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COMMENTARY
NEW WORLD INFORMATION ORDER SYMPOSIUM

MYRES S. McDOUGAL*

It is a very great pleasure to be with you and to introduce my brilliant young colleague, Professor Lung-chu Chen. We both work in the same idiom; we both have a deep commitment to human rights.

One of my very able students, Ms. Groeschel, has been feeding me books on the New World Information Order for several weeks, but I haven't been able completely to master their content.

I do, however, have a number of questions in mind that I'd like to throw out. I speak as one professionally concerned with International Law in many different areas and with a very deep commitment to the improvement of the protection of human rights. From the point of view of human rights, there can be only one basic concern in our discussion here today, and it is a concern of the utmost importance.

Someone said he didn't know what "information" was. The answer to that is easy. Information is knowledge or enlightenment. Knowledge is contrasted with faith, superstition and illusion. Knowledge requires a whole process of gathering, processing, storing, distributing and consumption of information. It is not a simple matter controlled by four media or a small number of channels. The enlightenment process is a complex of acquisition, clarification and communication.

As I listened to the speeches at this symposium, I began to think how I would organize the discussion to make sense out of it. I felt a little as if I were listening to the blind men touching the elephant. Everyone who touched the elephant at a different place reported a different kind of animal.

I would begin inquiry with a conception of a global communication process or global enlightenment process. First, who are the communicators, the communicatees? The more fundamental, preferred policies must begin with the individual human being. If one has a commitment to human rights, the basic policy must be the greatest production of and the widest access to enlightenment for every individual human being on the globe. This talk about protecting the sensibilities of petty sovereignties is utterly irrational. It makes no sense from any perspective except those of the elites of the petty little sovereignties them-

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selves. It's the individual human being, all individuals, that should be the core of inquiry and the principal concern here.

We need to know more about the demands of the peoples of the world for enlightenment—for understanding, for knowledge. We need to know more about their expectations, their sense of the interactions in contemporary communication and collaboration that transcend the boundaries of nation states. Some people are so brainwashed, they don't know how to make a demand for knowledge. Some people have so little sense of reality that they think that these petty sovereignties can survive modern technology.

Our next question calls for the details about the situations in which all interactions, all this communication and collaboration, occur. The process is global in its reach. One speaker said that certain things were "unacceptable," that he couldn't accept them. He couldn't accept or reject them if he tried. The technology of inquiry and communication has made all concepts of domestic concern, or domestic jurisdiction, utterly irrelevant to anything that is happening in the contemporary world.

Proceeding further in our inquiry, we would want to know what are the resources, the base values, that are available in the enlightenment process. We all know that the resources for enlightenment, for communication, have utterly and completely changed in recent decades. We now have multiple channels of observation and communication; we have multiple channels of education; witness the satellites, the computer technology and electronics.

Turning to the strategies of information gathering, processing and dissemination, equal change can be observed. I do not begin to have the expertise to describe the modalities to you.

The outcomes with which we are concerned relate, of course, to the degree which enlightenment is produced on a global scale and made accessible to every individual human being. If I could, to begin with, offer a realistic description of this global process, our discussion could reflect a little more enlightenment.

In rational inquiry, our next question would be what are the claims that are made to law about this enlightenment process. The New World Information Order, for example, is just a set of claims that are being made by certain national elites for changing the existing structure of regulation. The opposition to a New World Information Order is, similarly, just a set of contraposed claims. As an outsider I do not know, as the claims are so ambiguously formulated, what is being talked about. I'd like to see the details of just what the opposition wishes to preserve or change. Both sets of claims tremendously need clarity.

The next relevant inquiry is as to the decision process to which these claims are being made. This is the whole of International Law, what Professor Chen and I call global constitutive process. But we need to know the details of these demands. It is not clear what features of contemporary process of authoritative decision are sought to be changed.

The suggestion has been made that control by government and control by the market could be equated. This would appear utter irrationality. Control by government has every base and instrument of power at its disposal to stifle and totalitarianize individual human beings. Control by the market depends largely upon the wealth value only. There's a tremendous difference in control that comes from a centralized government and control that comes from bargaining by people who do not dispose of the totality of values and the apparatus of government.

It is sometimes forgotten that enlightenment, like every other value that human beings cherish, is itself a base value. It is extraordinarily important in government. Governments oppress people by depriving them of enlightenment. Enlightenment is important for the development of the wealth process, for the production and distribution of goods and services. It is important for health; it is important for enlightenment itself. The importance of what we are concerned with is that enlightenment affects the degree of achievement of every value that people cherish.

Clearly we need to know more of the details about the present regulation of the global communication process. Some of the papers insist that we do have a high degree of regulation at the present; the New World Information Order isn't quite new. The question is simply, what quality of legal process do we now have to control the transnational gathering, processing and dissemination of information? I know of no comprehensive and realistic description.

With our problem more clearly formulated, what we would require next is some clarification of the more fundamental policies that should guide us in response to the claims for the New World Information Order or in response to those who want to maintain the status quo. The most fundamental policy to begin with is the human rights policy, the utmost freedom of every individual to participate in this process, to produce and receive enlightenment, to participate in the gathering, storing and disseminating of information. Without enlightenment people cannot achieve any of the other values. Hence the right to enlightenment, to communicate, is fundamental.

When we consider the reform of a global legal process, the critical question is: How we can change it to improve the production and dis-

tribution of enlightenment? The notion that petty little sovereignties can for long control and limit the modern technology of communication is sheer delusion.

It is suggested that the South has been deprived by the preexisting information process. This, again, is delusion. Small states have been deprived by the fact that they choose to live by the boundaries their colonial masters imposed on them. It is the irrationality of the contemporary geographic nation-state organization of the world, not the information process, that deprives small states. Any rational changes must cope with the whole global social process and especially its geographic structuring. The notion that parts of the global information process, with its modern technology, can be put under the control of small states defies rationality. For such purposes "domestic jurisdiction" has disappeared and disappeared forever.

It is not my suggestion that there can be no accommodation of the different interests involved in global communications. Somebody said they couldn't compromise. There can be no compromise on fundamental freedom. There is, however, much more than the first amendment of the United States Constitution involved here. The first amendment is just a categorization of one interest. The demand of the individual human being to know, to get knowledge, cannot be compromised. Yet this demand has, for example, to be accommodated with the rights-to-privacy of other individuals. It has to be accommodated further to minimum order on a national or regional or global scale. There are many accommodations that have to be made. Perhaps "compromise" is not the best word when it is necessary to clarify and balance complementary policies.

With an appropriate postulation of the policies about the utmost freedom, privacy and minimum order and other values in relation to specific claims to law, one might be able to recommend accommodations that make some sense. With such a postulation of policies it might be possible to draw upon past experience in securing such policies, to isolate the factors affecting degrees of achievement and to project more rational decisions into the future.

I first came to know Professor Chen a little more than twenty years ago. I was traveling through Taiwan and a young man came over to the hotel to meet me and said he wanted to come to Yale Law School. I noticed his English wasn't too good. He said "Oh, I'll go to Northwestern for a year, then I'll come to you later." So, Professor Chen went to Northwestern for a year, improved his English. He then came on to Yale and took his Doctor's Degree. We have been very warm friends and collaborators ever since. I wrote a very brilliant thousand page book for him on the law of human rights. What more can

one do for his student? I wrote many articles for him. In Taiwan, he was number one in his law school class. He was number one in four thousand in the civil service exam. They gave him a citation suggesting that he would shortly be a cabinet officer if he stayed in Taiwan. But he came to the United States, as I said, and he learned more about freedom. He became vice-president and Minister of Foreign Affairs of Formosa in exile. He spent some years in this activity, as well as writing articles for me. When Mr. Nixon pulled the rug out from under Formosa, he decided permanently to join our country, and he's since become a very distinguished ornament of both Yale Law School and the New York Law School. I introduce Professor Chen with great pleasure.

