

4 DEC 1972

Passion, Nonviolence, and
Global Legal Change

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West Berlin
October 16, 1972

Preliminary version.
Comments invited.

Reason, Nonviolence, and Global Legal Change

The existing state of international disorder is often referred to as a state of global anarchy. The time-honored human remedy for such a state of affairs is the establishment of the rule of law. Thus the remedy for the existing situation is often held to be the creation of more and better international law along with the creation of the institutions customarily associated with the presence of law, i.e., institutions for making, interpreting, and enforcing law. But there are many who are not enthused by the proposal. They include those national elites who speak piously of "law and order" at home, but are definitely less reverent when it becomes a question of forms of law that might be less supportive of their (self-defined) "interests" than the legal structures that they are so anxious to see upheld. They include the anarchists who insist that the current perversions in human behavior are not due to too little law, but to too much law, pointing out, for example, that it is governments that have authorized the great majority of the more brutal and massively destructive acts witnessed in this century. And they include many "ordinary people" who are neither opposed to law in general nor especially privileged by the given arrangements, but who are apprehensive of law formulated at such a great distance from its potential points of application. Even to those not inclined to rail against government wherever it occurs, "world government" or anything similar may seem a rather frightening remedy for what ails human kind.

Those, therefore, who advocate major change in the global legal arena are likely to find themselves confronted not only with the kinds of justificatory tasks that are almost always imposed on those who advocate any kind of major change,¹⁾ but with the rather particular task of showing why change in the global arena should take a legal form. Granted that humankind taken as a whole is not doing too well, why should we expect that changes in or the injection of legal

institutions will make any significant difference in its (or, more precisely, our) prospects?

Global legal change, of course, may be seen not as a means to a better world, but as an outcome which will perforce occur if the political changes for which there seems to be such evident need take place. Those agents of change who hold this view tend to see law not primarily as an instrument for change, but as a reflection of more "basic" processes which they as agents of change attempt to bend in more progressive directions. This point of view is not unreasonable and is responsive to those criticisms which have attacked the seeming formalism of the "world peace through world law" approach, a formalism that has manifested itself principally in either or both of two ways, i.e., as a naive belief in the desirability of law qua law and/or as a failure to focus on the social and political processes which generally must precede the coming into being of effective law. The sociological point is important and can be expressed in a slightly different way. Where political processes have not provided a firm social foundation for new law, that law is likely to be ineffective, though in varying degrees depending upon the related social circumstances. At the domestic level the history of the civil rights laws, for example, provides a good illustration 2) of the difficulties of implementing laws where an adequate social basis is lacking.

The first point has a weak and a strong interpretation. The weak interpretation is that law, of course, can be good or bad depending on its substance and the good will of those who enforce it and that it is not enough to pursue law for its own sake. The strong interpretation is in a sense more fundamental, however, since it puts in question the very desirability of any law, whether "good" or "bad," whether conceived as product or as generator of new social relations. It is especially relevant to the questions surrounding the creation of law in the global arena, for some would question whether such a thing as "international law" exists at all and it is in any case evident that the processes which tend to lead to the creation

of new law in the domestic arena do not necessarily do so here. Whether it be a case of the imposition of the will of the powerful (as in the case of the multinational corporations) or of the political expression of majoritarian views (as in the case of attitudes towards the existence of hunger), law is much less likely to play a role or to be in any form present as a source of authorization for new arrangements (should they emerge) than is generally the case in the domestic arena.³⁾ While in the domestic arena we may expect to get "good" law or "bad" law, but in any case to get new law over time as power relations and social relations change, the matter is much less clear-cut where global political processes are concerned. Thus "legalism" in the international domain is open to particular challenges, for what is being advocated here is not simply law as a remedy in a domain where law is anyway already an everyday fact of life, but the institution of a legal order in a domain where law in the usual sense is largely absent. Those who challenge the desirability of law qua law with respect to this domain, then, are very often not just making the point that not all laws are "good," but rather questioning whether there is any desirability at all of creating in the global arena the institutions characteristic of a domestic legal order.

As already indicated it is not just the principled anarchists who raise this point. For what leads to "difficulties" in the application of law in the domestic arena seems to lead to nearly insuperable obstacles where global law is concerned. A point made frequently by anarchists is that law will be ineffective where community is lacking and that where community is present law is unnecessary. In this form the point is oversimplified, since it is clear that the presence of community is always a relative matter, that no consensus is perfect, and that it is precisely law that has been a principal means of securing a higher level of harmonious behavior than consensus or some other form of "true" community would permit. (I leave aside for the moment the whole question of what is meant when different groups speak of community and the related one concerning the forms that community may take.) Yet in a more refined form the point is relevant to the

issues surrounding the bringing into being of a global legal order. In this regard the point may be reformulated as a pair of questions: Can we expect to achieve on a global scale the levels of community that would make a large measure of voluntary compliance to global law a realistic possibility? If not, are we willing to see the coercive machinery established that a low level of community would appear to necessitate?

To raise the matter of coercion is, I think, in some sense to raise the central issue concerning the institution of a legal system. While we can imagine legal systems in which the levels of latent coercion and of actual coercion are very low, the notion of a legal system where coercion is entirely absent seems like a contradiction in terms. Like a tennis racquet without strings a legal system without enforcement procedures appears to lack an element that is essential for its "proper" functioning.⁴⁾ It appears, therefore, that anyone who wills the coming into being of a legal system must will the coming into being of coercive procedures of some kind.

For those who reject every form of coercive practice in principle the matter is thereby settled. Any and every legal system must be considered unacceptable. It is on these grounds that many anarchists reject legal institutions. Or at least this is their apparent line of argument. In fact, though, it often turns out upon further questioning that many such individuals do not think that all coercion is objectionable. Forcibly preventing a person from suffering harm or from doing himself harm is often considered morally acceptable (e.g., forcibly removing a child who has crawled out into the middle of a street and does not want to move or stopping a distraught person who is about to jump off a high building.)⁵⁾ Forcibly interrupting a chain of events or an action that would do others harm may also seem acceptable (anarchists in the United States have in recent times been involved in the destruction of draft board files and in the sabotage of weapons; many anarchists would see nothing wrong with directly or indirectly effectively

disarming an individual or group about to commit an act of aggression). To say that such actions may be considered acceptable by the anarchist is not to say that they would necessarily be considered altogether desirable or that coercion would be considered in itself a good thing or even "value-free." Coercion may be considered in itself undesirable, but nevertheless acceptable in certain sorts of circumstances, thus making it impossible for one to say that one is opposed ⁶⁾ to the practice of coercion "no matter what."

For those committed to nonviolence the possibilities are somewhat similar. The rejection of violence need not entail the rejection of coercion and in actual fact many practitioners of nonviolence have been willing to support or to participate in certain sorts of coercive acts. Indeed some of the preferred tactics of nonviolent direct actionists have a coercive aspect, e.g., sit-ins, strikes, and boycotts. For this reason those on the receiving end of such actions have sometimes characterized them as "violent" but in a good many cases this has been merely a reflection of the widespread failure to distinguish between violence and force. In reality the rejection of coercion along with violence is characteristic only of a particular minority in the nonviolent community, namely those committed to what has been termed "nonresistance." Guy Hershberger, a Mennonite who has written on this topic, states that the term "as commonly used today describes the faith and life of those who accept the Scriptures as the revealed will of God, and who cannot have any part in warfare because they believe the Bible forbids it, and who renounce all coercion, even nonviolent coercion." ⁷⁾ Even with this group, however, it is not clear that every form of coercion has been rejected either in theory or in fact. It is hard to believe, for example, that a Mennonite would not use coercive force to save a child from the path of an oncoming car. Perhaps more to the point it is evident that certain acts of noncooperation by the Mennonites in fact amount to cases of passive resistance rather than nonresistance. Indeed

the Mennonites seem constantly to be trying to find means of "accommodation" that will fall between lending support to state force and actually resisting it (which would run counter to their beliefs concerning what is permitted to the Christian) and not always coming out well in this regard, since a social situation may be structured in such a way that there is no choice other than either cooperation or resistance.⁸⁾ In any event it is apparent that it is the coercion of the state as presently practiced that the Mennonites find most objectionable (or at least most repugnant to the Christian way of life) and from which they do their best⁹⁾ to separate themselves, though with varying consistency and success.

Even though in practice the rejection of violence does not appear to lead necessarily to the rejection of coercion and even though the avoidance of every form of coercion seems even more unlikely a feat than the avoidance of every form of violence, a theoretical problem remains. If violence is defined so as to include in its core meaning the notion of doing harm or injury,¹⁰⁾ then coercion can only be nonviolent if it is noninjurious, and some would deny that this can ever be possible. Thus it is necessary to ask whether there is not always a kind of harm done when one "will" replaces another. This is not easy to answer, for it depends on one's understanding of the concept of "will" and of the different ways in which human decisions may come into being. One might hold, for example, that many "willful" acts are not autonomous acts and that the deflection of such acts does not involve a true usurpation. Similarly one might hold that the development of an autonomous will is equivalent to the development of a "reasonable" will and that this is not necessarily furthered by always permitting the free exercise of individual decision. It is possible, therefore, to hold that the long continued substitution of an "external" source of decision for an "internal" one is always harmful (because preventing the achievement of autonomy) without coming to the conclusion that every particular instance of the replacement of

will by will is necessarily harmful. For this to be true, however, it would have to be ^{the case} that on at least some occasions the experience of coercion was a factor leading to greater understanding and to a greater capacity to act in "rational" ways on "rational" grounds (I am intentionally not defining this term just yet). If subsequent "improved" behavior came about only as a result of fear, then it would be at least arguable that harm had in fact been done.

The question ~~thus~~ becomes an experiential one. Does the experience of coercion ever lead to greater autonomy, i.e., to the development of a more "reasonable" will or does it not? Can the "unbridled will" be "cured" (or partially cured) of its "irrationalities" by a judicious application of coercion, as a follower of Plato might argue, or is this a mere myth perpetrated by authoritarians? Those who believe the former to be the case would not find any necessary contradiction between a commitment to nonviolence and a willingness to use or to support coercion in certain sorts of circumstances. For those who hold the latter position there would be such a contradiction and, ^{themselves} if/committed to nonviolence, such individuals might at least in principle reject all coercive activity. It is also possible, however, that weight might be given to certain utilitarian considerations and that even those attempting to follow a nonviolent way might accept the application of some measure of coercion as causing far less significant harm than the harm done by failing to impede or deflect certain sorts of grossly destructive acts and practices. 11)

The notion that coercion may have beneficial effects for the person and not alone for the person's behavior is, as indicated, quite often associated with an authoritarian or paternalistic stance, while the notion that coercion is intrinsically harmful is likely to be associated not so much with an anarchistic as with an extremely quietistic stance. The extremes here may be expressed as the pursuit of a politics of domination based on some form of superior "wisdom" contrasted with a withdrawal from politics altogether. Logically, of course, the belief that

some coercion may be justifiable, because ultimately beneficial, need not lead to paternalism.¹²⁾ The argument here, after all, does not uphold coercion as a good in itself, but rather as a means to certain ends. If placed on a scale of desirability it is clear that the coerced will that decides well must be placed between the unbridled will that decides badly and the autonomous will (that by definition decides well). Thus it is not coercion that is desirable, but certain results of coercion, i.e., improved human behavior and in some cases anyway an improved understanding of moral good. If the achievement of autonomy is a human good of unique significance (as Kant asserted), then its absence must be seen as a defect and the application of coercion as a social necessity without positive value in itself. But to say that coercion has no intrinsic value or even, as some would, that it is a negative social phenomenon is not to say that in itself it necessarily (i.e., inevitably) harms. The evidence for this last proposition is much more dubious.

It may seem strange that I should spend this much time discussing whether any coercion at all is justifiable, and in particular whether any forms of coercive action might appear justifiable to those adhering to philosophical positions that appear a priori to leave so little room for this possibility. The problem associated with the institution of effective law on a global scale, one might argue, is not simply that coercion will necessarily be associated with it, but the scale of coercion that it would appear to require. Or speaking sociologically one might say that it is not the anarchists, the satyagrahis and other purists who will prevent the coming into being of effective global law, but the less philosophical great majority who simply fear the quality and degree of coercion that would be associated, they believe, with an effective global legal order.

In my view, however, the preceding arguments have greater relevance than may at first sight appear. For one thing the arguments of the great majority

are not without some relation to the arguments of the purists. With the progressive invasion of larger and larger areas of human existence by government and its associated bureaucracies, the anarchistic impulse is strengthened in many quarters (just as in a related way the isolationist impulse is strengthened by the unpleasantness of our experiences in the international domain). In the mood thus created the anarchist in each of us is tempted to say "this far, but no further," where "no further" means "no world government" or "no international bureaucracy" (or in the case of the isolationist "no foreign involvements"). To determine whether this response is valid, however, we need to go back to the basic questions about coercion: what is it, what justifies it (if anything), and what might limit the need for it? If, for example, coercion is held always to involve violence, then it is likely to present a more negative appearance than if we recognize the possibility of a dissociation of the two phenomena.

The preceding argument has been intended to indicate that such a dissociation is possible. / ^{Till this point,} however, I have not attempted to define coercion, but simply relied on the reader's intuitive understanding of what the concept involves. In what follows I shall attempt not only to come closer to a definition of the concept, but to indicate what forms of rationality may (but need not) inform coercion as well as the forms of rationality that cannot be realized within a coercive framework. It is necessary, for example, to consider whether reason itself is coercive and whether the most perfectly justified coercive or coerced act is simply the one that applies or follows the dictates of reason. If this is so, it would seem to put in question my earlier identification of autonomy and rationality or perhaps to make the distinction between the free will and the coerced will appear meaningless. In this way the old issue of the relation between freedom and reason would once again be raised.

It may be helpful to begin with a definition of coercion that was proposed recently in an award-winning essay entitled "Violence, Force, and Coercion"

submitted for a competition on the subject of violence sponsored by the Council for Philosophical Studies. In his essay the author, Ronald B. Miller, attempts to define each of the three principal terms in his title. Starting with a tentative definition in each case he criticizes and corrects it until he comes to what he calls his "final account." In the case of the concept of coercion his "final account" reads as follows:

- Cp An act of coercion is any act in which A (a person) intends to bring it about that B (another person) do Y (some action), where B is in the process of doing or about to do X (some action), and where X and Y are not identical, by one of the following methods:
- 1) introducing as a consequence of B not doing Y, P (some action taken by A, either actual or threatened, intended to be undesirable to B) which is intended to change B's mind so that B will decide to do Y, or
 - 2) intentionally injuring, damaging, or destroying B, or
 - 3) the use of force.

(In some cases $Y = -X$, that is, A will be intending to prevent B from doing some action, as opposed to intending to make B do some other specific action.)

COERCION: Any action taken by A with the intent to bring it about that B do Y where B is in the process of doing, or about to do X, where X and Y are not identical, by either (1), (2), or (3) above.

Miller comments: "The treatment of coercion in this section is not nearly as thorough as it might be. Nevertheless, it does achieve the intended goal--to clearly distinguish the concept of coercion from the concept of violence. It is easy to see, however, how persons who view violence as always a means, and coercion as only Cp(2), might confuse and conflate the two concepts."¹³⁾

In fact Miller has defined coercion in terms of one end and four possible means, the end being to change behavior, the means the use of threats or sanctions or violence or force. These four means may, of course, overlap. A threat or a sanction may involve violence just as the use of force may involve violence. But since neither need involve violence (except perhaps in some very weak sense of the

tern), Miller has framed his definition to make that point apparent. To threaten a child with no dessert if he does not behave or to remove someone forcibly from a situation of danger is no doubt coercive, but quite distinguishable from a situation where one withdraws someone's food altogether (i.e., starves someone) or beats someone to get him to leave a particular spot.

While Miller's definition makes this point clear, it nevertheless is not satisfying in every respect. There are some small imperfections. First, it is worded in such a way as to imply that coercive action can only aim at the present or the immediate future--"an act of coercion is any act in which A...intends to bring it about that B...do Y...where B is in the process of doing or about to do X"-- though certainly much coercive activity is aimed at the somewhat distant future (even an indefinite future) and furthermore may aim not so much at producing or preventing any specific act as at producing or preventing certain sorts of acts or acts within a certain range of behavior (this point is only partly covered by Miller's remark that Y may equal -X). Further, Miller excludes "positive sanctions," i.e., the injection of a new element which "adds value" or offers to do so, as forms of coercive activity. But there seems to be no good reason for this. Coercion need not necessarily be experienced as something unpleasant, and the fact is that positive sanctions like negative ones inject an element that deviates from a simple ^{undiluted} reliance on rational persuasion.

More importantly, Miller's definition fails to make obvious the distinction between total coercion and partial coercion and the related one between direct coercion and indirect coercion. By total coercion I mean coercive action which achieves its goal in such a way that it ~~can not~~ not achieve its goal, i.e., coercive action which under the given circumstances cannot be successfully resisted. (The concept is important even though it will not always be easy or even possible to tell whether action falls within the category.) Direct coercion, i.e., coercion which applies force (whether violent or not) in such a way as to attempt to elicit directly the desired behavior, may or may not be total. ¹⁴⁾ By contrast

indirect coercion, i.e., coercion in which one or more of the various means is used to get someone to "change his mind" and as a result behave in the desired manner, is of necessity partial, since it always leaves open the possibility of refusal and resistance. To be sure, if a person is presented with an extreme threat, such as the threat of death, he is likely to feel that he has little choice left, but the fact is that an area of choice still remains, even though it has been severely diminished. If, for example, it has been demanded that a person do something shameful, it can be said that the threat has created the necessary but not sufficient conditions for the performance of the shameful act.

Another term for total coercion is compulsion. The use of coercive means that are less than compelling may occur for a variety of reasons. It may come about because of a sense of respect for the autonomous capacities of the objects of coercive action or because those coercing have a limited interest in obtaining their object (these limitations may arise in part out of a sense of proportionality; the end may not seem sufficiently important to justify the resort to certain sorts of measures) or because those coercing are themselves under coercive pressures which limit the means they may employ or because the desired behavior does not fall in the category of behavior that can be directly compelled.

Consequently it should be clear that the use of partial coercion is not in every instance an example of behavior that is morally superior to the use of total coercion (even though leaving ^{others} a margin of freedom in one's dealings with them may be considered in itself, i.e., apart from other factors, morally superior to leaving no such margin). For example, when partial coercion rather than compulsion is chosen not out of a regard for human freedom, but out of seeming necessity--"you can lead a horse to water, but you can't make it drink"--the means employed may be extremely violent, e.g., threats of death, torture, or mutilation. Moreover, the freedom that remains under such conditions has a highly distorted quality. On the other hand, in a situation of danger to someone's life it would ordinarily seem preferable to use compulsion to insure

saving the life rather than some means less likely to secure that result. Indeed Miller's definition permits acts to be called coercive that are not applied against someone's will properly speaking, but where the will is temporarily inoperative in some sense, e.g., the person is asleep, or where there is no time for the will to operate with regard to the matter at hand, e.g., a person about to be hit by a car. The possible existence of such situations obviously makes possible a further set of differentiations within the range of acts termed acts of compulsion and makes it not too difficult to justify the use of compulsion in certain kinds of cases. ¹⁵⁾ But even in the case of compulsion which acts against

someone's will, the use of this form of action may seem more morally justifiable than action that does not compel, as I tried to show with my examples of the recalcitrant child or the distraught adult about to commit suicide. ¹⁶⁾

It should be pointed out, however, that while the application of nonviolent total coercion for short periods is generally preferable to violent partially coercive action (some would say always preferable) and while in certain cases it may even be preferable to nonviolent partially coercive action, the use of total coercion ordinarily cannot be protracted indefinitely without leading to violence. This is in part because the complete elimination of autonomy in any particular regard over too long a time tends to be damaging. It is also because those who are the objects of this total coercion will try finally to find some means of escaping it, and these means are likely to be violent. Thus even those totally coercive strategies whose explicit aim is to prevent manifestations of violence, e.g., by forcibly separating potential combatants, can achieve their goal only for a restricted period. If a "movement of the minds" does not occur which makes such complete control unnecessary, the control itself will either be undermined resulting in expressions of direct violence by those whom it was hoped to restrain or else the control will itself turn into a kind of violence. Those involved in

nonviolent
/ "peacekeeping" actions may in such a situation decide that it is preferable to
relinquish some of their own purity (i.e., absoluteness of nonviolence in
manifest conduct) for the sake of maintaining restraint, if that is still physically
possible, but such a choice clearly will not be an easy one. 17)

An understanding of the "reasons" that might influence such choices,
however, requires a consideration of certain notions of "rationality."

II

The notion of rationality is value-laden. Moreover, different concepts
of rationality appear appropriate for different spheres of existence and
understanding. That kind of reason which has to do with the interhuman sphere of
existence was called "practical reason" by Kant and he attempted to make explicit
the basis for judging whether it was functioning well or badly. The formal nature
of the criterion he proposed and the difficulty of applying it have been much
discussed and these critiques need not be reviewed here. Yet in two ways Kant
expresses a substantive concern. The first is in that formulation of the
categorical imperative that states that we should "always treat man whether in
our own person or in that of another not merely as a means, but as an end in
himself." The second, equally important, involves his concern with "co-existence"
or the harmonization of existences. For the requirement of consistency in Kant
regards not merely an internal consistency of symbols and the ways in which they
are used, but a compatibility between disparate existences. Kant in spite of
his denials is concerned with consequences, but they are not the consequences of
action into particular contingent historical situations, but rather the hypothetical
consequences of action that might aspire to transcend the given social causality.
In the given causality there can be no hope of community because it rests too
much on self-regarding desires. Kant might therefore be said to have asked "what
are the principles on which universal human coexistence depends?" If we know what
these are, then it can be said that insofar as we adhere to them, we introduce or
rather attempt to introduce a new kind of causality, one which for the first time

makes universal human coexistence possible.

It is at least arguable, then, that Kant's approach to practical rationality is not formal at all in its real intent--the concern with the person as an "end in himself" and with universal community being clearly of a substantive nature. Moreover, as is well-known, the Kantian approach aims to put a kind of "substantive limits" on action that is notably absent from other currently more widely accepted criteria for judging human conduct. Today two of the most common criteria for justifying particular political acts--and thus in a sense establishing their rationality--are those of instrumental efficacy and of the presence of widespread or majoritarian consent. In both these cases it is not the "action itself," not its initial substantive content, that is examined, but rather something that either precedes or follows the action. By failing to put any intrinsic limits on what is morally permitted, the instrumental and the majoritarian criteria not only fail to hinder, but actually may give strong support to an extremely violent politics and extremely violent policies.

The violence not only permitted by but seemingly inherent in the instrumentalist perspective, where an end may justify practically any means, is well-known and requires little discussion. But the violence that majorities may permit deserves further comment in the present context. It is not only that political majorities may sanction or at least consent to extremely brutal foreign policies (witness the seeming apathy of the American public in face of the air war in Indochina). This is true enough and terrible enough, but not exactly relevant to the concern with a global polity where there will be no Aussenpolitik. What is especially significant here is the structural tendency of majoritarianism to uphold certain kinds of internal violence unless there are special safeguards. For inherent in the majoritarian polity is always the possibility of great violence towards as well as on the part of various minorities within the polity. This difficulty is likely to be aggravated as the size of the polity increases. In a global

polity, for example, there will exist not only the problem of establishing what
represent majoritarian views,¹⁹⁾ but the problem of adequately protecting the
rights and interests of very large and very well organized minorities along with
protecting the community as a whole against the severe damage which minorities
are now capable of inflicting. Even within the nation-state, as Gidon Gottlieb
has pointed out, there now exist powerful "veto-communities" who can inflict
severe disorder and bring the ordinary functioning of society to "a near
standstill."²⁰⁾ In fact it is the very technology that concentrates such great
power in the hands of central authorities that creates their vulnerability
against seemingly weaker forces. The power of minorities within the world
community is, of course, even greater than that of domestic "veto-communities"
since these minorities in many cases have a long history of self-conscious,
highly organized and relatively autonomous existence. In any event majoritarian
policies that work or seem to work against the interests of 49% of mankind,
to take the extreme example, simply will not be accepted and any attempt to
impose them is only too likely to meet with a violent response. Indeed this power
of minorities within the world community (and there is no nation, of course, that
is not a minority here) might well be considered a happy circumstance were it
not associated with the capacity to use such extreme means of "self-defense"
(as it will always be called, whether justifiably or not).

Implicit in the foregoing is the notion that the presence of violence
signals some kind of failure or absence of reason and that a "practical reason"
which sanctions or encourages violence is somehow at odds with itself. Consequently
models of reason like those just mentioned must be held to fail to satisfy the
full criteria of rationality. Similarly the notion that violence may serve
reason, and the correlated one that reason may therefore properly be used to serve
violence, notions currently much in vogue, must be considered as at best very
partial truths and as at worst a betrayal of reason and of reason's capacities.²¹⁾

precisely because conclusions of this kind are at such odds with much contemporary thinking, it is worth recalling the grounds for the more traditional opposition of reason and violence. For in fact there is a complex network of interlinkages that give weight to this opposition. Some of the most important of these may be summarized as follows:

(1) First of all, it is often said that the use of violence is a sign of the breakdown of discourse and of the effort at persuasion. While a kind of reason may be used in the process of employing violence, it is not a reason that concerns itself intrinsically with the source of the conflict. It is a kind of technical reason that aims at efficiency in battle and at exploiting the physical and psychological weaknesses of the opponent rather than at finding the just solution to the underlying problem. Thus the use of force is contrasted with such modes of conflict resolution as mediation, conciliation, and arbitration. I use the term "force" advisedly, however, since the basic contrast here is between coercion and rational persuasion rather than simply between violence and persuasion. It is from this point of view that all coercion may be said to involve an element of unreason.

(2) Reason is often held to have a special relation to what is orderly and what is harmonious (formally this is expressed as the requirement that a reasonable argument be consistent, i.e., internally in harmony with itself). Reason discovers the distinctions that make it possible to order our experience. By the discovery and creation of boundaries it puts limits on what we may correctly say. Thus reason, order, boundaries and limits are all held to be interconnected. Violence, on the other hand, is held to be associated with disorder, turbulence, and the overstepping of boundaries. Accordingly, that which is only very intense, such as an argument or storm, may be described as violent simply because it goes beyond certain accustomed bounds. ²²⁾ This set of conceptual associations is no longer so widely accepted with respect to the social domain, however, because of the existence of forms of social order which may be called "artificial" and →

which rest on the hidden or not so hidden threat of violence. Recent uses of the phrase "law and order" by retrogressive forces have resensitized some to the fact that the linking of that which is rational with that which is orderly can only have a meaningful social application if our notion of order is sufficiently deep. These kinds of social order in which there exists respect for person and in which men are treated not just as means but as ends in themselves evidently respect quite different sets of boundaries than those established by many legal systems, which may be internally coherent and capable of suppressing most outwardly disorderly acts, but which legitimate and perpetuate more hidden forms of disorder.

(3) Related to the above is the notion that reason is to be contrasted with that which is arbitrary, while violence always has an element of the arbitrary about it. Reason is a respecter of proportions; in fact its role in part is to reveal proportions between things. In the political sphere the work of reason is to elucidate the notion of justice, a concept that may also be associated with the notion of proportionality, of rendering to each his due. In this regard, though, the antithesis between reason and violence may not seem altogether convincing. A great deal of rational thought, for example, may be expended on determining what proportions of harm are due to various persons or groups in certain sorts of circumstances. Rules of war, theories of just wars, and theories of punishment all provide examples of this kind of use of reason. The existence of an element of unreason here will only be apparent if one finds in every infliction of harm something of the arbitrary, something that is not altogether a man's due in spite of what he may have done or the circumstances in which he finds himself. ²³⁾ The notion that capital punishment is unacceptable, for example, rests on just this kind of insight.

(4) Reason may be said to be concerned with that which is universal, with that which links and binds together, and with an understanding of the totality, while violence arises out of a partial perspective, wills to remain attached to particularity and seeks to exclude or to suppress. In this sense violence may

invade reason and distort its functioning. The possibilities are numerous: prejudice may masquerade as truth, simplifications may not be labeled as such, euphemisms may be employed freely, unwarranted generalizations from particular cases may parade as cogent argument, single-factor analyses may be proffered as adequate bases for social policy, etc. The temptation to resort to all of these dodges in the support of policies of violence is well-known. In the United States official pronouncements in the past decade have provided a particularly painful example. All reasoning, of course, achieves only partial insights and therefore risks to distort. But the aspiration of reason is towards totality and towards the truly universal, and a properly functioning reason will employ its self-critical capacities so as to make allowances for the distortions of which it knows itself to be capable.

Here as in what precedes it can be seen that a theoretical capacity of reason and an aspiration of theoretical reason have been related to the capacities and aspirations of practical reason. This perhaps harkens back to a Stoic mode of thought; in any case such linkages do not seem to me improper, but a result of reason's own search for that which unifies, i.e., a result of the very tendency I have been describing. Thus, for example, the respect of theoretical reason for truth and the respect of practical reason for persons seem to me not unrelated. Gandhi spoke of his activities in the social and political sphere as "experiments with truth." The phrase is perhaps misleading since one does not experiment "with" truth, one discovers it or a part of it. But just as one's pursuit of theoretical truth will be hampered if one brackets out oneself as the knower, so one's pursuit of truth in the social realm will fail if one brackets out the persons, i.e., the subjectivities, of those who must be included in any new higher form of community. The reality to be attained in the social domain is not something given, "out there," but an unknown potentiality that can only be realized and discovered by "experiments" in which each acting subject recognizes that he or she forms part of the crucial "matter" of the experiment and that just

as theoretical truth places certain limits and requirements on us in its pursuit, so social "truth," which must be attained by those kinds of beings we call persons, also places certain limits and requirements on the mode of its pursuit. If in the social realm we are still at such a primitive stage in our pursuit of the essential universalities, it is perhaps because so little attention has been paid to some of these limits and requirements. Certainly the pursuit of universality would seem to be inconsistent with all policies of exclusion (which in their extreme form include the imposition of death and banishment) as well as (though in varying degrees) with attitudes of separation and exclusiveness.

If, therefore, the presence of at least certain modes of reason is quite incompatible with the presence of violence, then the use of violence as an element in the initiation and perpetuation of legal order can properly be said to reflect a failure of rationality. In fact the paradox is widely recognized. Law, on the one hand, is that which persuades men to act rightly, that which makes possible harmony, order, and the attainment of justice, that which links disparate individuals into a common community. Put simply, the avowed purpose of law is the elimination of violence in its various forms. On the other hand, law depends on violence. The degree of dependence, of course, varies. Law may merely reflect the outcome of a violent struggle in which right becomes ratified as right; or law may be the outcome of a parliamentary debate in which higher or lower degrees of rationality (e.g., a concern with fairness) are manifested. Law may attempt to recommend itself on the grounds of its fairness; or law may impose itself by the most brutal methods. Law may proscribe capital punishment; or law may itself rely heavily upon it. Law may provide the guarantee of basic rights for all; or law may perpetuate unwarranted privileges and disabilities. And so forth. In varying degrees law is interlinked both with the practice of overt (or direct) violence and with the imposition of structural (or indirect) violence.

This ambiguity in the significance and the effects of law leads to various kinds of reactions. There are those who absolutize the one or the other dimension becoming on the one hand anarchists of some kind rejecting all forms of communal law, on the other "legalists" seeing in law a good in itself. Then there are those who acknowledge the ambiguities in law and regard them as inevitable. The difficulty with this last position, which is the prevailing one, is that historically it has led to the toleration of such high levels of violence. I speak, of course, not only of the overt violence employed in the enforcement of domestic law, not only of the disharmony and injustice promoted and perpetuated in even the best domestic legal systems, but also of the very partial community embodied in the concept of "national sovereignty" and the extreme violence with which such partial community may be protected. The acceptance of this limitation on law means that law itself may become the source of or at least the legitimator of the most terrible forms of destruction.

We have now come full circle. The existing disorder in the world and the extreme dangers it faces can be seen as the result of law or as the result of anarchy. Therefore the question must be repeated: do we need more law or do we need less law? Or perhaps do we need a different kind of law? For if we are inclined to give up on law altogether we should remember that what the law is concerned with is not primarily recalcitrant children or distraught individual adults. Law at present is particularly concerned with the control of major social forces and where these controls are removed or absent, other forms of coercion can be expected to take their place. With regard to unrestrained economic activity, for example, we have seen well enough how such activity may despoil our environment, deplete basic resources on which all are dependent, and reduce certain groups to positions of economic helplessness. As Edward Kent pointed out in his introduction to the collection "Revolution and the Rule of Law": "Perhaps the nearest approach in practice to political anarchism, classical liberalism and its laissez-faire doctrines of economics, failed because it could guarantee neither minimal standards of justice nor the fiction of consent itself.

Tyranny of the majority is just as much a prospect with anarchism as under existing systems of legal rule."²⁵⁾

It is no secret that unrestrained social and economic forces are at work today on a global scale and their impact as much as that of war itself threatens human survival. From this point of view there can be no substitute for some form of global law. It is also apparent that if this form of law attempts to impose itself by traditional methods, its failure is highly likely. Even with some form of preliminary disarmament, for example, a highly developed capacity to employ violence will remain with certain elements in the world community. To try to overcome this violence with violence is likely to lead to disasters as massive as those a world authority would ostensibly be trying to prevent. It is one thing to imagine lightly armed police forces dealing with individual armed or unarmed lawbreakers--and even this is not done very successfully in many countries--and it is another to imagine how a global armed force might take on a major power. In such a case it can be expected that the global force will simply begin to act like a sovereign state creating a situation of civil war in which the outcome may or may not be "favorable."²⁶⁾ If the civil war should involve the use of nuclear weapons, obviously it will be hard to consider any outcome especially desirable.

It seems, then, that some different kind of enforcement model is needed. Moreover, certain short-range "inefficiencies" may have to be accepted for the sake of better long-term prospects. While alternative enforcement structures may not succeed in preventing the worst--unfortunately matters have come to a point where there appears to be no means of guaranteeing that--they would have the advantage of initiating something fundamentally different rather than perpetuating what I have elsewhere called "the violence system" by merely adding new but essentially similar elements to it. In this regard the present military weakness of the United Nations can be considered an advantage since the need for disarmament is not present and since this absence of military strength creates an opening or space in which other forms →

of power may come to be developed. In itself, of course, the lack of armament does not create power. This is only a negative form of nonviolence and in many cases a nonviolence that has not been intentionally chosen. By contrast nonviolence as a positive political force requires conscious choice, conscious organization, and a commitment to consistent practice.

The generation of nonviolent power faces different obstacles in different social domains. Further, the kinds of institutional and organizational forms required to carry forward the struggle to institute this kind of power and to protect its achievements differ in varying social environments. Formally there is a particular affinity of nonviolent concepts and ideals for global concepts and ideals--both are intrinsically concerned with the highest and most all-embracing form of community. But practically it is in the global domain that nonviolence seems to have the slimmest chances. The magnitude of violence here is so great, the reality of violence so overwhelming, that it has a paralyzing effect on nearly all of us.

The overcoming of this kind of paralysis requires particular kinds of thought and praxis, the two having coordinate roles to play. Part of the role of reflection is the imaginative construction of models based on principles other than those that inform the given reality. The implementation of the model requires the help of further kinds of reflection as well as the commitment to action. In the last part of this essay my concern will be with the first task as it relates to the enforcement problem. That is, I shall attempt to outline the guidelines that might inform the actions of alternative enforcement institutions. In addition I shall hope to aid indirectly the implementation process by showing the special appropriateness of the kind of model I propose for the resolution of the dilemmas referred to earlier.

III.

An ideal coercive procedure can be briefly described. An ideal coercive procedure is one that (1) is noninjurious to those to whom it is applied, (2) is used to uphold a statute or measure that is fair and that supports or furthers just social relations, and (3) is applied by persons who have proven themselves worthy of trust and who maintain parallel noncoercive relations with the individuals and groups who are the objects of coercion. Most coercive --

practice stray far from this ideal. In part this is because of the interest in expediency and also, of course, because human beings are imperfect in the best of circumstances. But in part it is because the ideal is often not recognized as such. Expediency is the ideal, i.e., some kind of short-term efficiency. The purpose of coercion, it is believed, is to coerce. A concern with noninjury or egalitarian relations or service to the objects or potential objects of coercion are frills or luxuries (or even impediments to effectiveness).

But another perspective is possible. From this point of view coercion is only one part of a larger social process. From this point of view the goal of coercion is not just to succeed in the given instance, but to make itself progressively less necessary. Traditionally this has occurred through the substitution of authority for coercion. There is a catch to this, however. Authority that comes to be viewed as having no basis in reality, that comes to be called "irrational," must once again resort to coercion. Therefore, if one cares about the long run, it is not just any kind of authority that should be striven for, but rational authority.

Insofar as the ideal coercive procedure just outlined ^{standards} conforms to ideal _{of} rationality, its application can be expected to help further the creation of such rational authority. That the ideal proposed does adhere in important ways to such standards should be in part immediately evident, but it may be helpful to note explicitly some of these connections. The ideal involves a concern with the measure being enforced, the mode of enforcement, and the person of the enforcer (or enforcers). The measure I have said should be fair, i.e., it should manifest a concern with proportions and with what is due, and it should support or further social justice, i.e., it should aim at a certain kind of order. The mode of enforcement should aspire to be noninjurious, i.e., should respect certain boundaries (such as the prohibition against killing, but not only that) and should strive especially to avoid those forms of injury that are inconsistent with the

development of all-inclusive community (e.g., banishment and death). Finally, the person of the enforcer should be trustworthy, i.e., he should have shown himself to be a respecter of rationality and of the potential rationality of the person.
human / Moreover, he should rely on persuasion to the extent permitted by a balancing of rational considerations and should engage in parallel cooperative community-building projects along with his coercive activities. (It is quite important, however, that these be truly cooperative projects, not imposed ones.)

The concern to leave room for persuasion and for autonomous decision will be advanced if partial rather than total coercion is generally employed. From my earlier discussion it should be evident that partial coercion leaves room for the operation of rationality in a way that total coercion does not (how much room will depend on the particular coercive means employed). Threats and sanctions may be accompanied by rational argument as well in the attempt to elicit a desired behavior and even when they are not, the object(s) of coercion may exercise rationality himself in deciding which of his options to choose. Furthermore, as already mentioned, the experience of total coercion is more likely to provoke violence than the experience of partial coercion, unless this partial coercion itself relies on threats of violence.²⁷⁾ It should be noted, moreover, that the kinds of behavior one would be trying to elicit through global law would very often not be those kinds of behavior that can be totally forced or even directly forced. Of necessity there will have to be a heavy reliance on indirect and partial methods. A virtue can be made of this necessity, however, if there is a conscious decision to accompany these forms of coercion with persuasive noncoercive efforts. In some UN peacekeeping actions this has been the case and the same persons involved in "policing" actions have carried on parallel efforts at mediation and conciliation.²⁸⁾ But the insertion of rationality which the employment of partial coercion permits is likely to be obscured or not even to take place if other forms of unreason are present. Therefore, it is highly desirable that the measures on whose behalf partial coercion is being used be seen as fair and that the coercive methods used be relatively noninjurious.

To speak of relative noninjury, however, is to acknowledge that perfectly nonviolent coercion is difficult to achieve and that some measure of harm may result from the practices employed.²⁹⁾ Thus another criterion of rationality would be the proportionality of the harm inflicted to that of the harm prevented. I would nevertheless argue that there should be some absolute limits here. This proportionality criterion is the very one, of course, that is used to justify the "just war." But violent war is just what the global authority or authorities ought not to engage in, even when it can be prevented on the part of others. Here it seems to me that significant conclusions can be drawn from Guido Brunner's discussion of the UN action in the Congo, though he fails to draw these conclusions himself. He points out that some of the authority that the UN had won in the Suez action was lost as a result of its activities in the Congo. He explains: "Der Hauptgrund dafür ist, dass die Organisation, wenn sie einmal in einen Konflikt von der Dimension des Kongokonfliktes gerät, keine andere Wahl hat, als sich wie ein souveräner Staat zu verhalten und durch den Einsatz all ihr zur Verfügung stehenden Mittel, einschliesslich der militärischen, ihrer politischen Auffassung zum Sieg zu verhelfen. Diese Art des Vorgehens führt selbst dann, wenn die Friedenswahrung als letztes Ziel des Einsatzes der Vereinten Nationen erkennbar bleibt, zu einer Einbusse an dem moralischen Ansehen der Weltorganisation."³⁰⁾ Nothing seems wrong in this assessment except Brunner's assertion that the UN has "no other choice" in such a case. This is always the argument when violence is resorted to, and here it seems rather less compelling than in some other instances. When one cannot prevent violence except through the use of violence, then clearly one cannot prevent violence. But one can act in a way that makes future violence less likely. This, I think, involves setting some absolute limits. If the UN had "no other choice" in the Congo, it was in good part because so little had been done previously to create experienced and respected nonviolent forces. This was the result not only of the conflict among the superpowers in the UN which prevented any permanent peacekeeping forces from

being created, but also of a failure on the part of most to think of the "peacekeeping" problem outside of a conventional framework. Even to switch from the military conception to the police conception of a "security force" is to remain within conventional, and not necessarily appropriate, categories.

Drawing the line at killing may seem both too weak and too strong a measure if one's aim is a major reconstruction of transnational political relations. Too weak because there are after all many other ways of injuring human beings that may be adopted if this one is given up and too strong because it may seem quite impossible that enforcement procedures can be sufficiently effective if the resort to lethal weapons is renounced. The first objection is partially correct. Nonviolence cannot be achieved by the adherence to any particular set of rules or any particular explicit limits and if a more general orientation towards nonviolence is not present, coercive forces will find new ways to inflict injury. But the point of insisting on the need for such a general orientation towards the ideal is not in order to dispense with all "absolutes," but to insure that such "absolutes" do not make up the whole content of the commitment to the ideal. The alternative to drawing lines is the situation that actually prevails. Many armed forces today think that they are "peace forces," but constantly engage in acts that are intrinsically acts of war. Because perfect nonviolence appears impossible, it is often concluded that there is no point in setting any standards at all and that in fact any sort of act may be justified as really fostering peace. Given the distorted social causality with which we have to deal, there is some truth in the latter insight. Any act, no matter how awful, may serve the cause of peace (if only by making men more fearful of war). On the other hand every act of war contributes to maintaining the institution of war and puts off till another day the experimentation with other ways of confronting the violence problem. The generalization of what appears to be utilitarian behavior is merely a prolongation of the condition that utilitarian conduct pretends to remedy.

It seems, therefore, that in this area as in other areas of human life, any major reconstruction of behavior and relationships requires setting some limits and at the same time recognizing that these limits (or rules) only partially embody the ideal. While nonkilling is not the only absolute to be recommended in the development of a new model of coercive activity, it is a particularly significant one. It is significant because the line between life and death is especially significant and it is significant because the infliction of death is, as already pointed out, especially inconsistent with an essential political ideal, namely the achievement of universal community. Furthermore, looking at the matter empirically, it is evident that killing is central to the existing violence system and that its delegitimation and renunciation would entail major institutional change. An insistence on nonkilling in other words need not result simply from an abstract ethical decision, but may stem as well from an analysis of the given historical and institutional context.

It would be a serious mistake, however, if the prohibition on killing were thought to apply only to direct killing, i.e., to the kind of killing that is done with guns. Economic measures can just as effectively destroy human life and may be even more difficult to resist. The interdependence of the contemporary economy, moreover, is likely to make economic manipulation a preferred form of coercive action in the future. From the point of view of this essay, of course, the interest of economic coercion lies in its potentiality for being neither violent nor total, but the more sinister possibilities must be recognized as well. If the concern to eliminate direct violence is not also accompanied by a concern to eliminate structural violence in the construction of new enforcement institutions, then the destruction now permitted by laissez-faire economic practices could achieve the status of authorized public policy.³¹⁾ This possibility is all the more to be taken into account and warded off in view of the general tendency of governments to reject responsibility for the indirect results of their actions.

But can we "do without" killing? Clearly the world could do with a good deal less. But this is not quite the question. The question is whether public authority

can do with less killing, whether it can maintain itself if it does not resort to lethal measures. One can solve this definitionally by saying that by definition authority is not present where it has become necessary to resort to violence. But this is too easy a way out. Certainly there is a widespread belief that established authority can manifest its power effectively only if violence is met with violence, even that authority is dishonored if it does not use every means possible to assert and defend itself. There are elements in these beliefs that fall outside what is arguable, other aspects of the matter that would take me beyond the limits of the present discussion. Still there is a basic point to be made. All such attitudes involve the assumption that the legitimation of some violence is the only way to meet the violence problem. Yet if we look at the historical record it seems that the authorization of some violence as a way of curtailing other violence has had a rather limited effectiveness in reducing violence in the world as a whole. It is really impossible to say what might have been had there been concerted and consistent attempts to develop nonviolent political power and nonviolent political traditions, i.e., what might have been had those of our forebears who were committed to nonviolence not given up on the affairs of this world so early and accepted the designation of their attitudes as "apolitical" or even "antipolitical." In the absence of such traditions what we have seen is more the replacement of one form of violence by another, e.g., feudal violence by nation-state violence, unregulated violence by organized violence, than a general lowering of violence levels. In fact the arguments about legitimacy have always had a mixed reception. Often enough the victims of violence have found these arguments unconvincing and their effect has merely been to stimulate counterviolence, a tendency that grows stronger in the present age. 32)

The only alternative to this approach is the one recommended here, i.e., an effort in the direction of a general delegitimation of violence. This appears to be the only way in which the vicious cycle of violence in which all are entrapped might be broken. To be sure, this effort too may fail. Where so much blood, treasure, and "honor" have been invested, it is exceedingly difficult to institute new ways. But while the work of delegitimation is hard and demanding, there is much evidence 33)

that it is the approach that best answers to our general condition.

The pursuit of rationality in coercion may be rejected not on practical grounds of effectiveness, but on more theoretical grounds. Some will argue, for example, that reason itself is coercive and that its alliance with force can only make a free existence all the more difficult to attain. This argument tends to identify reason with a particular form of reason, that manifested in logic and mathematics; and even here there may be more "liberty of thought" possible than is generally recognized, as those who have done work in the foundations of mathematics know. In any case once one leaves the domain of the very abstract, the possibilities of multiple viewpoints increase considerably. The role of judgment in choosing or modifying premises, interpreting data, and where social questions are concerned in applying moral standards are well-known. The autonomous will, therefore, is not simply the will that adheres to the self-evident. The autonomous will is the will that has accepted the responsibility to make the carefully weighed choice. That is why coercion can never be fully rational. One reason cannot simply replace another. When one reason takes over for another, something irreplaceable is always lost.

On another level it remains true that reason seeks certainty and final insight. Even here, though, reason can be regarded as some sort of internal dictator only if reason is held to be an alien force. But to say that reason seeks is to say that man seeks, i.e., man seeks truth (sometimes anyway) and in the process becomes more truly man. Thus Spinoza held that man was most free when his understanding was greatest. However, while the individual may find resting points in his pursuit of understanding, resting points where he uses terms like "obvious," "certain," and "true," from the point of view of human collectivities, i.e., from a political perspective, every insight attained must be regarded as partial, as a step in a process in which each human person has a potential further contribution to make. To refuse to employ violence, therefore, is to refuse to short-circuit the process in which collective reason is fulfilled.

The model of coercion I have presented is meant to resemble in its dynamics this two-sided character of reason, a force that both seeks and rests, struggles with

partial truth and attains moments of certainty. If it is the moment of certainty that permits coercion, it is the moment of doubt that counsels nonviolence. Similarly the movement that characterizes the internal process of reasoning (and the multiple voices that are heard in internal argument) would be paralleled by a social system in which coercion could be exercised from numerous directions rather than being regarded in at least some of its forms as the sole prerogative of special institutions, i.e., of governmental ones. The elimination of violence from coercion would in fact significantly modify the whole distinction between that which is governmental and that which is non-governmental. Weber, it will be remembered, defined the state³⁴⁾ in terms of its claim to have the legitimate monopoly on the use of violence. But if a general delegation of violence occurs, then this specific defining characteristic will be lost. Thus the range of associations considered political might be greatly expanded and with it the sources of legitimate coercive political activity.³⁵⁾

Such a prospect may seem to leave the way open for a form of social chaos with no clear-cut hierarchies and no clear-cut distinction between the "authorized" and the "unauthorized." I am not at all convinced, however, that this is the case. What is revealed rather is the need to rethink the whole issue of legitimacy apart from certain traditional claims. It is quite possible, moreover, that in a framework where violence is largely absent the nature of rational authority will be more clearly manifest. Finally, in the context of a discussion about global authority and institutions it is appropriate to note that the drive towards larger forms of community and the recognition of the claims of the more inclusive community has been a recurrent factor in the historical process, though one manifesting itself in distorted forms. We may hope that in the present circumstances the weight of those distortions will not merely have the effect of pushing men back into privatism and the comfort of smaller groups, but that the claims of the most encompassing community, that of humankind, will be recognized.³⁶⁾

The alternative to an equalization of coercive capacities is a system of authority based on a well-developed capacity for repression. Abstractly the order

made possible by such imposed hierarchy may seem reassuring. In fact many "revolutionaries" prefer such models in practice whatever they may uphold in theory. But here content is all. When an official decision is the one that we would have made, then we will hope that there are means of its being enforced. But when such a decision offends strongly our notions of justice, then we will hope to have recourse against it. There is nothing inconsistent in this. Furthermore, it does not preclude our giving more weight to decisions made according to certain processes than others. We need not like or agree with that which has the status of law to acquiesce in it or to follow it. We tacitly consent to many laws on the basis of the way in which they have come into being and because the creation of alternatives is in the best of circumstances difficult.

IV.

The model of coercion presented here is intended to provide a few hints about the possible contours of one element, i.e., the enforcement element, in a legal order that would differ markedly from those legal systems with which we are most familiar. Whether we can meet the challenge of creating legal institutions that are at once more inclusive and less oppressive remains, of course, to be seen. In any case the unique problems connected with the institution of law at the global level should, I think, be seen as an opportunity rather than as an occasion for retreat and despair. For they bring to light in a forceful way the perversions and inadequacies of our current concepts of law and our current legal institutions. Indeed nothing should be so obvious as the fact that the generalization of these failings to the global level is an occurrence that is rightly resisted.

Our interdependence, however, does not diminish. Temporarily secret negotiations and old-fashioned bargains struck by those who for the moment hold enormous power may avert the worst catastrophes (though at a high price for many who are the pawns in this game), but there is nothing that is secure or reliable, certainly nothing very just, in this manner of proceeding. It has been argued that little human progress is made

from individual to individual, since each new human being must so to speak start from scratch, but that our institutions can embody in a more permanent way the progress of human insight.³⁷⁾ This is a partial truth, but an important one. If we care about our collective human future, then we must care enough to attempt to set in motion the beginnings of new traditions and new political forms in which there can be a firmer trust than in the models which we have inherited.

1. In ethics it is assumed that there is a discrepancy between what is and what ought to be, but in politics the assumption often seems to be the opposite.
2. See, for example, the remarks of Marian Wright Edelman, Director of the Washington Research Project, in her talk, "Nonviolent Social Change as a Political Strategy," printed in Nonviolence in the 70's: A Strategy for Social Change (a report on a conference of the Institute for Non-Violent Social Change, Darby Printing Company, Atlanta, Georgia, 1972, p. 26). She speaks of "a total administrative enforcement vacuum" with "everybody working against our interests...in there trying to weaken the effect of the law, i.e., making sure that the guidelines are bad or there are loopholes for evasion; or that appropriations aren't provided or are minimal; that the personnel structure for implementation of the law is understaffed or regionalized, i.e., done in a way to weaken enforcement." Consequently, "Black people and poor people often get hurt by laws that were originally intended to help them." Here the will to implement and the will to enforce have been absent in so many quarters as to undermine greatly the effectiveness of the numerous progressive laws that earlier managed to get through Congress. The absence or partial absence of a favorable social basis may, however, be used merely as a convenient excuse for legislative (and executive) inactivity, as when legislators cover their own lack of enthusiasm for measures of social justice by telling us that "you can't legislate morality." In this popularized form the sociological point becomes a bare half-truth. Indeed the reformative effects of law on men's behavior and men's character are limited and legislation that strays too far from men's capacities or inclinations will be ineffective. It is also true, however, that there is an ongoing dialectic between law and social will and law and social structure and that law may have reformative effects on both social structure and social attitudes where those who legislate and those who lead seriously desire to foster these possibilities. In brief, those political figures who speak of the impotence of law too often conveniently bracket themselves out as factors in the social processes that condition the effectiveness of law. Edelman, herself, it should be noted, does not advocate giving up on law altogether, but rather that Blacks and the poor should pay more attention to the matter of "administrative monitoring."
3. The example is meant to indicate just how difficult it is for majorities to affect political reality where they are not politically organized. Since the majority of the world's people are undernourished, we may expect they would approve of rather different arrangements than exist for the distribution of food. By contrast power groups like the multinational corporation constantly have a political impact, but their activity also generates relatively few international legal norms.
4. I am not interested here in getting into a squabble about what comprises the "essence" of a legal system. One might call something a legal system even though it lacked enforcement procedures; yet it does not seem likely that such a system could be used as a substitute for a legal system with enforcement procedures. In other words what we expect of law in a functional sense requires enforcement procedures, however we might decide certain terminological questions.

5. In politics we usually have to do with situations much more complex than these. Also proper conduct towards a child may differ in certain ways from proper conduct towards an adult. But I do not think the examples are politically irrelevant. It need not be merely the expression of a paternalistic outlook to hold that a political community should in some cases take certain sorts of measures to protect persons from self-injury (whether intentional or not). What is arguable regards the sorts of measures and the kinds of cases.
- such a position of outright rejection.
6. My concern in this paragraph is with those anarchists who believe they ^{start from} [↑] acceptable as long as it is not practiced by governments. Some of these anarchists have themselves engaged in extremely coercive activity.
7. Guy F. Hershberger, War, Peace, and Nonresistance, The Herald Press, Scottsdale, Pa., 1944, p. 203. Italics added.
8. By passive resistance I mean a form of resistance created by the refusal to act in ways specifically desired. If the behavior is not strongly desired, then the refusal will only be experienced as a weak kind of resistance, but if strongly desired, then this kind of action may have great impact. Thus whether or not a particular ^{behavior} is construed as an act of resistance and how great an act of resistance it is does not depend entirely on the intentions of the subject of the behavior.
9. The ambiguities of Mennonite action can be illustrated by their differing policies with regard to paying taxes and to serving in the military. Military service is refused on principle, but taxes are paid, even though it is recognized some of the money goes for military purposes, because "to refuse to pay taxes would be equivalent to revolution, something a nonresistant Christian could not take part in." (Hershberger, p. 369) While the refusal to pay taxes may be an act of rebellion which aims at undermining the authority of the state in general, this is not necessarily the case, since specific taxes may be refused on limited and specific grounds which put in question only limited aspects of the state's exercise of its authority. But even rebellion is not revolution, and the refusal to pay taxes is not revolutionary unless it forms part of some much broader based program of belief and action. Another way of putting this is to say that the state can quite well accommodate itself to a certain number of tax refusers just as it can and not infrequently does accommodate itself to a certain number who refuse military service. (In fact it is groups like the Mennonites who have helped to teach the state this lesson where military service was concerned.) To point out these ambiguities, however, is not to disparage the kind of witness to their religious beliefs and to the cause of peaceful relations that the Mennonites have made.
10. If we think that violence constitutes a problem, it is because of its effects. Therefore, it seems essential that the notion of injury be central to the concept. This also makes it possible to differentiate violence from force and to speak of "nonviolent force." If violence and force are distinguished not on this basis, but on the basis of the legitimacy of the forceful act, then this phrase no longer makes sense. Moreover, if one holds that the legitimacy claims of all governments are false (as does Robert Paul Wolff), then one has no way of distinguishing violence from force at all and all acts of force or violence from the use of psychological flattery to assassination are likely to appear equally acceptable (in Wolff's case all are acceptable as long as a utilitarian justification can be found; cf. his article "On Violence," reprinted in Revolution and the Rule of Law, edited by Edward Kent, Prentice-Hall, Inc., Englewood Cliffs, N.J., 1971, p. 60 ff.).

11. Even if nonviolence is considered all a matter of degree, one still might wish to make some distinctions between a range of acts that are relatively noninjurious and can accomplish significant good and those that are clearly injurious and of questionable value in their general social consequences.
12. For coercion to be exercised nonpaternalistically it is necessary that the object(s) of coercion be in a position to exercise counter-coercion of some significant kind and, just as importantly, that there be a continuing noncoercive relationship between the parties as well where each side accepts the possibility of being persuaded on rational grounds by the other. (Ideally, therefore, one's relation to a child should become less and less paternalistic--or maternalistic--as the child develops.)
13. Violence: Award-Winning Essays in the Council for Philosophical Studies Competition, edited by Jerome A. Shaffer, New York, David McKay Company, Inc., 1971, p. 30.
14. Miller defines "force" as involving the attempt to "physically overpower," meaning not necessarily that a person (or persons) A uses his own strength so that a person (or persons) B will be overpowered, but that some means is used, e.g., administration of a drug, so that B will be overpowered. (*Ibid.*, pp. 33, 21) By this definition to use force is always to aim at total coercion. But this seems too limited a notion of force and the notion of "physically overpowering" is anyway too imprecise, since one may be overpowered in one respect and not in another. It seems to be preferable to define force in terms of an application of energy in some particular direction. Thus the use of force may aim at partial or at total coercion and may in fact achieve the one or the other.
15. These possibilities arise out of Miller's definition because of the vagueness inherent in the notion of "doing something." Being asleep is in a sense doing something, in another sense it is not. Similarly I may intend to do one thing and in fact do that and several other unintended things, e.g., I may intend to cross the street and I may do that and also walk in front of a moving car. Someone may say, "She's about to get herself killed," but clearly that need have nothing to do with what I think I'm doing. Consequently, coercion need not operate against my will in such a case. On the other hand, it is right, I think, to say, as Miller implicitly does, that coercion involves the application of someone's will, i.e., is not just the manifestation of an impersonal force.
16. One may reach this conclusion without believing that suicide should in all cases be impeded. That is a more involved question. Here I speak of the obviously "unconsidered" suicide.
17. In general peacekeeping actions involve only partial coercion, but the separation of potential or actual combatants or the disarmament of combatants may involve total coercion.
18. How or whether these underlying concerns of Kant's moral philosophy can be harmonized with certain aspects of his legal and political philosophy is a topic I shall not enter into here.
19. While modern electronics and modern communications techniques can be of some help with this problem, the difficulties are not only technical ones.
20. Gidon Gottlieb, "Is Law Dead?" in Revolution and the Rule of Law (see note 10 *supra*), p. 79.
21. Though I believe there are different levels and different kinds of reason, I shall in what follows not put quotation marks around any particular usage of the word.

22. The example comes from an article by Sheldon Wolin, "Violence and the Western Political Tradition," *The American Journal of Orthopsychiatry*, Vol. XXIII, No. 1, January 1963, p. 16. This is an excellent article, but somewhat marred by the fact that Wolin, though he points out that there is a difference between violence and force, uses the terms violence, force, power, and coercion more or less interchangeably throughout the article.
23. Socrates expressed this insight in the *Republic* as follows: "If, then, anyone affirms that it is just to render to each his due and he means by this that injury and harm is what is due to his enemies from the just man and benefits to his friends, he was no truly wise man who said it. For what he meant was not true. For it has been made clear to us that in no case is it just to harm anyone." (*Republic*, 335c)
24. The practice of calling direct violence "personal" violence and then contrasting it with "structural" violence seems to be misleading. The exercise of both kinds of violence involves persons and the practice of direct as well as structural violence may involve social institutions. The basic distinction is between harm done in a direct and obvious way with weapons and harm imposed indirectly by laws and social practices which prevent human needs from being fulfilled.
25. Edward Kant, *op. cit.*, p. 6. This point is made at greater length in a recent article by J. Peter Huber. He writes: "In a liberal, pluralistic society, economic activities receive the greatest prestige. What distinguishes this type of prestige is that it is seen as a consequence of natural, not human processes; it is a product not of human foresight and collective decision but of its very absence. Decisions about what is worth having and doing are, we like to say, a matter for the individual, and we prefer the impersonal authority of nature, the market, progress, history, and balance of powers to personal authority, which (recalling Locke) is by definition tyrannical. But individuals or groups in equilibrium are almost helpless against processes such as technology and industrialism, whose advance has been unimpeded partly due to this helplessness, partly due to the liberal justification of the helplessness as necessary deference to nature. These processes will, I think, remain dominant, unless and until they are directed by collective human power for common and (one hopes) ennobling ends. This means thinking about politics in nonliberal terms. It means recalling arguments about political authority, political education, and citizenship that were banished by liberal revolution. It entails recognizing the possibilities, indeed the necessity, for collective action in directing and containing processes and forces which, in spite of their human origin, are now, in complexity and dimension, moving beyond human comprehension. It means remembering why the Greeks thought that only when fate and nature were restrained could there be a human realm of choice and responsibility. In the absence of such a realm we lack not merely competent men to make decisions, but the opportunity to make decisions at all." ("Walker's Obligations," *Philosophy and Public Affairs*, Vol. 1, No. 4, Summer, 1972, pp. 457-8.)
26. In an article on UN peacekeeping actions Guido Brunner shows that this is just what has taken place in certain UN operations. See Guido Brunner, "Die Friedenssicherungsaktionen der Vereinten Nationen in Korea, Suaz, in Kongo, in Zypern und in Gaza-Streifen," in *Friedensforschung*, hrsg. von Ekkehart Krippendorf, Mienenhauer & Witsch, EBn/Berlin, 1968.
27. My discussion of alternative enforcement procedures is intentionally rather abstract here, as I intend elsewhere to consider the more concrete aspects of the problem. It is worth noting, however, that both imprisonment and capital punishment involve total coercion, although imprisonment is not in every respect totally coercive.

20. For illustrations see the pamphlet by Geoffrey Carnall, To Keep the Peace: The United Nations Peace Force, published by Peace News, 5 Caledonian Road, London N. 1, 1965.
21. It must be recognized also that the notion of noninjury is not an independent concept, but related to one's concept of human personality and of the essential needs of human persons. Nonviolent forces may deprive a wealthy man of half his wealth, e.g., through a boycott. He will feel injured, but they will believe they have been nonviolent.
30. Op. cit., p. 463. The English translation is: "The main reason for this is that the organization, once it gets into a conflict of the dimensions of the Congo conflict, has no other choice than to behave like a sovereign state and to help its own political perspective to victory by using all available means, including military ones. This manner of proceeding then results in damage to the moral authority of the world organization insofar as the principal aim of the activity of the United Nations remains the preservation of peace."
31. In fact economic measures are already used by national governments in highly questionable ways.
32. This point was illustrated by Howard Zinn writing about "Yanuk" and its aftermath: "Would that raid [the retaliatory raid by the Israelis] 'show' them' (the languages of the mafia and the Pentagon, of criminal gangs and officialdom all over the world)? Clearly, the only result will be more retaliation. The same dispatch quoted a Palestinian guerrilla officer after the air attack: 'We will do the same thing to them one day.' The violent acts of outlaws, of revolutionaries, of governments are all mutually reinforcing, and never 'show' anyone anything. Aren't the unprecedented increases in private crime and governmental crime we see in our time endlessly reciprocal?" (The Real Paper, Sept. 20, 1972, p. 9)
33. We are so used to "doing with" killing that a renunciation of this practice is bound to seem to many like "doing nothing." Geoffrey Carnall says that Lord Mountbatten described Gandhi as "the one-man boundary force who kept the peace while a 50,000-strong force was swamped by riots" and that General Sir Francis Tuker "estimated the Mahatma's powers at the equivalent of two battalions," but much more experience with this form of power will be required before it is really understood and trust in it begins to grow. Moreover, it is unfortunate, though perhaps inevitable, that the history of nonviolence as a positive form of social power has been so marked by a few charismatic individuals. This may have led many to see the effective practice of nonviolence as more dependent than it really is on the special capacities of a few unique individuals.
34. Cf. Max Weber, Politics as a Vocation, Fortress Press, Philadelphia, 1965, p. 2. The typical world government advocate simply wants this claim to be assumed by global authorities as opposed to the existing nation-state authorities.
35. Weber believed that the state had to be defined in terms of its means since "there is scarcely any task that some political association has not taken in hand." (*Ibid.*, p. 1)
36. We are currently suffering from crises both of intensive community and of extensive community. In any view the solutions at the two levels are interdependent.
37. The Swiss philosopher Anel is reported to have said: "L'expérience de chaque homme se reconstruit. Seules les institutions deviennent plus sages, elles accumulent l'expérience collective et, de cette expérience et de cette sagesse, les hommes soumis aux mêmes règles verront non pas leur nature changer, mais leur comportement graduellement se transformer." (Quoted by Finn Larsen in an article "Short Framework for Federalist Discussions," in Federalism & Non-Alignment, World Federalist Youth, Copenhagen, 1972, p. 18.) To be sure our modern experience with bureaucracies has made us skeptical in this respect.