

their own country has to be governed not by co-ordination but by external judgment and force superior to all groups. For the larger number who doubt the practicability of world government I would point to the controllability of mankind everywhere when the correct means of control are employed. Of those readers, perhaps the majority, who see world peace just around the corner but who find it thwarted by the Russians, as their fathers found it thwarted by the Germans,¹ the writer would ask this final question: If there is always the "other fellow," and he always happens to share the power of the world about equally with ourselves and numbers his millions as we do, is it not time to form a "Superior Force," as Thomas Hobbes put it, "to keep us all in awe"?

Why do our statesmen find it so difficult *even to try* this solution? Solely, we submit, because they cannot see the normality of their enemies' prejudices nor the reality of their own. Neither they nor we whom they serve are aware of the forceful contribution to war of our own unconscious aggressiveness.

Verbum sat sapienti! Let them so act, and relieve our world of its present nightmare and misery forever.

RANYARD WEST, M.D.*

WHO ARE THE UTOPIANS?*

THE Preliminary Draft of a World Constitution is a draft of a full-fledged constitution. It proposes a full complement of organs of government. It makes explicit the purpose to establish world justice as well as world peace, since it is based on the belief that justice is always the prerequisite of peace, and that peace and justice stand or fall together. Furthermore, powers proposed for the organs of world government are those necessary for a federal government directed to these ends.

Since the publication of this draft, the committee which framed it has often been labelled as utterly Utopian for imagining that under any circumstances world government could come into being by the adoption of such a constitution. In this comment, I would like to consider the relative Utopianism of this and other conceivable routes to a world community under law.

¹ Grotius, the "Father of International Law" and a Dutchman, found it thwarted by the Portuguese, in 1625.

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* Dr. Ranyard West's books, *Conscience and Society* and *Psychology and World Order*, furnished the principal theme for the comment which follows, taken from an address on the Preliminary Draft of a World Constitution before the University of Chicago Alumni Club of Washington, D.C.

In the first place, one often hears that it is exceedingly naive to imagine that a legal order—particularly a world legal order—could come into being by the adoption of a constitution. We are told that this puts the cart before the horse. Thus Mr. Pelcovitz has written that “. . . Constitution-making is always the end of a process, never the beginning . . . men must live together, form common habits, and cooperate on the functional level before government can be instituted among them. Through cooperative living, plus common habits and loyalties, men come to feel and act as though they belong together. This community . . . may codify its standards of behavior, refine its administration, and set down in a constitution what it will recognize as political authority. Constitution-making is the final step. . . . Only where basic law and order already function can men sit down to draft a constitution with any chance of success.”

More specifically, Professor Briggs tells us:

The creation of any world state is more likely to be the result of an evolutionary development. . . . In the present stage the very defects of the United Nations are evidence that it accords with basic realities, but evolution towards the next stage is already noticeable. The decision of the Security Council to retain jurisdiction over the Soviet-Iranian controversy even though both states asked for the dismissal of the case is an important example of the way in which an international organization can by evolutionary process, increase its authority at the expense of its members. . . . Further stages might include an increase in the number of non-sovereign members of the United Nations, a gradually advanced legislative process, dispensing with ratifications, the enactment by special majority of rules of law binding on members, even the enactment of laws directly binding upon individuals in delimited fields. By a process of evolution, during which the gap between law and social reality is never allowed to become too great, an international organization can gradually acquire authority and power never delegated to it. Thus the last stage—the creation of a world state—although a revolution in legal theory, might come to seem but a relatively slight change in practice.

Now, I submit that this view is really Utopian. Parenthetically, I do not suggest, of course, that we should stop trying to cooperate upon the functional level. And I deny, furthermore, that the world government movement jeopardizes cooperation on the functional level. My point is that evolution alone will never bring about world government; and I think that the truth of this proposition is demonstrable. Evolution does have a part in the development of legal systems, but such evolution takes place when peace has been established by force.

This is the main point of two of the most interesting books in the whole world government literature, books that have been very little noted in this country, by a British psychiatrist, Dr. Ranyard West. The first of these books is *Conscience and Society* published in England in 1942 and in this

country by Emerson in 1945. The second is *Psychology and World Order*, a Pelican Book published in England in 1945.

Conscience and Society is a most extraordinary book. It is the kind of a book that only a Britisher could write. It starts with an elaborate discussion of traditional political philosophy. It proceeds to a detailed presentation of clinical material dealing with child study and with adult psychoanalysis. Upon this novel foundation Dr. West erects what he calls a psychological theory of law and proceeds to apply his theory to the international field.

He grounds the need for force upon what he quaintly calls "the law of inevitable prejudice," which he states as "the truth that where judgment is influenced by unconscious emotion, prejudice is inevitable." And, of course, judgment is always influenced by unconscious emotion.

Dr. West explains in great detail how in every individual—and in many individuals to a dangerously great degree—there exists repressed aggressiveness. He explains that even with apparently mild individuals there is always the possibility that aggressiveness will break out in violent action. He shows the mechanisms out of which that danger grows: the mechanism by which adults develop and maintain hostilities through fantasy identification with figures felt to be hostile in their childhood, identifying individuals or groups in later life as similarly threatening. He explains also the familiar mechanism of projection, by which an individual with repressed aggressive tendencies attributes those tendencies to persons with whom he deals.

Dr. West makes much of the fact that these mechanisms are often more dangerously operative in individuals who have a highly developed conscience, than in less conscientious individuals.

He says, "Within their established societies, men need externally administered law not because their consciences are weak, but because their prejudices are strong." Man, to Dr. West, is essentially unreliable when his own interests are involved. He is essentially unfitted to be a judge in his own cause. Law backed by force is thus needed, not as the means by which society holds in check an antisocial minority. Law is an institution for all of us, an institution without which most of us would be unable to control our aggression.

Dr. West proceeds realistically to examine the nature of "international law." He finds that international prejudices are produced by the same familiar mechanisms, but that they are vastly strengthened by being shared and by what we might call the legitimation of hostilities when they are directed against "foreigners." And so he draws for us the vicious circle

of international relations, the circle in which prejudice and mistrust and fear operate to reinforce each other.

And so, he says:

We must not expect a world community to grow slowly, and slowly to solidify for itself a real law out of the "pious aspirations" of present "international law." That will not occur. *The prime requisite and firm creator of any community life is a law of order maintained by force.* For human nature is such that, in all its most necessary social relationships, it is subject to the permanent threat of the self-assertive impulse, which misinterprets facts, misjudges events, and then, through consequent self-justificatory passion, breaks the social bond, unless it be externally restrained. We may claim this as adequately confirmed. Nursery studies and family life confirm it. Social and national history confirm it. Modern psychology confirms it. And finally, our common sense tends to confirm it—for all others except ourselves, which is in itself a final confirmation. Individual, group, or nation-state, we cannot judge our own cause. And if we try to do so, we shall be reduced again and again to fighting for a supposed "right" against a supposed "wrong," for one set of illusions against another.

And if we survey the history of the development of legal systems, including the common law system, we must agree that when evolution of a legal system has taken place, it has been under the protection of order imposed by the force of a royal or tyrannical ruler. Nor is it unlikely, I suppose, that the forces of history will trace the same pattern if a world order under law is ever to come into being. In discussions of world government, far too little attention, says Dr. West, is given to the likelihood that world government will be established by conquest. Two modern developments certainly point in this direction—the evolution of giant powers and the technical feasibility of world conquest.

But our imagination shrinks at the cost of an evolution, through conquest, of a world community under law. I do not refer to the costs of war. I mean that in the United States we do not realistically face what would be involved in being the ruler of the world. What changes it would mean for each of us and for our national economy, if our nation should shoulder the responsibility of world rule. The changes are only less appalling to contemplate than the prospect of evolution of a world rule of law through conquest by a power already totalitarian—the generations of resistance and revolution before such a world conquest could evolve into a world legal order.

Some such prospect, however, is highly probable if evolution is to take its course. It is far more probable than that international law should evolve into something so stable, so accepted, that the final addition of governmental form and power of enforcement would be, as Professor Briggs put it, a relatively slight change in practice.

But is evolution by world conquest the only route to world government

that is not Utopian? I submit that it is not. Professor Briggs would not deny, of course, that states have federated, that they have established by voluntary action a government to which they submitted themselves and in which they placed superior force and under which they gave up the possibility of resolving disputes within the group by force. Indeed, writers who emphasize the evolutionary approach often make the point that the very establishment of legal authority may itself strengthen and extend the community which must underlie any successful government. For example, Professor Louis Wirth has recently said, "The attempt to create a common rule of law in areas where no such law existed before itself enlarges and deepens the sphere of a common culture."

But, of course, the real questions are: First, when is there a sufficient minimum sense of community, of fellow feeling, of interdependence on the basis of which, through voluntary action, a government may be established, a government in which force may be vested? And second, under what stimulus is it not Utopian to hope that such voluntary action might take place? For, as Dr. West has explained, while men's loyalties reflect a very deep need, specific loyalties are rather fluctuating and rather easily transferred. The question is one as to how and under what conditions the transfer of loyalty can take place.

In the past, of course, federations have been brought about partly through the threat of external force. In the cases of such federations, it is easy to see how the transfer of loyalty takes place. The transfer is to a new and larger unit which offers protection from external dangers. The federal government offers security from the external danger, and loyalty is easily transferred to such an organization since hostilities within the group are transferred to the source of the common threat.

For world federation, however, the question becomes: Is it conceivable that the fear of mutual destruction can have the same effect in bringing about federation as the fear of external aggression? There are apparently a large number of people who answer, "Yes." Such an answer is presupposed by plans of the sort the Dublin Conference proposed, plans of what is known as a "minimal" world organization, plans providing for the setting up of an international police, an international government whose function is limited to maintaining the status quo by force, plans establishing a monopoly of major weapons but legislative power only for the purpose of enforcing disarmament.

There are many people, as I have said, who think that it is not completely Utopian to imagine that this might come to pass. I suggest that the chance is really negligible, and that such plans are utterly Utopian. For

we have to remember the nature of the vicious circle that is involved when the fear of mutual destruction is mobilized; the fear is compounded with mistrust and prejudice. It seems to me quite inconceivable that this fear can alone bring the nations to shackle themselves and place mutual destruction beyond their power. When limited federations are created under threat of external aggression, the hostilities between the units are transferred to the foreign power; loyalty to the new federation can arise because internal hostilities can thus be transferred. In the case of world federation, of course, hostilities cannot be transferred; they must be transcended or reduced. Fear alone can never bring about world federation; fear alone leads only to paralysis in everything but the preparation for war.

I think it is not too unkind to use the word "naive" with respect to proposals for such "limited" world government. They are far more Utopian than the preliminary draft of our constitution. I am reminded of the article published by Dr. Reinhold Niebuhr in the *Nation* a few weeks after he had withdrawn from the Committee to Frame a World Constitution. The burden of his article was to pin the labels of "naive" and "immature" upon us and our enterprise. In the last paragraph, he expressed his regret that people should follow the myth of world government instead of going after "more modest" objectives. And among these he listed the objective of "finding a way of transferring our dangerous knowledge of the atomic bomb to some kind of world judicatory."

Now, I suggest that this task of securing voluntary cession of predominant force to a world authority whose only function is to keep the peace—I suggest that this is a task less modest than the task of bringing about a world federal government. It is less modest because it is less practicable and more Utopian. I say this although I concede that the odds against the voluntary creation of world government are heavy odds indeed.

But although it is unthinkable that men should be moved to establish world government by fear alone, it is not unthinkable that men should be moved by discussion of the idea of world justice. It may be highly improbable that the idea of world justice should move men to do this; but it is not unthinkable. It is for this reason that purposes and powers such as those of our preliminary draft are necessary for any world government which is to avoid Utopianism.

What world government requires, of course, is that individuals in large numbers, all over the world, should get a glimpse of a better good beyond the partial values of the society to which they belong, some good that is better and more satisfying because more inclusive. This implies, further-

more, that they should gain some little glimmer of insight into their own prejudices and the shortcomings of their own society.

Now, it is not unthinkable that individuals should get that glimpse of world justice, that glimmer of their own prejudices. As a psychiatrist, Dr. West tells us that it is not unthinkable although his analysis leaves us with no illusion as to the difficulties. For world law to be created by voluntary act, men must realize their own need for it and not just the need of their enemies. Domestic law and order have evolved without such a realization; as Dr. West puts it, "healthy individuals have barely any consciousness of their own need for law."

Optimism concerning world government is certainly unwarranted since the recognition and facing of one's prejudices is a step in moral development, a psychological step toward maturity. Psychiatry—as well as pastoral theology—has something to say as to the way in which such steps occur, in everyday life as well as in the course of psychotherapy. They occur only through certain types of personal interaction in which hostilities can be expressed and examined.

But what has all this to do with the publication of a draft world constitution explicitly grounded on the principle of world justice? The point is that discussion is one of the types of interpersonal action in which prejudice and hostility are expressed and in some degree reduced. Perhaps I should say only that discussion could be such a process—that it must operate in this way if democratic policy formation is to have any meaning.

Dr. Thomas M. French of the faculty of the University of Chicago and the Chicago Institute for Psychoanalysis conducted an experiment on this subject some years ago. He formed a group for discussion of highly controversial social and economic questions, a group composed of members of widely differing backgrounds and attitudes. We agreed that discussion should be free and that we would try to be frank. It was Dr. French's theory that emotional attitudes would inevitably be revealed and that with mutual insight into emotional factors the strength of prejudices might be reduced. It need hardly be added that the experiment was highly inconclusive.

This view of discussion is by no means novel. While emotional attitudes find expression in discussion, discussion runs in terms of facts and ideas. It is through discussion that ideas have consequences. Certainly Socrates and Plato had some notions about the moral possibilities of dialectic.

Here is where I suggest that the tentative draft comes in. World conquest aside, I am certain that atomic control and world peace will never come about through hiding or postponing discussion of issues which fall

under the heading of world justice. The tentative draft may afford a focus for discussion of some of these issues, discussion within the nations and across national boundaries.

I have said several times that one can't be optimistic about world government through voluntary action. But the question, of course, isn't one of optimism. The question is one of whether there is ground for hope, or whether the notion is completely Utopian; whether there is ground for hope sufficient to warrant continuing the effort despite the adverse odds.

WILBER G. KATZ*

BIOLOGY AND LAW*

DR. WEST observes in man a "social instinct," which tends to prevail. It is subject however to the influences of unacknowledged dispositions to dominate, to quarrel, and to fight. They appear in the partly concealed or entirely open conflicts to which we all of us from time to time contribute.

These dispositions take on some of their characteristics in the earliest years of our lives. They are unadmitted by us ourselves, and condemned by a "conscience" that requires us, even at the expense of truth or accuracy, to maintain our sense of our own kindness and respectability. Thus "we" are always "right"; "they" are always "wrong." The quarrel, conflict, or war starts easily and often grows quickly until the onset of stalemate or victory and defeat. The process is the professional concern of the soldier and the lawyer.

Dr. West is not only an observer, but a man with hope. His hope is partly in the "social instinct." It is partly in our good sense, which may lead us to recognize our common failings, our common interests, and our common dangers; and to create—what we still lack—a common law supported by a common force, to keep us all in order in those moments when we are dangerous. In those moments we commonly "think" that "they" are the dangerous ones. We cannot judge ourselves; and we need judges as impartial as human ingenuity can make them.

Dr. West's hope then is in the "social instinct" and in the good sense

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* The course of the author's reflections and publications on the subject of these papers was indicated by the first note in his *Death against Life*, 15 *Univ. Chi. L. Rev.* 902 (1948). Since then he has participated with Dr. James L. Halliday and Dr. Ranyard West in a radio discussion, *Mental Health in Our Time*, University of Chicago Round Table of August 22, 1948. The references in this paper to matters of political controversy were written in their present form on January 23, 1949, after President Truman's Inaugural Address and before Secretary Acheson's reference to "overwhelming force" in his first statement about the proposed North Atlantic treaty.