

THE FUTURE OF GLOBAL HUMAN RIGHTS AND THE EMERGING POST COLD WAR  
WORLD ORDER

by

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## MODERNIST PARADIGMS OF GLOBAL SUSTAINABILITY

### On Paradigms

Thomas Kuhn in his Preface to *The Structure of Scientific Revolutions* (Chicago: The University of Chicago Press, 1962, 1970) described how, when nearly completing his PhD dissertation, an exposure to an out-of-date scientific theory and practice radically altered not only his basic conceptions about the nature of science but his career plans from science to the history of science to the philosophy of science. From that depiction and some of the analysis in the book, many have identified paradigms with altered conceptions or ideas. But Kuhn went on to define paradigms as "universally recognized scientific achievements that for a time provide model problems and solutions to a community." (p. viii) Note - model problems and solutions **not** abstract ideas or conceptions. However, Kuhn, on the very next page, then went on to suggest that a paradigm shift was a *change in perception and evaluation of familiar data*. In other words, it was neither abstract nor a concrete model solution to a specific problem but a shift in both the way we see and evaluate something.

In a now classic essay, "The Nature of a Paradigm," Margaret Masterman (*Criticism and the Growth of Knowledge*, eds. Imre Lakatos and Alan Musgrave, Cambridge: Cambridge University Press, 1970) went on to show that Kuhn used the concept of a 'paradigm' in at least thirty different ways. In spite of that quite dramatic example of equivocation, Masterman went on to zone in on the quintessential characteristics of a paradigm in spite of a wide variation in use.

A paradigm is something which can function when the theory is not there. A paradigm is an artefact which can be used as a puzzle-solving device; it is **not** a metaphysical world-view. Finally, a paradigm must of necessity be a concrete 'picture' used analogically because it must of necessity be a way of seeing.

Let me begin by focusing on the latter. A paradigm is both concrete and crude, that is vague and inexact rather than possessing the precision of an abstract formula. Prophets who offer new paradigm solutions use this characteristic of inexactness to proffer vague, abstract visions when what is suggested is a very concrete model. Essentially, a paradigm is a "picture" or an "analogy-drawing sequence of word-uses in natural language." A paradigm has much more to do with literature and art than it does with science and certainly with speculative metaphysics.

What is a crude analogy. It is something with very finite elasticity as distinct, for example, with the concept of sustainable development. Secondly, if it is a crude analogy which becomes a paradigm, it is unique, different than other analogy. Thirdly, its useful not because of the logic of inference, and

certainly not because of deductive logic, but by a process of what Masterman called 'inexact matching'.

W.H. Leatherdale in, *The Role of Analogy, Model and Metaphor in Science* (Amsterdam: North-Holland Publishing Company, 1974) describes how analogy itself operates equivocally to mean both resemblance of particulars, that is of properties or attributes in direct sense experience, and resemblance of relations (A is to B as C is to D) where the analogy is used to point out or direct us to heretofore unnoticed and even novel or esoteric connections between the properties.

This is not a paper in the philosophy of science, so I will not go any further into the nature of paradigms and the use of analogy except to reiterate and repeat and stress and emphasize that an analogy, whatever the variety of equivocal uses, is **not** a metaphysical world view, is **not** an abstract theory. It is crude, inexact and concrete using inexact matching to allow us to form a new picture of what we see.

### **On Global Sustainability**

What is the significance of this aside on paradigms. Simply this. Global sustainability is vague and inexact. But does it have finite elasticity? Or is it used in almost unlimited extensible ways by environmentalists and the leaders of global corporations? Is it a concrete down-to-earth model? Or does it evoke an Aristotelian vision of a balance between human economic development and growth so that the natural resources of the world are not exhausted? If the latter, Global Sustainability then has much more to do with utopian thinking than scientific thinking and the use of paradigms and analogies in science. Further, rather than playing the role of a creative breakthrough because of the unique character of the paradigm, 'global sustainability' may hark back to an older utopian vision. And rather than serving a function of extension through inexact matching, 'sustainable development' may mean a replication of what we have already experienced for the whole modernist period.

I will try to explicate what I mean by elaborating on what it means to be a Modernist.

### **On Modernism**

First, let me declare myself. I am a Modernist. I am not a Postmodernist. A Modernist accepts the idea of planning and development. Postmodernists disassociate themselves from planning altogether; they become concerned with designing buildings and places not planning the future. Modernists seek to find some order and extend that sense of order into the future. Postmodernists cultivate a sense of the human landscape as a highly urbanized fragmented collage. Modernists seek out patterns in history. Post-

modernists are eclecticists, satisfied if they are sensitive to vernacular traditions and local histories and allow themselves to be directed by the wants and needs and even fancies of what is immediately present rather than any sense of the requirements of a globe that may be on the brink of exhaustion. Finally, modernists use the global arena for social purposes. Postmodernists view each piece of space as an autonomous and independent entity having aesthetic but no overarching social purpose so that the Postmodernist focuses on differences, difficulties and complexities, on the nuances of interests, cultures and places, avoiding like the plague any overarching vision. (cf. David Harvey, *The Conditions of Postmodernity*, Cambridge: Blackwell, 1990, p. 66).

Now, there are different kinds of Modernists. Let me suggest depict two types, Futurologist and Utopian Modernists and Historical Modernists. (There are other types, such as classical or nostalgic Modernists, those Modernists who operate within the Modernist idiom but cast themselves back to the modern version of the Medieval walled City, Jane Jacob's street life of variety, plurality and, most importantly, security of the streetscape made safe by a plethora of watchful eyes rather than a wall surrounding the urban perimeter, Bloom's university of great books, etc.)

First, there is the utopian modernist who upholds the idea of planning and development on as large a scale as possible according to a rational plan. In order to carry out such a plan, the human environment is separated according to functions to rationalize planning so that both equality of opportunity and social welfare, both economic growth and environmental protectionism, are enhanced. The utopian impulse is directed towards an ideal as distinct from interests. In rights theory, it is the categorical imperative to treat every human as an end and not a means only, to regard every human as a person of dignity. In contrast, a Postmodernist regards any talk of rights as a discursive set of assets and liabilities which may both empower and disable. Whereas a utopian Modernist may refer to rights as *natural*, a Postmodernist may treat that claim as part of an entrenched system of values which in the name of what is natural covers up what is really political - in this particular case the enhancement and celebration of the autonomous individual which may be the fundamental contradictory ideal which ensures the destruction of the globe as a natural balanced ecosystem. Whereas a utopian Modernist may envision a balance between development and sustainability, a Postmodernist might play the role of a critical dissident and try to unpack the underlying contradiction between development and sustainability, perhaps such utopian visions to a critical examination of the phrase as an exemplification of the pact between Faust, the granddaddy of developers, and Mephistopheles.

Let me offer an example of a Utopian Modernist committed to sustainable development. She focuses on rain forests as a distinct

entity from say wetlands, on a tropical rainforest rather than a temperate one, and seeks its preservation. Thus, scientists trek up to the rainforests of Monteverde in Costa Rica and study them to identify the wide variety of species and the richness of the forest life that must be protected lest civilization destroy a natural resource which, once destroyed, will be lost forever.

A Postmodernist might note that with the publication of their studies and concerns, in cartoon features like Fern Gulley, the rainforest is celebrated as an icon of worship. As a result, the worshippers flock to gawk at the new religious icon and worship at the trunks of its trees. In the name of the natural right of mobility of every autonomous individual, Monteverde, which ten years ago was a town of one hundred expatriate families largely from the United States, has now become a town with 50,000 tourists a year and eighteen hotels. The very utopian depictions of the environmental planners served as a discourse which served the modern tourist entertainment business much as the Jesuits in their dedication to God and Church served as the progenitors of the capitalist exploiters that followed in their footsteps in opening up the New World to European interests.

The very title, Future Watch, the stress on the introductory program on technique, on future visioning, on action plans, that is, on the call to put plans into action, is precisely the call on the Faustian dream which begins with the Triborough bridge and tunnel to link Queens to Manhattan to preserve and enhance that borough and ends with the South Bronx Expressway which converts the south Bathgate area into the Calcutta of New York. In that sense a Utopian Modernist might do well to listen to a Postmodernist critique of the wordspeak of utopian Modernists.

But there is another kind of Modernist. Instead of being assigned to FutureWatch, he asserts that the Owl of Minerva only flaps her wings on the dawning of a new day. The historical Modernist looks backward from whence she came rather than forward into the future. It is as an historical Modernist that I will now examine human rights.

## **HUMAN RIGHTS IN THE PAST**

### **Human Rights and Nature**

If utopian modernist liberals divided the human community into a world of autonomous individuals each responsible for their own personal lives and destinies and obligated to treat every other individual as a morally responsible agent whose dignity was worthy of respect, if utopian modernist thinkers were responsible for "deconstructing" the medieval organic community into an aggregate of individuals, into a realm where religion was separated from the state, where the civil society was separated from government, where individuals were viewed as citizens rather than members of tribes. The

private realm was separated from the public one, day was separated from night so that residents had the right of quiet enjoyment as the night life of a city was separated off into a different domain. As Michael Walzer described Utopian Modernism, "Liberalism is a world of walls, and each creates a new liberty." ("Liberalism and the Art of Separation," *Political Theory* 12: Aug. 1984, p. 315) *W/12*

Rights entails a policing function in which one realm is prevented from intruding on the other. Rights entail the policing by the state and its bureaucracies to prevent intrusions on those rights. In the Modernist idiom, church and state, commerce and families, production and government must each be assigned its proper place within which it may function, as may individuals in general in the civil society, with the greatest freedom possible within that realm. (cf. Michael J. Shapiro, *Reading the Postmodern Polity: Political Theory as Textual Practice*, p. 94 for a postmodernist critique of separation as a mode to institutionalize power and control.)

The most important boundary to maintain is the one between states and the right of the nation-state to admit strangers and select new members. (cf. Ch. 2, Michael Walzer, *Spheres of Justice*) Thus, individual rights are premised on the creation of nation-states to protect those rights, and, therefore, the right of the state to control who has access to that protection.

Even more fundamentally, the creation of the conception of human rights as the heart of the Modernist enterprise might be viewed as the first commitment to both sustain the individual and allow his or her individual development secure from the intrusions that threaten human life, threatened not because we all operate according to biological clocks, threatened not because we are all subject to the contingent destructiveness of hurricanes and volcanoes, but because the works of humans pose the greatest danger to human life. Why? "Because many use their fellow humans as just another resource, either for their own benefit or to realize peculiar visions of the absolute good." (Carlos Santiago Nino, *The Ethics of Human Rights*, Oxford, 1991, p. i) *N/12* The most fundamental human boundary Modernism drew was to differentiate between the human realm where every individual was to be regarded as an end and not a means only, as distinct from the natural realm which could be regarded as a resource for human purposes. Humans were not to be regarded as resources. Put another way, the enterprise of Modernism had the unconscious purpose of having everyone buy into the Jewish narrative of life.

The first book of Genesis of the Torah in verses 27 and 28 states that, "God created man in His image, in the image of God He created him, male and female He created them. God blessed them and God said to them, 'Be fertile and increase, fill the earth and master it; and rule the fish of the sea, the birds of the sky, and all the living things that creep on earth.'" Verse 27 evokes human *every*

rights, humans made in the image of God. Verse 28 divides the human realm of the rights, equality and dignity of all humans from the natural realm of nature to be mastered and ruled over. Rights were indissolubly connected with power and authority just as humans were denied the status of a resource and separated from the nature which was to be regarded as a resource. By the end of twentieth century we can envision a world of 8-12 billion people, up from 1 billion at the beginning of the century. It is the century in which humans truly fulfilled God's commandment to fill the earth and master it. It is the century in which rights have trumped the Good and become the universal idiom of ethical discourse at the same time as mastery of the entire earth has been achieved. To be human is sufficient cause to be treated as an autonomous being with dignity.

Last night I attended an occasion in which one of my old professors, Emil Fackenheim, was being celebrated with a *Festschrift* which had been dedicated to him. Emil made a speech which he elaborated upon as we spoke over dinner afterwards. He said that the most important task of modern philosophy was to ask how Hitler was enabled by German thought to use the Kantian idiom of rights as the philosophical foundation for the Holocaust. The simple answer was that if you divide the world between what is human and what is nature available for mastery and a resource for human exploitation, then it is but a simple step to say that the Jews are not human and therefore are subject to rule of the master race and use as a resource. The trouble with this answer is that it doesn't explain why the Nazis were so intent on killing the Jews and not exploiting them efficaciously as a resource, that is, while they used their hair and gold teeth and the fat on their bodies to make soap, they were more intent on ensuring that they were regarded as beings without dignity that they were willing to sacrifice their highest and best use to ensure they were classified as beings without dignity. To put it another way, the primary task was assigning the Jews a place on one side of the dividing line to a realm without any dignity and rights and not the efficacious exploitation of a sustainable resource.

My only point is that we can only have a realm of rights if we have a realm of resources without rights. We can only have a realm of human dignity if we have a realm that is not assigned the quality of dignity. This does not mean that realm has to be treated with indignity. Quite the reverse. If it is accepted as belonging to a realm without dignity, it may be cared for and used. It is only when we want to ensure that such a realm is undeserving of human treatment as protected by rights that, if we were Nazis driven by the politics of indignation, we would treat the realm we regarded as other as a realm not only without dignity but a realm to be subjected to indignities.

Modernism stands for the separation of the human realm of rights and dignity and the resource realm which is to be available for human mastery and use and is without dignity. But it does not



mean that natural realm should be subjected to indignities.

## Human Rights and the State

There is a second set of walls that were drawn up when human rights were introduced as the foundation stone of the ethical way people were to be treated. This was the creation of the nation-state and the eventual division of the entire world into nation-states. The nation-state was to have a monopoly on coercion and, in return, was given the responsibility for protecting its citizens. If in the classical world, the individual soul was regarded as the mirror of the polis, in the modern world, the polis was constricted on the same principles as the autonomous individual. Thus, the sovereignty of nation states was regarded as sacrosanct just as the autonomy of individuals were. Just as the private and public realms were separated in the desire to protect the private space of the individual, so too was the internal; space of the state separated from the alien territory outside the state.

To the state belonged the realm of law and the mechanisms for enforcing the protection of human rights. In the twentieth century we have witnessed an attempt to strengthen and extend the human rights field by expanding it to the international realm with covenants, rights and sometimes, but rarely, sanctions for violation. The "current conceptions of the sovereignty of states imposes severe restrictions on the obligations that governments accept by their commitment and on the forms of intervention available to external organs for investigating and punishing human-rights violations."

I have given this quote from Nino (p. 3). He goes on to offer a utopian Modernist interpretation of this expansion of the human rights realm. "Those limitations to the recognition of human rights through the national and international legal order compel one to look beyond that necessary recognition to the creation of a moral consciousness of humanity which recognizes the value of those rights and abhors any action that disregards them." This is the Kantian vision of a future point in time when the ethos of the rights and dignity of all humans would be so instilled in all human beings that we would not even need law to enforce the protection of human rights.

But the international realm was no more capable of being put in order by conscience than was the national realm. The lawful order among states was to be solved by a league of nations wherein, even the smallest state could expect security and justice, not from its own power and by its own decrees, but only from this great league of nations, from a united power acting under the laws of their united will." (Immanuel Kant, *Idea for a Universal History*)

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## HUMAN RIGHTS IN THE FUTURE

### Globalization of Human Rights

This dream of a global realm for the protection of human rights entailed both a state of perpetual peace protected by the united will of all the states on earth, and a universalization of the ethos of rights which was to be embedded in the conscience of every human being. But globalization also meant the weakening of the nation state on the shoulders of which the protection of human rights had been built.

The *Economist* of June 29th, 1991, in its SURVEY OF CANADA, stated that, "The Canadian model - whether of disintegration or of holding together in some new, post-modern version of the nation-state - is going to be an example to avoid or follow." The worldwide assault on the traditional nation state, and its evolution into some new, post-modern version<sup>1</sup>, is shaped and defined by the relentless forces of globalization and regionalization<sup>2</sup> which erode the traditional authority and role of the nation-state, transferring its functions upward to regional and world institutions or downward to more local levels.

The state, the Canadian state in particular, can no longer discharge independently two of its traditional functions--security and control over entry (and eventual political membership). Moreover, the state's responsibility for the social and economic well-being of its citizens, a function which came into prominence in the middle of this century, has increasingly been placed in question. As competitive forces push Canada into hemispheric and global systems of political and economic integration, the capacity of the federal state to formulate and implement policy has been constrained. Provincial and local governments have acquired new significance and "subnational" identities have been reinforced. Communications technology is both uniting the world and exacerbating the desire to preserve particular identities, while at

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<sup>1</sup> A conference is now scheduled for March, 1993 at Cambridge University in Great Britain on the topic "Canada as the First Post-Modern State," presumably because Canada is so actively trying to construct the rules (constitutional, peacemaking, immigration, economic, cultural, welfare, etc.) for confronting both the centrifugal forces of regionalization and globalization and the centripetal forces of ethnic and local identification.

<sup>2</sup> For our purposes, "globalization" refers to a complex of processes including: the integration of national markets for goods, services, labour, technology and capital; the movement across state boundaries of ideas and information as well as values and life styles; and the development of institutions and social movements which transcend state boundaries. By "regionalization" we refer to the operation of these processes on a regional basis involving a number of existing states. We are particularly focused on regionalization as it is emerging in the western hemisphere.

the same time undermining the traditional patterns and policies by which a state, such as Canada, has supported the development of the country's cultural and artistic life. And global forces are having profound influences on such institutions as the family and schools, as well as the workplace. These processes are of special concern to segmented societies such as Canada, precisely because the central government lacks any overarching cultural, linguistic or ethnic solidarity which might form the touchstone for its continuing role and authority.

At the same time as this globalization, regionalization and fragmentation have proceeded apace - what Jim Rosneau has dubbed *fraggementation* - human rights have also been globalized at the same time as they have fragmented. They have been globalized in the sense that virtually the whole world pays lip service to human rights. They have been globalized **within** the state as virtually anyone on the soil of a state - not just the citizens of the state - are protected by a state's human rights codes.

Human rights have also fragmented. We not only have a broad gamut of individual rights - including such alleged economic rights as property rights, contract rights, creditor's rights, rights to a minimal standard of living, rights to work, disability rights, educational rights, etc. - but there are conflicts between individual rights and group rights. (example - Show Boat) In other words, the protections and sensibilities of historically persecuted groups threaten the very rights of free expression which was the single most important basis for the construction of the realm of rights in the first place. In the name of the dignity of all human beings an attack has been launched on the most important instrument for guaranteeing the protection of that dignity.

The reverse is also true. Communities and free association so central to the preservation of a civil society, is under threat. More importantly, "what threatens the possibility of meaningful community is not force external to the community, but those very *principles* of liberty and equality on which they are based, and which now are becoming so universal throughout the world."<sup>3</sup> What Fukiyama meant was that men are guaranteed their rights but moral obligations are all voluntary.<sup>4</sup> Further, rights guarantee equality, but it is equality for all who are members. They provide

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<sup>3</sup> Francis Fukuyama, *The End of History and the Last Man*, New York: Free Press, 1992, p. 323.

<sup>4</sup> Joseph Raz (*The Morality of Freedom*, Oxford, 1986) attempted to solve this problem by asserting a person has a right iff some other person is under an obligation to protect that right as an aspect of the first person's well-being. However, his formulation was subsequently criticized for its ambiguity, its applicability to unsuitable cases and its inapplicability to suitable ones.