

Chapter IV Planetary Ethics and Global Governance

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A) Introduction

The Earth Charter states: “We urgently need a shared vision of basic values to provide an ethical foundation for the emerging world community.” The Earth Charter was drafted in an effort to address this need. This chapter considers the importance of a new planetary ethics for good global governance and international cooperation. Further, it describes the contributions the Earth Charter is making to the formation of a global ethics and to international law, and it describes some of the ways Earth Charter principles are being implemented worldwide.

This chapter builds on the discussion of the dissemination and endorsement of the Earth Charter in the previous chapter. Each endorsement represents an affirmation of the values and principles in the Earth Charter and its concept of universal responsibility and global citizenship. Special attention is given in what follows to the relationship of the Earth Charter to international law and UN declarations since one major goal of the Initiative has been “to seek endorsement of the Earth Charter by the United Nations,” which would greatly enhance the Earth Charter’s status as a soft-law document.

Since the UN General Assembly has never adopted a document its members did not negotiate and draft, this goal was modified, and the Initiative is focused on seeking “recognition” of the Earth Charter by the UN. Following the World Summit on Sustainable Development, there was a consensus among those members of the Earth Charter Commission with close ties to the UN system that the Initiative’s best chance of securing recognition of the Earth Charter by the UN General Assembly would involve adoption by the General Assembly of a document on a larger project that included recognition of the Earth Charter. There was a chance that this would happen with the International Implementation Scheme for the Decade of Education for Sustainable Development, which was submitted to the General Assembly for approval in 2004. However, the General Assembly did not take formal action on the International Implementation Scheme.

This chapter contains two essays—one by Steven Rockefeller and one by Klaus Bosselmann and Prue Taylor—which were written for the book *Toward a Sustainable World: The Earth Charter in Action* (2005), edited by Peter Blaze Corcoran. These essays provide a good overview of the topic at hand. An additional very useful discussion of the Earth Charter and international law may be found in the essay by Parvez Hassan, “Earth Charter: A Blueprint for Sustainable Development,” which also is being published in *Toward a Sustainable World*. In the concluding section of this chapter, there are three brief statements by Parvez Hassan, Mohamed Sahnoun, and Jan Pronk which contribute additional perspectives on the

significance of the Earth Charter as a global ethic. For more detailed information on the Earth Charter at the World Summit on Sustainable Development in 2002 and at the IUCN World Conservation Congress in 2004, see the special reports prepared by the Steering Committee and Secretariat on these meetings. The texts of these reports are available on the Earth Charter website, www.earthcharter.org.

For consideration of how Earth Charter ethics are being promoted at the local community level, see the chapter on sustainable community development. For a discussion of how the Earth Charter Initiative has endeavored to promote planetary ethics and a sense of universal responsibility and global citizenship among individuals, the reader should turn to the chapters in this report on education, art, and religion. For a further discussion of global ethics and business, see the chapter on business.

B) “The Transition to Sustainability” by Steven Rockefeller

“As never before in human history, common destiny beckons us to seek a new beginning.” These words introduce the concluding section of the Earth Charter, entitled “The Way Forward.” The new beginning envisioned by the Earth Charter is the transition to a sustainable way of life, which involves as radical a shift in human thinking and behavior as the emergence of agriculture, the rise of the nation state, or the industrial revolution. One recent study aptly describes this shift as “The Great Transition.”⁴ The Earth Charter views the Great Transition to sustainable patterns of development locally and globally as essential to the survival and flourishing of human civilization in the 21st century. It also considers a sustainable future as a real possibility that human beings may achieve if they have the will, courage, and vision. This essay endeavors to clarify the distinctive contribution of the Earth Charter to the Great Transition, and it explores the Earth Charter’s vision of the way forward and the progress being made.

The Earth Charter is designed to focus attention on the fundamental importance of ethical values and choices in the process of social change and the achievement of sustainability. Ethical values are concerned with what people determine to be right or wrong, good or bad in human conduct and relations. They form a community’s sense of social responsibility and reflect a concern with the common good, the well-being of the whole community. Ethical values have a profound impact on human behavior, especially those values to which a people feel deeply bound. Scientific knowledge can inform our ethical choices by clarifying the consequences of different courses of action. However, science cannot determine in the final analysis what is right and wrong. That is the domain of the imagination, the heart, and the will. As stated in the Earth Charter Preamble, “When basic needs have been met, human development is primarily about being more, not having more.” Our ethical commitments reflect what kind of persons we choose to be as well as what quality of relations we choose to maintain in our communities.

⁴ Paul Raskin et. al, *Great Transition: The Promise and Lure of the Times Ahead* (Boston: Stockholm Environment Institute, 2000).

A major social transformation involves a change in a people's ethical values. Ending slavery and discrimination on the basis of race or ending discrimination against women are prime modern examples. The Great Transition requires that a new ethical vision take hold of the imagination and heart of the world's peoples. The ethical reasons for a shift to sustainability are, of course, not the only reasons. There are many economic, health, and other practical considerations that appeal to individual, corporate, and national self-interest and that provide strong arguments for the shift. These practical considerations do often generate progress in the movement toward sustainable development, and that is well and good. However, appeals to self-interest narrowly defined are not sufficient. Without a new expanded sense of ethical responsibility that extends to the whole human family, the greater community of life, and future generations, a clear sense of direction and the motivation, aspiration, and political will needed will be lacking. For over three decades, UN Summits at Stockholm (1972), Rio (1992), and Johannesburg (2002) have recognized the challenge and set promising agendas for action, but governments by and large have failed to vigorously pursue implementation. In the words of the Earth Charter, the achievement of sustainability requires "a change of mind and heart."

More specifically, the Earth Charter focuses attention on the need for global ethics. It is concerned with the identification and promotion of ethical values that are widely shared in all nations, cultures, and religions—what some philosophers call universal values. Global ethics are of critical importance in the Great Transition because we live in an increasingly interdependent, fragile, and complex world. The mounting scientific evidence that Earth's climate is warming and that the primary cause is the human generation of greenhouse gas emissions provides one dramatic example of humanity's growing interdependence. In this matter, each and every nation is being affected by the accumulated impact of the behavior of all others. New studies such as Thomas Friedman's *The World is Flat: A Brief History of the 21st Century* (2005) describe in detail the intensifying economic and social interdependence of individuals, businesses, and nations under the impact of the information revolution and globalization.

In the 21st century global interdependence means that no community or nation can manage its problems by itself. Partnership and collaboration are essential, and the dramatic innovations in communications technologies and the sharing of knowledge are making all sorts of new national, regional and global networks and partnerships possible. However, effective cooperation in an interdependent world requires common goals and shared values. This is especially true when communities endeavor to address problems like poverty, inequity, economic instability, global warming, the loss of biodiversity, the depletion of resources, nuclear proliferation, and terrorism. The Earth Charter Preamble, therefore, states that "we urgently need a shared vision of basic values to provide an ethical foundation for the emerging world community." The Earth Charter principles, which are the product of a decade-long, cross cultural dialogue, endeavor to address this need.

One of the major achievements of the 20th century has been a wide ranging international dialogue that has led to articulation of an expanding vision of shared values. This vision is

found in the Charter of the United Nations, the Universal Declaration of Human Rights, and the World Charter for Nature and in many other covenants, treaties, and declarations issued by UN Summits and intergovernmental partnerships. In addition, the emerging global civil society has issued over two hundred people's treaties and declarations in the last three decades. In developing its vision of "interdependent principles for a sustainable way of life," the Earth Charter builds on and extends the ethical vision in these UN and civil society documents.

One especially important contribution of the Earth Charter to the shaping of the new global ethics is the document's recognition of the interdependence of all its principles and presentation of a holistic and integrated ethical outlook. More concretely, the Earth Charter appreciates the interrelation of humanity's environmental, economic, political, social, and spiritual challenges, and, therefore, its ethical principles include, for example, respect for nature, environmental conservation, poverty eradication, human rights, gender equality, economic justice, democracy, and a culture of tolerance, nonviolence, and peace. Attempts to deal with problems in isolation will at best have only limited success. An inclusive well-coordinated, long-term strategy is part of the meaning of living and acting sustainably.

Taken together the sixteen main principles and 61 supporting principles of the Earth Charter provide a vision in rough outline of the ideal of a sustainable world community. These principles provide an ethical compass for charting the way forward. The Earth Charter can also serve as an educational tool for clarifying the meaning of sustainable development as a general concept. Narrowly defined, sustainable development means ensuring ecological sustainability, but beginning with the Brundtland Commission, there has been a deepening international realization that given the interrelation of humanity's goals, the more inclusive conceptualization found in the Earth Charter is appropriate. When discussing the concept of sustainable development, however, it is important to keep in mind that implementation at the local level of the general principles set forth in the Earth Charter will take many different forms. As "The Way Forward" states: "Our cultural diversity is a precious heritage and different cultures will find their own distinctive ways to realize the vision." In addition, when the Earth Charter Commission approved the final version of the document, there was recognition that the global dialogue on shared values would and should continue. "The Way Forward," therefore, asserts that "we must deepen and expand the global dialogue that generated the Earth Charter, for we have much to learn from the ongoing collaborative search for truth and wisdom."

The Earth Charter is made up largely of general ethical guidelines and broad strategic goals supported by a world view that includes a sense of belonging to the larger evolving universe and "reverence for the mystery of being, gratitude for the gift of life, and humility regarding the human place in nature."⁵ Concerned to keep the document fairly brief, the Earth Charter Commission made a decision not to include discussion of mechanisms and instruments for

⁵ See Earth Charter Preamble.

implementing the principles. “The Way Forward” does, however, make these observations about what implementation will require.

Life often involves tensions between important values. This can mean difficult choices. However, we must find ways to harmonize diversity with unity, the exercise of freedom with the common good, short-term objectives with long-term goals. Every individual, family, organization, and community has a vital role to play. The arts, sciences, religions, educational institutions, media, businesses, nongovernmental organizations, and governments are all called to offer creative leadership. The partnership of government, civil society, and business is essential for effective governance.

In addition, a specific reference is made to the important role of the UN and the need for a new international covenant that synthesizes and consolidates international law in the fields of environmental conservation and sustainable development.

In order to build a sustainable global community, the nations of the world must renew their commitment to the United Nations, fulfill their obligations under existing international agreements, and support the implementation of Earth Charter principles with an international legally binding instrument on environment and development.

Since the Earth Charter was drafted, it has become increasingly clear that if the UN is to be an effective instrument of international cooperation and global governance in the 21st century, it must undergo major reforms. The Secretary General and a number of member nations have made constructive proposals, and the future of the UN hinges on the willingness of the international community to implement a reform agenda. Just as the soft law principles in the Universal Declaration of Human Rights have been translated into several legally binding human rights covenants, so there has been a hope that the Earth Charter principles would in time find expression in “an international legally binding instrument on environment and development.” The elements of such a treaty have already been assembled by the IUCN Commission on Environmental Law in its Draft International Covenant on Environment and Development, which was first presented at the UN in 1995 and which has since been updated and revised. This Draft Covenant provides a solid basis for intergovernmental negotiation, but to date the international community has not been prepared to take the next step in advancing international law in the field of environment and development.

What progress is being made in deepening and expanding the ethical vision that guides the international community? What role has the Earth Charter played in this matter? Shortly after the launch of the Earth Charter at the Peace Palace in The Hague in June 2000, the Millennium NGO Forum, which included over 1000 NGOs, endorsed the Earth Charter and recommended that the UN Millennium Summit recognize and support the document. While this did not happen, the UN Millennium Declaration did reaffirm for the first time in two decades the principle of “respect for nature” as among the “fundamental values essential to international relations.” It also identifies as fundamental “shared values” freedom, equality,

solidarity, tolerance, and shared responsibility and calls for “a new ethic” of conservation and environmental stewardship. In addition, the document sets forth the Millennium Development Goals (MDGs), which are entirely consistent with the Earth Charter, and established some targets and timetables that involve important steps toward the implementation of a number of Earth Charter principles. For example, the MDGs include commitment to reduce by half the number of people living in absolute poverty by 2015, to eliminate gender disparity in primary and secondary education, and to integrate the principles of sustainable development into nation state policies.

Further progress was made at the World Summit on Sustainable Development (WSSD) held in Johannesburg in 2002. Even though many NGO groups endorsed the Earth Charter during the Summit and South Africa, the host nation, led an effort to recognize the Earth Charter in the Johannesburg Declaration, this was not to be largely due to the opposition of the United States. However, the Johannesburg Declaration does use language almost identical to that found in the Earth Charter Preamble to affirm in broad outline the Charter’s vision of “global interdependence and universal responsibility.”

From this continent, the cradle of humanity, *we declare*, through the Plan of Implementation of the World Summit on Sustainable Development and the present Declaration, *our responsibility to one another, to the greater community of life and to our children.* (Paragraph 6; italics added)

This statement is the first time that an international law document has made an explicit reference to the community of life. Furthermore, the Johannesburg Declaration deepens the meaning of respect for nature by affirming that people are responsible *to*, as well as *for* the protection of, the greater community of life. From the perspective of the Earth Charter, there is implicit in this formulation recognition that people are members of Earth’s community of life and, as with communities in general, all the members of the community of life—non-human species as well as people—are worthy of moral consideration. In other words, non-human species as members of the greater community of life have intrinsic value as well as instrumental value.⁶ It is also noteworthy that the ethic of care central to the Earth Charter finds expression in the Johannesburg Declaration’s reference to a “caring global society.” The WSSD Plan of Implementation in its Introduction states that “we acknowledge the importance of ethics for sustainable development.” (I.5)

In 2003 the UNESCO General Conference of Member States adopted a resolution introduced by Jordan that recognizes the Earth Charter as an ethical framework for sustainable development and as a valuable teaching tool. A year later the World Conservation Union (IUCN), which includes 77 state governments and over 800 NGOs among its members who are from 140 countries, adopted a similar resolution at its World Conservation Congress in Bangkok. Over two thousand NGOs, including many religious groups, have also endorsed the Earth Charter. Coupled with the wide use of the Earth Charter as a teaching tool in schools

⁶ See Earth Charter Principles 1 and 15.

and universities, all of these developments mark a significant, even if very gradual, shift in humanity's ethical awareness.

Is there actual progress being made in moving toward the goal of sustainable development? Is there evidence that a heightened sense of social and ecological responsibility is leading civil society, business, and government to undertake efforts that involve implementation of Earth Charter principles? It is very easy to become discouraged and pessimistic about the human future when one reads the steady stream of grim reports on global warming, the destruction of forests, biodiversity loss, shortages of water, poverty, HIV/AIDS, rising military expenditures, nuclear proliferation, and terrorism. However, in 2002 two environmental leaders, David Suzuki and Holly Dressel, published a book entitled *Good News for a Change: How Everyday People are Helping the Planet*. In fact, there is much good news that suggests attitudes are changing and an increasing number of individuals, corporations, religious organizations, and governments are finding ways to reverse dangerous trends and to implement Agenda 21 and the ideals and goals of the Earth Charter. The remainder of this essay considers some examples.

The dramatic growth in population during the 20th century is one factor contributing to the depletion of resources and the degradation of ecosystems. The world population has more than doubled over the past five decades, reaching 6.3 billion in 2004. The UN Population Division estimates that the world's population will continue to grow in the 21st century increasing by 40% before stabilizing and that this growth will occur largely in the world's 50 poorest countries. This will put added stress on ecological and social systems. The good news is that the annual rate of population growth has declined over the past three decades from 2.1% to 1.14% in 2004. Median fertility is projected to decline from 2.6 children per woman to just over two children by 2050. Demographers, therefore, predict that in 2050, human numbers will peak at around 9.1 billion rather than 10 or 11 billion as estimated earlier.⁷ They may then begin to decline. It is largely the decisions and actions of women in countries like Brazil and India that account for the unanticipated decline in birth rates, and there is wide international agreement that the key to sustainable population growth in the developing world is gender equality and the empowerment of women through access to health care, education, and economic opportunity.⁸ These values and goals have been incorporated to a large extent in the Millennium Development Goals, and the international women's movement is working to strengthen government commitment to gender equality.

The 2002 World Summit on Sustainable Development identified poverty eradication as a cornerstone of a sustainable future. Over a billion people live in absolute or extreme poverty, struggling to exist on a dollar a day or less. In 2005 Jeffrey Sachs, an economist who is the director of the Earth Institute at Columbia University and special adviser to the United

⁷United Nations Department of Economic and Social Affairs, Population Division. *World Population Prospects: The 2004 Revision – Highlights* (New York: United Nations, 2005). Document ESA/P/WP.193 24 February 2005. See also Worldwatch Institute, *Vital Signs 2005: The Trends that are Shaping our Future* (New York: W.W. Norton, 2005), 64-65.

⁸ See Earth Charter Principles 7 and 11.

Nations Secretary-General on the Millennium Development Goals, published an important book with the optimistic title: *The End of Poverty: Economic Possibilities for our Time*. Noting that the world community has made a commitment to halving absolute poverty by 2015, Sachs argues that “Our generation can choose to end that extreme poverty by the year 2025.” *The End of Poverty* explains what must be done to eliminate the basic causes of poverty and how this can be achieved at affordable costs. Sachs calls for a global poverty eradication coalition that would organize the scientific research required and generate the necessary financial assistance and with these resources help poor countries create the basic infrastructure (roads, power, and ports), health care, and education systems needed so that they can take advantage of the world’s markets as engines of development. He also points out that sustainable development is essential, arguing that “while targeted investments in health, education, and infrastructure can unlock the trap of extreme poverty, the continuing environmental degradation at local, regional, and planetary scales threatens the long-term sustainability of all our social gains.” The critical question facing the developed world, argues Sachs, is in the final analysis an ethical one: “Will we have the good judgment to use our wealth wisely, to heal a divided planet, to end the suffering of those still trapped by poverty, and to forge a common bond of humanity, security, and shared purpose across cultures and regions?”⁹

Some critics argue that Sachs is an overly optimistic liberal with too great a faith in reason, science, and the malleability of societies and with too little appreciation of the obstacles presented by traditional culture, corrupt governments, undemocratic institutions, and armed conflict.¹⁰ It is certainly important to keep these concerns in mind when designing strategies to assist developing nations. However, the Millennium Development Goals and studies such as *The End of Poverty* present a challenge that an increasing number of international leaders are taking seriously. One indication is a recent decision by the Group of Eight (G8), the world’s wealthiest nations, to cancel \$40 billion of debt owed to international agencies by the eighteen poorest countries, reducing their annual debt burden by \$1.5 billion.¹¹ The cancellation deal includes a stipulation that all the affected countries will take steps to eliminate corruption and an agreement that the money saved will be used for health care and education and in support of the poor. Debt relief has for a number of years been widely recognized as essential to poverty eradication, and it has been the focus of a number of anti-poverty campaigns such as Jubilee 2000.¹²

Democracy and sustainable development are interdependent, and democracy is now the dominant form of government in the world and is widely viewed by people in all regions as a universal value and the only legitimate form of government.¹³ Historians view democracy as

⁹ Jeffrey D. Sachs, *The End of Poverty: Economic Possibilities for our Time* (New York: Penguin, 2005), 1-4, 364-68.

¹⁰ David Brooks, “Liberals, Conservatives, and Aid,” *New York Times*, June 26, 2005 sec. 4.

¹¹ Alan Colwell, “Finance Chiefs Cancel Debt of 18 Nations,” *New York Times*, June 12, 2005, Final edition. sec. 1.

¹² See Earth Charter Principles 9 and 10.

¹³ Amartya Sen, *Development is Freedom* (New York: Anchor Books, Random House, 1999), xi-xii, 146-88.

Amartya Sen, “Democracy is a Universal Value,” *Journal of Democracy* 10:3(July 1999):3-16. Larry Diamond,

having spread during the modern period in three waves. The “third wave” involved a global democratic revolution that began in Portugal in 1974 and then swept through Latin American and into Asia and Africa and, with the fall of the Berlin Wall, into central and Eastern Europe.¹⁴ By 2003 117 or 60% of the world’s countries were democracies.¹⁵ In 1999 the UN Commission on Human rights adopted a resolution on “Promotion of the Right to Democracy” affirming that “democracy, development and respect for all human rights and fundamental freedoms are interdependent and mutually reinforcing.”¹⁶ One great advantage of democratic forms of government is that criticism is built into the system and people are able to hold their leaders accountable for how they respond to environmental and social problems. A recent study of the World Values Survey concludes that “democracy has an overwhelming positive image through the world” and is “virtually the only political model with global appeal, no matter what the culture.”¹⁷ Even though only nine of the forty-seven Muslim-majority countries are democracies, the vast majority of Muslims surveyed were found to favor democracy.¹⁸ The struggle to secure human rights and democracy for all peoples is far from over, but in most regions of the world anti-democratic regimes are facing increasing external and internal pressure to change. The democratic trend in modern history is a cause for hope.¹⁹

In addition to population numbers, the major factor determining a society’s ecological footprint is the technology it uses in energy production, agriculture, manufacturing, transportation, and the operation of households. A sustainability revolution requires a technology revolution that 1) greatly increases the efficiency with which energy and material resources are used with the goal of doing more with less, 2) generates a shift from the use of fossil fuels to renewable energy sources, and 3) facilitates the prevention of pollution and elimination of all waste except what can be assimilated by ecological systems.²⁰ The technological revolution is gaining momentum and the world community has the scientific and technological expertise to achieve the innovations and advances that are needed. In order to expand and quicken the pace of the sustainability revolution in technology, there will have to be larger budgets for research and development, increased consumer demand, and stronger markets for green products. A special effort must be made to transfer green technology to the developing nations as their economies mature and modernize.

“The State of Democratization at the Beginning of the 21st Century, *The Whitehead Journal of Diplomacy and International Relations* 6:1 (Winter/Spring 2005):13-18. Carl Gershman, “Democracy as Policy Goal and Universal Value,” *The Whitehead Journal of Diplomacy and International Relations* 6:1(Winter/Spring 2005):19-37. Gershman provides a very useful summary of the eight ways that democracy benefits people in developing countries and contributes to sustainability.

¹⁴ Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman: University of Oklahoma Press, 1991), 3-30.

¹⁵ Diamond, 13.

¹⁶ *Journal of Democracy* 10:3(July 1999): 182-83.

¹⁷ As cited in Gershman, 22.

¹⁸ Diamond, 16-17, and Gershman, 22.

¹⁹ See Earth Charter Principle 13.

²⁰ See Earth Charter Principles 6 and 7 and James Gustave Speth, *Red Sky at Morning: America and the Crisis of the Global Environment* (New Haven: Yale University Press, 2005), 157-61.

A sustainability revolution also requires new systems of global governance that better manage the process of globalization, promoting the eradication of poverty, environmental protection, human rights, a more equitable process of economic development, and world peace.²¹ The market by itself does not protect the environment or ensure social and economic justice. This problem is magnified when governments subsidize unsustainable activities, which they often do, and when the prices of goods and services do not reflect the full environmental and social costs, which is generally the case. Full-cost pricing should be high on the agenda of those working for a sustainable economic system.²²

On the one hand the achievement of good global governance requires well-constructed systems of international law, responsible national governments, democratically managed and accountable transnational institutions (UN, World Bank, WTO, IMF, etc.), and effective methods of enforcement. On the other hand, global governance in our complex world is also increasingly a responsibility shared by civil society and corporations acting both independently and in collaboration with governments. This dimension of global governance involves decentralized, voluntary, and creative initiatives on the part of citizens' campaigns, consumer advocacy groups, and human rights and environmental NGOs as well as businesses.²³

Prime examples of the sustainability revolution in technology and positive developments in global governance are the innovations and collaborations taking place in the field of energy production and consumption, especially as it relates to the problem of climate change. Many experts view global warming as the most serious environmental problem facing the world.²⁴ Scientists report that global warming is melting mountain glaciers and the ice sheets at Earth's poles and weather-related disasters are on the rise. They warn that climate change may lead to a rise in sea levels that threatens coastal ecosystems and communities, a disruption of ocean currents such as the Gulf Stream, a further increase in catastrophic weather events, and the spread of disease.²⁵ Considerations of this nature have led many business leaders to conclude that global warming is the major environmental threat to a healthy economy. In a "Special Report" on global warming *Business Week*, a US publication, stated in 2004:

²¹ See Earth Charter Principles 5, 7, 10, 12, 13, and 16.

²² Speth, 161-66.

²³ Speth, 172-90, 222-27, and Afterword. The World Business Council on Sustainable Development has labeled the spontaneous innovations of corporations and NGOs JAZZ, and Speth provides a very good description of the nature and extent of green JAZZ. See also *Vital Signs 2005*, 106-07.

²⁴ The Arctic Climate Impact Assessment (ACIA), *Impacts of a Warming Arctic* (Cambridge: Cambridge University Press, 2004). *The Millennium Ecosystem Assessment: Synthesis Report*, (Washington, DC: World Resources Institute, 2005).

²⁵ For a more complete discussion of scientific research on global warming and what can be done to address the problem, see Speth, Afterword. See also *Vital Signs 2005*, 40-41, 50-51, and 88-89.

Consensus is growing among scientists, governments and business that they must act fast to combat climate change. This has already sparked efforts to limit CO₂ emissions. Many companies are now preparing for a carbon-constrained world.²⁶

The formation of The Climate Group illustrates the point. The Climate Group is an international coalition with a secretariat in the United Kingdom. Its members are representatives of corporations, cities, states, and national governments committed to collaborating on reducing greenhouse gas (GHG) emissions and sharing best practices. These members have joined in a commitment to develop new clean technologies, maximize energy efficiency, increase the use of renewable energy sources, build markets for green power, and share best practices.

In the past decade, the primary obstacle to corporate and government action on GHG emissions and other environmental problems has been the assumption that implementing sustainability measures will be too costly and will slow or halt economic growth. The experience of The Climate Group is providing significant evidence that this assumption is false and that major advances in energy efficiency and innovations in the use of renewable energy sources leading to substantial GHG emissions reductions can be made in ways that are cost-effective and often highly profitable. A recent study of corporations and governments participating in The Climate Group includes the following summary in its conclusion.

BP reports a savings of \$650 million from emissions reductions efforts. IBM reports a saving of \$791 million. DuPont claims \$2 billion in efficiencies. Alcoa is looking at saving \$100 million by 2006. STMicroelectronics expects \$900 million in savings by 2010. Germany reports its efforts will lead to the creation of 450,000 jobs, many of them within the renewable energy sector. . . . In the United Kingdom, emissions dropped by 15% between 1990 and 2002, and during the same period, the economy grew by 30%. Report after report concludes that the cost of implementing these efforts will be more than offset by the direct benefits. We can only conclude that on a fundamental level that it is quite practical and profitable to reduce GHG in a wide array of contexts using a number of simple strategies. . . . Further, it appears that the long-term benefits in many instances are substantial. Both corporations and cities are not only able to document savings but also to generate revenues from energy-efficiency programs.²⁷

Reinforcing these trends, 150 national governments have ratified the Kyoto Protocol which entered into force in 2005. Led by Prime Minister Tony Blair, Europe is providing strong leadership on this issue, including plans to launch an international GHG cap and trade scheme. Other examples of the trend are the following. The International Council for Local Environmental Initiatives (ICLEI) has created a Cities for Climate Protection Programme

²⁶ *Business Week* August 16, 2004, p. 60.

²⁷ Michael Northrop, "Leading by Example: Profitable Corporate Strategies and Successful Public Policies for Reducing Greenhouse Gas Emissions," *Widener Law Journal*, 14:1 (2004). Michael Northrop is the Programme officer in charge of the Sustainable Development Programme at the Rockefeller Brothers Fund.

which has been joined by 108 municipalities in Europe, 147 municipalities in the US, and 184 municipalities in Australia.²⁸ Even though the Bush administration in Washington has withdrawn from the Kyoto Protocol and opposes federal regulations designed to reduce GHG emissions, 28 state governments in the US led by California and New York are moving forward with programs to reduce GHG emissions and to promote energy efficiency, renewable energy sources, and markets for clean technologies.²⁹ As a result of these many initiatives, the Worldwatch Institute reports that “total use of solar and wind energy is expanding at a 30% annual rate” and that wind energy is now cheaper than natural gas, and “closing in on coal.”³⁰

The movement for socially and ecologically responsible investing and corporate accountability is an increasingly important factor in changing the policies and practices of businesses. CERES, for example, is a coalition of leading investment funds, environmental organizations, and other public interest groups committed to these goals. Through its Sustainable Governance Project, CERES has demonstrated that global warming involves significant financial risks for a wide range of businesses and has organized the Institutional Investors Summit on Climate Risk and the Investor Network on Climate Risk in an effort to encourage institutional investors and other shareholders to support corporate climate risk disclosure and actions that minimize the risk.³¹ In addition, worldwide 640 companies participate in the Global Reporting Initiative (GRI), a project launched by CERES that sets international standards for reporting on the triple bottom line of economic, social, and environmental performance, including GHG emissions. Over 300 corporations have adopted the GHG Protocol designed by the World Resources Institute (WRI) and the World Business Council for Sustainable Development (WBCSD), which involves internationally accepted accounting and reporting standards for GHG emissions.³² The Equator Principles, which set environmental and sustainability standards for loan programs, have now been adopted by almost all the leading global financial institutions including Citigroup, Bank of America, HSBC, and JPMorganChase. When one considers all the forces that are now promoting a revolution in the way societies produce and consume energy, it appears that the industrialized world may be approaching the tipping point with regard to a willingness to take action in response to global warming and the need for more sustainable energy practices.

Many of these developments reflect the growing power and influence of global civil society which is exercised in and through consumer campaigns, shareholder initiatives, political movements, and Global Public Policy Networks (GPPNs) all involving the work of thousands of NGOs like CERES, GRI, and WRI.³³ The emergence of civil society as a third force in world affairs together with business and government is one of the consequences of the

²⁸ Michael Northrop, pp. 52-53.

²⁹ Pew Center on Global Climate Change, *Climate Change Activities in the United States—2004 Update* (Arlington, VA: Pew Center, 2004), p. 9.

³⁰ *Vital Signs 2005*, 14, 34-37.

³¹ Speth, Afterword.

³² World Resources Institute. See www.wri.org.

³³ Speth, 222-27. Speth provides an overview of the activities of dozens of leading environmental NGOs that are contributing to global governance.

communications revolution, which makes it possible for public interest groups to share and publicize information, mobilize resources and people, and collaborate with extraordinary speed. The role of NGOs is well-illustrated by the new ways in which social and environmental standards are being set for corporate behavior and compliance is verified. There was a time when corporations wrote their own codes of conduct and performance audits were generally an internal affair. In the 21st century, standards are being set in open negotiations between industry representatives and all the relevant stakeholders, including NGO experts, and verification of compliance is conducted by outside organizations that require full disclosure. Consistent with this approach, as the International Organization for Standardization (ISO) undertakes the task of developing a new set of standards for corporate social responsibility, it has mandated that national delegations participating in the standard setting process must include members who represent consumers, the NGO community, and labor as well as industry and government.³⁴ In addition, NGOs have learned how to skillfully use market campaigns to put pressure on corporations to comply with performance and reporting standards. As consumers become better educated and more willing to use their purchasing power to express their social and ecological concerns, there are serious financial risks to corporations found to be out of step with recognized standards.

The new influence of civil society and the expanding role of NGOs in creating new systems of global governance is a development consistent with the spread of democratic values and it is giving the concepts of corporate transparency and accountability a whole new meaning. Also, CEOs are discovering that attention to the triple bottom line is good for business as well as the communities in which corporations operate. From the perspective of the Earth Charter, which is itself a global civil society endeavor to promote ethical principles that are in turn translated into binding government and business standards, all of these developments are part of the way forward.

The critical role of the emerging global civil society in building just, democratic, participatory, and sustainable societies underscores the great importance of education for sustainable development in schools, colleges, and universities and in non-formal programs that encourage life long learning.³⁵ The UN Decade of Education for Sustainable Development (DESD), which the UN General Assembly has charged UNESCO with organizing, focuses much needed international attention on this urgent task. As UNESCO recognizes in its International Implementation Scheme for the Decade, the Earth Charter can serve as a valuable teaching tool in ESD programs.

Given the influence of the religions over the spiritual and ethical values of a large portion of humanity, their commitment to the new global ethics and a sustainable way of living is of great importance. The good news is that over the past three decades, substantial research has

³⁴ International Organization for Standardization. In 2005 the ISO held its first meeting to launch the development of the future ISO 26000 standard giving social responsibility guidelines. It is scheduled for publication in 2008. For their initial press release on this project, see <http://www.iso.org/iso/en/commcentre/pressreleases/2005/Ref953.html>.

³⁵ See Earth Charter Principle 14.

been done by intellectual leaders within the different religions on those teachings in their traditions that support the values of respect and care for the community of life and sustainability and on those teachings that are inconsistent with these values. Religious scholars have also clarified what can and should be done to reconstruct traditional systems of thought so as to integrate Earth Charter values fully into contemporary theology and religious philosophy. In other words, a generation of prophetic thinkers has gone far in laying the intellectual foundations for the kind of religious world views that will help people make the transition to a sustainable world community.³⁶ It remains to make this thinking part of the mainstream, which is beginning to happen in many communities. Tolerance for religious diversity is, of course, an essential ethical principle for an interdependent world seeking sustainability.³⁷ On this issue religious leaders in much of the world face a particularly difficult challenge, but there is a growing appreciation of the value of interfaith dialogue and willingness to participate in it.

As this essay suggests, it is possible to identify the beginnings of the Great Transition, but there are no grounds for complacency. Some would argue that what has been accomplished to date is too little too late. It is certainly true that fully achieving sustainable patterns of development remains a distant and very challenging goal. There is an urgent need to strengthen and accelerate the positive trends, and civil society can make the difference. Citizens, NGOs, and religious organizations must keep the pressure on government and business. However, there are many examples of a new sense of social and ecological responsibility taking hold in the corridors of economic and political power supported by the realization that sustainable development is sound economic practice, especially if one takes a long-term view. The Earth Charter can continue to serve as an ethical guide, teaching tool, and source of inspiration—a vision of what the human family can choose to be and to create. If the dangers and risks today are great, so are the opportunities. In the closing words of the Earth Charter: “Let ours be a time remembered for the awakening of a new reverence for life, the firm resolve to achieve sustainability, the quickening of the struggle for justice and peace, and the joyful celebration of life.”

**C) “The Significance of the Earth Charter in International Law”
by Klaus Bosselmann and Prue Taylor**

From the perspective of international law, the Earth Charter is a new and fascinating instrument (Bosselmann, 2004, 69; Taylor, 1999, 193). This is partly due to its origins. The world-wide dialogue of thousands of civil society groups and individuals, over a period of several years, is impressive in itself. Unlike Agenda 21, the state-negotiated soft law document of the 1992 Rio Earth Summit, the Earth Charter represents a much broader consensus. It is probably the first time that global civil society has produced a document, with

³⁶ See, for example, the ten-volume series on religions of the world and ecology published by the Forum on Religion and Ecology and the Harvard University Center for the Study of World Religions and distributed by Harvard University Press.

³⁷ See Earth Charter Principle 16.

such a wide consensus, on global principles. Many of these principles were not created during the dialogue process, but they were further defined and put into an ecological context. Concepts like ecological integrity, precautionary principle, democratic decision-making, human rights and non-violence are well established in international law, yet not always so clearly defined as they are in the Earth Charter. More importantly, the interaction between all these concepts has not been spelled out in any other single document, not even in Agenda 21.

The reputation and credibility of the Earth Charter rests largely on its transnational, cross-cultural, inter-denominational approach. In a situation of a widely perceived crisis of global governance, this approach is highly significant. While the Earth Charter cannot be expected to be representative of global civil society in its entirety including, for example, corporate interests, it does represent a very significant sector of it. States will not, for example, be able to overlook its leading role in the light of their endorsement of type two partnerships for sustainable development in Agenda 21 and the 2002 Johannesburg Plan of Implementation. States will certainly need partnerships with civil society if they want to gain control over anarchistic global corporate power.

Meanwhile, the Earth Charter continues to foster its moral-political leadership within global civil society. The promotion of its principles in more than 50 national Earth Charter campaigns, and the ever-increasing number of endorsing institutions, are evidence of its success and strengths.

In terms of international law principles, the Earth Charter represents *prima facie* a draft legal document. The international legal community - states, the UN with its organizations and certain other international organizations - can choose to ignore it. However, this is unlikely. A number of states and international organizations have endorsed the Earth Charter. It also enjoys considerable recognition in legal education and scholarship. Leading texts of international law and numerous legal research papers have discussed the significance of both the Earth Charter itself, and its guiding principles (Kiss and Shelton, 2000, 70; Taylor, 1999; Taylor, 1998, 326). Recognition among international law scholars is a subsidiary source of international law (Art.38 of the Statute of the International Court of Justice). While the legal status of a number of the Earth Charter's principles is disputed, most of them are frequently referred to in treaties, conventions and other binding documents. Some key concepts such as the precautionary principle or sustainable development are not (yet) recognized as custom or general principles of international law. However, the common view is that they have become an integral part of international law (Birnie and Boyle, 2002, 84, 115; Kiss and Shelton, 2000, 248, 264).

In recent times, 'soft law' has become an important 'new' source of international law (Kiss and Shelton, 2000, 46). In contrast to 'hard law' (treaties, custom, general principles), 'soft law' is not legally binding. It cannot be ratified and does not have direct legal effect. However, the political strength of 'soft law' should not be underestimated. An example is Agenda 21. As a non-binding soft law document it cannot be ratified by states, but has proven to be among the most powerful documents in international environmental law. Since 1992,

Agenda 21 has been recognized and implemented by wide sectors of civil society all around the world. Local governments, small and mid-sized business, educational institutions and professional organizations have enacted statutes or guidelines of sustainable development citing Agenda 21 as their main source. This new kind of ‘bottom-up ratification’ has put enormous political pressure on governments to implement some form of governance for sustainable development. Among all the treaties and international documents promoting sustainable development, none have had as much impact on practice as the ‘soft law’ Agenda 21.

The Earth Charter can benefit from this experience. Although not yet recognized as a ‘soft law’ document, it has all the ingredients of becoming one in the foreseeable future. Acceptance of the Charter, at the World Summit on Sustainable Development (WSSD) held in Johannesburg in 2002, is illustrative (Bosselmann, 2002). In the year preceding the WSSD, efforts were made by Earth Charter Commissioners, and the International Secretariat, to gain recognition of the Charter, at the Summit. In his address to the opening session of the Summit, President Mbeki of South Africa cited the Earth Charter as a significant expression of “human solidarity” and as part of “the solid base from which the Johannesburg World Summit must proceed.” In the closing days of the Summit, the first draft of the Johannesburg Declaration on Sustainable Development included recognition of “the relevance of the challenges posed in the Earth Charter” (paragraph 13). On the last day of the Summit, in closed-door negotiations, the reference to the Earth Charter was deleted from the Political Declaration. (Rockefeller, 2002, 2). However, the final version of the Political Declaration included, in paragraph 6, wording almost identical to the concluding words of the first paragraph of the Earth Charter Preamble, which states that “it is imperative that we, the peoples of Earth, declare our responsibility to one another, to the greater community of life, and to future generations.” Furthermore, Article 6 of the WSSD Plan of Implementation contains indirect reference to the Earth Charter: “We acknowledge the importance of ethics for sustainable development, and therefore we emphasize the need to consider ethics in the implementation of Agenda 21.”

The WSSD documents reflect growing international support for sustainability ethics, as expressed in the Earth Charter. Since Johannesburg, international recognition has progressed. In October 2003, the 32nd General Conference of the United Nations Educational Scientific and Cultural Organization (UNESCO) adopted a resolution recognizing the Earth Charter ‘as an important ethical framework for sustainable development.’ In November 2004, the International Union for the Conservation of Nature and Natural Resources (IUCN) World Conservation Congress in Bangkok, approved a resolution recognizing the Earth Charter ‘as an ethical guide for IUCN policy’ and encouraging its Member states ‘to determine the role the Earth Charter can play as a policy guide within their own spheres of responsibility’.

A decisive step toward soft law recognition would be a resolution of recognition by the United Nations General Assembly. But, even without such recognition, there can be little doubt about the Earth Charter’s potential. A number of pathways could lead to the Earth Charter being acknowledged as a legally binding international instrument.

One of these pathways is the continued promotion of the Earth Charter within countries and among international organizations. The target here is to increase endorsements (in their various forms) up to a point where the Earth Charter reaches a certain omnipresence. This process could lead to its gradual transformation from soft law into a hard law instrument, in much the same way as nascent principles of law gradually gain recognition and status as binding “customary” international law.

Another path would be its conversion into a UN Draft Earth Charter, either together with the IUCN Draft Covenant on Environment and Development, or as a stand-alone document. Either way, the Earth Charter could become an official UN Draft document, eventually opening it up for negotiation among states (with all the advantages and disadvantages involved).

A further path could be to focus on the Earth Charter’s content and seek dialogues with governments on desirable principles and their implementation in law and policy. Here the Charter could have a ‘blueprint’ function not dissimilar to Agenda 21.

However, the most promising path of all is to insist on the Earth Charter’s validity as a novel instrument of ‘global law’. Never before have so many people, in so many different countries, representing so many cultures and religions, reached a consensus on a central theme of humanity. To some extent, the Earth Charter can be celebrated as global civil society’s first and foremost founding document. Such an achievement, both in terms of quantity and quality, puts the world’s states on the back foot. States, having failed for so long to fulfil their promise of sustainable development, are rapidly losing their political and intellectual leadership.

‘Global law’ as such does not yet exist. All we have ever seen in the Westphalian Age (since 1648) is inter-national law, i.e. law between nation states, not people. However, the Earth Charter’s emergence sits squarely within the present system of international law. Earth Charter proponents may want to accept this system and hope for recognition by states, but states are not bound to do so. With equal justification, the Earth Charter qualifies as a founding document for transnational law or global law. Transnational or global legal thinking is not new and can, for example, point to the concept of universal human rights as promoted by civil society in the French and American revolutions. It found its international legal recognition in the Universal Declaration of Human Rights 1948. States have reluctantly, and not without setbacks, accepted the idea of human rights as pre-state, universal entitlements. Equally, the UN Charter 1945 is a document of transnationalism, at least, in its underlying principle of collective responsibility for peace and security. The fact that states have, by and large, not been very successful in fostering human rights, peace and security, does not discredit global agreements such as the Universal Declaration or the UN Charter. To the contrary, the failure of states stresses the need for such instruments.

However, no international document has described the failure of states and peoples as clearly and forcefully as the Earth Charter. It is the failure to accept a three-fold imperative: “...that

we, the peoples of the Earth, declare our responsibility to one another, to the greater community of life, and to future generations” (Preamble, Earth Charter).

In law, such imperatives and responsibilities are usually captured by notions of distributional justice. But what concept of justice is intended when we think of responsibilities to one another, to the greater community of life, and to future generations? The Brundtland Report (WCSD, 1987) derived two forms of justice from the idea of sustainable development, i.e. intragenerational justice (between people living today) and intergenerational justice (between people living today and in the future). Responsibility to the greater community of life is not reflected in this idea. The omission of this responsibility is common among state-negotiated documents on sustainable development (e.g. 1992 Rio Declaration, 2002 Johannesburg Declaration).

By contrast, care and respect for the community of life are central to the Earth Charter. They are central simply because, in an evolutionary process, human life cannot be separated from other forms of life. From the perspective of ecological integrity and sustainability, care for one another and for future generations is useless if we ignore the community of life that we are part of. If this is a moral imperative, it should also be a legal imperative.

For lawyers, the most challenging question is this: can the nonhuman world be part of the *justitia communis* or is it bound to stay excluded from the *justitia communis*? The former approach reflects a new concept, the latter follows the traditional, anthropocentric (human centred) concept of justice.

John Rawls, who shaped contemporary theories of justice more than anyone, has been very clear about the exclusion of the nonhuman world: “(the) status of the natural world and our proper relation to it is not a constitutional essential or a basic question of justice” (Rawls, 1993, 246). Rawls acknowledges ‘duties’ in this regard, but he describes them as mere ‘duties of compassion and humanity’ rather than duties of justice. To him, any ‘considered beliefs’ to morally include the nonhuman world “are outside the scope of the theory of justice.” (Rawls, 1999, 448). There have been efforts to reconcile Rawls’ political liberalism with ecological justice (Wissenburg, 1998; Barry, 2001; Bell, 2002), however, such efforts tend to underestimate the persistence of paradigms. How could Rawls or any legal theorist be expected to trade their anthropocentric liberalism for non-anthropocentric ecologism? Essentially, liberalism is blind to ecological interdependences, and so is the law derived from it.

The Earth Charter challenges the anthropocentric idea of justice. As humans have put the Earth’s ecological integrity at risk, no level of social organization – economics, politics, law – can be exempt from the moral imperative of care and respect for the community of life. The test lies in the current state of affairs. If the Earth Charter is right, then we are in desperate need of a new framework of thinking. Justice needs to include the community of life (Bosselmann, 1999; 2005). Perceived in this way, people of all cultures and nations may be able to give the dream of global law some solid foundation.

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D) Assessments of the Value of the Earth Charter

The following statements by Parvez Hassan, Mohamed Sahnoun, and Jan Pronk have been excerpted from essays that they have written for *Toward a Sustainable World: The Earth Charter in Action* edited by Peter Blaze Corcoran. Parvez Hassan has served as chair of the IUCN Commission on Environmental Law, and both Mohamed Sahnoun and Jan Pronk have served as UN Special Representatives to Africa.

1. “The Earth Charter is on course to become one of the most inspirational documents of this century, joining ranks with the Universal Declaration of Human Rights of the past century. . . . As an ethical lodestar and motivational tool, the Earth Charter succeeds magnificently across many dimensions. By integrating ecological concerns with mankind’s historic quest for social justice, democracy, and peace, it creates a successful environmental ethic which will resonate well beyond the constituency of environmental activists. Having gone through the most participatory consultation process of any document in history, its call for global responsibility has an unshakeable legitimacy. . . .

“It is only when the lofty principles of the Earth Charter become binding legal obligations and are implemented by people all over the world will the Earth Charter have achieved its potential.”

--Parvez Hassan

2. “I believe the Earth Charter is a very adequate and comprehensive response to the call to resolve root causes of insecurity and violent conflict in Africa. It is my hope that the Charter is adopted and endorsed as widely as possible, so that it becomes like the Universal Declaration of Human Rights. In a sense, the Earth Charter is about Earth’s rights. One cannot go without the other. We must complete what we have achieved so far in governance and in human rights through the international endorsement of Earth’s rights.”

--Mohamed Sahnoun

3. “The Earth Charter could be a perfect guideline for negotiation in Sudan. In political talks, to solve a conflict one always needs a declaration of principles. The principles in the Charter could be used as a framework within which a specific conflict could be addressed. The values enshrined in the Charter could underpin a domestically—or internationally-shaped comprehensive approach. The Charter could provide a base and guide to build such an approach and to find support for it among all stakeholders.”

--Jan Pronk

E) Concluding Recommendations

Promoting the Earth Charter as a global ethic and as a guide to sustainable development and good global governance has always been fundamental to the Earth Charter Initiative. The Earth Charter has a special significance and an important role to play as a unique declaration of fundamental principles for building a just, sustainable, and peaceful world. Therefore, if the Initiative continues as an organized international effort, promoting the Earth Charter as a global ethic for good global governance should remain a central concern. This would require:

(1) A continued effort to secure endorsements and implementation by civil society, government, and business. As the civil society endorsements mount, it will be easier to persuade businesses that it is in their interest to support the Earth Charter and implement relevant principles.

(a) The Initiative should consider somehow indicating its support for other sets of principles and standards such as the Global Reporting Initiative, the Forest Stewardship Council standards, the Bellagio Principles, and the Equator Principles that represent meaningful steps toward implementing Earth Charter principles. It should also seek support from the NGOs that are mounting these other efforts, and in some cases a partnership may be mutually beneficial.

(2) The Initiative should continue to seek UN General Assembly recognition of the Earth Charter. This will be difficult given the current political situation. It can probably most easily be accomplished by embedding recognition of the Earth Charter in another document with a broader agenda. This was almost achieved at the WSSD in 2002 with the Johannesburg Declaration and the International Implementation Scheme for the DESD in 2004.

(a) If a Democratic Party administration succeeds the Bush administration in Washington in 2008, an effort should be made to secure US government support for the Earth Charter. This would make UN recognition easier to obtain.

(3) There should be continued attention to IUCN's endorsement with follow up on implementation of the endorsement resolution.

(4) The Initiative should continue to work with the IUCN Commission on Environmental Law and the Academy of Environmental Law in efforts to promote the Earth Charter's status as a soft-law document and to encourage UN action on the IUCN Draft International Covenant on Environment and Development.

(5) This chapter has emphasized the importance of good global governance. Any sound system of global governance must involve responsible and effective systems of local governance. In that regard, the development of tools like EarthCAT, which help

local communities use and implement the Earth Charter are of critical importance. See Chapter VI on Sustainable Community Development.

(6) The worldwide dialogue on global ethics continues to be very important and should have the support of the Earth Charter Initiative.