



Law, Social Justice & Global Development

(An Electronic Law Journal)

Peoples' Law: Decolonising Legal Imagination

Jayan Nayar,
Associate Professor,
School of Law,
University of Warwick, UK

R.J.Nayar@warwick.ac.uk

This is a **refereed article** published on: 6 December 2007

Citation: Nayar, J, 'Peoples' Law: Decolonising Legal Imagination', 2007 (1) Law, Social Justice & Global Development Journal (LGD). <http://www.go.warwick.ac.uk/elj/lgd/200?_?/author>

Abstract

The simple and radical truth is that there is nothing inevitable or natural, let alone good, about the present ‘order(ing)’ of human societies within the scheme of the totality of global political-legal cultural imagination; there is nothing good in the militaristic, corporate control over the political-legal space that represents the landscape of governance today is an indictment that few would contest; that few being the public voices of domination that remain our (enforced) ‘leaders’; there is nothing natural about this imposed order is something most of us would believe, much to the chagrin of the imperial voices which repeat time and again the evolutionary logic of their violence. With this in mind, this work critically evaluates contemporary dominant World Order(ings), exploring the colonising and violent claims of Power and its attendant Law, seeking to decolonise the latter through a Peoples’ Law created by peoples’ action that reclaims lost, hidden or repressed histories and emancipatory futures and reignites political action with the radical re-appropriation by peoples groups to initiate what might be termed ‘grassroots democratic action’ of and for law.

Keywords:

Peoples’ Law; Power; Legitimacy; Hegemony; Globalisation;

1. Introduction

We live in different worlds. One, a world of legal texts in which the academic, the reformer, the politician, gather to promise equality, justice, prosperity, security, for all. Another, the world of realities in which the minority groupings of power gather together to implement their visions of the world which inflicts violence, humiliation and death upon the majority weak. As commentators and activists, we can choose how we engage within these opposing worlds. We can dream the dream of enlightenment and hope that by our reasoned interventions which demonstrate the error of the ways of the present, we may transform real worlds into the promised lands of legal texts.¹ Or we can begin with the realisation that the world is a place of conflict and that we have the responsibility to take sides.² I adopt the path of the latter.

We cannot, must not, speak about the world with anything but unrestrained outrage. Outrage at the inhumanity of the ‘world order’ that has been created; outrage at the lie of Law which maintains the purported idealism of the violent orders that govern us. When constitutions are made, when parliaments are convened, when international leaders gather to address the latest issue of concern and priority, when children have their heads blown open by the bombs of their ‘liberators’, the promised land of Law is invoked, like a mantra, repeated in this civilisational space that we call ‘our world’. The utterances of George W. Bush are frightening examples of this cynical recourse to ideas of ‘civilisation’ and of Law:

‘There is a value system that cannot be compromised, and that is the values we praise. And if the values are good enough for our people, they ought to be good enough for others, not in a way to impose because these are God-given values. These aren’t United States-created values. These are the values of freedom and the human condition and mothers loving their children.’³

But the world of Law is a lie. The injection of Law into the language of Power serves, like a drug, to induce hypnosis, compliance, apathy. Law’s promise is necessary to retain the myth of humanity, so essential to us as everything around us is dehumanised. The promises of Law, therefore, create the perpetual haze under which the real world goes about its business, and its business is business – this is a cruel world where visions of ‘civilisation’ are effected through the deliberate or callous infliction of violence.

But, the simple and radical truth is that there is nothing inevitable or natural, let alone good, about the present ‘order(ing)’ of human societies within the scheme of the totality of global political-legal cultural imagination. That there is nothing good in the militaristic, corporate control over the political-legal space that represents the landscape of governance today is an indictment that few would contest; that few being the public voices of domination that remain our (enforced) ‘leaders’. That there is nothing natural about this imposed order is something most of us would believe, much to the chagrin of the imperial voices which repeat time and again the evolutionary logic of their violence. That there is nothing inevitable about this colonising trajectory must be the line we draw upon the ground of (our)story, to be crossed as the act of decolonisation, as the moment of decolonisation.⁴

The purpose of this paper is to instigate for such a moment of decolonisation. Its target is the colonising functions of ideas, in this case, the idea of Law. This is more than protesting law's workings, more than denouncing law's injustices. Rather, this paper suggests a break, a liberatory moment of decolonisation that rejects the idea – good, naturalness and inevitability – of Law as thus presented by Power. In its stead, is an assertion of a vibrant, different, emergent law, rooted in the social realities of the majority of the 'family of humankind', mired in the conflicts of political drama that are the lifeblood of living communities, of real (as opposed to idealised) people. A law that stands in conflict with Power, no reconciliations through projected fictions of universal 'We's' in sight; A law whose reality may not be tamed by 'disciplines' of discourse.

A word of caution with respect to the conventions of 'legitimate' (theoretical) exposition. For all the theorisations of political-legal wonderlands that has been the legacy, the gift, of modernity, coupled with colonial violence, the world will take a shape that we the commentators may not anticipate as a result of haphazard, unpredictable, emotional struggle, regardless of theorists, theories, analyses, proposals for reform and the like. What follows in this paper is a claim to legitimacy for a such a (r)evolution that will come with the overturning of conventional ideas of legitimate politics and law. This is already happening although its contours aren't as yet clear, and I don't think they ever will be. And this is what makes it truthful, exciting, hopeful and dismissive of 'expert' control. In this paper, I want to say something about this revolution. Not just about the one that is visibly happening in the streets – this we are familiar with.⁵ But I want specifically to talk about a potential, and necessary, revolution of ideas; of the most fundamental ideas of control by the powerful over the weak – the ideas of politics and law. I want to talk here about the revolution of Peoples' Law.

2. Trends of World Order(ing): Seeing Through the Noise

So much is written about Law.

Before proceeding, the following words of Amilcar Cabral helps set the scene, to remind us to check against our own 'civilised' prejudices:

'[The colonizer] provokes and develops the cultural alienation of a part of the population, either by so-called assimilation, or by creating a social gap between the indigenous elites and the popular masses. As a result of this process ... it happens that a considerable part of the population, notably the urban or peasant bourgeoisie, assimilates the colonizer's mentality, considers itself culturally superior to its own people and ignores or looks down upon their cultural values'⁶

This statement provides us with an important reminder of our own still-colonised condition. The 'culture' of law and politics which the coloniser imbued the elites of the colonies as true gifts of a higher civilization have indeed resulted in alienation

within the ‘postcolonial’ polity. It may be accurately stated that the postcolonial, decolonised possibility was stillborn with the moment of political ‘independence’. Assimilating the coloniser’s mentality has meant the assimilation into a global political-legal (and economic) imagination that changes little the realities of violence for the majority of the purportedly post-colonial populations.

These are strong assertions; perhaps they are made too hastily. Conceding this, let us maintain for the sake of argument that the political-legal (cultural) values that underpin the international system of independent and sovereign states, acting in cooperation with one another for mutual benefit and universal human welfare, held true one time long ago.⁷ Can we still pretend that they hold true still? On what foundations does the assertion of the prevailing political-legal order stand majestically over the subjective realities of ordinary people? On the Hobbesian assertion of brutality that founds human sociality? On the Lockean vision of ‘civil-ity’ through the godly appropriation (fencing-in) of property? Leaping over a couple of centuries worth of Western ideological postulations, on the Bushian arrogance of cultural, religious, civilisational (corporate-military) superiority of values (and weapons)? What does provide for the ‘majesty’ of Law? Of ‘Democracy’?

The ideology of ‘Law’ and of the political systems that are purportedly engendered by ‘Law’ would claim the said majesty for this very modern of human organizational forms;⁸ in its extreme, the triumphalism of ‘Fukuyaman’ end of history claims may be seen to serve the purpose of closing the futures of imagination. Looking through the ‘noise’ of roughly 400 years worth of (Western) ideological rhetoric means, however, seeing first the realities of human ordering that are the result of the claimed utopias of theory, and then judging their ‘truth’. We can take a contemporary assertion that sums up the promise of Law’s universe, and put our question as follows: what is the nature of the ‘world’ in terms of human realities of suffering, notwithstanding the noble rhetoric of the United Nations website which opens with the proclamation, ‘This is Your World’?

The world of today bears little resemblance to the supposed workings of the so-called world of sovereign and independent states - that most sacred of institutions that has served as the ideological pivot on which all manner of world order justifications have revolved since the Peace of Westphalia. This much at least is now uncontested. Globalisation-talk is now everywhere, impinging upon, how we ostensibly perceive the meaning and content of ‘sovereignty’. And for good reason it would seem. It is the age, the epoch, the socio-cultural and economic reality, the beginning, the end, the dawn, the dusk, the potential, the betrayal. At any rate, ‘globalisation’ is the point of reference, it would seem, for any understanding of contemporary life, for better or for worse, as the debates rage. It is not my intention to be yet another participant in this all-consuming debate. My engagement with ‘globalisation’ is simply to provide a perspective on it which is relevant to the assertion of the (r)evolution that is peoples’ law. For this, the work of others who have so engaged in the globalisation debate provides some valuable insights.

We learn from the numerous analyses (notwithstanding their apparent inability to agree on the definitional point about what is globalisation) several important features of contemporary world order(ing)s. These may be briefly outlined as follows:

- There is a perceptible renegotiation of the sovereignty-idea and concomitantly, a re-formation of the state vis-à-vis its regulatory capacity, authority and orientation.⁹ Without going into the battle-ground of whether, the state is declining, whether its de-regulating, or re-regulating, rolling-back, forward or sideways, we can put it simply and differently as an acceptance that the state, as a player in the global system, is changing its form.
- Parallel with this re-formation of the state, is the ascendancy (be it of action or persuasion) of private and multilateral actors, particularly those whose motivation is the ever-expanding accumulation of capital and profit;¹⁰ TNCs,¹¹ business-related ‘civil society’ actors such as the International Chamber of Commerce,¹² International Financial Institutions such as the World Bank and the IMF,¹³ and institutionalised regimes of governance as exemplified by the WTO.¹⁴ This ascendancy provides the material force which seeks to reorient the perspective on sovereignty and thereby the regulatory functions of the state, and its various multilateral manifestations, away from social-ism to corporatism.
- The re-organisation of the global ‘public space’ of economic governance to serve the ‘private’ domains of corporate lust is accompanied and facilitated by a greater centralisation of ‘police’ power with respect to political governance. This we see clearly in the recent upsurge in the assertions of the ‘security’ discourse, primarily by the US as the ‘unipolar’ superpower,¹⁵ leading when appropriate, whatever ‘coalitions of the willing’ as are available.¹⁶ It would seem that the security discourse is also a growth industry within national political entities wherein recalcitrant domestic populations are soundly ‘managed’ with the instrumentalities of ‘law and order’, ‘national security’ and the like.¹⁷ Finally, we have common ground between North and South, East and West! From an historical perspective, we appear to see a re-emergence of the old colonial structure of governance which is formed by centres of power in the core and ‘local chieftaincies’ in the peripheries, the former determining matters of general policy, the latter handling the day-to-day exigencies of ‘control’. The effect of these tendencies towards the monopolisation of violence has been the twofold manifestations of greater political suppression of the social majorities and the outbreak of isolated and dramatic expressions of rejection and counter-violence. ‘Security’ has become the code for (legalised) political violence.¹⁸ The ‘War on Terror’ as espoused by those who seek the monopoly to the ‘right to violence’ brings to vision all of these upon one screen.
- Notwithstanding the manifest capacity for violence, and actual violence, of the powers who attempt to dictate the directions and processes of world order(ing)s, as described above, there is also evident a growing resistance to power, at the local, national and transnational levels. These are movements of resistance and affirmation which are increasing their visibility, organisational capacity, and therefore, audibility and impact, in rejecting the

inevitability of the world-as-it-is. The Social Forum phenomena, be it in its 'World' incarnation, or its many regional, national and even local reincarnations, are obviously the most visible of these manifestations of disaffection and counter-creation.¹⁹ More important, however, are the underlying waves of a rebellious consciousness that permeate through the localities of the social majorities in their struggles of rejection of world order(ing) efforts.²⁰

Given that these may be identified as the significant transformations of the nature of current world-order(ing) trends, a peoples'-centred reorientation of legal imagination begins with a simple recognition: 'globalisation' necessitates a fundamental reassessment of the assumed locus and praxes of law and politics.

Conventional thinking on law and politics proceeds from the basis that there exist two competing yet complementary sites of politics and law – the national and the international/global. The debates surrounding sovereignty-globalisation assumes and follows this framework of contention. Within such a conceptualisation of the locus of governance, the central role and ideological legitimacy of the state as the point of origin and departure for the competing visions of governance, between the national and the international/global is retained essentially unchallenged. The issue is seen as a competition for authority between these two poles; debated by those who wish to retain it (mythically) within the state, and those who argue for a globalisation of governance.²¹ The discourse, however, remains a statist and static one.²²

A peoples'-oriented analysis would point to a different challenge; that which raises the question of where the peoples that are the social majorities of the world fit within this conceptualisation of the national/global governance nexus. Despite rhetorical references to it, there is little concern with 'peoples sovereignty' addressed in mainstream negotiations of the national/global governance-space; it is merely consumed by and within the jurisdictional space of the 'state'.²³ The presumption, even assertion, of the discourse appears to be that one or the other, statist primacy or international/global supremacy, is conducive to the greater good of the peoples. The peoples of the world may, however, be far from convinced that the truth lies in either.

If nothing else, the appreciation of the novelty of 'globalisation' in the context of the realities of 'global governance', and now in the face of US-defined 'war against terror'- mode of interventions, puts paid first, to the Westphalian idealism of a universalist state system and secondly, to the UN Charter myth of an international system based on closed units existing as 'sovereign, independent and equal' states.²⁴ That the 'billiard-ball' notion of 'inter-national' relations has died a death should be clear. Instead, we have, I would venture, what could more accurately be labelled the 'Mercury Blob' reality of transnational relations. Just like the blobs of mercury upon a surface, we have the transitory conditions of 'independent' units, which lose their deception of solidity and 'independence' upon contact or pressure. The scene, it would seem, is ever changing depending upon the forces of 'nature' and 'action'. The hitherto considered formidable state-system, under conditions of 'globalisation', reveals similar tendencies and weaknesses.

The so-called ‘Realist’ perspective which is based on a world of dualisms - for example, the ‘national’ and the ‘international’, the ‘political’ and the ‘economic’ – disguises this crucial historical truth of international relations, namely, that the evolution of the State as presently constituted has followed from the intimate mutuality of interests between domestic political forces and transnational economic interests. Being socially located in the international arena, the State is defined by the constant action and reaction of forces which form the networks of transnational social relations.²⁵

In contrast to the ‘Realist’ precept that the ‘State’ is the original constitutive unit of international relations, and therefore, that it is governed by some ‘internal’ logic of state-centred imperatives, studies on the political-economy of international relations have pointed to the conclusion that the state is a historically specific (re)construction that is the result of the interplay of ‘multiple logics’; the international State system, transnational class structures, the capitalist world economy and the social and cultural conditions prevailing at any given time, these are all factors which directly impinge on the actual functioning of the state.²⁶ Thus we obtain a view which reveals that the state has throughout been constructed and reconstructed to reflect the minority interests and motivations of ‘globalising elites’.²⁷

Given this re-viewing of the political-legal landscape, a peoples-centred perspective would bring to the fore the apparent schism between the continued ideological justification for (corporate-)statist law and the realities of (non)-sovereignty (national, let alone peoples’). Seen from a peoples’ viewpoint, upon a constitutional pedestal, like a goddess, lies the proclamation of ‘We the Peoples’. Yet the pole-bearers of the caravan of world-order(ing) chant a different mantra and are driven by a different philosophical and operational guide. We can outline the conditions of non-sovereignty within the Mercury-Blob vision of international relations as follows:

- An ideology of (US-dominated) ‘globalisation’ imposed by force rather than constitutionalism through democratic assent provides for the motivational drive for world order(ing).
- The institutionalisation of global regimes of governance (including military-violence) that are distant from and unaccountable to the ‘ordinary-folks’ of the world provide for the ordering process.
- The enforcement of these regimes of governance through coercive mechanisms which do indeed have the capacity to intervene in ways that supersede the proclaimed constitutional state in such matters that fall within their purported transnational purview.

From these arise significant challenges. In contrast to the ‘romanticism’ of perspectives which maintain the parameters of enquiry within the contestations between a traditional statism and an emerging globalism, a peoples-oriented perspective would recast the focus of conflict thus - between a peoples’ conceptualisation of sociality that locates the languages and symbols of governance at the many layers of the local that form their social fabric and a global-isng conceptualisation of governance that seeks to locate the language and practice of governance at some asserted universal point. One is the language of peoples existing

in social relations of solidarity and mutuality; the other, the language of power seeking to objectify and commodify social exchange.²⁸ Governance in the former view is rooted in social experience; in the latter, it sits atop a mountain of abstractions. Both orientations have consequences and implications for the 'state'.

When we view the conflict as that between visions described above, the 'state' becomes less of a fixed entity. The state, from this viewpoint, commands not any predetermined position of either friend or foe, of either an instrument of emancipation or an instrument of oppression. It is open to both potentialities as historical contingencies. The state in this view is a contested site within an overall context of struggle, between peoples' movements which seek to orient the state towards the local socialities and globalising elites which seek to orient it towards the global. This said, it is admittedly the case that the latter forces appear to have the upper hand in 'capturing' the instrumentalities and the ideological positioning of states at the present time.²⁹ But history is never about inevitabilities.

All stories of liberation teach this lesson.

3. Decolonising Law: From Abstractions to Locations

What do we do when we are confronted with such realisations of the myth of sovereignty, the myth of Law's 'society'? Resort to the colonised responses that are mantras of faith? Or face the uncertain implications of the unfinished struggles for decolonisation?

We could embrace the faith that is the utopianism of 'being realistic'. This involves the undying insistence of more of the same (failed) medicine please! Never mind that the failures of 'being realistic' means, in real terms, profit for the few over the bodies of the many. No, this utopianism is the worst of crimes because it denies people the dignity and truth of their suffering voices.

We could be 'good subjects' and pursue the 'reformist' agenda of chasing dreams on paper: 'more law please'!; 'better law please'! Never mind the simple equation that the impunity of power in the form which prevails is the result of the prevailing of power; the politics of law, after all, is the struggle over the power to do law. Being in states of denial brings us no closer to realising dreams of decolonisation.

Let us not be coy about heralding the 'Death of (Power's) Law'. The times of our present are not ones marked by hegemony but by dominance. Power is quite clear about this.³⁰ So much talk of the 'hope of international law', howsoever reconceptualised or reconfigured may simply be akin to the pleas of the slave who fears the implications of freedom – they are colonised responses to the hazards of our time. Another, admittedly less palatable to the 'lawyer', less 'secure', less convenient, less predictable, yet perhaps more truthful, assertion might be that which recognises the essential conflict that destroys the claim of the universal 'we the peoples'. Such an assertion may be formulated as follows.

The universal Law, Law as an idea, that Law that is the proclaimed universal of human social relations, this Law has not been one for the social majorities. The particularistic selectivity of Law's patronage may be described best by re-viewing the

nature of social differentiation that is the characteristic of Law's 'society'. I have described it as a reformulation of the '3 Worlds' of world order.³¹ This re-viewing of our 'world' does, I believe, provide us with a clearer perspective on the nature of Law's deception:

- The 1st World - the virtual world of 'anywhere people'. It consists of the 'models' of humanity, the very epitomisation of 'success' within our contemporary 'civilisational' adventure. This is the world that is the promised land, inhabited by those that are to be free(d) from the limiting constraints of ideological straightjackets – the world is their oyster, the 'global' is their vision . It is this 1st World that is sought to be the project for expansion, so it is claimed.
- The 2nd World - the located world of 'somewhere people'. Its landscape is one of labour and service. It is the world which, below the glitter of the 1st World, serves as the engine for 'progress'. This is a world inhabited by aspirants, always dreaming of the possibility of graduation, constantly living the threat of relegation, caught between the promise and the danger of human possibilities. The 2nd World is precarious in that it is one which is threatened with destruction unless it works ever harder to sustain the world above it.
- The 3rd World - the world of 'nowhere people'. It lies in the underground of 'civilised society', its inhabitants the disposables of the ordering of civilisation. The inhabitants of the 3rd World are nowhere welcome; they serve best by disappearance, by silence. They are either incapable of being, or unwilling to be, the servile service-providers that would enable their survival in the 2nd World. The 3rd World is the world, therefore, of the unworthy, the unfit, the failed, the faceless, nameless, voiceless wretches of the 'human family'.

The three Worlds, so described, conforms not to any convenient, conventional 'herding' of populations into national territorial spaces. Instead, 3 worlds of the 'global order' are transnational realities. As such, their constituents fall together not according to national criteria, but according to the materialities of livelihoods and, thereby, the imaginations of futures. Put differently, the 'we the people' of these three worlds are we's of material rather than nation-symbolic affinities. Herein lies the ultimate deception of the statist, inter-national conceptualisation of Law' society – we are schooled to think about billiard-balls when the game that is being played is neither billiards nor played with balls!

And so the underlying untruth of Law; speaking the language of abstractions (We the People), within a false location (the State), the Law, therefore, enables the disguised construction of a colonising regime of administration - the State system. Within this system, therefore, the Law plays essentially different roles with respect the different constituencies of 'world order':

- The 1st World: Law facilitates and enables the 'globalising elites' (Law as Emancipation).

- The 2nd World: Law regulates and disciplines the ‘servants’ of the transnational projects (Law as Regulation).
- The 3rd World: Law excludes and imposes upon the dispossessed (Law as Violence)

It is perhaps because of this particularism of Law, therefore, rather than its asserted universalism, that we see the mass rejection of Law’s promise increasingly on the streets.

Everything, the world so to speak, is up for grabs. And it is precisely this grabbing that is being pursued by the powerful, the dominant, in their appropriation of the idea of ‘Law’, and through it, the mechanisms of governance. But, there is nothing which determines that it is only the prerogative of the powerful to undertake an appropriation, of Law. There is nothing which prevents the violated from doing the same. If anything, it is the violated majorities who have the ideological claim (let us hold aloft for a moment those platitudes of peoples’ sovereignty, law of the peoples, by the people, for the people, and the like) to the ideas of ‘justice’ that purportedly underpin ‘civilised’ Law. Given the materialities and the ideological thrusts of current world-order(ing)s, a perspective of peoples’ law, therefore, seeks to reclaim the right of peoples to speak the words and act the actions of law from a position of opposition to the violence of ‘Power’ - ‘We the (social majority) Peoples of the World’ against ‘You the (social minority) Powers of the World’. A peoples’ perspective on law, in other words, would recognise the reality of conflict in visions of ‘world order’ and would position itself in opposition to the laws of and for oppression. It would necessitate the taking of sides. There is nothing utopian about this ‘project’ of decolonising Law. This is obvious. It is mired in the necessary realisation of uncertainty that is the real condition of human existence – of domination and resistance.

From this the claim to decolonisation follows. If it is the desire of ‘power’ to take for itself the ‘idea’ of law as it is conventionally understood, if it is the theft of ‘power’ to appropriate authorship of law for its own sake and negate the right of authorship inherent in the people, if it is the confidence of ‘power’ to do so in ways which blatantly disregards the existence of the people as primary subjects of that law and not merely inconvenient objects to be subjugated, then a peoples’ law perspective would say ‘Enough – for this is not our law’.³² And flowing from this primary act of ‘decolonisation’, are a series of demystifications, of the perceived inevitability, and inviolability, of the dominant institutionalisation of law and governance:

- Despite attempts to claim the opposite, there exists no inviolable right, on the part of the powerful, to govern, rule, or order the weak.
- Notwithstanding attempts to convince otherwise, there exists no pre-ordained rationale for, eternal truth of, inevitability regarding, forms of socially constructed orders that form the institutions of governance, including the form of ‘Law’ .
- Regardless of the ideological claims being advanced, there exists no unifying or unified civilisational consensus on corporate-dominated globalisation as

comprising the common values, truths, visions of human futures that prescribe a universal course for humanity's social evolution.

With these negations, we are able to mark the end of the abstracted universalisms of Law. This also opens up real possibilities for alternative imaginings of law. I would suggest that we could, we should, begin as Shivji envisages:

'[W]hatever the achievements of Western bourgeois civilisation, these are now exhausted. We are on the threshold of reconstructing a new civilisation, a more universal, a more humane, civilisation. And that cannot be done without defeating and destroying imperialism on all fronts. On the legal front, we have to *re-think* law and its future rather than simply talk in terms of re-making it. I do not know how, but I do know how not. We cannot continue to accept the value-system underlying the Anglo-American law as unproblematic. The very premises of law need to be interrogated. We cannot continue accepting the Western civilisation's claim to universality. Its universalization owes much to the argument of force rather than the force of argument. We have to rediscover other civilisations and weave together a new tapestry borrowing from different cultures and peoples.'³³

4. People's Law: Assertions of Decolonised Sovereignty

Clearly, the rejection of the 'certainties' of mainstream political-legal imaginations by the growing movement of peoples' movements represent mounting resistance to the powers of domination that have ruled thus far. The manifestation of these movements also represents a fundamental rejection of the way in which the world is presented by Power's account; reclaiming instead peoples' power to narrate their own stories. The prime motivation that has given rise to this contemporary articulation of decolonization may be understood to be the globalization of suffering that is the result of current world order-ing projects. Power would have it be that we are gripped by the manifolds of misfortune which are to be eradicated through Power's visionary action. The peoples subjected to the globalization project tell a different history. Suffering is less the condition of misfortune; they resoundingly condemn it as a consequence of violations.³⁴ From this original stance of resistance and rejection of Powers' 'authority' arises the possibility of a more thorough reorientation of the very idea of law as a means and manifestation of a reclaimed peoples' authority-sovereignty.

The idea of peoples' law that is being put forward here is something more than an articulation of protest. It is not preoccupied with urging Power to reform. It is not intended to seek an invitation to speak with Power. It is not simply to serve as a critique of Power. Peoples' law is about creating a different authority for judgement and action altogether. It is about standing up to Power, face to face and saying 'No' to those laws of Power that inflict violations upon the people for Power's profit. Instead, peoples' law holds up to Power the other 'Word-Worlds' of law that are authored by peoples in action.³⁵ I put forward the following general assertions of the philosophical-political roots of peoples' law:

- **Peoples' Law as a process of reclaiming Histories and Futures.** An underlying thrust of the conceptual and practical implication of peoples' law is the reclaiming of violated peoples' rights to 'truth', manifestly in the reappropriation from dominant sites and processes the narratives of histories of suffering and futures of emancipation.³⁶ An elaboration of peoples' law, therefore, impinges on the very basis upon which ideological constructions of the 'world' are maintained and promoted. Much of what can be seen as peoples' action in this regard has been to re-tell history as a means of reclaiming the power of memory and judgement of violation.³⁷
- **Peoples' Law as a manifestation of reclaiming Political Action.** Running through the entire range of violated peoples' political initiatives in opposition to 'power' is a fundamental reclaiming of the 'right to act'.³⁸ Peoples' Law therefore brings to the fore ideas of political action which counter-poses the mainstream conceptualisation of democratic politics with the radical re-appropriation by peoples groups to initiate what might be termed 'grassroots democratic action' of and for law.³⁹

Explicit in the conceptualisation of peoples' law, therefore, is the positing of conflict between differing conceptions and values of world order-ing that move the divergent orientations of current 'global governance' regimes, on the one hand, and the radical, revolutionary potential of peoples' law, on the other.⁴⁰ There is a considerable need to counter the silence within dominant fora for the dissemination of 'knowledge' about the world by prising open the doors of 'truth' to the voices and substantive demands of the people on righting the wrongs committed against them in the name of law. The words of the Mazarain in Punjab, Pakistan remind us powerfully so:

'The myths by which your laws persist fail to sustain in the South. ... [W]e are excluded, we are omitted, we are disposable, yet cannot be a sacrifice. To talk then of state law is to talk of the monopolisation of violences and to lay claim to lie making. But it's a deeper movement that inheres the greatest violence. The colonisation of the ideas of law.'

'What we seek to imagine is a peoples law. The Mazarain seek to establish their own truths concerning their living and dying. Why does this truth not carry the normative weight ascribed to law? It is no less law than the states truths concerning living and dying. And so the Peoples of the Damaan seek to tell their own truths. Both truths uncover the violences of dominant law. The forms of this uncovering are vast and varied – public hearings, poetic recitals, music, testimony and story-telling. They all lay out the peoples' law. And all are experiments with the truth.'⁴¹

The reclaiming of the idea of law, therefore, entails a thorough reorientation of the ideas underpinning political practice. In reality, such reorientations are daily happenings within communities of the violated who have asserted their rebellious consciousness; for them the living of peoples' law is less a matter of theoretical preference than one of survival. This must be the life-blood of any conceptualisation of 'law'. For too long, the law-regimes of Power have helped maintain the context of dispossession that defines our 'world orders'. It is time for a reversal. I submit the following principles as describing the foundations of a peoples' oriented perspective

of law. Viewed differently, these may also be regarded as the articulation of a reconceptualised 'decolonised sovereignty':

- Judgement: the right/power of peoples to judge the 'realities' that are inflicted upon them and to name as violation that which is otherwise proclaimed as normalcy by the dominant powers.
- Authorship: the right/power of peoples to author/create 'law' and to define the structures and nature of social relationship conducive to a life of security and welfare.
- Control: the right/power of peoples to control (and not merely 'participate' in) the processes of decision-making and judgement in relation to the matters which affect the daily life-conditions of their communities.
- Action: the right/power of peoples to effect the 'implementation' of their alternative visions of social relationships in ways which reinforce and celebrate the diversity of humanity, for humanity.

With these principles at hand, we can begin to appreciate the significance of current peoples' politics initiatives - the many social forums, the street movements, the reclaiming of the power to 'speak' according to many traditions – these are all innovations of law-practice for they breath the essence of peoples' visions into the imaginations of what is possible for our collective journey as social beings. Law here becomes symbolic utterances of the 'ways' of and for humanity, rooted in the sites of human relations, specific in their contexts, yet generous in its hospitality. There is nothing that demands that the idea of 'Law' needs to fulfil the criterion of abstraction; the universal 'objectivity' of law is only appealing to those aspiring to escape the groundedness of social relations. A reclaimed law, on the contrary, would be alive with the life-spirit of humanity's joy and pain and would not pretend to be detached from historical or social contingency.⁴² It is far from universal, objective, and neutral; it is instead the stuff of memories and dreams spun in life.

Peoples' law, I would argue, is a living reality. It is also a reimagination of law that will not be disappeared by Power's rejections. These may be both physical and ideological. There is nothing but the force of struggle to counter the former. The latter I wish to address here. A question that is constantly repeated to me as indicating an objection to the very idea of 'Peoples' Law' is as follows – 'would not the 'uncertainty' of who constitutes a 'people' in peoples' law lead, firstly, to conceptual disintegration and secondly, to social chaos?' The debate about who constitutes 'a people', has a long history. Debates of old have included confusions surrounding the definitional rigour of the concept of 'peoples' in relation to such articulations of peoples' rights as the right to self-determination and those so-called 'third generation rights' such as the right to development.⁴³ One reason for objection has been the concern to maintain some asserted conceptual integrity of (liberal) law.⁴⁴ Given this, the notion of peoples' law as presented here, in all its political blatancy, would appear to be a total affront to such an insistence placed upon the idea of 'Law' and thereby a wholly unacceptable despoiling of it. I would assert that for the purposes of initiating a peoples' law movement, this rejection is of little importance or consequence.

The notion of peoples' in peoples' law is, quite simply, not a 'notion'. In this sense, it is not of consequence to the development of a peoples' law movement that the 'international lawyer' is discomfited. Aimed specifically at the rejection of the appropriation and the limitation of (Power's) 'Law' – its definitional domain itself being an expression of violence against the plurality of human civilisational consciousness about sociality – the position on peoples' law would quite openly welcome the impossibility of accommodating itself within the conceptual worlds of dominant liberal law. Peoples' law is after all not about abstracted elevations of social constructs, historically imposed through violence as universal truths of civilisational progress. Peoples' law, in a similar vein, is not about the recognition by specialised agencies and agents of 'law' of its consistency with preordained 'truths' of what law is, what it should look like, what constitutes its acceptable subject, and what is its procedural form. It is simply about people doing *their* law, their way.

The 'people' for our purposes, therefore, is not a closed, conceptual construct. They require no external, objectified, objectifiable, definition. They constitute organic, political realities of solidarity. They need not be homogenous in any abstracted sense; they are flesh and blood, with contestations and even contradictions amongst themselves. Differences, the potential for conflict, diversity of intra-group perceptions and strategic choices, none of these are precluded from the collective affirmation of solidarity as a people, nor are they necessarily to be precluded. This would negate the very essence of a living movement reclaiming the law. Social life and visions are rooted in the manifold negotiations amongst people as a people. Differentiations of power, persistence of historical hierarchies and prejudices may both be real presences within the people. Yet they do not diminish the existence of peoples as 'peoples'. The people of peoples' law may determine the issues of contestations for themselves; they may affirm solidarities notwithstanding these contestations. They are not fictitious 'law-models' in any 'original position'; they exist in real time, real place and with real hopes, convictions, uncertainties. They do need it to be repeated unto them the patronising benevolence of 'civilised' law's promise of objective and universal resolution of their conflicts. The peoples of peoples' law are aware and conscious of their own need for critical self-reflection and corrective action. They move in fluid form and evolve into political manifestations. The peoples in peoples' law are a lived consciousness. They are self-defining. And for all their 'messiness' as a 'legal concept', they may be the richer in their political voice.

Our concern with supporting a peoples' law movement, therefore, based upon the fundamental 'right' of people to law, must also affirm the right of peoples' to self-definition. Never mind whatever discomfort this might cause for the 'lawyer'; never mind the irreconcilability of this conceptual irregularity with the theoretical strictures of Power's 'Law'. This said, we cannot pretend to be apolitical in our conceptualisation of a peoples' law movement. A peoples' law movement, being in itself born out of the particular conjuncions of political and ideological realities of our present times, would undoubtedly also be premised on certain solidarities that define the ideological substance of the movement – these may be both for progressive or regressive purposes, and may or may not receive broader support from other solidarity movements. Although it is certainly within the rights of any collectivity to self-define as a 'peoples' within the conceptual framework outlined above that does not necessarily coincide with a solidarity affirmation by other groups forming a

broader alliance of peoples' movements for justice. Some fundamental principles of political orientations abide notwithstanding the so-called indefiniteness of our 'postmodern' world. Each and every community of solidarity within the movement would retain the inherent right to apply an interrogation of the 'justice-cause' of a peoples' mobilisation in determining support.⁴⁵ Justice-denying mobilisations which seek the denigration of suffering, which proclaim the priority of rights to violence, which assert the individuality of political visions that possesses no cross-mobilisation solidarities of suffering, none of these would fit within the vision being put forward here of actors contributing to a more humane realisation of politics and governance. Yes, this is imprecise. Yes, it is open to contingent conflict. No apologies are made for the idea of people' law being so. The protectors of Law's 'integrity' may protest, but such is the nature of life within which real law must exist.

Would all of this lead to social disintegration? From whose perspective? For much of the world, there is nothing but social disintegration within their prevailing life experiences.⁴⁶ Theirs in an existence of constant terror and insecurity. Is it for them that the 'order' of the current 'Law'-world is being guarded? The concern for 'order' is often one very much born from a social location. To put it bluntly, I have not heard the impoverished lament the possible loss of the integrity of the prevailing political-legal order. To conflate the fear of the loss of privilege with the legitimacy and desirability of the status quo is to betray the location of desires that Power's law panders to. Imposed models of 'civilisation', the constant theme of George W. Bush's sermons to the world, claim only a false legitimacy when they are laid bare for the instrumentalities of violence that they often are. Legitimacy, it is clear, lies in the eye of the beholder!

A peoples' law claim to legitimacy is bound, not by some abstract construction of a priori truths about social organisational forms and processes. Rather, it is tied to the substantive claims of democratisation movements which derives solidarities (legitimacy) based upon the relevance its politics has to its constituencies. Just as the peoples' law perspective underlines the contingent nature of the law-politics universe in relation to justice struggles, so too it seeks to re-channel attentions away from 'models' to a substantive interrogation of legitimacy in praxes. Political mobilisation by violated communities, articulating their rejections of promised lands resulting from their experiential knowledge of illegitimate violent orders, are the pillars upon which the new legitimacy of judgement-action are premised. Again, a necessary discomfort for the theorists of Power's 'Law' is a beginning for a peoples-centred reconceptualisation of the legitimacy of the idea of law and political action. That this accepts the need for some social disintegration, i.e. the disintegration of orders of violence and dispossession, goes without saying!

5. Concluding with an Introduction: Texts of Peoples' Law, Peoples' Tribunals Network, and the Beginnings of Peoples' Law Movements

It is easy, always, to call for radical transformations; less so, always, to introduce the same. So, where might a peoples' law movement begin? On this, some reflections follow.

5.1 Recording the Texts of Peoples' Law

Texts of peoples' law are many. They may be derived, in its most material form, from the bodies of the victimised and the violated whose suffering, although unworthy of 'official' recognition as 'legal texts', nevertheless, remain so.⁴⁷ They comprise the articulations of peoples' judgements with respect to the worlds of 'power' and visions of alternative possibilities. They are the 'doings' of peoples' law in the everyday of their struggle. Being diverse, the form of the textual source of peoples' law, is not so prescribed as that of Power's 'Law'. Peoples' law, therefore, may be found in multiple sources; in Declarations and Charters, in Statements and Calls for Action, in Peoples' Tribunal Verdicts, vision statements, solidarity messages, poetry, folk songs. In all, these texts represent an alternative knowledge-base of peoples' indictments, aspirations and commitment, as well as alternative projections of possibilities and the means by which these may be struggled for. A peoples' law movement would begin with this demand for the democratisation of the 'legal corpus'. A peoples' law movement must strive to accord to these texts normative weight and to amplify, by way of collation and dissemination, the substantive content of peoples' law.

For a flavour, see:⁴⁸

On Food Sovereignty and Commons Resources:

- Declaration of Nyeleni⁴⁹
- Jakarta Declaration for Food Sovereignty⁵⁰
- Statement on Peoples' Food Sovereignty: Our World is Not for Sale, 2003.⁵¹
- The Banna Declaration on Biodiversity', 2001.⁵²
- The Cochabamba Declaration (On the Right to Water), 2000.⁵³

On Peoples' Security:

- Tokyo Declaration 2003⁵⁴
- The Jakarta Peace Consensus, 2003.⁵⁵
- Declaration of the Founding Assembly of the Asian Peace Alliance, 2002.⁵⁶
- Sri Lanka Statement on People's Action for Genuine Peace and to Resist War, Racism and Globalization, 2002.⁵⁷

On Health:

- The People's Charter for Health, 2000.⁵⁸

On Indigenous Rights:

- Kari-Oca Declaration, 1992.⁵⁹
- Beijing Declaration of Indigenous Women, 1995.⁶⁰

There is, obviously, a whole universe of peoples' articulations. Little of this is so far sufficiently explored. The task of creating a Documentation Centre for such texts is, therefore, a necessary aspect of building a peoples law movement. Although it is

undeniable that there exists a proliferation of peoples' mobilisation against violations, there is insufficient collation of these articulations of judgements. The dispersed nature of sources and the lack of coordination in the accumulation of what might be developed as a peoples' jurisprudence only serves to minimise the potential impact of these texts. In this way, words of judgement appear to have short lives, every 'forgotten' text a shameful loss to the archive of peoples' voices. First, the collation, then the dissemination of peoples' judgements and actions in the various identified areas of human concern must, therefore, be a priority.

There are also, still, many silences. Significant to a better coordination of peoples' actions is the proper linking of the local and the transnational dimensions of articulations and struggle. At present, there is a growing prominence of peoples' texts at the 'global' level, addressing the 'global' dimensions of Power's violence. There is, however, less recordings of localised voices. This suggests that there does not seem to be an adequate or effective translation of 'global' articulations into local peoples' law contexts. 'WTO out of agriculture' for example, although a useful political demand, makes little concrete sense in terms of the localised manifestations of violence; the specific policy framework with the national and local contexts need be the subject of peoples' law action and attention. This aspect of articulating violence, and resistance to it, from the local and localised point of engagement needs focussed attention as forming an essence of peoples' law movements. When we are able to point to a body of law that emanate from the local experiences of peoples' struggles, then we may begin to truly speak of a revolution of legal imagination.

5.2 Thinking About a Peoples' Tribunal Network

A means by which the coordination of efforts to generate a local-transnational nexus of peoples' law action may be ensured is by establishing facilities for a peoples' tribunals network.⁶¹ It is obvious that an important first step towards enabling a peoples' law movement would be to bring together various peoples' groups and other related organisations who are already engaged in what might be regarded as peoples' law initiatives and struggles as a coalition of forces. The community of activists engaged in peoples' tribunal activities is, therefore, particularly relevant in this context. It is important that these different initiatives of peoples' tribunals be greater coordinated and linked so as to form the origins of a network of law-doing that is able to increase the capacities and profile of individual actions.

A Tribunal's Network would entail, first, a rethinking of what a peoples' tribunal signifies, and secondly, how relationships of solidarity and communication may enhance the political force of collective peoples' law doings. Peoples' Tribunals must shed its inferiority complex. Too often, even the proponents of peoples' tribunals hide behind the defensive wall of 'opinion' tribunals, thereby, perhaps, hoping not to invoke the wrath of dominant Law's protectors. All 'law' tribunals are 'opinion' tribunals - that is one way of looking at it; the question of course is whose opinion counts! Another perspective requires a shedding of colonised legacies of what constitutes 'law', and thereby, law-doing. The reclaiming of law, as we have seen, involves a recognition that the 'democratic' doing of law depends not upon the criteria of legitimacy judgements imposed by Power, but by other values which substantially ensure the democratisation of political-legal process.⁶² Indeed, there is certain need to democratise the practice of peoples' tribunals so that they remain peoples' rather than

'elite' tribunals.⁶³ Not-incidentally, it is the retention of the elitist pretexts of Power's law that results in the elite appropriation of peoples' tribunals!

If we can begin to rethink the scope and praxes of peoples' tribunals, then the politics of doing-law becomes more explicitly connected with peoples' movement mobilisations and strategies. A greater emphasis could, therefore, be usefully given to peoples' tribunals as a means of recording the public judgement of violations. Greater linkages could be made between the texts of peoples' law and the doing of peoples' tribunals. Greater connections might be made between the experiences and judgement-articulations of peoples' tribunals across the landscape of struggle. A tribunals network would cease the defensive posture of the tribunals movement, as it exists at present, and instead front a confident and radical movement which asserts the reclaiming of law-doing and judgement-solidarities. A tribunals network would transform peoples' tribunals from representing an 'event' of resistance-articulation that is *ad hoc* and isolated, to a process of political law-doing that exists within a continuum of peoples' law actions. Importantly, a tribunals network would enable the recording of a memory of peoples' law-struggles, and nurture the imagination for peoples' law futures.

None of this will be easy, that is merely to state the obvious. We cannot tell how long it will take the forces of democratisation and justice, of peoples' movements, to reclaim our worlds from the clutches of violent power. There is no time-scale by which we can be sure that peoples' political-legal mobilisations have gained sufficient strength to truly counteract power-based regimes of 'Law' with a reclaimed peoples' law. But we can make a beginning.

Endnotes

¹ Most 'human rights' type contributions in any law journal would furnish an example of this exercise in futility. This genre of 'academic' musings generally subscribes to the following general structure – an introduction lamenting the state of the world, a revelation of relevant legal and human rights texts (as law), an analysis of contemporary wrongs given the prescriptions of these texts and finally, a pleading for more and better action. Such contributions might be regarded as being legitimate efforts to 'speak truth to power'. This may be. However, I cannot but agree with Chomsky's insight that the problem is anything but Power's ignorance of the truth!; see N. Chomsky, N (1996), *Powers and Prospects: Reflections on Human Nature and the Social Order* (London, Pluto Press) p 60.

² I have found no stronger statement on intellectual responsibility, or inspiration for intellectual rebelliousness from the demands of 'received wisdom' than that of (the then 2nd year Law student) Issa Shivji (now Professor of Law, University of Dar es Salaam, Tanzania) in, Shivji, I (1969) 'The Educated Barbarians', 1969, reproduced in Shivji, I (1993) *Intellectuals at the Hill: Essays and Talks 1969-1993* Dar es Salaam, Dar es Salaam Uni. Press).

³ See, Susskind, Y (2003) 'Adjusting to Empire' <<http://zmag.org/content/showarticle.cfm?SectionID=1&ItemID=3904>> 15 March 2005. Speaking in connection with the self-perpetuated myth of the US serving as humanity's pillar of all things good, Susskind observes:

'Historically, Americans have viewed their country as 'a city on a hill' and 'the beacon of hope and decency,' envisioned in 1630 by John Winthrop, the first governor of Massachusetts. By 1776, the American project had become much grander. 'We have it in our power to begin the world all over again,' Thomas Paine wrote in *Common Sense*. Over the next 100 years, the US seized the territory of the region's Indigenous Peoples, swallowed half of Mexico, and tried twice to conquer Canada in a series of wars that politicians defined as 'missions' to extend 'civilization' and 'Anglo-Saxon democracy.' So obvious was it to nineteenth-century US leaders that they were chosen by God himself to rule the continent that they named their privileged condition 'Manifest Destiny.'

The American anti-empire first ventured overseas in 1898, killing 600,000 Filipinos in the 'Benevolent Assimilation.' That year, US Secretary of War Elihu Root said, 'the American soldier is different from all soldiers of all other countries since the world began. He is the advance guard of liberty and justice, law and order, peace and happiness.' Except for the flawless grammar, Root's pronouncement could have been issued today by George Bush. Since 1898, the US has conducted over 170 military interventions in every region of the world. Each has been presented domestically as a mission to redeem the targeted country, and indeed the world, for freedom and democracy. Even today's takeover of Iraq, understood by most of the world as a naked grab for power, was presented to Americans as a mission to democratize Iraq and save its people from the 'Butcher of Baghdad.' The bogus security imperative to disarm Iraq spoke to the American mind, but the mission to bring freedom and salvation spoke to the American soul.'

⁴ It is for good reason, therefore, that the adopted slogan for the movement of peoples' movements across the world has come to be 'Another World is Possible'. However, it ought to be noted that there appears to be very little connection made between the recent articulations of decolonisation (this is as I see the significance of current peoples' uprisings) and earlier histories of liberation struggles. The issue of 'decolonisation' requires more explicit recognition, I believe, as it pertains to the foundations of peoples' visions that inform the struggles against violence. This paper is an attempt to make such a connection more explicit.

⁵ It has been suggested that the peoples' recent uprisings, particularly against the war in Iraq, represent the emergence of a new 'Second Superpower', the only one capable of halting the imperialistic and violent designs of the 'new American empire'. Although there are cautionary messages to keep the 'success' of peoples' movements in perspective, there is also a recognition that no longer are we merely witnessing the articulations and actions of the disgruntled few, but that there is a new potency in the political force of these movements, a point further reinforced by the 'success' in Cancun. Without going into the substance of these claims, suffice for present purposes the recognition that there is a new politics being played out by peoples' movements. And it is from this emergent reorientation of political imagination and action that the consequent emergence of a peoples' law may also be discerned. The rest, the task of making these many instances of peoples' mobilisations those of 'superpower' proportions is up to all of us concerned to ensure. See, Moore, J.F (2003) 'The Second Superpower Rears its Beautiful Head', at

<<http://cyber.law.harvard.edu/people/jmoore/secondsuperpower.html>> 6 Nov 2004;

Schell, J 'The Other Superpower', *The Nation*, 14 April, 2003

<<http://www.thenation.com/doc.mhtml?i=20030414&s=schell>> 6 Nov 2004.

⁶ Quoted in Peterson, C (2001), 'Returning to the African Core: Cabral and the Erasure of the Colonised Elite', *West Africa Review*, 2001, <<http://www.westafricanreview.com/war/vol2.2/peterson.html>>, 20 Jan 2005.

⁷ This forms the premise of the so-called Westphalian state system as elucidated by Grotius in its original conceptualisation and later re-emphasised by Wolff. Now, this ideology of the global political-legal order finds most explicit repetition within the totality of the United Nations Charter system in its rhetoric of an 'international society'. How evocative those words, 'We the Peoples of the United Nations Determined to ... and For These Ends to ... Accordingly, our respective Governments ... do hereby establish an international organization to be known as the United Nations.', Preamble, UN Charter. It is noteworthy that it is the peoples who constitute the UN Charter conceptualisation of international society; governments merely serving the function of the instrument of realisation of the stated aims. This may be a fine argument, but 'realpolitik' has its own logics. For an assertion of the constitutive nature of the UN Charter, see, B. Fassbender, B (1998) 'The United Nations Charter as Constitution of the International Community', *Columbia Journal of Transnational Law* 36, p 529. I wonder what response the Bush administration might provide for such an impudent claim! An indication can be gained from the following 'thoughtful' reflections of J.R. Bolton, J.R (2000) 'Should We Take Global Governance Seriously?' *Chicago Journal of International Law*, p 205.

⁸ For demystifications of the myths of Western philosophical/ideological traditions of law and politics, see for example, de Sousa Santos, B (1995) *Toward a New Common Sense: Law, Science and Politics in the Paradigmatic Transition (After the Law)* (London, Routledge); and Fitzpatrick, P (1992) *The Mythology of Modern Law* (London, Routledge)

⁹ For general discussions of these issues, see for example, Camilleri, J.A and Falk, J (1992) *The End of Sovereignty? The Politics of a Shrinking and Fragmenting World* (Aldershot, Edward Elgar); Strange, S (1996) *The Retreat of the State: The Diffusion of Power in the World Economy* (Cambridge, Cambridge Uni. Press, Cambridge); and R.J. Holton, R.J (1998) *Globalization and the Nation-State* (London, Palgrave).

¹⁰ Central to the control structure, essential for both political and economic dominance, is the military-industrial complex; see, Hartung, W.D (1999) *Military-Industrial Complex Revisited: How Weapons Makers are Shaping U.S. Foreign and Military Policies* <http://www.fpi.org/papers/micr/companies_body.html> 28 June 2005

¹¹ There is a vast amount of literature on the extent of corporate-control and perversion of the so-called democratic space; the issues involved range from corruption, political lobbying and funding of political parties, to the appropriation of political processes and the virtual drafting of international regulations (as in the case of the TRIPS Agreement within the WTO framework). See for example, Korten, D.C (2nd ed) (2001) *When Corporations Rule the World* (Bloomfield, Kumarian Press); Palast, G (2002) *The Best Democracy Money Can Buy* (London, Robinson); and B. Balanya, B et al. (2000) *Europe Inc.; Regional & Global Restructuring and the Rise of Corporate Power* (London, Pluto Press)

¹² See Factsheets produced by Corporate Europe Observatory on the International Chamber of Commerce, at <<http://www.corporateeurope.org/icc/factsheets.html>>, 15 June 2005.

¹³ Again, there is no shortage of literature indicting the Bretton Woods institutions of fundamental wrongs against the most impoverished members of the human family.

For an overview of the practices of the World Bank, see George, S and Sabelli, F (2000) *Faith and Credit: The World Bank's Secular Empire* (Boulder, Westview Press). A recent study examining the impact of IMF's 'structural adjustment policies' is clear on the responsibility of the IMF in perpetuating conditions of impoverishment; see, Structural Adjustment Participatory Review International Network (SAPRIN) (2004) *The Policy Roots of Economic Crisis and Poverty: A Multi-Country Participatory Assessment of Structural Adjustment*, <http://www.saprin.org/SAPRI_Findings.pdf> 15 June 2005. For a scathing report on the IMF and more, its collusion in suppressing dissent, see Palast, *supra*, n 11, Chap 4. For a United Nations consideration of the matter of structural adjustment policies and human rights, see, 'Effects of structural adjustment policies and foreign debt on the full enjoyment of human rights, particularly economic, social and cultural rights', *Report submitted by Mr. Bernards Mudho, independent expert on the effects of structural adjustment policies and foreign debt, in accordance with Commission resolution 2002/29, E/CN.4/2003/10.*

¹⁴ See, for example, Jawara, F and Kwa, A (2003) *Behind the Scenes at the WTO: the Real World of International Trade Negotiations* (London, Zed Books); and Kwa, A (2003) *Power Politics in the WTO*

<<http://www.focusweb.org/publications/Books/power-politics-in-the-WTO.pdf>> 15 June 2005.

¹⁵ For a comprehensive statement of the vision which has come to inform current US 'policy' on international security issues, see Donnelly, T, Kagan, D and Schmitt, G (2000) *Rebuilding America's Defences: Strategy, Forces and Resources for a New Century*, A Report of the Project for the New American Century <<http://www.newamericancentury.org/RebuildingAmericasDefenses.pdf>> 28 June 2005; and its official, US government incarnation, *The National Security Strategy of the United States of America*, Sept. 2002. On the idea of unipolarity, see for example, Wohlforth, W C (1999) 'The Stability of a Unipolar World', *International Security*, 24 (1), pp 5-41. Wohlforth's great insight involves three propositions: first, the current global context is one which is characterized by the unipolarity of the US as the unrivalled superpower; secondly, that this unipolar situation is one which is prone to peace; and finally, that the unipolar reign of the American superpower is stable and durable. The analysis, for all its theoretical sophistication, is essentially a simple one – America is might, America is right, and 'aint' no one's 'gonna' stop us. It would seem that the evidence from the recent unilateral assertions by the US administration of the 'right to violence' and the resulting nothingness by way of real response by the 'international community' would support this conclusion. However, a significant omission in the analysis, and this may well be the unraveling of the construction of the 'unipolar moment', is that it is based on conventional statist readings of international political thinking and action – the 'irrationality' of the 'terrorist' in their imagination and response to unipolar dominance by the US is not addressed. Neither is the disobedience of 'the masses' considered sufficiently. Assertions of the stability and durability of the unipolar world order vision would appear, therefore, to be overstated and the confidence underpinning it possibly dangerously misplaced. A different reading, however, is possible. The arguments regarding the stability of the unipolar world situation is perhaps less a statement of conviction and more a statement for persuasion. 'Stability' may after all be achieved through perpetual war, and here, the 'terrorist' target is indeed prime. Whilst reassuring the 'general reader', the quintessential American 'consumer-citizen' of stability and security, the

conditions for profit and corporate-military collusion in a climate of terror may well be the unstated objective of the propaganda machinery for US preeminence. What we are most certainly not talking about is 'security' for the peoples of the world. For an indication of the explicit factoring in of the 'terrorist' threat which necessitates the strong state of George Bush's America, see the website of Americans for Victory Over Terrorism, <<http://www.avot.org>>.

¹⁶ See for example, Kagan, R (2002) 'Multilateralism, American Style', *The Washington Post*, (13 Sept 2002) <<http://www.newamericancentury.org/global-091302.htm>>, 28 June 2005. For a warning on pursuing a multilateral path, see. Kristol, W and Kagan, R (2002) 'The U.N. Trap?' *The Weekly Standard* (18 Nov 2002) <<http://www.ceip.org/files/publications/2002-11-18-kaganwklystandard.asp>> 28 June 2005.

¹⁷ In relation to the US, see for example, The Center for Constitutional Rights, *The State of Civil Liberties: One Year Later: Erosion of Civil Liberties in the Post 9/11 Era*, at <http://www.ccr-ny.org/v2/reports/docs/Civil_Libererties.pdf> 28 June 2005.

¹⁸ For a discussion of the current discourse on 'security' and 'anti-terror' on US approaches to international relations and law, see, Falk, R (2003) 'Will the Empire be Fascist?'<http://www.transnational.org/SAJT/forum/meet/2003/Falk_FascistEmpire.html> 16 Dec 2005.

¹⁹ For a significant analysis of the World Social Forum and its spaces for the alternative doing of a counter-hegemonic politics, see de Sousa Santos, B, 'Beyond neoliberal governance: the World Social Forum as subaltern cosmopolitan politics and legality', in de Sousa Santos, B and Rodriguez-Garavito, C.A. (eds) (2005) *Law and Globalization from Below: Toward a Cosmopolitan Legality*, (Cambridge, Cambridge Uni. Press), p 29. The World Social Forum process needs, however, to be constantly vigilant of falling into the trap of familiarities; there is always the danger that much of the 'sessions' at social forums reproduce the model of elite, 'expert' conferences, dominated by the 'superstars' of the globalized 'anti-global' movements in conference type settings. That the social forum process remains rooted in the radical demand for rethinking social possibilities, which includes systems of knowledge-production and advocacy is something which necessitates constant self-criticism from all participants. In the context of the World Social Forum in Mumbai, 2004, the alternative demands were made within a parallel social forum organised by groups coming under the banner of 'Mumbai Resistance', arising from dissatisfactions with the perceived elite appropriation of the social forum site for resistance voicings; see for example, <<http://home.clear.net.nz/pages/wpnz/dec1-03mr04.htm>> 25 June 2005

²⁰ As de Sousa Santos reminds us:

'The dominant conception of counter hegemonic globalisation tends to be restricted to transnational non-governmental movements and organizations such as those which made dramatic appearances at Seattle, Montreal, Washington ... Undoubtedly, this transnational democratic movement of activism without frontiers is a form of counter hegemonic globalisation. But we should not forget that this movement developed out of local initiatives designed to mobilize local struggles to resist translocal, national or global powers. In addition, focusing too much upon dramatic actions of a global nature (actions that usually occur in cities of core countries and thus attract the attention of the global media) might make us forget that resistance to

oppression is a daily task, undertaken by anonymous people away from the gaze of the media.'

See, B. de Sousa Santos, 'Reinventing Social Emancipation: Toward New Manifestos', <<http://www.ces.fe.uc.pt/emancipa/research/en/ft/introgen.html>>. 26 July 2003

²¹ For strident examples of a pro-'globalisation' stance in international legal thinking, see the grandiose claims made for human welfare in Pendleton, M D (1999) 'A New Human Right – The Right to Globalization', *Fordham International Law Journal*, 22 (4), p 2052; and J. Chen, 'Pax Mercatoria: Globalization as a Second Chance at 'Peace for Our Time'', *Fordham International Law Journal*, 24, p. 217.

²² When challenged, it is the imperatives of protecting and promoting the emerging rights of transnational capitalist actors that provide the inspiration for transformation-talk. An example of this new thinking in legal theory is the recent appropriation of the language of 'legal pluralism' to encompass what has been termed, 'global law'; see for instance, Teubner, G (ed) (1997), *Global Law Without a State*, (Aldershot, Dartmouth). By way of contrast to corporate-dominated reformulations of legal pluralism, are works which adopt a 'bottom-up', social movements approach; see for example, Rajagopal, B (2003), *International Law From Below: Development, Social Movements and Third World Resistance*, (Cambridge, CUP); and Santos, B and Rodriguez-Garavito, *supra*, n 19.

²³ The one concession to the increasing rejection of the total domination of the state/international (inter-state) nexus by the peoples of the world appears to be the carrot of 'increased participation' of 'accredited' Non-Governmental Organisations in conversations that take place within the halls of power. Following from this heightened visibility are hopeful claims of a renewed possibility for humanising political decision-making. For example, within some circles of the United Nations system such as the Commission of Human Rights and its related Sub-Commissions and Committees, and within those communities of commentators who strive to maintain the hope for change, is suggested that the peoples' perspective is enshrined and activated through the 'globalisation of human rights'. For a discussion of the involvement of 'NGOs' in international law processes, see for example, P.J. Spiro, P.J (1995) 'New Global Communities: Nongovernmental Organizations in International Decision Making Institutions', *Washington Quarterly*, 18, p 45, and Nowrot, K (1999) 'Legal Consequences of Globalization: The Status of Non-Governmental Organizations Under International Law', *Global Legal Studies Journal* 6, p 579.

There is no doubt that such avenues of voicing grievances, and the utilisation of these by activist engagement in these sites, have provided for a greater possibility of denunciation, yet, the 'globalisation of human rights' (if such a thing may indeed be identified as meaning a truly pluralistic embracing of humanity's diversity for the pursuit of collectively shared aspirations for human wellbeing), exists in a separate universe from the 'globalization of suffering'. Such a separation of conflicting universes of discourse unfortunately bears little consequence to the very real unification of violence upon the real bodies of human beings; see Baxi, U (1998) 'Voices of Suffering and the Future of Human Rights', *Transnational Law and Contemporary Problems* 8 (2), p. 125.

²⁴ See, Baxi, U (2001) 'Operation 'Enduring Freedom': Towards a New International Law and Order?', Law, *Social Justice and Global Development Journal* (LGD) 2, <<http://elj.warwick.ac.uk/global/issue/2001-2/baxi.html>> 15 Jan 2007; and Shivji, I (2003) 'Law's Empire and Empire's Lawlessness: Beyond Anglo-American Law',

Law, Social Justice & Global Development Journal (LGD),
<http://elj.warwick.ac.uk/global/03-1/shivji.html> 15 Jan 2007.

²⁵ In this regard, Rosenau's notion of a 'multi-centric' world is instructive. Rosenau proposes that we are witnessing the tensions arising from what he refers to as 'postinternational politics, whereby the dual structures of state-centricism and multi-centricism, one seeking to retain the security of traditional statist structures whilst the other seeks to transcend territorial boundaries in transnational relations, represent the prevalent conflicting forces which shape political life in the globalised world; see, Rosenau, J N (1990) *Turbulence in World Politics* (Princeton, Princeton Uni. Press). This conflict may be seen more clearly in today's so-called 'network society': see, Castells, M (2nd ed) (2000) *The Rise of the Network Society* (Oxford, Blackwell)

²⁶ For comprehensive description and analyses of the global systems, see for example, Braithwaite, J and Drahos, P (eds) (2000) *Global Business Regulation* (Cambridge, Cambridge Uni. Press); and Held, D et al (1999) *Global Transformations* (Cambridge, Polity Press).

²⁷ van der Pijl, K (1995) 'The Second Glorious Revolution: Globalizing Elites and Historical Change', in Hettne, B (ed) *International Political Economy: Understanding Global Disorder* (London, Zed Books) p. 100; and Cox, R W (1986) 'Social Forces, States and World Orders: Beyond International Relations Theory', in Keohane, R O (ed) *Neorealism and its Critics* (New York, Columbia Uni. Press) p 204.

²⁸ See, Esteva, G and Prakash, M S (1998) *Grassroots Post-Modernism: Remaking the Soil of Cultures* (London, Zed Books) especially Chapters 3, 4 and 5, which provide a compelling telling of stories of the ordinary human every days.

²⁹ Venezuela, led by the administration of Hugo Chavez, and that of Bolivia, by Evo Morales, represent interesting exceptions at the current time.

³⁰ The following, from the Report of the Project for the New American Century, 'Rebuilding America's Defenses: Strategy, Forces and Resources for a New Century', provides a succinct and devastatingly clear articulation of Power's assertion of pre-eminence:

'This report proceeds from the belief that America should seek to preserve and extend its position of global leadership by maintaining the preeminence of U.S. military forces. Today, the United States has an unprecedented strategic opportunity. It faces no immediate great-power challenge; it is blessed with wealthy, powerful and democratic allies in every part of the world; it is in the midst of the longest economic expansion in its history; and its political and economic principles are almost universally embraced. At no time in history has the international security order been as conducive to American interests and ideals. The challenge for the coming century is to preserve and enhance this 'American peace.'"

See *supra*, n 15, p 8.

Such assertions of dominance, preeminence, superiority, infallibility etc., and with it, freedom from restraint by any notion of international law, are repeatedly made in no uncertain terms by the ideologues of the American 'neo-cons', even after the invasion of Iraq in 2003 and its ongoing horrendous aftermath; see, generally, the contributions in <<http://www.newamericancentury.org>>; and <<http://www.aei.org>> 15 Jan 2007.

³¹ See, Nayar, J (2002) 'Orders of Inhumanity, in Falk, R, Ruiz, L E J and Walkers, R B J (eds) *Reframing the International: Law, Culture, Politics* (London, Routledge) p 107, at p 120.

³² Thus, we understand the cries of defiance that reverberate against globalized violence, be it the 'Ya Basta' of the Zapatistas in Chiapas, to the 'Our World is Not for Sale' of the worldwide peasant and so-called 'anti-globalisation' movements.

³³ Shivji, *supra*, n 24, p 4.

³⁴ See the 'verdicts' of the numerous Peoples' Tribunals that have become part of peoples' political action. Of these, the Permanent Peoples' Tribunal, based in Rome, has had the longest experience of invoking a people's justice; see <<http://www.internazionaleliobasso.it/index.php?op=6>> 15 Jan 2007. Also well established is the Indian People's Tribunal on Human Rights, see <<http://www.iptindia.org/>> 15 Jan 2007; and the more issue specific Permanent People's Tribunal on the Right to Food and the Rule of Law in Asia; see, <www.foodjustice.net> 15 Jan 2007. The 'tribunals movement' has recently acquired its most politically visible manifestation as a result of the coming together of a large of organizations as the World Tribunal on Iraq, culminating in a final session in Istanbul in June 2005. For a discussion of the politics of 'doing law' and peoples' tribunals as an alternative site for political-legal judgement, see Nayar, J (2001) 'A People's Tribunal Against the Crime of Silence? - The Politics of Judgement and an Agenda for People's Law', *Law, Social Justice & Global Development (LGD)*, <http://www2.warwick.ac.uk/fac/soc/law/elj/lgd/2001_2/nayar> 15 Jan 2007. For a specific analysis of the World Tribunal on Iraq initiative, see Nayar, J (2006) 'Taking Empire Seriously: Empire's Law, Peoples' Law, and the World Tribunal on Iraq' in Bartholomew, A (ed) *Empire's Law: The American Imperial Project and the 'War to Remake the World'* (London, Pluto Press), p 314. Also, for a review of tribunal initiatives from the point of view of human rights practice, see, Klinghoffer, J A (2002) *International Citizen's Tribunals: Mobilising Public Opinion to Advance Human Rights* (New York, Palgrave)

³⁵ See, for example, The Universal Declaration of the Rights of Peoples (The Algiers Declaration) 1976, which has served as a powerful articulation of the philosophical-ideological positioning that informs a peoples' law perspective. For discussions on the Algiers Declaration, see Shivji, I (1989) *The Concept of Human Rights in Africa* (London, CODESRIA), especially Chapter 4; and Falk, R (1981) 'The Algiers Declaration of the Rights of People', in Falk, R *Human Rights and State Sovereignty* (New York, Holmes & Meier).

³⁶ This is, as Baxi sees it, a critical role of the 'contemporary' human rights movements:

'In contrast, [to the 'Modern' human rights paradigm], the 'contemporary' human rights paradigm is based on the premise of radical self-determination ... Self-determination insists that every person has the right to a voice, the right to bear witness to violation, and a right to immunity against 'disarticulation' by concentrations of economic, social and political formations.';

See, Baxi, *supra*, n 23, p 6.

³⁷ Although true generally of peoples' mobilisations, this is particularly relevant to the struggles of indigenous peoples to reclaim their histories. A fantastic example of this is the Confederated Native Court Judgement against the 'Newcomer Courts' (the US and Canadian Supreme Courts) which provides, through a peoples' tribunal, for a re-telling of the Native American/White Settler history of North America. The Judgement states:

'UPON TAKING judicial notice of the suppression and genocide of the native people caused by the prematurely assumed jurisdiction of the newcomer courts, and in accordance with the accompanying reasons for judgment, this native court declares:

1. Court jurisdiction *prima facie* territorially is vested in the native courts and precluded from the newcomer courts; and
2. That in the event the newcomer courts are unable to agree with and help to uphold this declaration of right, this court invites the newcomer courts to join with this court in referring the contested jurisdictional issue for independent and impartial third party court adjudication in the international arena; or, in the alternative
3. That in the event the newcomer courts or their governments wish to submit evidence, law or argument to this native court so as to deny the premises, findings or law as expressed herein or in the accompanying reasons for judgment, they are welcome to do so upon notifying this court of that intent.'

See, <<http://sisis.nativeweb.org/sov/confjudg.html>> 26 June 2005. Similarly, see also, Merry, S E (1997) 'Legal Pluralism and Transnational Culture: The *Ka Ho'Okolokonui Kanaka Maoli* Tribunal, Hawai'I, 1993', in Wilson, B.A (ed), *Human Rights, Culture and Context: Anthropological Perspectives* (London, Pluto) p 28.

³⁸ The World Social Forum 'Charter of Principles', for example, is a clear statement reclaiming political space; see <http://www.forumsocialmundial.org.br/main.php?id_menu=4&cd_language=2> 24 March 2007. When we understand that the current wave of peoples' movements, apparently defying the hitherto hallowed institutions of 'legitimate power', represent more than simply manifestation of dissent and protest, but rather, and more importantly, as manifestations of a different conception of political process, then we are able to make the conceptual leap to a possibility of speaking about redefined 'law'; see de Sousa Santos and Rodriguez-Garavito, *supra*, n 19; and Nayar, Taking Empire Seriously, *supra*, n 34.

³⁹ See Esteva and Prakash, *supra*, n 28, Chapter 5.

⁴⁰ Reclaiming the word and world of law is, obviously, is itself an act of decolonisation, or as in Freire's terminology, an act of 'conscientisation'; see Freire, P (1974) *Pedagogy of the Oppressed* (London, Penguin). Also inspirational to a broader understanding of law and law-doing that is rooted in the life-experiences of the 'oppressed' is the practice of 'feminist liberation theology, of women claiming for themselves the worlds of the 'word' and of action as acts of liberation from the patriarchal and oligarchic Church; see, for example, Aquino, M P , (trans Livingstone, D), (1993) *Our Cry for Life: Feminist Theology from Latin America* (New York, Orbis).

⁴¹ Personal communication from the Anjuman Mazarain Punjab, 30 June 2003. The Anjuman Mazarain Punjab is a million strong tenant farmer's movement demanding the rights of ownership to their lands; for an account, see Farooq, A (2003) 'Rural Intifada' <<http://www.indymedia.ie/article/61719>> Jan 15 2007.

⁴² A similar vision is contained in the 'Living Democracy Movement' initiated in India; see, Shiva, V (2002), 'The Living Democracy Movement: Alternatives to the Bankruptcy of Globalisation'

<<http://www.zmag.org/content/GlobalEconomics/ShivaWSF.cfm>> 28 June 2005.

⁴³ For the surrounding debates; see, Crawford, J (1992) *The Rights of Peoples* (Oxford, Oxford Uni. Press)

⁴⁴ For an argument calling for conservatism in human rights theorizations along these lines, see Donnelly's rejection of the asserted 'right to development'; Donnelly, J (1984) 'The Right to Development: How Not to Link Rights and Development' in Welch Jr, C E and Meltzer, R I (eds) *Human Rights and Development in Africa* (Albany, State University of New York Press, Albany). It ought to be noted that refutations of the liberal-legalist's opposition to any countenancing of a peoples' intrusion into the definition of the law-definition domain have been many; See, Shivji, *supra*, n 24; Baxi, *supra*, n 23; and Gutto, S B O, (1993) *Human and Peoples' Rights for the Oppressed: Critical Essays on Theory and Practice from Sociology of Law Perspectives*, (Lund, Lund Uni. Press)

⁴⁵ Given the political vibrancy of social movement networks, and the growth of the social forum as a process of gatherings and voicings, adherence to the Charter of the World Social Forum may be regarded as a suitable benchmark by which the justice-claims of any 'peoples' so constituted may be determined. That 'peoples' is willing to subscribe to the principles of the other politics envisaged by the Charter and be so scrutinised may provide the means by which a certain normative accountability is to be gained.

⁴⁶ This was, after all explicitly recognized by the 'international community'. A return to the concerns behind the eventual jamboree that was the UN World Summit for Social Development, held in Copenhagen, 1995, might remind us so; see generally the documents of the Summit, at <<http://www.un.org/esa/socdev/wssd/agreements/>> 28 June 2005. A scathing indictment is further contained in the UN Report on globalisation, where the 'order' created and maintained by the World Trade Organisation was described as a 'veritable nightmare' for perpetuating conditions of impoverishment and dispossession; see, J. Oloka-Onyango and Deepika Udagama, (2000) 'The Realization of Economic, Social and Cultural Rights: Globalization and its Impact on the Full Enjoyment of Human Rights', *U.N. Commission on Human Rights*, 52d Session, Provisional Agenda Item 4, P15, U.N. Doc.E/CN.4/Sub.2/2000/13.

⁴⁷ This is quite simply, a matter of 'choice', exercised in contexts of power. Whether we chose to read narratives of suffering as 'legal texts', as 'indictments', depends on no divine prescription; this political choice exists very much in the domain of the profane. All it takes for this 'choice' to be made is a political position so to do, and the imagination to escape conceptual prisons.

⁴⁸ The selection, and these are of the more conventional form of texts, is only to serve as an indication of the presence of peoples' texts, despite the invisibility of these in mainstream legal literature. This highlights the urgency of creating a 'Documentation Centre' to systematise the collation of these documents.

⁴⁹ Nyeleni, M 27 Feb 2007, <<http://www.nyeleni2007.org/spip.php?article290>>, 17 Sept 2007.

⁵⁰ Jakarta, Indonesia, 16 May 2006,

<http://www.panap.net/48.0.html?&no_cache=1&tx_ttnews%5Btt_news%5D=226&tx_ttnews%5BbackPid%5D=69&cHash=5786082f84> 15 March 2007.

⁵¹ Online Sign-On Statement <<http://www.citizen.org/documents/wtooutoffood.pdf>> 17 Sept 2007.

⁵² Banna District, Nakorn Nayok Province, Thailand, 1 Nov 2001

<<http://www.grain.org/gd/en/a-rd-iw/as-rd-statement-en.cfm>> 28 June 2005 >

⁵³ Cochabamba, Bolivia, Dec 8 2000,
<<http://www.nadir.org/nadir/initiativ/agp/free/imf/bolivia/cochabamba.htm>> 28 June 2005.

⁵⁴ Tokyo, Japan, 26 May 2003 <<http://www.stopwar.org.uk/article.asp?id=260503>> 28 June 2005.

⁵⁵ Jakarta, Indonesia, 21 May 2003 <<http://www.tni.org/acts/jakartapeace.pdf>> 28 June 2005.

⁵⁶ Quezon City, Philippines, 1 Sept 2002,
<<http://www.focusweb.org/publications/declarations/APA-declaration-2002.html>> 17 Sept 2007.

⁵⁷ Sri Lanka, February 2002
<<http://nadir.org/nadir/initiativ/agp/free/imf/asia/monlar.htm>> 17 Sept 2007.

⁵⁸ Savar, Bangladesh, December 2000 <<http://phmovement.org/pdf/charter/phm-pch-english.pdf>> 28 June 2005.

⁵⁹ Brazil, May 30, 1992
<http://www.tebtebba.org/tebtebba_files/finance/susdev/karioca.html> 17 Sept 2007.

⁶⁰ Beijing, Republic of China, 7 Sept 1995, at
<http://www.tebtebba.org/tebtebba_files/gender/beijing.html> 17 Sept 2007.

⁶¹ The questions of the 'legitimacy' of peoples' tribunals, and how a tribunal 'constitutes' itself, have long plagued every effort to invoke a tribunal process for a peoples' articulation of justice; for a discussion, see Nayar, J 'A People's Tribunal Against the Crime of Silence?' *supra*, n 34; and Nayar, J 'Taking Empire Seriously', *supra*, n 34

⁶² See Nayar, J 'Taking Empire Seriously', *supra*, n 34

⁶³ See, Nayar, J 'A People's Tribunal Against the Crime of Silence?' *supra*, n 34