

What does it mean to be a “Free Nation”?

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World Constitution and Parliament Association
India Chapter

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What does it mean to be a “free nation”?

The World Constitution and Parliament Association (WCPA), creator and sponsor of the Constitution for the Federation of Earth, affirms that the authority of government, any and all government, arises from the people. The primary function of all government is to represent the common good of the people, since its legitimate authority, or “sovereignty,” refers back to them and derives from them through their continually renewed and on-going consent.

Article 2 of the Earth Constitution states that “The World Government for the Federation of Earth shall be non-military and shall be democratic in its own structure, with ultimate sovereignty residing in all the people who live on Earth” (Martin, ed. 2010). In this essay I will show that (1) the only correct meaning of sovereignty is precisely “all the people who live on Earth,” (2) that national claims to absolute sovereignty are therefore illegitimate, and (3) that a “free nation” is not a sovereign nation (according to the present day skewed definition of sovereignty), but rather, quite the opposite. Finally (4), I will show that the Constitution for the Federation of Earth represents a document that can establish true (legitimate) sovereignty for the nations and simultaneously constitute them as truly free nations for the first time in history.

A truly free nation is one empowered and protected by the genuine rule of democratic law, with a limited sovereign authority derived from the people of Earth, just as a “free human being” is similarly one who is

empowered and protected by the genuine rule of democratic law. A free human being can be called “sovereign” insofar as he or she lives under the rule of democratic laws that are constitutionally limited by specified inalienable rights. Therefore, the individual person is a sovereign “ultimate authority” as to how he or she will live life within the empowering and limiting framework of the rule of law.

The constitution establishes a federation of all nations and peoples of Earth through the creation of a World Parliament, a World Judiciary, and all the institutions necessary for the people of Earth to govern themselves in peace, justice, freedom, and sustainability. World legislation is binding and enforceable overall individual persons on Earth, and from this national governments derive their legitimate political authority to both govern their internal affairs and to democratically participate in the Earth Federation government under the Constitution for the Federation of Earth.

Scholars often date the emergence of the modern system of sovereign nation-states to the Peace of Westphalia that took place in 1648 after the Thirty Years War in Europe. Even prior to that time, however, the concept of the sovereignty of Kings or Emperors was symbolically associated with the idea that they represented the good of the people over which they ruled (Philpott 2001).

Sovereignty means the ultimate authority, the place where debate stops and decisions must be made which make enforceable laws possible (Green 1964; Ingram 2006). How to interpret the application of the rule of laws to specific conflicts or contentions

requires that the law be interpreted by a final authority, an authority that represents sovereignty, a judge or judges with the authority to interpret and apply the law to specific circumstances. That is why all forms of government require not only a Parliament to make laws, and an Executive to administer the laws made by the Parliament, but also a judiciary to interpret and make final decisions that make possible the genuine rule of law, enforceable over all individuals.

Sovereignty means government deriving from the authority of the people and representing their common good. As such, no national government is legitimately sovereign because it derives only from a territorially bounded segment of the people of Earth (Reves 1946). It does not represent all people and therefore is not legitimately sovereign. The holism of humanity, scientifically discovered and confirmed throughout the 20th century, requires that all law be ultimately derived from the sovereignty of the people of Earth. The fragmentation of absolute sovereign militarized national territories violates this principle.

Democratically legislated, executively administered, and judicially enforced laws are what make individual persons free. This is normally constituted within a constitutional framework that specifies the rights of persons that must be respected by government and the limits on the powers of government officials whose one and only mandate is to serve the common good of the people. A democratic constitution is one ratified by the people and structured as to serve the common good of the people. At present, no national constitution on Earth represents the common good of the people of Earth. Our common good and that of future generations (which

includes the rights to peace and a protected planetary environment) is, therefore, structurally denied. The very existence of militarized sovereign nation-states is a violation of the rights and dignity of all humanity and future generations.

The personhood of every human being is a socially constructed. Our personhood is a social product. There is no selfhood or personality prior to our interaction with others. The law institutionalizes this as legal citizenship, specifying rights and duties that make possible life in complex communities. In very small communities, we may interact solely in terms of rules of custom or courtesy that define our behavior and relationships. In any larger community beyond the level of face to face interactions, human freedom is necessarily constituted by enforceable laws, not exclusively by custom and courtesy.

As many jurists and philosophers of law have pointed out, the law is not only criminal law in which some sovereign authority prohibits certain behaviors and punishes transgressors. This aspect of law, of course, also protects and serves human freedom. True democratically legislated criminal law is meant to protect the well-being and independence of citizens from murder, assault, rape, robbery, etc. However, there are also substantial dimensions of civil law and tort law that empower citizens to live their lives with autonomy and dignity, not only protecting citizens from unwanted interference by others but coordinating the common life so as to maximize everyone's freedom equally (Hart 1994; Luban 2007).

Democratic laws under a credible Constitution

also place limits on the authorities, who themselves must obey the rule of law. Its purpose is to empower citizens to be able to live lives that are safe, with their basic needs satisfied, and empowered to pursue goals that develop, evolve, and make possible fulfillment of their aspirations, making human lives meaningful and worthwhile (Gewirth, 1995). The law empowers us to pursue our dreams and ideals, and it helps us secure our attainments (Luban 2007). If we complete a course of study and attain a degree, the law ensures that this attainment is legally recognized and that it cannot be taken away from us. If we go to a doctor or a dentist to maintain the health of our body so that we may continue to pursue the goals we believe worthwhile, the law helps guarantee that the person providing medicine or medical help is qualified and certified. If we purchase a product or a food item, the law helps ensure its quality. If others attempt to interfere with our pursuit of our aspirations, the civil law protects us from many forms of interference and allows us to proceed unhindered toward our goals.

Democratic law is directed toward the empowerment of persons over two dimensions: the economic and social dimension of providing security and other institutions directed to serving economic and social needs such as healthcare, education, social security, decent income, and free access to information and the cultural heritage of civilization. The second dimension is that which the first dimension supports and empowers: the ability of people to make life choices and pursue goals they deem meaningful and worthwhile (Gewirth 1982). These two dimensions together form the purpose of democratic law and both are necessary for meaningful freedom to exist.

The law thus makes us free, and legal citizenship for each person is the foundation of his or her freedom. Then what constitutes a “free nation”? A person who defies the rule of democratic law, who arrogantly insists that he or she is above the law and independent of the law is not a free person, but rather an enemy of both other people’s freedom and his or her own. A person who claims that he or she is above the law is a criminal. Does freedom suddenly become something entirely different when applied to the concept of a nation?

The Westphalian system of sovereign, independent nation-states locked inside of absolute territorial boundaries is a product of fragmented 17th-century thinking, under an atomistic paradigm that had not yet understood the holism of humanity, our planetary system, and the universe itself (Harris 2000). It was only in the 20th century that humankind finally began to fully understand that holism and interdependency comprise the structure of the universe and everything in it. It is now clear that the atomism of the system of sovereign territorial nation-states contradicts the holism and indivisibility of human rights, the holism and dignity of our common humanity, and the fact that sovereignty arises from the people of Earth as a common species and not from any historically conditioned territorial power centers. Legal citizenship, universal human rights, within a framework of democratic law equally enforceable over all individuals is the right and duty of each human person (Kant 1965).

That is why sovereignty must belong to the people of Earth and cannot legitimately belong to any historically conditioned territorial nation-state. Even in the 17th

century, many major philosophical thinkers understood that the sovereign nation-state system was intrinsically a war system. These thinkers included Spinoza, Hobbes, and Locke in the 17th century, Kant in the 18th century and Hegel in the 19th century. At that time, the issue was framed in terms of social contract theory. The social contract (the creation of government over the citizens of a territory) was instituted, according to Hobbes to keep the peace (Hobbes 1963, orig. pub. 1651).

Yet beyond the borders of these territorial islands of legally enforced peace, Hobbes declared that the nation-states confront one another as “gladiators.” In his 1795 essay on “Perpetual Peace,” Kant called this system of militarized sovereign nation-states “savage and barbaric.” Hegel observed these same phenomena in the 19th century. To be in a perpetual condition of war is not to be “free,” but rather to be a slave to fear, insecurity, and action directed toward defense and preparations for defense, rather than to actualizing legitimate life goals. Just as a person who refuses to live under the rule of democratically legislated laws is a criminal, so nation-states claiming no enforceable laws above themselves are criminal organizations at war with the holism of humanity. They violate the very foundation of legitimate law and government. Today, rogue states like Israel, Saudi Arabia, and the United States make this very clear.

It is the same with individuals as with nations. Individuals in a condition where there is no law (which the social contract theorists called the “state of nature”) are not free but rather enslaved by constant fears, constant security concerns, constant arms races or violent confrontations. Hobbes surmised that in

this condition life was “nasty, brutish, and short.” Such individuals cannot pursue their life goals in peace and security. Just as no individual in this condition of anarchy is free, so no nation in this condition of international anarchy is free. To claim that an entity is a “sovereign nation,” (under today’s definition of sovereignty embodied, for example in the UN Charter) is to claim that there is no enforceable laws above the level of national governments.

People mistakenly call a sovereign nation a “free” nation, at least partly because during the colonial era people longed to be free from foreign domination. But when nation-states finally were “freed” from colonial domination, they found out very quickly that they were now enslaved by the fragmented global war system and global economic system: by the World Bank, the IMF, the need for defense, militarism, protection of borders, prevention of terrorism, exclusion of foreigners, and the threat of subversions from internal and external sources (see Klein 2007).

India won its freedom from the British in 1947. Today, it is a sovereign nation but hardly a “free” nation. It is beset by security concerns vis-à-vis its neighbors such as Pakistan and China, in constant fear of terrorism, and unable to deal with the immense slavery and bondage of millions of its citizens because it is part of a global economic system in which wealth moves upward to the rich or to foreign corporations operating in India, and never trickles down to the poorest of the poor. It has been sucked into a nuclear arms race and its freedom to extricate itself from this horror is close to nil because there is no enforceable world law that can disarm any of these nations. The idea of a “free” sovereign nation is

an illusion and simply serves as an ideological mantra for those who benefit from the current “savage and barbaric” system: mostly corrupt politicians, corporate executives, and weapons manufacturers.

A free person is one whose life is empowered and protected by living within a framework of democratically legislated laws under a democratic Constitution for the Federation of Earth. That the Constitution be global is necessarily the case, for the personal freedom of people within militarized sovereign nation-states is severely compromised by war taxes, national security measures, endless spying on the personal lives of citizens, and a general atmosphere of fear and insecurity. The people of the USA, for example, have been forced by their corrupt government to spend some 4 trillion dollars on wars in Iraq and Afghanistan while the people themselves suffer poverty, lack of healthcare, denial of decent education, inadequate social security, and a crumbling infrastructure.

Just as human persons only become truly free under democratic world law, so nations only become truly free under democratic world law encompassed by the Earth Constitution. Freedom means they will no longer have to exhaust their resources in absurd military spending. Freedom means they will be able to provide quality healthcare, education, social security, and infrastructure to all their citizens. Freedom means they can operate their government in security without having to worry about invasion or subversion or even most terrorism (which I have shown elsewhere is largely a product of the militarized sovereign nation-state system). Freedom means they will be able to fully cooperate with others to

protect the planetary environment.

A free nation is a secure nation living in harmony and cooperation with all other nations with ample resources to protect the environment, enhance its cultural creativity and traditions, and truly serve the common good of its citizens, rather than sacrifice that common good to security concerns and an implacable war and terrorism system (see Luban 2003). Peace, social justice, environmental protection, and authentic freedom all go together. War, injustice, environmental destruction, and lack of freedom all go together.

Persons become truly free for the first time under democratic world law and nations will become truly free for the first time under democratic world law. A free nation, like a free person, has a sovereignty that is derivative from, and legitimated by, the sovereignty of the people of Earth. The Constitution establishes a Federation of free nations. Immanuel Kant declared that the world needs a “federation of free nations,” and Mahatma Gandhi called for exactly the same solution to our world anarchy (see Martin 2017). Albert Einstein declared that “a world government must be created that can solve conflicts between nations by judicial decision” (Martin 2018, p. 21). What they envisioned was not some impossible amalgamations of militarized nation-states claiming a sovereignty that recognizes no enforceable laws above itself. What they envisioned was the true freedom that derives from living under constitutionality defined democratic world laws.

A federation of free nations is not some impossible forcing together of so-called sovereign nations in a confederation like the present UN system, recognizing

no effective law above themselves. It is rather a federation in which they are truly united— in which the sovereignty of each is derived from the ultimate sovereignty of all. This is what it means to be free, for both individuals and for nations. We must join our hands, hearts, and minds to ratify the Constitution for the Federation of Earth.

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