allow him to become familiar with the intricacies of transnational and inter-populist action. By opting for familiar ground he will have taken himself out of the crucial arena.

We assume that state bureaucracies in the technically advanced nations will continue to show a tendency to adjust slowly to new realities and that they will not have trained an adequate cadre of officials fully at home in transnational, inter-populist manoeuvring. Lacking this parallel echelon they will have difficulty in directing an effective national response during the preliminary skirmishes which will determine the power relationships, available options and other vital factors at the time of ultimate decision.

The picture can be sketched in exaggerated terms of competence and its lack, of course, and nation state officials will have certain channels open to them. They may, among other possibilities, try to enlist the support of multinational corporations, the latter being skilled transnational operators as well as having technocrats on staff who can communicate easily with the national experts. But the corporations could display some ambivalence, as they try to weigh questions of available labour and potential consumer buying power, following large-scale migration, against the normal interest of a corporation in stable political conditions and an orderly economy.

In contrast to the advanced "empty" nations, the crowded developing states will usually find themselves better able to act effectively in the Peoples' Assembly and other non-expert groups. In such arenas their shortage of technocrats able to compete at the international level will not leave them at the severe disadvantage which they encounter in the inter-state specialized agencies. Thus the proponents of a right to adequate living space will develop

their campaign in the sympathetic ambience of the Peoples' Assembly, professional and scholarly associations, cultural and artistic groups, and a wide range of transnational channels. Wherever their officials and politicians can be insinuated into the deliberations of an inter-populist organization—as delegate, observer, or seconded addition to the secretariat—the developing states will use that means of ensuring that attention is directed to their dissatisfaction over global arrangements respecting living space.

The prospect, then, is that the national apparatus in advanced western nations will be unable to meet the challenge of the sophisticated global order of disparate sub-systems. The intergovernmental agencies will find little scope for bringing their technological expertise into play until after a basic decision has been taken elsewhere. They will merely find themselves responding to a General Assembly resolution endorsing the conclusion of the Peoples' Assembly and requesting appropriate agencies to assist in developing an administrative regime for processing the large-scale migration efficiently.

V. Impacts on Legal Theory and Practice Beyond The Year 2000.

The reader will have noticed that we have not considered the possibility of cataclysmic events such as extraplanetary intervention and eco-catastrophe. Nor have we taken into account the possible effects of serious socio-psychological disturbances such as those envisaged by the proponents of future shock theory. We have, therefore, not set forth a broad base for predicting changes in international society. For obvious reasons of space, we are forced to be highly selective in anticipating impacts on legal theory and practice.

The replacement of the traditional sovereign state system by a global order of parallel, often-competing systems in which a variety of international and transnational actors play their roles will necessitate major changes in international legal theory and procedures. Basic questions are raised respecting the concepts of sovereignty and territorial jurisdiction when the world community is no longer controlled by an exclusive club of nation states and when the horizontal flow of transnational activity (including migration) challenges the meaning of national boundaries. Can states continue to be held responsible on the present basis when they no longer can pretend to control the external activities originated within their territory by transnational actors? Must the latter, on the other hand, be accorded some measure of international personality, and will that step succeed in integrating them into a coherent global system which can avoid near-anarchy? In the competition between

state representatives and peoples' representatives, will diplomatic status and its consequences lose all meaning?

It appears probable that concepts based on separate systems of international law and municipal law must yield to a realization that law is more akin to a continuum, as internal regulation of society is increasingly brought into conjunction and conformity with global regulatory-administrative regimes. Account must be taken, however, of any trend away from universal rules of international law towards regional variants and inter-bloc understandings. These changes will have vast implications for the training of future lawyers, be they labelled "domestic" or "international" practitioners.

Most of the international lawyers assisting the inter-populist organizations will be especially concerned with the continuing inadequacy of national and international regulatory schemes designed to protect the human environment. By then, international environmental lawyers will have divided into several schools. One such school ("the intergovernmentalists") will concentrate on conventional international law, dealing mostly with the problems of intergovernment regulation, focussing on treaty principles and procedures, but using modern interdisciplinary techniques such as technology assessment studies. Another school ("the contractualists") will emphasize studies of the principles, rules, institutions and other social factors that limit corporate freedom of investment and development, as reflected in the transnational law of corporate contracts. But a third school of environmental publicists ("the eco-legalists") will be deeply concerned with assisting trends towards the emergence of global environmental law. Most of the eco-legalists will have scientific as well as legal training. Some adherents of this school will be extremely active as counsel and spokesmen for scientific organizations, others as representatives of states and other public associations in the developing world, including those which are strong supporters of the Peoples' Assembly.

The "contractualists" and the "eco-legalists" will join cause in deploring the continuing "mystique of the national frontier" and the continuing acceptance by the "intergovernmentalists" of dominant statist terms and assumptions in international law. Some will avoid using references to "international law", replacing the phrase with a variety of references such as "transnational legal policy", "world community expectations", and "global and regional regimes", each chosen according to the context and in line with jurisprudential preference. The dangers of retaining all the traditional statist terms and assumptions in international law will be underlined by reference to the fallacies they tend to engender in the context of resource planning, much of which will be controlled by transnational entrepreneurial elites, and in environmental pro-

tection, aspects of which will have become the chief concern of non-statist groups. In these fields, in effect, the nation state's claim to be the "primary" actor will be challenged.

Indeed, by the year 2000 the "radical" international lawyers will be questioning the usefulness of maintaining the systemic distinction between "international law" and "municipal law". Under the impact of an expanding sense of public interest, government responsibility, and social regulation, agencies will have mushroomed in a pattern of relationships that make it increasingly difficult to regard their activities as confined within separate jurisdictional compartments. In many cases agencies with national or local concerns will be dependent on continuing access to data and research procedures controlled by intergovernmental agencies or transnational enterprises. Questions concerning the rights of access of the former will be closely related to questions concerning the obligations of the latter. Disputes of this kind will not be justiciable before a court of national or sub-national jurisdiction, but only before international (or regional) arbitration tribunals that specialize in the problems of data control.

"Traditionalist" international lawyers will be engaged in philosophic controversy with "radicals" over the state of the discipline. From a pessimistic perspective, international law will be seen as having reached a stage of "parametric stress". Comparisons will be made with other disciplines which have encountered parametric stress when their fundamental concepts could no longer accommodate the dynamics of change inherent in the problems they purported to treat. Reference will be made, for example, to changes that overtook the fundamental concepts of astronomy after Copernicus or those of physics after Newton, Rutherford and Einstein, or those of zoology after Darwin or anthropology after Leakey. In the case of international law, change in the discipline's primary concepts will be seen as a necessary corollary of existing transformations taking place in the pattern of value demands from sectors of discontent in international society. It will be demanded of international law, as of economics in the 1960's and 1970's, that it divest itself of its empty abstractions, and polemical debates will be waged over the relative utility of statist fictions.

Yet optimists will be on hand, as always, to argue that all disciplines have emerged from parametric stress in greater strength and vitality. Despite the world-wide passions and disorders of the previous decades, there will be a continuing persistent hope that the processes of international law will provide a rational and humane response to the ordeals of the human condition.
