World Law and World Reform

By SUSANNE K. LANGER

We see with growing dismay the increase of military organization everywhere in the world. The fear of war is not the only cause of our dismay; it is even more motivated by the effect of this militarism on individual lives in times of so-called "peace." Taxation increases so that most people find no margin of income left to improve their lives, or to carry out cherished ideas; restrictions and embargoes make personal projects difficult, and every move, if not flatly forbidden, requires a license, so that any original venture, no matter how harmless or even philanthropic, has to be examined first of all for possible conflicts with this or that trivial law or local ordinance.

Such governmental control is symptomatic of a shift in the general conception of law, from the idea of law as an instrument to protect individual rights, to the idea of law as an instrument whereby the government can immediately find, control, and utilize every person. In some countries, the latter conception is traditional; laws were never for the protection of individual rights. In some other countries, however, personal freedom has once been achieved and honored, but is lost—the shift to military ideals and the corresponding conception of law is complete. In our own country that development is still taking place, but, other things being equal, its completion is only a matter of time: law is no longer essentially a guarantee of individual freedom, defining its limits but also its scope; the power of law is becoming more and more the power of the government to abrogate personal rights, to demand any percentage of personal income and allocate it according to political plans, to exact from all citizens vows of conformity in political thought, and

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interrupt men's personal careers just in the years of their launching, breaking their first impetus, by forced military service.

In the apprehension of this disastrous trend, even an active and enterprising people, impatient of philosophical problems, must of necessity stop to consider the general relationship of freedom and authority, with the hope of discovering how the increasing opposition between them may be resolved.

The first step is, of course, to understand the situation that inspires the new attitude of private persons toward authority, and of governments toward human beings. I think this situation may be summed up by saying that all mankind is in a stage of transition from its age-long economic organization by relatively self-sufficient units (tribes, principalities, countries, even empires) to a new economic organization of industries and commercial exchanges embracing the whole globe. The terrible tension that marks our age arises from a severe time-lag between the economic order which has sprung up and spread out with the sudden growth of science, and the political order which still presupposes the old values of self-sufficiency and separateness. The political pattern today does not mirror the actual state of society; and since political institutions are the greatest and steadiest symbols of moral values (wherefore emotion is so readily directed toward them), people's moral ideas and feelings today are largely unrealistic. Our interests are global, our consciences are tribal. Our activities reach round the world, our morality stops at a national boundary. This holds, I think, for industrialized societies everywhere on earth.

The old regionalism produced a number of cultural values—social solidarity, social rights codified into a system of laws, and especially the authority of civil government to implement the laws. In the security of such institutions the ideal and the reality of personal freedom developed; and under civil law, industry and commerce grew up.

In the new age of science, they have grown to global proportions, wiped out the fixed local limits of economic needs and resources, outgrown every realm of civil government and therewith the controls of statute law. For in the larger world of our modern economy there is no authority to limit rights and guarantee them. Material interests—acquiring raw materials, processing, distributing, marketing—go on in the

society of nations without the aid of legal machinery to adjudicate the conflicts that naturally arise all the time between major enterprises.

It has consequently become the prime function of governments to uphold the claims of their citizens to the legally unprotected goods of the world, forcing the issue, wherever necessary, by threats or acts of violence. With the opening up of isolated places to physical access, that function has become more and more difficult to perform. The actual unity of the world-wide economy makes every threatening gesture an ultimatum not only to the government guarding the particular rival claimant, but to the sovereign protectors of all creditors of both disputants. There does not even need to be any mutual hate or warlike spirit to involve two countries in an international crisis; the rivalry is there, it is inherent in the economic exploitation of the globe, and there is no institution that provides "an instrument to which the wise and honest may repair." The only instrument of settlement is military power.

The cultivation of such power is, therefore, the necessary first concern of all societies that lay claim to anything tangible in the world—even to wealth that still lies buried in their mountains and forests, the oil under their deserts, the very hides on the backs of creatures in their swamps.

But military power rests on potential mass action. Governments, therefore, must regard their citizens as masses to be deployed; and they cannot regard them equally as individuals to be served. One cannot maintain two such different attitudes at once for any length of time. This is the cause of the shift from the conception of authority as protection of private rights to the conception of authority as the power to abrogate private rights, dictate arbitrary duties, forbid enterprises, and control speech and association. The demand put upon every sovereign state to guarantee its nationals their power to act without legal right in the world at large, has made the sacredness of legal rights at home impossible to uphold.

The essence of civil order is law, supported by a generally approved and welcomed (though not necessarily elected) authority; an authority with power to coerce individuals flouting its dictates, but generally supported by uncoerced assent. Police power is not founded on supreme force, but on public moral support. It does not hold the strongest weapons and hordes of men. The essence of military order, on the other hand, is law dictated by an imposed authority with power to coerce the entire

public at any or all times. Its law rests upon supreme force, and operates just as long as that force can be maintained.

As long as governments are absolutely free and increasing in physical power, individuals must become less and less free to do anything but serve their governments. If, therefore, we want to save personal freedom in the new integrated economic world, we must have a different system of decisions and sanctions in that world; it is a staggering fact, but an ineluctable one, that nothing short of world reform can stem the growth of modern militarism. A world geared for industry and commerce—whether private or public is immaterial—requires a system of civil law as extensive as the interests to be protected; that is, an authority that can guarantee the integrity of each agent, and adjudicate the extravagant claims of all economic rivals.

In the breakdown and confusion of the present political pattern, many movements for world reform have been proposed and even started. Most of them seek to abolish the material ambitions that drive men and nations into conflict. Many are based on the hope of educating all people to understand each other. But neither unnatural ambitions nor misunderstanding lie at the roots of our moral and political failure; the trouble lies in obsolete institutions. And I submit that the adoption and implementation of civil world law is the only world reform that is a reasonable political goal.

A great political reform demands a great vision. What I mean by a great vision is not a dream of Utopia to be achieved five hundred years from now by moral education, but a long-range policy to establish a political order suitable to the needs of our world-wide industrial civilization.

Almost as soon as you mention such a new order, someone is sure to say: "There's no use talking about it as long as certain states act the way they do." That is a good common-sense remark; and like most common-sense opinion, it rests on a close-up view of immediate conditions. That is the obvious view for short-range policies. But a big project is not fitted to momentary conditions. The political picture changes every year, every month. There are times when no particular move can be made. Do we have to abandon our purposes at such times? No; at such times we must do that hard intellectual work which underlies consistent good practice—study our purposes and pare them down to their essentials,

and then hold on to those essentials as the measure of every specific move we advocate or make.

If the essentials of a policy are understood, you can keep its ultimate aims in sight; but if only the aims are stated, and stated vaguely, in words of emotional value—to make people free, give them security, bring peace, brotherhood, cooperation, and so forth—you have nothing to work with. Such principles are not precise enough to be recognized in specific cases of political action. The slogan, "to bring men peace," does not describe any particular project, but can be related, by mental association, to every proposal that contains the word "peace." It is notorious that in every major conflict both sides have claimed to be making society free or safe for this or that.

In a long-range program of social reform there must be one goal on which all activities converge, and this goal must be such that its achievement, when it does take place, will be a definite social event, not a general condition that some people claim to see and others don't, like a "new humanity" or "a new sense of brotherhood." In other words, the aim of a reform must be institutional. Perhaps mankind cannot be reformed; but the institutions under which men live, can and often have been.

Every era of history has had its special, intolerable evil to combat. Such besetting ills of society are usually very old, and have always been accepted, until a change in economic conditions exaggerates them so they suddenly threaten the very existence of nations. In the Middle Ages, the desperate evil of the times was pestilence. There had always been illness, pain, even epidemics, but they were considered inevitable and accepted as the will of God. But with the growth of cities in Europe, epidemics took on new proportions: the Black Death became a nightmare that threatened to depopulate the civilized world. No one kept vital statistics at that time, but it was clear to everybody that more people died than were born. Something had to be done. The medical profession had to go into strenuous action, study the causes of epidemics, and educate an ignorant, superstitious, almost immobile public to accept a new knowledge that terrified the average person only a little less than the Black Death itself. Princes and their viceroys had to act to change ways of living which spread the plague; houses were condemned, funerals forbidden, the sick taken forcibly from their relatives. Against fearful resistance, the device of vaccination was developed on principles introduced from Turkey.

There was long campaigning for and against it. But medical success in many directions finally begot one social success: sanitary laws and controls—that is, new social institutions. These made life viable again, despite the urban culture that had let pestilence get so far out of hand.

Another example of evil that grew suddenly from new economic conditions, and had to be met by social reform, is the heart-breaking episode of child labor in the early days of machine industry. There had always been overworked children, stunted little waifs who died early of consumption; but their fate remained a matter of individual tragedy, and did not threaten the health and progress of society, until the demand for children in factories made such misery the lot of the average child of poor parents. Then the fatal effect of this inhuman exploitation became apparent. The poor became a sick, helpless, miserable majority in civilized society. An evil that was as old as mankind had suddenly, in a new economic setting, grown out of all proportion, and become intolerable.

Again, a reform was absolutely necessary. Again there were pessimists who explained why the evil, which was rooted in the economic order itself, could never be stemmed unless humanity abandoned its machines and returned to hand labor, et cetera, and optimists who thought they could move the hard hearts of employers. But there also were certain cool-headed realists, who saw that the evil lay essentially with the law, which treated children as the absolute property of their parents, defining no personal rights of infants. These realists used moral appeal not to reform factory owners, but to enlist the voting public for their cause, which they carried straight to the legislative chambers. Industrialists are probably no better today than they were in 1800, and the factory system is here to stay, but the horror of child labor has disappeared with the reform of obsolete institutions.

Today the civilized world is faced again with an evil which has always existed, but has suddenly, because of new economic conditions, assumed a new, virulent form, so that it threatens to destroy us. That is the time-honored institution of international warfare.

Most people do not realize that war is an institution. They think of it as an outburst of passion, which could be avoided if men learned to control themselves and to understand each other. But diplomats do not often lose control of themselves or let prejudices and ignorance of other cultures drive them into misunderstandings; yet wars are generally made

by diplomats—kings, premiers, presidents, or other leading personages and their cabinets—and not by public pressure. The pressure of common sentiment is really turned on and off by the news service, which is the only source of popular information and therefore of all political excitements. Wars are prepared; they are not spontaneous outbursts or diplomatic mistakes.

Warfare is, in fact, the trump card in the game of international diplomacy. The game cannot be played without trumps. You cannot accept the system of diplomatic negotiations among sovereign powers, and somehow at the same time—by education and reform—eliminate the use of force which is the proof of any government's status as a sovereign power. For this reason, the use of force is always planned for and prepared, even in times of peace. The threat of violence is the accepted means of backing claims in the concert of nations, as suit and judgment are in civil life.

International war, then, is an institution. In the accepted scheme of world politics it is taken as such, and invested with proper symbols of its dignity and importance. There are ministries of war and countless executives; every citizen of a sovereign state holds some position in relation to his country's war-power, that is, every one is either a military person or a civilian.

Nothing—no royal personage, no court of justice, no priesthood—enjoys more prerogatives than a military high command in time of war. A military hero is a popular idol, a pacifist is a despised person who may even be officially punished. I need not elaborate these proofs that warfare is an accepted function of the state; anyone can see them. War is the most celebrated institution in the world.

It is also the most expensive; and as it grows to giant size, among the giant states of a furiously active industrial world, where rival claims and arrogant demands are the order of the day, the cost of preparing it soars above the cost of all other human enterprises put together. But that, of course, is only a preamble. The preparations are not out of proportion to what they are made for.

There have always been wars among sovereign powers—tribes, kingdoms, republics, or empires. The world has taken their cost and their physical effects of death and ruin somehow in its stride. Civilization progressed in spite of wars. They were part of the pattern: a summary

and natural settlement of disputes among parties who recognized no instrument to settle them otherwise. The pattern of war and peace is certainly as old as the hills.

But today that world-old pattern of absolute power and its assertion by violence is in a fair way to destroy civilization. Like the Black Death, the scourge of war has been stimulated by new social conditions to outgrow its normal size, and made all traditional ways of meeting and enduring it entirely inadequate. The modern world, which functions as one industrial network, cannot endure the anarchy of absolute powers and the immense destruction of their feuding, and continue to function.

The long-range policy I am proposing is not a moral campaign against conflict and violence as such, but an attack upon the institution of war among sovereign states. It is this accepted, prepared, and organized use of violence that threatens to destroy our world—not the flare of popular passion that culminates in bloody riot, nor even the secretly prepared and often terrible revolt of factions against an oppressive government. We cannot change human nature, but we can change institutions.

Every institution, of course, serves a purpose, and cannot be simply abolished by fiat. We can do away with it only by instituting something else—some other device that serves the same purpose without the ruinous means. In this case, probably the only device that will serve us is the one long known in domestic affairs—a controlling authority, under whose auspices quarrels are normally settled by court action. That is the basic pattern of all civil life; laws and legal procedures may vary, but the essence of civil order is the same in every country. Living under any such order, we may hate our rivals as much as we will and struggle to ruin them, but to speak of "cut-throat competition" is none the less a mere metaphor; the difference between a lawful and a lawless society is precisely that in the former, competition has to stop short of actual throat-cutting, and in the latter it does not have to stop at anything.

The objection has often been made that war is a natural phenomenon, some men will always fight, and if international war is abolished by delegating the highest power to a supreme authority, there will simply be civil wars instead. I think there will, indeed, always be some violence —riots, even organized fighting, occasionally a full-fledged civil war. But there is an all-important difference between international war and civil war. International war is an institution, prepared and implemented at

enormous expense even in times of peace. Civil war, on the other hand, is a failure of institutions. When a civil war is over, the pattern of civilian life is resumed. The United States has had one of the worst civil wars in history, and still feels its economic and emotional effects. Yet the line between the northern and the southern states is still unfortified. There are no huge appropriations made each year to prepare for further violence. Civil war is a breakdown of social machinery, which may happen of course, because no machinery is perfect; but civilization does not crumble under an occasional breakdown of its legal or administrative devices. It can survive accidents. What it cannot survive is the system of sovereign diplomacy, in which war is no accident, but the official instrument of major settlements.

What we must achieve, then, is another instrument of political intercourse among nations—a civil order in which dealings are regulated under some impartial authority. But how can one even begin such a task? Must we sweep the old order away first? And what sort of global order should we then set up? Some people speak of a limited world-government; what should be its duties, and what the limits of its power? Every person conceives it in the image of his own country's government. Consequently, one dreams of a Christian world-state and another of a supreme Soviet and still another of a two-chamber parliamentary government speaking Basic English. Some believe its functions should be limited to "keeping the peace" (however one does that), and others think it should guarantee every person in the world a job with a living wage and a pension.

Obviously we have to operate with some principle by which we can construct a definite plan for a global authority, instead of falling back on a hodgepodge of familiar models for a project so different from any of them. Now, one way of clarifying and simplifying the pattern of the projected civil order is to consider its prime purpose, which is to give us a universally valid, universally binding, and adequate law of nations. This moves the world-court into the center of the picture. And the principle I would propose is this: *everything necessary to establish an effective system of world courts, facilitate resort to them, and make their decisions binding, is essential to civil world order; everything else is at present unessential.* If we make the administration of justice our central aim, the elements of world order are implied; we shall have to establish just as much legislative, executive, and protective power as the effective function-

ing of the courts requires. This simplifies the whole project so one can keep its main lines in sight at all times.

The constitution of such a new order should be composed by the world's greatest jurists and statesmen. It is no task for amateurs. But its actual acceptance must be prepared and finally achieved by all citizens of the world who are free to participate in political moves at all. The slow pressure of votes with a conscious steady tendency in one direction, reinforced by occasional acts of statesmanship, could bring a civil world-state into being. For the need is obvious; and, moreover, much preliminary work has already been done. We do not have to overthrow any existing government, sweep away old constitutions and so on, to achieve our aim. A series of reforms, all with the same purpose, are a surer way to a new political pattern than throwing away the past and starting something new from scratch. One is too apt to get no further than the throwing away. It is wiser to use everything that can be used.

The greatest international institution that has existed in modern times is the United Nations. It is not a civil world government, but it has the seeds of that higher political life in it. Five steps, indeed, could turn it into a United World Organization: 1) Extend membership to *all* nations; 2) Make the General Assembly a legislative body with power to adopt a constitution; 3) Give the World Court the power of summons, and make its decisions binding; 4) Set up a high secretariat (or other executive) to administer world interests; 5) Internationalize all armed force, setting up a federal guard (not enlisted by national units) and allowing the several nations reasonable national police guards of their own, for domestic use.

These are all radical steps, and not simple; but they are the goals toward which our activities must be directed. They all have the advantage of requiring reforms rather than experiments. The first—universal membership—is simply an extension of what already exists. The second—the institution of a legislative body—is a radical step, but it has the present General Assembly as its natural starting point. The third, which is at the heart of the whole project, would elevate a World Court that already exists, and simply means treating the functions of that court with full seriousness. The fourth, the establishment of a greater executive branch, would take place naturally by the growth of offices already established, as the function of the Assembly required more administrative work. The

fifth reform—the abandonment of vast military powers—is the most generally misconceived. Strange as it may sound, it would probably be easier than anyone supposes; for if the idea of a civil world order is good at all, the end of the diplomatic and military system would be its natural result. It would become as irrational to build bombers and manufacture atomic weapons as it is today to install cannon or flame-throwers to protect rich men's houses. In the Middle Ages such defenses were necessary; rich men's houses were castles. They had moats and walls, lookouts and battlements. There was no court to deal with robbers, all police power was private, resting on strength of arms without public support. Today, when a civil authority stands behind the policeman, we need not keep even heiresses in a tower. I don't think any government ever forbade castles, but we do not build them any more.

The need of military power arises from the fact that national statehood is not a vested right. Under a World Constitution, every nation would have defined and assured rights of political existence. Instead of its present precarious sovereignty it would have its inviolable autonomy.

One must not overlook the fact that a new political setup creates a new mentality. Citizens of a state that exists in the frame of a larger organization do not think and feel like citizens of a lone and exposed state. It is hard to imagine today that military power could ever be obsolete, and simply romantic. But in a civil world this would happen very soon. There might be disarming ceremonies in the General Assembly or there might not, but after a period of vigilance to prevent secret manufacture of atomic weapons, their immense cost and the bizarre appearance of plans to use them in a civil society would end the danger.

Above all, there would be other means than diplomacy and war to achieve one's ends—other forms of conflict and competition, no doubt, attack and revenge—but without mass destruction and the death of countless people not really interested in the ends. There would be lobbying and jockeying for positions and the same old fighting spirit. Humanity will probably never improve. But under a civil order, it could live, as now the greater part of it cannot. Besides, it might even improve. It is a great mistake to think that institutions merely reflect our sentiments and attitudes, and are made by them. In a way, the contrary is true. Sentiments and attitudes are largely inspired, and certainly given form and permanence, by the institutions under which we live. Religious rights

define and develop our religious feeling; patriotic ceremonies beget patriotic feeling: and a civil world order would implement the ideals of universal brotherhood which now conflict with the political institutions that really exist. In every religious or moral advance, the symbol must precede the fact; and a United World will command loyalty as soon as it is a reality to which people can cleave.

The civil authority itself would not require great force. Authority has the latent force of the public will behind it; in this way it differs from power, in the military sense. In a civil society the police force is such a small part of the population, that it could not possibly control a populace that really resisted it; but it can deal with serious defiance because actually its strength lies in the general public approval and support. Even a largely dissatisfied public may still acknowledge an established constitutional authority rather than risk anarchy, or the operation of pure power. The military force that would support the global administration would become essentially a guard of honor, symbol of every country's vested autonomy, the first army to seek no victories, but to implement the law of nations and protect a universal peace.