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COMMISSIONED ESSAY:

Global Governance vs. the Liberal Democratic Nation-State: What Is the Best Regime?

by John Fonte

Who Governs

In the coming years of the twenty-first century the ideology, institutions, and forces of “global governance” will directly challenge the legitimacy and authority of the liberal democratic nation-state and American constitutional sovereignty. What is this ideology, what are these institutions and forces, and how do they challenge liberal democracy and American sovereignty? To begin to examine these issues let us start with the primary questions of politics.

Who governs? To whom is political authority responsible? How are rulers chosen? How are rulers replaced? How is the power of rulers limited? How are laws made? How can bad laws be changed? These are the perennial questions of politics. As Plato and Aristotle inquired: what is the “best regime”?

In this first decade of the twenty-first century, has the question of what is the best regime been settled? For many throughout the developed world the answer is yes. Liberal democracy, that hybrid combination of liberalism and democracy, is the “best regime.”

Liberalism in traditional political theory means an emphasis on individual rights, free institutions, the impartial rule of law, freedom of speech and association, private property, and freedom for religion, commerce, culture, and educational institutions. Under liberalism, equality of individual citizenship is the norm.

Democracy means rule by the “demos,” the people. At the heart of modern democracy is the doctrine that governments derive their powers from the “consent of the governed,” as famously put in the American Declaration of Independence. National self-government, popular sovereignty, and majority rule (within constitutional limits, *i.e.*, limited by liberalism) characterize the norms of liberal democracy.

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These great questions of politics are in theory answered in liberal democracy. Political authority resides in a self-constituted people based on “consent.” This self-governing people choose their own rulers through elections and can replace them if they are unresponsive. The people limit the power of rulers through a constitution that functions as a basic law. Bad laws can be changed by elected national legislatures. Moreover, in practice, democracy occurs only within the borders of individual liberal democratic nation-states. As Marc Plattner, co-editor of the National Endowment for Democracy’s *Journal of Democracy*, recently wrote, “...we cannot enjoy liberal democracy outside the framework of the nation-state.”¹

In his seminal 1989 essay “The End of History,” Francis Fukuyama argued that the great question of politics—what is the best “regime”?—has been settled. We have arrived at “the end point of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government,”² Fukuyama declared. To be sure, the practical process of spreading liberal democracy throughout the world might take hundreds of years, but the ideological hegemony of liberal democracy has already been established—that is to say, the notion that the only legitimate form of government is liberal democracy is now widespread and almost universally accepted. Even non-democratic governments either pretend to be democratic in their own particular way or claim that they are working towards democracy.

Fukuyama recognized that there will be competing ideologies to liberal democracy, but no rival political worldviews *with universal appeal*, in the final analysis. He argued that the potential ideological rivals (Asian values, Islamic fundamentalism) would not likely gain widespread support among Western intellectuals; thus the crux of his argument is that there are “no rival ideologies with universal appeal.”

Global Governance: From Internationalism to Transnationalism

Nevertheless, with the coming of globalization the issue of “who shall govern” is very much alive. For many of the world’s elites the big project of the twenty-first century is how to achieve global governance. It is argued that there are global problems, such as war; terrorism; climate change; world hunger; vast inequalities of condition; diseases such as HIV/AIDS; human rights violations; racism, sexism, and xenophobia; and migration or immigration from poor to rich countries. These problems are beyond the capacity of nation-states to “solve.” Therefore, some form of “global governance” is required to address them.

There is a crucial distinction between internationalism and transnationalism (or globalism). As a leading theorist, John Ruggie of Harvard’s Kennedy School of Government and a former deputy secretary general of the United Nations, explains, “Simply put, postwar institutions, including the United Nations, were built for an inter-*national* world, but we have entered a *global* world.

¹ Marc F. Plattner, *Democracy Without Borders? The Global Challenges to Liberal Democracy* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2008), p.3.

² Francis Fukuyama, “The End of History,” *The National Interest*, Summer 1989.

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International institutions were designed to reduce *external* frictions between states; our challenge today is to devise more *inclusive* forms of global governance [italics in the original].”³

Unlike the traditional international system of sovereign nation-states, this new transnational system of global governance seeks to establish supranational laws, regulations, and institutions whose authority extends beyond and within nation-states (including democratic ones). Nation-states continue to exist but they are subordinate to transnational authority. This authority is exercised by new definitions (“evolving norms”) of international law (really transnational law); transnational courts such as the International Criminal Court; myriad UN conventions that establish new global norms, particularly in the area of human rights; supranational institutions like the European Union; and non-government organizations (NGOs) that act as “global civil society.”

Transnational Progressivism: A Post-Liberal Project

At the most abstract level the advocates of global governance loudly proclaim support for human rights, tolerance, justice, and democratic values. British Prime Minister Gordon Brown’s April 18, 2008 speech at the Kennedy Library in Boston is a classic example of this type of rhetoric. Brown stated that “global problems require global solutions,” and that “the twenty-first century can be the first progressive century in which we created the first truly global society.” Further, he spoke of the “need...to face up to the international consequences of poverty and inequality.”⁴

What does this mean in practice? What do promoters of global governance advocate at the operational level? As a practical matter the supranational institutions they favor and the group-rights/equality-of-condition policies they promote could be described as “post-democratic” in process and “post-liberal” in substance. What I call “transnational progressivism” has a number of recurring characteristics.

First, the basis of political society ought not to be the individual citizen and voluntary associations, but the identity group, often ascribed, to which one belongs or claims as a primary identification (racial, ethnic, gender, religious if non-Western, sexual orientation, et cetera).

Second, these identity groups ought to be divided into two categories: the privileged (whites, males, Christians, heterosexuals, citizens) and the marginalized (non-whites, females, non-Christians, homosexuals, non-citizens).

Third, the major inequities in society are “systemic” or “institutional,” built into the nature of the system. Thus, we have “systemic racism” or “institutional racism,” and “systemic sexism,” along

³ John G. Ruggie, J Douglas Gibson Lecture, Queen’s University, ON, Canada, November 20, 2000 quoted in Plattner, *Democracy Without Borders?* p. 118.

⁴Gordon Brown, Kennedy Memorial Lecture, Keynote Foreign Policy Speech at JFK Presidential Library, April 18, 2008, <http://www.pm.gov.UK/Output/Page15303.asp>

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with homophobia, Islamophobia, and xenophobia that are embedded in the nature of society. The repeated use of this type of rhetoric challenges the legitimacy of the liberal-democratic nation-state. If a political regime is engaged in systemic bias, it clearly is devoid of moral authority and is not really “legitimate.”

Fourth, an important goal of society ought to be eliminating these identity group-based inequities. A just society means a group-based equality of condition.

Fifth, the nation-state is an inadequate institution to achieve social justice and is ill-suited to the problems of the future. Therefore, national identity, and exclusive national citizenship are, by their nature, problematic.

Sixth, global migration from less developed countries to more developed countries will be a major characteristic of the twenty-first century. Instead of promoting the assimilation of immigrants into an existing national culture, “fairness” requires that we promote transnational citizenship, diaspora consciousness, and group-oriented multiculturalism.

The positions outlined above have entered the mainstream of political discourse not only in Europe, but in America as well. They are being expressed with increasing frequency by American NGOs that are strongly supported by major American foundations, especially the Ford, CS Mott, Rockefeller, and Tides foundations, among others. These foundations supported an NGO report of February 2008 to the United Nations Committee reviewing American compliance with the UN CERD (Convention for the Elimination of Racial Discrimination) Treaty. The NGO report entitled “Structural Racism in the United States” declared, “The United States is responsible for failing to address unjustifiable racial impacts” in education, housing, health care, employment, transportation, criminal justice and other domains.⁵

The United States was admonished to change its laws and to “align” them with the United Nations CERD definition of discrimination that includes “facially neutral policies . . . as well as unintentional action and inaction by individuals’ that result in “racially disparate outcomes.”⁶ Further, the report lamented that “decision-making authority, however, is highly fragmented in the United States” (the federal system).⁷ The report recommended that a new federal agency modeled on the Department of Homeland Security coordinate compliance from state and local governments. In addition, it stated that the “US judiciary which as a branch of the US government” has a “duty to act in conformity with CERD.”⁸

⁵ “Structural Racism in the United States,” A Report to the UN Committee for the Elimination of Racial Discrimination on the occasion of its review of the Periodic Report of the United States of America, February 2008, p. 2. Organized by the Kirwan Institute, Ohio State University with 250 NGOs. Online at <http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN2.doc>. Hereafter listed as NGO Report.

⁶ NGO Report, p.2

⁷ NGO Report, p.3

⁸ NGO Report, p.20

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Close to Home, a publication of the Ford Foundation on NGO human rights activity in the US, discusses the need “to break the chokehold of domestic law.”⁹ Indeed, the publication states that, “every nation and all people need ultimate recourse to an alternative ethical and legal authority.”¹⁰ The Ford document approvingly declared that, “US human rights activists are trying to reshape US society according to a philosophy and framework of rights that most people either have not heard of or have been taught to think of as foreign.”¹¹

Although both adherents of the liberal democratic nation-state and transnational progressives favor the “integration” of immigrants, the issue is deeply “contested.” Democratic national sovereigntists more or less support a form of patriotic assimilation that was successful in twentieth-century America, France, and other democracies (with some modifications to be sure). Global progressives emphasize transnational citizenship, as advocated in a recent *Financial Times* article on “diaspora consciousness.”¹² In the progressive view, “integration” means the incorporation of a specific immigrant community as a specific community that retains loyalties to authorities outside the host democratic nation-state. Thus, instead of European Muslims, the globalists seek to integrate “the Muslim community in Europe” that maintains loyalties to the worldwide *ummah*.

From the hyphen to the ampersand. In the US, the traditional concept of the proud and loyal hyphenated-American is becoming blurred. There is now discussion of the “Mexican community in America” with transnational (dual) citizenship and political loyalties. Indeed, for the first time ever, thousands of naturalized American dual citizens voted in the 2006 Mexican presidential election and one was elected to the Mexican Congress.¹³ A *Wall Street Journal* op-ed triumphantly declared that the traditional hyphenated-American is being replaced by the “ampersand” citizen.¹⁴ Instead of being a Mexican-American or Dominican-American, one is both a Mexican & American or a Dominican citizen and an American citizen at the same time. The op-ed was written by two mainstream international-immigration law professors, Peter Schuck (Yale) and Peter Spiro (Temple). Schuck is currently involved in an American Enterprise Institute project with James Q. Wilson, and they have edited a new book of essays on understanding American exceptionalism; Spiro has testified before the House Judiciary Committee as the chief Democratic Party witness on dual allegiance (which he favors).

In general, transnational progressivism and its political agenda, listed above, are advancing in ideological world politics. The social base of transnational progressivism is an increasingly

⁹ *Close to Home: Case Studies of Human Rights Work in the United States*, A publication of the Ford Foundation (New York: Ford Foundation, 2004), p.10. http://www.fordfound.org/pdfs/impact/close_to_home.pdf

¹⁰ *Close to Home*, p.15.

¹¹ *Close to Home*, p.16

¹² Michael Fullilove, “The world must adapt to diasporas,” *Financial Times*, February 15, 2008. See also, “World Wide Webs: Diaspora and the international system,” Lowy Institute Paper 22, Lowy Institute, February 2008, Sydney, Australia.

¹³ Rafael Alarcon Acosta, “Voting Abroad for the First Time in Mexico: An Assesment, El Colegio de al Frontera Norte,” International Metropolis Conference, Lisbon, Portugal, October 2006

¹⁴ Peter Schuck and Peter Spiro, “Dual Citizens, Good Americans,” *Wall Street Journal*, March 18, 1998.

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connected post-national intelligentsia including elements such as the following: leading US and European international lawyers; international judges; NGOs, especially human rights activists in groups like the American Civil Liberties Union (ACLU), Amnesty International USA and Human Rights Watch; UN officials; EU political leaders and bureaucrats; corporate executives from multi-national companies (the “Davos” crowd—not ideological progressives, but pragmatic allies who see practical benefits in the global governance approach); major American Foundations (Ford, Rockefeller, Mott, MacArthur, Tides, etc.); and, most importantly, practicing politicians throughout the West.

One could reasonably argue that transnational progressivism is more or less the dominant ideology in the European Union, certain European nations, the American university and in many Western political parties. To be sure there is resistance to the transnationalists in all of these institutions from what could be called liberal democratic nationalists. The struggle for power between transnational progressives and liberal democratic nationalists could go either way, but it will be the main ideological event of the twenty-first century.

The European Union. The European Union (EU) represents a model of “post-democratic” governance and “post-liberal” ideology. Originally power was to reside with the member-states represented in the Council of the European Union, but for decades most of the authority has been exercised by the European Commission (EC), the bureaucracy in Brussels. Indeed, legislation is initiated by the EC. The Council and the European Parliament can only refuse to accept policies already formulated by the EC (something they almost never do) or they can amend EC legislative proposals through a rather complicated process. No wonder one of Europe’s most prominent sociologists, Ralf Dahrendorf (former commissioner of the EC, current member of the House of Lords) stated that the European Union’s decision-making process is “an insult to democracy.” He went so far as to say that “it is not just a joke to say that if the EU itself applied for accession to the EU, it could not be admitted because it is insufficiently democratic.”¹⁵

The prevailing ideology within the EU is as close to corporatism as it is to liberalism. Unlike the US with its strong First Amendment tradition, the EU and some EU member states restrict free speech through a loose interpretation of prohibitions on “hate speech.” Currently, a city council candidate in Austria is being prosecuted for charging Islam with being a “totalitarian system of domination that should be thrown back to its birthplace on the other side of the Mediterranean.”¹⁶ Further, the institutions of the EU promote gender proportionalism in elections (with a certain percentage of party parliamentary lists reserved for women. These corporatist measures are enacted in the name of implementing the UN CEDAW Treaty (the Convention on Elimination of All Forms of Discrimination Against Women).

The transnational progressive response to radical Islam. This response has been twofold: Externally, it mostly takes the form of denial that terrorism is in any way connected to Islam. As

¹⁵ Ralf Dahrendorf, “Can European Democracy Survive Globalization,” *The National Interest*, Fall 2001. Noted in Plattner, p. 153.

¹⁶ David Rogers, “The FPO defends Graz attack on Islam,” *Wiener Zeitung*, January 14, 2008.

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Princeton University Dean Anne-Marie Slaughter put it: “Our enemy is not *Islamic* anything. The threat to our security comes from individual terrorists organized in global networks [italics in the original].”¹⁷ At the same time, internally within territorially based nations there is widespread accommodation to Islamist ideology, culture, and even, in some cases, *sharia* law across the West.

Thus, in March 2007 the *Daily Telegraph* reported that the European Union issued a classified handbook that banned the words “Islamic” and “jihad” in reference to terrorist attacks. Instead the EU directed public officials to replace concepts such as “Islamic terrorism” with words that are not “offensive” to Muslims.¹⁸ In 2007 British Home Secretary Jacqui Smith instructed its officials to use terms such as “violent extremists” and “criminal murderers” instead of “jihadists” or “Islamic extremists.”¹⁹ In the last few months, the US State Department and Department of Homeland Security have essentially followed suit, dropping references to Islam in connection with terrorism.²⁰

Throughout the West (and particularly since 9/11) Muslims have been granted special autonomous privileges that contradict the liberal principles of equality of treatment and of citizenship. The Archbishop of Canterbury was roundly criticized when he derided what he called “the legal monopoly” of the British common law and endorsed the partial application of *sharia* law for British Muslims.²¹ Nevertheless, this view has been at least partially incorporated into law. For example, the British government admitted in February 2008 that it has recognized polygamous marriages and provided welfare, housing, and tax benefits for the multiple wives of Muslim husbands.²²

Even beyond the issue of special privileges, there are regions of the West where de-facto autonomous zones exist outside the control of the democratic nation-state. For example, as of November 2006 the French government has officially recognized that there are 751 “Sensitive Urban Zones,” or so-called “no go zones” in France. These are areas where the French state does not exercise authority but where youth gangs, sometimes in collusion with Muslim clerics, rule.²³ Clearly, all of the above constitute a challenge to the so-called reigning “liberal hegemony.”

¹⁷ Anne Marie Slaughter, *The Idea That Is America: Keeping Faith with our Values in a Dangerous World* (New York: Basic Books, A Member of the Perseus Books Group, 2007), p. 165.

¹⁸ Bruno Waterfield, “Don’t confuse terrorism with Islam, says EU,” *Daily Telegraph*, March 31, 2007.

¹⁹ Daniel Pipes, “Britain’s Encounter with Islamic Law,” *Jerusalem Post*, February 13, 2008.

²⁰ Steve Emerson, “Investigative Project Releases Government Memos Curtailing Speech in War on Terror,” *Investigative Project News*, May 2, 2008.

²¹ Pipes, *Jerusalem Post*.

²² *Ibid.*

²³ Daniel Pipes, “The 751 No-Go-Zones of France,” Weblog, November 14, 2006, <http://www.danielpipes.org/blog>

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The Response of the American Governing Center-Left to the Transnational Challenge

As noted earlier the activist American left (NGOs such as Human Rights Watch and Amnesty International USA, foundations such as Ford and Mott) embrace a rather radical form of transnational progressivism often remote from the American mainstream. But what of the governing American center-left? By the governing center-left I mean the views of policy makers who serve as political appointees in administrations, such as deputy secretaries of state and assistant secretaries of defense (figures like Strobe Talbott, Anne-Marie Slaughter and Harold Koh), as opposed to “theoretical left” academics, such as Martha Nussbaum at the University of Chicago.

Overall, the American governing center-left is intellectually prepared to deal with transnational governance conceptually and rhetorically. In essence, the governing left has internalized the global governance project as America’s “leadership” mission. However, in promoting this “leadership role” the governing left has blurred the boundaries between our constitutional democratic order and post-constitutional supranational governance, while at the same time obfuscating the distinction in foreign policy between traditional American leadership within an *inter*-national system versus an American “leadership” that translates into acquiescence to a *trans*national system with its concomitant surrender of democratic sovereignty.

Strobe Talbott clarifies this mindset best. In a memo to Bill Clinton shortly before the 1992 election the future deputy Secretary of State wrote:

“Americans are all for having the Japanese and West Europeans pony up to pay for the Gulf War, but they are mighty chary about any arrangement that smacks of pooled national sovereignty or authority. The way to counter this resistance, of course, is to sell multilateralism as not just an economic imperative but as a means of preserving and enhancing American political leadership in the world, since the various multilateral outfits will be effective only if the US does lead them.”²⁴

The concept of “pooled” or “shared national sovereignty” is central to the thinking of the transnational elites who are promoting global governance. This is an idea we will be hearing about over and over again in the decades to come. Talbott’s endorsement of the principle of “shared sovereignty” suggests that his interpretation of “multilateralism” is, in effect, a means of fostering transnational authority.

Dean of the Woodrow Wilson School of International and Public Affairs at Princeton University Anne-Marie Slaughter could be described as the “John Bolton of the left.” She would in all likelihood be appointed to a top foreign policy post in a future left-of-center administration. Slaughter has envisioned a system of global governance based on “trans-governmental networks.”

²⁴ Strobe Talbott, *The Great Experiment: The Story of Ancient Empires, Modern States, and the Quest for a Global Nation* (New York: Simon & Schuster, 2008), p. 439.

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Slaughter argues that nation-states should cede a degree of sovereignty to transnational networks “horizontally” and supranational institutions “vertically.” Horizontally, means, for example, that American judges would interact with foreign judges, quote each other’s opinions, and develop joint legal doctrine (what she calls “transjudicialism”). Vertically, she argues that nations should cede sovereign authority to supranational institutions in cases requiring global solutions to global problems, such as the International Criminal Court.²⁵ In this way, Slaughter maintains that global government networks “can perform many of the functions of a world government—legislation, administration, and adjudication—without the form,” thereby, creating a genuine global rule of law.²⁶

Harold Koh, the dean of Yale University Law School, served as assistant secretary of state for democracy, human rights, and labor during the Clinton Administration. In a detailed article in the *Stanford Law Review* responding to the Bush foreign policy, Koh articulates the central viewpoint of the American governing left.²⁷

Koh chastises the US for failing to “obey global norms.”²⁸ America, Koh tells us, “promotes double standards” by refusing to ratify the International Criminal Court treaty; “claiming a Second Amendment exclusion from a proposed global ban on the illicit transfer of small arms and light weapons”; and “declining to implement the orders of the International Court of Justice with regard to the death penalty.”²⁹ Indeed, Koh complains: “The World Court finally found that the United States had violated the Vienna Convention” (on the death penalty), but “American courts have essentially ignored” the ruling of the ICJ.³⁰

Koh’s proposed remedy to American exceptionalism is for “American lawyers, scholars and activists” to “trigger a transnational legal process,” of “transnational interactions” that will “generate legal interpretations that can in turn be internalized into the domestic law of even resistant nation-states.”³¹ For example, Koh suggests that, “human rights advocates” should litigate “not just in domestic courts, but simultaneously before foreign and international arenas.”³² Moreover, they should encourage foreign governments (such as Mexico) and transnational NGOs to challenge the US on the death penalty and other human rights issues.

Supporters of the International Criminal Court should, Koh recommends, “provoke interactions between the United States government and the ICC” that might lead to the US becoming enmeshed in the ICC process (by, for example, having the US provide evidence in ICC trials). These interactions with the ICC would show cooperation with the tribunal and therefore “could

²⁵ Anne Marie Slaughter, *A New World Order* (Princeton, NJ: Princeton University Press, 2004), pp. 12-35.

²⁶ Slaughter, *A New World Order*, p 4.

²⁷ Harold Hongju Koh, “On American Exceptionalism,” *Stanford Law Review*, Volume 55, 2003, pp. 1480-1527.

²⁸ *Ibid.* pp. 1480-1487.

²⁹ *Ibid.* pp. 1485-1486

³⁰ *Ibid.* p. 1486.

³¹ *Ibid.* p. 1502.

³² *Ibid.* pp. 1509-1510.

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be used to undermine” the official US “unsigning” of the treaty because it might “constitute a de-facto repudiation” of the “act of unsignature.”³³

Of course, the “transnational legal process,” advocated by Koh (and others in the governing center-left) is a process outside of American constitutional democracy. The American people have a Constitution, judicial institutions, and a democratic political system. Transnational “interactions” (such as appealing to foreign courts) are not part of the institutional authority and accountability inherent in the meaning of the phrase: “We the People of the United States.” Koh’s “interactions” are something “outside” of the “People of the United States” and “beyond” the Constitution and our democratic process. Therefore, they could be characterized as extra-constitutional, post-constitutional, or post-democratic. In effect, they seek to achieve results that could not necessarily be achieved through the regular process of American democracy. This clearly raises the core “regime” questions of what constitutes legitimate political authority and who is responsible to whom in a democratic state.

The Response of the American Governing Center-Right to the Transnational Challenge

While the governing center-left has internalized global governance and is prepared to promote it, in some form at least, the governing center-right has for the most part failed to engage on the issue (with some exceptions that will be discussed later). The main problem for the governing center-right could be described as one of underdeveloped conceptualization. There are a number of obstacles standing in the way of clear and comprehensive thinking on the challenge of transnational progressivism. I will list five.

(1) The Fukuyama Paradigm. The first obstacle is that the governing center-right has internalized the core elements of the Fukuyama paradigm. In the main, the bulk of the center-right would agree with Fukuyama that the core principles of liberal democracy face no serious rival with a universal appeal in the world today. To be sure, the rival ideologies that the center-right considers rival ideologies—radical Islam, Chinese nationalism, Russian nationalism, and “Asian values”—do not, unlike Marxism, have wide appeal for Western intellectuals. But as argued in this essay the institutions of global governance and the ideology of transnational progressivism: (1) constitute a root-and-branch challenge to both the principles of traditional liberalism and to majority-rule democracy within the liberal democratic nation-state; and (2) possess universal appeal and a critical mass of widespread support among Western intellectuals.

(2) Viewing radical Islam as the sole overarching threat. Unlike large chunks of the Western left who speak only in terms of generic “terrorism,” “extremism,” or “violence,” the American center-right, to its credit, has identified radical Islam as major threat to liberal democracy. Radical Islamists are capable of inflicting tremendous damage, but it would be a mistake to focus solely on the struggle against the radical Islamists because they are not the only “transcendent” threat facing American constitutional democracy in the twenty-first century.

³³ Ibid. pp. 1506-1509

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First, as the century progresses, the indirect, “soft,” non-violent (but coercive) challenge from transnational progressivism (that has great appeal within the West) should prove to be as great a threat (if not, ultimately, a greater threat than radical Islam) to the continuing existence of the independent liberal democratic nation-state in general and to American constitutionalism in particular. Second, the transnational progressives constitute a major obstacle in the conflict with radical Islam by refusing to acknowledge both the seriousness and the ideological nature of this conflict.

The center-right and anti-radical Islamists in general will have to fight on two ideological fronts. They will have to wage major ideological (and increasingly, as Andrew McCarthy has pointed out, lawfare) battles with both the radical Islamists and a significant contingent of Western anti-radical Islamists (the John Espositos, the Juan Coles, the ACLUs, Amnesty Internationals, etc.), who are essentially transnational progressives. This state of affairs parallels the Cold War era, when anti-communists had to fight an ideological civil war within the West against the anti-communists as well as against the communists themselves. Thus, the conflict with radical Islam is intertwined with and cannot be separated from the challenge of transnational progressivism.

(3) The Kagan narrative. In his new book *The Return of History and the End of Dreams* and in a long *New Republic* article (“The End of the End of History”) Robert Kagan alters the core Fukuyama narrative by arguing that “autocracy” has been revived (both in theory and practice) during the past decade in China and Russia.³⁴ What this means according to Kagan is that the more than two-hundred-year-old conflict between liberal democracy and autocracy has been renewed and will become the main event of the twenty-first century. The conflict with radical Islam, while extremely dangerous, is secondary to the emerging struggle with the “great autocratic powers” of China and Russia, who are (among other things) enablers of the Iranian regime and other Islamic radicals.

Kagan tells us that the conflict between democracy and autocracy started during late eighteenth century; was inspired by the Enlightenment world view that promoted an emerging liberal world order; and involved the young American republic from the beginning firmly on the liberal side. While containing some truth, this is essentially an inaccurate and misleading portrayal of history and contemporary world politics. While Kagan presents a more or less monolithic Enlightenment promoting progress, Gertrude Himmelfarb and others have noted differences between the Anglo-American and French Enlightenments that have led to very different revolutions and political regimes.³⁵

³⁴ Robert Kagan, “The End of the End of History: Why the 21st Century Will Look Like the 19th,” *The New Republic*, April 23, 2008 and Robert Kagan, *The Return of History and the End of Dreams* (New York: Alfred A. Knopf, 2008).

³⁵ Gertrude Himmelfarb, *The Roads to Modernity: The British, French, and American Enlightenments* (New York: Alfred A Knopf, 2004).

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In a previous book (*Of Paradise and Power*) Kagan declared: “Americans, as good children of the Enlightenment, still believe in the perfectibility of man, and they retain hope for the perfectibility of the world.”³⁶ Of course, the American Founders did not believe in the “perfectibility of man” and created a constitutional republic of checks and balances that recognized a flawed human nature. During the early republic the American governing center-right (Washington, Adams, Hamilton) opposed the utopian wing of the Enlightenment and its offspring the French Revolution both in principle (Adams debated Condorcet) and practice (quasi-war with the French republic).

The ideological geopolitical struggle was *tripolar*, with American constitutional democrats in conflict with both radical utopians and autocrats (including Islamists from the Barbary coast), rather than simply bipolar as presented by Kagan. Today, too, Kagan’s bipolar conceptualization (liberal democracy vs. autocracy) is inadequate because liberal democracy again faces a tripartite challenge (from both anti-democratic autocracy and post-democratic transnationalism). In one sense transnational progressivism—with its utopianism, transformative view of human nature, substantive equality, and militant secularism—is the heir to the radical wing of the Enlightenment, while the liberal democratic nation-state is the progeny of its moderate wing. As noted earlier in this essay transnational progressivism represents the de-liberalization of the West (it is a post-liberal project) and therefore Kagan’s view of a unified liberal West in conflict with autocracy is a very thin reed on which to build a conceptual model of global ideological politics.

(4) Corporate elite and libertarian ambiguity. Another obstacle to clear thinking on global governance is that elements of the broader center-right coalition, specifically many corporate leaders and some libertarians, are ambivalent about the nation-state and transnationalism. Many American business leaders have internalized the core global governance arguments. They take great pains to tell us that American brand-name businesses are not “American.” Jeff Seabright, vice president of Coca Cola, emphatically stated: “We are not an American company.”³⁷ A leading Colgate-Palmolive executive declared, “There is no mindset that puts this country (the USA) first.”³⁸

Samuel Huntington describes these American business leaders as “economic transnationals” who identify more with their colleagues among the global elites than with their fellow citizens. In 2003 the annual World Economic Forum in Davos launched its Global Governance Initiative (GGI). A team of forty experts is the core of the project. They are almost all left-of-center globalists like Strobe Talbott, Mary Robinson (who organized the UN Durban conference), John Ruggie (Kofi Annan’s former deputy), Tim Wirth (President of UN Foundation), and the Canadian Maurice Strong (organizer of UN Rio Earth Summit, the precursor to the Kyoto

³⁶ Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Alfred A. Knopf, 2003), p. 95.

³⁷ Jeff Seabright, “Remarks at the Center for Strategic and International Studies and Sandia National Laboratory,” February 9, 2005, Washington DC, Speeches: Press Center: The Coca Cola Company.

³⁸ Louis Uchitelle, “US Businesses Loosen Link to Mother Country,” *New York Times*, May 21, 1989.

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Treaty).³⁹ The American business leaders who have internalized the global governance project are not, of course, ideologues, but they could be described as “transnational pragmatists” and as essentially “post-Americans.”

For some (clearly not all) libertarians opposition to the “state,” even the constitutional democratic nation-state leads to an affinity to transnational (as opposed to international) politics. Indeed, on Cato’s website, adjunct scholar Arnold Kling (formerly senior economist at Freddie Mac and staff economist at the Federal Reserve) “proposes” an “alternative ideology” that “might be called transnational libertarianism.” Ideally, in this regime, Kling declares, “governments would be local rather than national.”⁴⁰ Closer to the political mainstream is Cato’s congressional handbook, which declares that, “the right to trade is a fundamental human right” and “protectionism violates human rights. It is an act of plunder that deprives individuals of their autonomy.”⁴¹ Protectionism is usually bad policy, but to describe it as a “violation of human rights,” redefines (and thus fundamentally dilutes) the concept of human rights in much the same way that transnational progressivism does.

On China, Cato insists that “trade policy should be de-coupled from [political] human rights”; all sanctions such as Jackson-Vanik should be repealed; and that nation should be afforded “unconditional” MFN (most favored nation) trading status.⁴² Even closer to the political mainstream and at the core of the governing center-right was the persona of the late editor of *Wall Street Journal*, Robert Bartley, who is reported to have told a *Forbes* journalist, “the nation-state is finished.”

(5) Ellis Island Nostalgia and the failure to embrace the essentials of the Huntington critique of de-nationalized elites. Large-scale immigration to the United States in the twenty-first century is occurring under entirely different circumstances than existed during the last great wave of immigration at the beginning of the twentieth century. Today, besides the technological (inexpensive travel, instant communications), geographic (many immigrants coming from a single contiguous country), and linguistic (predominance of Spanish as opposed to many tongues) differences, the ideological landscape among the American elite has been totally altered. One hundred years ago elites unapologetically promoted “Americanization.”

Today an anti-assimilation ideology and infrastructure is in place, including the following: multilingual ballots; bilingual education that includes using Mexican textbooks and importing Mexican teachers to instruct American children of Mexican descent in US history in Spanish;⁴³ Executive Order 13166 that requires official multilingualism in all institutions receiving federal

³⁹ Marguerite A. Peeters, “Interactive Information Services Report 236, February 14, 2005,” Interactive Information Services, Brussels, Belgium.

⁴⁰ Arnold Kling, “Tribal Politics,” added to cato.org on April 3, 2006.

⁴¹ On cato.org see *Cato Handbook for Congress*: 54. Trade and Human Rights.

⁴² Ibid.

⁴³ See Heather MacDonald, “Mexico’s Undiplomatic Diplomats,” in *The Immigration Solution: A Better Plan Than Today’s*, essays by Heather MacDonald, Victor Davis Hanson, Steven Malanga and an introduction by Myron Magnet (Chicago: Ivan R. Dee, 2007), pp. 143-149.

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funds; transnational citizenship or dual allegiance with naturalized Americans violating their oath of allegiance by voting and running for office in their birth nations;⁴⁴ and the promotion of multiculturalism over American unity in public schools. Not surprisingly, the strongest indicator of assimilation, intermarriage between immigrants and native-born and among ethnic groups, has declined for the first time since the 1970s.⁴⁵ At the same time, among newly naturalized citizens self-identification as “Americans” is lower than self-identification with their birth nation.⁴⁶ In short, the situation is not Ellis Island revisited no matter how much some conservatives tell us it is.

Let us examine how integration works “on the ground” in Illinois. In that state, “immigrant integration” is administered by Jose Luis Gutierrez, the head of the Office of New Americans. Mr. Gutierrez is a political appointee of Governor Blagojevich. His concept of integration is different from that of, say, Theodore Roosevelt; it is the ampersand and diaspora rather than the hyphen and the melting pot.

Gutierrez told the *Chicago Tribune* in April 2007 that, “The nation-state concept is changing. You don’t have say, I am Mexican or I am American. You can be a good Mexican citizen and a good American citizen and not have that be a conflict of interest. Sovereignty is flexible.” Further, Gutierrez stated that he and others like him form a “third nation” that “transcends the border and is built on a new political consciousness.”⁴⁷ Gutierrez is a dual citizen and clearly a proponent of the ampersand model. He organizes the involvement of Mexican immigrants including American citizens in Mexican politics. His political loyalty is clearly as much to the Mexican regime as much as the American regime. Mr. Gutierrez and the ampersand could very well be the face of the future.

In *Who Are We: Challenges to American National Identity*, Samuel Huntington argues that issues such as transnationalism, globalism, dual citizenship, “racial preferences, bilingualism, multiculturalism, immigration, assimilation, national history standards, English as the official language, Eurocentrism,” and so on, are “all battles in a single war over the nature of American

⁴⁴ See John Fonte, “Dual Allegiance: A Challenge to Immigration Reform and Patriotic Assimilation,” Foreword by Newt Gingrich, Introduction by Herbert London and Thomas L Bock (National Commander American Legion), Center for Immigration Studies, Washington, November 2005.

⁴⁵ See Daniel Lichter, Brian Brown, Zhenchao Qian, Julie Carmalt, “Marital Assimilation among Hispanics: Evidence of Declining Cultural and Economic Incorporation?” *Social Science Quarterly* 88:745-65 and Zhenchao Qian and Daniel Lichter, “Social Boundaries and Marital Assimilation: Interpreting Trends in Racial and Ethnic Intermarriage,” *American Sociological Review* 72:68-94.

⁴⁶ See Alejandro Portes and Ruben Rumbaut, *Legacies: The Story of the Immigrant Second Generation* (Berkeley, CA: UC Press, 2001), pp 147-175 and *Pew Hispanic Center/Kaiser Family Foundation 2002 National Survey of Latinos*, December 2002, Section 2 Identity pp. 25-30. On how dual nationality weakens American identity among Latino immigrants see Jeffrey K. Staton, Robert A. Jackson, and Damarys Canache, “Costly Citizenship: Dual Nationality Institutions, Naturalization, and Political Connectedness” (Social Science Research Network Working Paper Series, June 19, 2007).

⁴⁷ Antonio Olivo and Oscar Avila, “Influence on both sides of the border,” *Chicago Tribune*, April 6, 2007.

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national identity.”⁴⁸ Huntington’s core point is that “de-nationalized elites” are promoting the “transnational” and the “multicultural” in order to “deconstruct” America’s creed and common culture.

Huntington did not use the term, but these controversies are (in James Ceaser’s formulation) “regime issues.”⁴⁹ What is being contested is the nature of America’s liberal democratic regime as it has been traditionally understood. Will this regime be perpetuated and transmitted to future generations or will it be transformed into a new type of transnational-multicultural-post-sovereign regime? Huntington’s *Who Are We* is a tour de force that cuts to the heart of this question. Needless to say, Huntington was hysterically attacked by nervous “de-nationalized elites” on the left, who don’t want these issues discussed openly.

However, even on the center-right, Huntington’s core argument seems to have gotten lost in Harry Jaffa-style sectarian in-fighting over the extent to which America is a “proposition” nation and the persistence or disappearance of an “Anglo-Protestant culture.” But, surely, it is possible to disagree with Huntington (which, to an extent, I do) on the creed vs. culture aspect of American nationhood; the degree to which American culture is still formed by the “dissenting Anglo-Protestant” tradition; and on the “Clash of Civilizations” thesis, but still, at the same time, recognize the accuracy of his description of the comprehensive assault on our national identity by “de-nationalized” elites.

As a consequence of the center-right’s failure to embrace the essentials of the Huntington critique, conservatives have continued to see a series of often unconnected “social” or “cultural” issues (racial preferences, politically correct history education, immigration without assimilation, NGOs at the UN Durban conference) or the rantings of academic post-modernists instead of a serious comprehensive ideological offensive directed at the traditional American regime. Thus, when state government officials in Illinois emphatically endorse transnational and “ampersand” citizenship, the center-right does not respond with principled arguments, but with silence or simply dismissive derision. And, as noted earlier, some conservatives, like the editorial board of the *Wall Street Journal*, apparently are not troubled by ampersand citizenship. Ironically, a major problem with last year’s “comprehensive immigration reform” bill was that it was not “comprehensive” enough and did not dismantle (or even discuss cutting back on) the anti-assimilation infrastructure that has accumulated for decades.

The good news. Two positive developments could be cited against the backdrop of the advance of transnational progressivism: (1) the American people remain strongly attached to our national identity and democratic nation-state, and (2) there are signs that some counter-elites on the center-right are starting to take the global governance challenge seriously.

⁴⁸ Samuel Huntington, *Who Are We: The Challenge to American National Identity* (New York: Simon & Schuster, 2004).

⁴⁹ James W. Ceaser, *Liberal Democracy & Political Science* (Baltimore, MD: Johns Hopkins University Press, 1990).

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In a review attacking Huntington's *Who Are We* in *The New Yorker*, Louis Menard wrote, "By nearly every statistical measure, and by common consent, Americans are the most patriotic people in the world." Menard pointed to polls conducted from 1989 through 2004 and cited that around 96 percent of the respondents were "proud" to be Americans.⁵⁰ A recent survey by a major polling company found similar results, with 94 percent "proud" to be an American.⁵¹

Moreover, on issues of transnationalism, Americans come down firmly on the side of affirming national sovereignty, the patriotic assimilation of immigrants, and meeting the threat of radical Islam. No less than 83 percent think of themselves primarily as American citizens, not "global citizens" (12 percent). Two-thirds (66 percent) believe the Constitution should be the "highest legal authority" for Americans if there is a dispute with international law (16 percent chose international law). Fully 60 percent believe it is a "bad thing" that some American companies consider themselves "global" with no particular attachment to the USA. Some 90 percent favored the "Americanization" of immigrants defined as "learning English and embracing American culture and values." Nearly three quarters, 73 percent, believe that naturalized citizens should "give up all loyalty" to their former homelands. And an overwhelming 86 percent believe that potential immigrants who favor replacing the US Constitution with Islamic law should not be allowed to immigrate to the United States.

In April of 2008 the Federalist Society and the American Enterprise Institute launched the new website, Global Governance Watch, with former UN Ambassador John Bolton giving the keynote address at an inaugural luncheon. Eight years ago, Bolton had organized the AEI conference, "Should We Take Global Governance Seriously." Bolton, of course, considers this challenge serious, and in the past few years a group of thinkers (dubbed the "New Sovereignists" by law professor Peter Spiro) have emerged who are defending the principle of liberal democratic sovereignty within the nation-state.⁵²

Besides John Bolton these analysts include, among others, Robert Bork, Jeremy Rabkin, David Rivkin, Lee Casey, Jack Goldsmith, Stephen Krasner, Curtis Bradley, Andrew McCarthy, Herbert London, John O'Sullivan, Kenneth Anderson (formerly director of Human Rights Watch Arms Division), and liberal Yale Law professor and Bush Administration critic Jed Rubenfeld. At the same time, a new book published by the Manhattan Institute, *The Immigration Solution* authored by Heather MacDonald, Victor Davis Hanson, and Steven Malanga, takes a strong national sovereignty-assimilationist position and assails the diaspora-ampersand model on the issue of mass immigration.⁵³

⁵⁰ Louis Menard, "Patriot Games," *The New Yorker*, May 17, 2004.

⁵¹ Survey data that follows will be released in June 2008

⁵² Peter J. Spiro, "The New Sovereignists: American Exceptionalism and its False Prophets," *Foreign Affairs*, November/December 2000.

⁵³ Heather MacDonald, Victor Davis Hanson, Steven Malanga, *The Immigration Solution: A Better Plan Than Today's* with introduction by Myron Magnet (Chicago, IL: Ivan R Dee, 2007).

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Conclusion

I would like to conclude with the following thoughts: What is needed now is the development on the center-right of a broad conceptual framework that takes seriously the global governance project and its ideology of amorphous progressivism. (See Chart A.) It is important to bear in mind that global governance is a regime challenge. It questions the legitimacy of the liberal democratic nation-state and the core principles of our constitutional sovereignty. It is not democratic, but post-democratic; it is not liberal, but post-liberal. This challenge must be met forthrightly and directly.

As the twenty-first century progresses, the center-right will be involved in several “transcendent” conflicts simultaneously. In the late eighteenth century, as noted earlier, the American center-right (Washington, Adams, Hamilton) waged a two-front ideological struggle against both the forces of anti-democratic reaction and against the radical utopian wing of the Enlightenment emanating from the French Revolution. During the Cold War, the center-right waged a two-front ideological conflict against the communists and against the anti-anti-communists of the Western left. Today and in the years to come, the center-right will have to confront two ideological adversaries, the anti-democrats (radical Islam, perhaps Chinese autocrats and others) and the post-democrats (transnational progressives). Interestingly, in all three cases, the American center-right has found itself in conflict with both anti-Enlightenment and radical Enlightenment thought that opposed (and still opposes) constitutionalism, federalism, national sovereignty, and limited government.

A conceptual critique of global governance will be stronger if built on universal principles and not simply on America’s unique role in the world as the chief provider of international security. The ideological counter-point to global governance progressivism is support for the universal principles of constitutionalism, government by the consent of the governed, and the sovereignty of the liberal democratic nation-state. The United States should champion not only its own sovereignty, but the sovereignty of other liberal-democratic nations as well. This would particularly include those democratic nation-states under pressure from supranational forces, such as Israel, Columbia, and some Central and Eastern European states within the EU. Further, instead of supporting the EU as the EU, we should support those forces within the EU that are seeking to restore authority back to the democratic nation-states. Further still, India, Australia, and Japan, and possibly a future Tory Britain, could also constitute potential supporters of a stronger vision of constitutional democratic sovereignty.

Let me conclude this paper by examining how this appeal to the universal principles of constitutional democratic sovereignty would work in practice by looking at the controversy over the International Criminal Court (ICC).

To date, the United States has argued against the International Criminal Court (ICC) primarily on the grounds that the treaty would subject American soldiers to prosecution outside our constitutional system. This is true enough and the US should continue to make this point. However, the US should also argue on universal grounds that the entire ICC process itself is an

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affront to democratic self-government everywhere. The operating principles of the International Criminal Court are in direct contradiction to the values of democratic self-government.

Under the ICC rules, the soldiers of a constitutional democracy whose nation did not ratify the ICC treaty could nevertheless be tried by ICC judges against the will of that democratic state. For example, India and the Czech Republic are democracies that have not ratified the ICC. If Indian or Czech troops serving in peacekeeping missions in the Congo (which did ratify the ICC) are accused of human rights violations, they could be tried before this court. Since the Congo is a party to the treaty it would not be necessary to have Security Council approval.

Supporters of the ICC claim there is a “safeguard” that the constitutional democracy in question (or any nation) has the first option of investigating the alleged crimes of their own soldiers before the ICC would act. But whether their judicial procedures are deemed sufficient and valid are determined not by the democratic nation-state itself but by the ICC (whose membership includes eight undemocratic authoritarian regimes).

Besides India and Czech Republic, other democracies have refused to ratify the ICC including Israel, Japan, Taiwan, and Chile. Moreover, these democracies do not have veto power in the Security Council and would not be able to protect their troops in particular circumstances. In the final analysis the United States should oppose the ICC not only for its own national interests, but also for the interests of other liberal democratic states and for the principle of constitutional sovereignty and self-government that the charter of the International Criminal Court flagrantly violates.

In summation, the perennial question of politics (who shall govern and in what regime?) remains contested at the beginning of the twenty-first century. The liberal democratic nation-state in general and American constitutionalism in particular will confront what is perhaps the greatest challenge ever to their moral authority and legitimacy from the ideology and forces of global governance. This challenge is “existential” because it challenges the existence of the American constitutional democratic regime. It is formidable because it comes from within Enlightenment thought and Western civilization. It will be the great challenge of the twenty-first century.

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John Fonte is a senior fellow and director of the Center for American Common Culture at the Hudson Institute. His book Sovereignty or Submission: Will Americans Rule Themselves Or Be Ruled By Others? will be published by Encounter Books in 2009.

Author's Note: In developing a book proposal on the complicated topic of the ideology of global governance, I found that, in general, liberal publishers wanted me to restrict criticism of some of their sacred cows among the NGOs, and many conservative publishers urged an oversimplified "red-meat" approach. I am grateful that Encounter Books and its publisher Roger Kimball support an open and comprehensive approach to serious subjects.

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Chart A. What Is the Best Regime?

**IDEOLOGIES with
UNIVERSAL APPEAL**

**Liberal Democracy
(liberal and democratic)**

- democratic nation states
- international system
- based on democratic sovereignty

**Global Governance
(post-liberal, post-democratic)**

Transnational Progressivism

- transnational system
- based on evolving global norms
- ideological challenge to liberal democracy
- non-violent, but coercive
- soft challenge, but existential

**IDEOLOGIES that USED TO HAVE
UNIVERSAL APPEAL**

Communism

Fascism

**IDEOLOGIES that LACK
UNIVERSAL APPEAL**

**Radical Islam
(anti-liberal, anti-democratic)**

- transnational
- violent; hard challenge
- based on the ummah (the worldwide Muslim community)

**Chinese Nationalism
(non-democratic)**

- potential aggressive military challenge
- economic-military
- not an ideological challenge

**Russian Authoritarianism
(non-democratic)**

- minor material challenge

**Asian Values
(non-democratic)**

- minor material challenge

**Chavez-Bolivarism
(non-democratic)**

- mischief challenge

**Ethnic Chauvinism
(non-democratic)**

- not a challenge