



**SOVEREIGNTY OR SUBMISSION:  
Liberal Democracy or Global Governance?**

**By John Fonte**

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The concept of “global governance” is in the air. For many of the world’s elites—who gather at places like Geneva, Davos, The Hague, UN headquarters in Manhattan, and wherever the G20 meets—global governance is the “big idea.” Leading thinkers argue that today’s global issues are too complex for the “obsolete” nation-state system. Major political leaders say that “global problems require global solutions.” We are told that “sovereignty” must be redefined as something that is “shared” or “pooled.”

There is no doubt that as the twenty-first century progresses, globalization will increase. But, the central question is: What form will globalization take? Will it be international—based on sovereign states—or will it be transnational or supranational?

**TRANSNATIONALISM VS. INTERNATIONALISM**

The movement towards political transnationalism or globalism is not simply an extension of traditional liberal internationalism. It is something *qualitatively* different. There is a crucial distinction between internationalism and transnationalism. *Internationalism* denotes relations between sovereign states, hence the term “inter.” Properly understood it does not subordinate the sovereignty of nation-states.

In contrast, *transnationalism* means “across” or “beyond” nations. Transnationalism signifies legal action and authority beyond national laws. It represents an intrusion into the domestic affairs of nation-states including liberal democracies. Supranationalism is more explicit; it means “above or “over” the nation-state.

John Ruggie of Harvard University’s Kennedy School of Government, a former deputy secretary general of the United Nations, explains this departure from traditional liberal internationalism.

Simply put, postwar institutions, including the United Nations, were built for an *inter-national* world, but we have entered a *global* world. International institutions were designed to reduce *external* frictions between states; our challenge today is to devise more *inclusive* forms of global governance.<sup>1</sup>

Today forces promoting global governance represent a significant “driver” or “actor” on the stage of world politics. The global governance movement exerts considerable influence on Western and Westernized elites. This “global governance coalition” encompasses both an ideological core (transnational progressives) and a social base (transnational pragmatists).

Generally speaking it includes: the leadership of the European Union; the top echelons of the United Nations; deans of major American law schools; prominent international lawyers and academic experts in international relations (IR); major U.S. foundations (*e.g.*, Ford, Rockefeller, Mott, Open Society); leading human rights groups such as Human Rights Watch and Amnesty International; officials at international institutions like the World Trade Organization (WTO) and International Monetary Fund (IMF); and executives from major global corporations.

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<sup>1</sup> John G. Ruggie, F. Douglas Gibson Lecture in Political Economy, Queen’s University, Kingston, Ontario, November 20, 2000. Italics in the original.

The global governance project is not a plot to create a “world government.” There is nothing hidden or conspiratorial about the global governance movement and its goals. The globalists’ objectives are found, not in dusty memoranda of “secret” Bilderberg or Trilateral Commission conferences, but on the websites of the United Nations, the European Union, the American Bar Association, Yale Law School, and the Ford Foundation. They are available to anyone with access to a computer. Roughly these goals would involve the creation of more robust global and transnational institutions, rules, and norms, which would compromise the national sovereignty of nation-states.

A primary goal is the establishment of global legalism—the creation of the “global rule of law” superior to all national law. As the current legal advisor to the U.S. State Department and former Dean of the Yale Law School, Harold Koh, wrote: “The transnationalists believe that U.S. courts can and should use their interpretative powers to promote the development of a global legal system...”<sup>2</sup> Further, he states that American “courts must play a key role in coordinating U.S. domestic constitutional rules with the rules of foreign and international law, not simply to promote American aims, but to advance the broader development of a well-functioning international judicial system.”<sup>3</sup> Legal scholar Edward Whelan notes that since American courts cannot change international and foreign law, but only interpret American law, Koh’s reasoning would logically require changing American constitutional law to conform to global law. Hence, global law would be superior to the U.S. Constitution.

Two concepts are crucial to understanding the global governance project: the theories of the *disaggregated nation* and the *postmodern state*.

*The disaggregated nation-state.* Transnational theorists argue that with increasing globalization nation-states are “disaggregating.” This means, for example, that distinct parts of the American government and society (judges, environmental officials, human rights activists) pursue their own particular transnational interests often in conflict with other forces in their own nation and with national sovereignty itself. For example, former Obama State Department official Anne Marie Slaughter wrote that across nations “Judges are building a global community of law.”<sup>4</sup> She argues, “The disaggregation of the state creates opportunities for domestic institutions, particularly courts, to make common cause with their supranational counterparts against their fellow branches of government.”<sup>5</sup> Indeed, this is what occurred in Britain in 1990, when British judges (Law Lords) ruled against the elected British House of Commons and in favor of the transnational European Court of Justice and established European law as superior to British law.

*The postmodern nation-state.* Robert Cooper, a European Union diplomat, has developed the theory of the postmodern state. Cooper posits that nations like the United States, China, and India are modern states that exercise full sovereignty, whereas the states of the EU are “postmodern” states which “pool” sovereignty with other states and accept supranational legal authority above their own national law. The European Union, Cooper tells us, is “a highly developed system of mutual interference in each other’s domestic affairs, right down to beer and sausages.”<sup>6</sup> Thus, the postmodern state is a new type of state and one best suited to an era of global governance.

## FROM WESTPHALIAN SOVEREIGNTY TO PHILADELPHIAN SOVEREIGNTY

Foreign relations specialists regularly refer to the “Westphalian” system, meaning the international order created by the European states with the Treaty of Westphalia in 1648 that ended the Thirty Years war. To curb religious strife, supreme political authority was, henceforth, to reside in the sovereign (monarch, prince) or the national state. Whereas, Europeans have traditionally conceived of sovereignty in Westphalian terms, Americans, historically, have thought of sovereignty as belonging to “We the People of the United States,” the opening words of the Constitution created in Philadelphia in 1787. The American Founders saw sovereignty as something that resided in the people themselves rather than the government or the state. Thus “Philadelphian” sovereignty can be contrasted with Westphalian sovereignty.

Today we are at the beginning of an epic world-wide political and ideological conflict between the forces of global governance (including *disaggregated* elements in democracies) and the liberal democratic nation-state, especially the United States and Israel. We need a new global paradigm. We need to reexamine world politics using bi-focal lenses. One lens must remain fixed on conventional foreign policy issues, but the other should examine the great planetary conflict that is occurring just beneath the surface, between “Globalists” and advocates of “Philadelphian sovereignty.”

Across a broad range of far-flung, often obscure, but nevertheless vital “fronts” a struggle for a new world has begun. This ongoing political-ideological conflict between global governance and democratic (Philadelphian) sovereignty raises a number

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<sup>2</sup> Harold Koh, “Why Transnational Law Matters,” *Penn State International Law Review* 24 (2006), pp. 749.

<sup>3</sup> Harold Koh, “International Law as Part of Our Law,” *American Journal of International Law* 98:1 (January 2004), pp. 53-54.

<sup>4</sup> Anne-Marie Slaughter, “The Real New World Order,” *Foreign Affairs*, September/October 1997, pp. 184-187.

<sup>5</sup> *Ibid.*, p. 196.

<sup>6</sup> Robert Cooper, *The Breaking of Nations: Order and Chaos in the Twenty-First Century* (New York: Atlantic Monthly Press, 2003), p. 27.

of vital questions.

*Who Decides the Rules of War?* The chief prosecutor's office of the International Criminal Court (ICC) is currently involved in collecting information on alleged war crimes committed by U.S. soldiers in Afghanistan. The ICC claims jurisdiction over American troops even though the United States has refused to join the ICC treaty, because the alleged violations occurred in Afghanistan, which is a party to the treaty. The alleged violations of the laws of war are acts (e.g., mistaken killing of civilians) that the United States has never considered as war crimes. The ICC prosecutor said his investigators were getting information from human rights NGOs. Will American human rights lawyers continue to work with the ICC against U.S. soldiers and maintain that their own sectarian definition of international humanitarian law trumps U.S. constitutional law?

*Will democratic Israel be allowed to defend itself?* Transnational progressives who continually pillory Israel's anti-terrorist policies are sophisticated enough to insist that they believe in Israel's right to self-defense. Kenneth Roth, executive director of Human Rights Watch stated that "Of course Israel is entitled to defend itself"<sup>7</sup> but when the Israelis responded to the Hamas terrorists, Human Rights Watch charged the Israel Defense Forces (IDF) with serious violations of the laws of war.

The crucial question is: Who determines the laws of war? The globalists believe that they (the ICC, NGOs, UN Human Rights Council, postmodern states), not the Israelis themselves, should determine the rules by which Israel is permitted to defend itself. For example, Israel (like the United States and India) is not a party to Additional Protocol I of the Geneva Conventions (adopted in 1977). Yet, the IDF is constantly charged by the globalists with violations of "international law," who often cite Protocol I (e.g., failure to warn civilians before an air attack). The globalists (and Islamists) do this even though they know that the principle of "state consent" is at the heart of customary international law and that Israel has not ratified Protocol I.

*What will happen to the European Union's democratic deficit and how will the U.S. respond?*

Even the most ardent advocates of the EU admit it has a "democratic deficit." The core EU institutions are unaccountable to any democratic people. Without a "*demos*," however, there can be no real democracy. Nevertheless, the response of EU elites to the current euro crisis is to attempt to expand Brussels' centralized power and to further restrict democratic decision making within the nation-states. For years, the United States has encouraged the strengthening of EU institutions at the expense of the democratic nation states. As democratic resistance to Brussels grows, will the U.S. foreign policy establishment continue to blindly support further European integration? In other words: will American leaders oppose the re-birth of democracy in Europe?

*Do leading projects of Western elites such as multiculturalism, multiple citizenships and immigrant integration without patriotic assimilation undermine national identity and hence Philadelphian sovereignty?*

Like James Madison in Federalist 49, former Soviet dissident and Israeli statesman Natan Sharansky argued that without robust patriotic attachment, republican (or democratic) self-government will not likely be sustained. Yet, for decades American (and Western) educational elites have "problematized" patriotism. In her Presidential address to the Organization of American Historians (OAH), Linda Kerber declared: "Do we need citizenship? We are embedded in post-national and transnational relationships that may be changing the meaning of citizenship beyond recognition." Professor Kerber suggested that we need new types of "transnational" and "post-national" citizenships with "multiple" memberships.<sup>8</sup>

Has this elite denigration of national citizenship had any effect on the patriotic (not simply economic or linguistic) assimilation of immigrants? Perhaps. A Harris poll conducted for the Bradley Foundation's National Identity project found that whereas 85 percent of native-born Americans consider themselves "more citizens of the United States than citizens of the world (12 percent) —among naturalized citizens only 54 percent considered themselves more American citizens than world citizens (29 percent), with 17 percent of new immigrant citizens "not sure."<sup>9</sup> Immigrants are adept at picking up our culture's signals. What messages have we been sending?

## GLOBAL GOVERNANCE AND THE SUICIDE OF THE WEST

The main obstacle to the global governance project is American sovereignty and all that entails by way of American exceptionalism in politics, culture, religion, economics, national identity, and jurisprudence. The more sophisticated transnationalists know that global governance could only advance under U.S. "leadership." American submission to global authority would have to be voluntary (self-subordination); it could not realistically be imposed by international and transnational institutions such as the UN, EU, WTO, ICC, and the like, or by other nation-states.

<sup>7</sup> Kenneth Roth, "The Incendiary IDF," *Human Rights Watch*, January 22, 2009.

<sup>8</sup> Linda K. Kerber, "The Meanings of Citizenship," *Journal of American History* 84:3 (December 1997), pp. 833-54.

<sup>9</sup> John Fonte, *Sovereignty or Submission: Will Americans Rule Themselves or be Ruled by Others?* (New York: Encounter Books Inc., 2011), pp. 334-336, 374.

Thus, the U.S. leadership class is crucial. The dream of transnationalists (Americans and non-Americans, progressives and pragmatists) is for America to lead the way. America embraces the global governance project as its own; voluntarily agree to “pool” large parts of its sovereignty with others; and demonstrates “leadership” and “engagement” by submitting to supranational global legal regimes. In effect, for the transnationalists, the American caterpillar is transformed into the global butterfly.

The challenge for the globalists is how to sell this to the American people. American transnationalists put forward the argument that expanding global governance is in U.S. interests and consistent with American values in the interdependent world of the twenty-first century. What is needed, they say, is effective U.S. “leadership” to make it happen.

Their argument runs along the following lines: “America may be the predominant power today, but it will not always be so. China and other nations are on the rise and will equal or surpass the United States in the future. Therefore, it is in U.S. interests to establish global rules while America is the strongest state. We should get China and others to “buy into” a system of global authority today, so their elites essentially “internalize” the concept of global governance and are practicing it by the time they become more powerful.

In support of this general line of argument, Anne Marie Slaughter declared: “What goes around comes around, and as other nations grow in power, size, and economic weight, their decisions will increasingly affect us. Principles that could constrain us today may well guarantee our freedom tomorrow.”<sup>10</sup>

Former President Bill Clinton told Strobe Talbott (currently President of the Brookings Institution), “We’re not going to be cock of the roost forever, you know.” Clinton stated somewhat ambiguously that “We must build a global social system” and “a world for our grandchildren to live in where America [is] no longer the sole superpower, for a time when we would have to share the stage.”<sup>11</sup>

Anne Marie Slaughter advocates a “global decision-making process” in which “all nations must have meaningful representation.”<sup>12</sup> [Iran is explicitly included].<sup>13</sup> She writes “If we [Americans] truly believe that all human beings have an equal right to institute governments to protect their rights, then those governments must have the ability to do just that at the global level.” Slaughter insists that applying the principle of “meaningful representation” in global decision making is the “right thing to do” and “also the smart thing to do—serving both our ideals and our interests.”<sup>14</sup>

The argument that global governance promotes American interests and values is deeply flawed on both realist and idealist grounds. Historically, nations act opportunistically, changing when circumstances change, old agreements become obsolete. Even if China (or other rising powers) agreed to cede some sovereignty to global institutions today, what guarantee would the United States have tomorrow that a more powerful China would not change its mind? It is naïve to attempt to establish a stable and peaceful international order on the utopian premise that because the United States agreed to “share” sovereignty when it was the leading power, future world powers will consider such arrangements permanent.

As Charles De Gaulle famously put it “Treaties are like roses and young girls; they last while they last.” *Pace* Anne Marie Slaughter, American self-subordination to “principles that could constrain us today” (e.g., submission to global norms in defense policy) will not “guarantee our freedom tomorrow.” American freedom will never be guaranteed by international agreements and global norms, but by independent military strength, and, most importantly by the will to use it.

Moving from pragmatic and realist arguments to fundamental principles, the idea that global governance is consistent with American values fails completely on moral grounds. The most vital of the “vital interests” of the United States is the preservation and perpetuation of our constitutional democracy. The very purpose of U.S. foreign policy is to ensure the continued existence of the self-government and freedom of the American people.

When American constitutional democracy submits to global authority, our vital interests will have been surrendered. To argue that it is in “our interests and consistent with our values” to subordinate American self-government to non-citizens outside of our constitutional democracy is an oxymoron. It is to argue, in effect, that committing democratic suicide by effectively abandoning government under the U.S. Constitution is “in our interests and consistent with our values.”

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<sup>10</sup> Anne-Marie Slaughter, *The Idea that is America, : Keeping Faith with Our Values in a Dangerous World* (New York: Basic Books, 2007), pp. 104-05.

<sup>11</sup> Strobe Talbott, *The Great Experiment: The Story of Ancient Empires, Modern States, and the Quest for a Global Nation* (New York: Simon & Schuster, 2009), pp. 329-30.

<sup>12</sup> Anne-Marie Slaughter, *The Idea that is America*, p.103.

<sup>13</sup> Anne-Marie Slaughter, “A New World Order,” Foreign Press Center Briefing, April 12, 2004, Washington DC. <http://2002-2009-fpc.state.gov/31320.htm>

<sup>14</sup> Slaughter, *The Idea that is America*, p. 104.

If the forces of global governance are able to establish some form of global authority as they envision it, liberal democracy would be replaced by post-democracy. But, it is highly unlikely that such a utopian vision would succeed on its own terms, particularly since there is little support for “sharing sovereignty” among rising Asian states (China, India) and among other nations such as Russia, Brazil and Turkey. On the other hand, it is entirely possible that globalist ideology and material interests could obtain a critical mass of influence among opinion makers and statesmen in the West (particularly the United States).

If this happens (the globalists achieve ideological hegemony), the result would likely be not the triumph of global governance, but the suicide of liberal democracy, both in the realm of domestic self-government and in the arena of self-defense from undemocratic foes. Thus the global governance project unable to achieve success on its own terms would essentially disable and disarm the democratic state, internally and externally. The suicide process would proceed slowly, almost imperceptibly, much as the democratic states of Europe gradually, over decades, lost more and more sovereignty to the unaccountable institutions of the European Union.

In the final analysis the conflict between global governance and the liberal democratic nation-state is a moral conflict, and the side that seizes and holds the moral high ground will prevail. The conflict raises the oldest issue of politics: Who should govern? The fundamental question beneath this global struggle is: Do Americans (and other free peoples) have the moral right to rule themselves? The globalists say no, sovereignty must be “pooled.” Like the Founding Fathers yesterday, the Philadelphia sovereigntists today, say yes. It is time to prepare for the long struggle ahead.

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