Pax Mercatoria: Globalization as a Second Chance at “Peace for Our Time”

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Abstract

This Essay completes a scholarly cycle in which I have defended free trade and international economic cooperation against charges that globalization will harm the environment and drain jobs from the high-wage economies of western Europe, Japan, and the United States. The demolition of geographic and social barriers since the end of the Cold War has delivered not only material wealth but also physical tranquility, political stability, and personal freedom to vast portions of the world’s population. The path to peace lies today, as it did in 1938, not in a retreat to obsolete notions of local sovereignty, but in a commitment to lawmaking on a global scale.
PAX MERCATORIA:
GLOBALIZATION AS A SECOND CHANCE
AT "PEACE FOR OUR TIME"

Jim Chen*

I. CRUZANDO FRONTERAS REALES Y METAFÓRICAS

Europe, no less than any other part of the earth, has known "rivers ancient as the world and older than the flow / of human blood in human veins." In September 2000, as I traveled from the meeting of the European Association of Law and Economics in Ghent to a teaching visit at the Slovak Agricultural University, I had occasion to cross several of Europe’s most historic rivers. Mindful of the lyrical power and metaphorical significance of watery boundaries, I took pains to note the rivers as I crossed them.

One day I awoke in Cologne, on the western bank of the Rhine. Roman Colonia, closer in space and in spirit to Charlemagne’s Aachen than Bismarck’s Berlin, represented the Empire’s concession that its legions could penetrate neither the Rhine nor the Danube. Modern Köln is the largest city in the modern German Land of Nordrhein-Westfalen but not its capital, a distinction that belongs to Düsseldorf on the Rhine’s Teutonic bank. From Cologne I drove the length of reunited Ger-

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3. Walker Percy, The Message in the Bottle: How Queer Man Is, How Queer Language Is, and What One Has to Do with the Other 83, 89-90 (1975); cf. Willa Cather, My Ántonia 6 (Houghton Mifflin 1995) (1918) (“[B]y that time I had crossed so many rivers that I was dull to them.”).
4. See 1 Hugh Trevor Roper, Introduction to Edward Gibbon, The Decline and Fall of the Roman Empire (Alfred A. Knopf 1900).
many into the Länder of Thuringen and Sachsen, past the cities of Erfurt and Weimar, never stopping at what was once one of the world’s bitterest borders. The city of Dresden, roughly halfway between Berlin and Prague and squarely on the axis on which Eastern Europe’s popular uprisings spun in 1989, was preparing to commemorate the tenth anniversary of German reunification. I crossed the Elbe and turned south toward the Czech Republic.

After completing a few chores at the border—presenting my passport, acquiring a Czech superhighway sticker, buying local currency—I took stock of my journey. I had already negotiated both the Rhine and the Elbe, completing between sunrise and sundown a feat that no liberating army accomplished during the Second World War. In symbolic terms, my trip embraced not mere decades, but centuries. My day had begun in Westphalia and would soon end near the site of the Second Defenestration of Prague. Better still, I had also reversed the Thirty Years’ War in a metaphysical sense. In a day filled with border crossings, the notion of the nation-state—the bedrock principle of international law since 1648—had played a trivial role. As I fell asleep near the banks of the Vltava, I realized that the world’s collective “soul has grown deep like the rivers.”

In the recent memory of Eastern Europe’s rivers, from the Vltava to the Vistula and the Volga, September is the cruelest month. Of their own force, the events of September 1, 1939, would merit this distinction. But amid the calm of September 2000, I recalled an even earlier September. On September 30, 1938, eleven months and one day before the outbreak of World


8. Hughes, supra note 2, at 23.
The Second Thirty Years' War entered its final, traumatic spasm where its seventeenth-century counterpart had begun.\(^9\)

Nearly sixty-two years later, the darkest cloud in Europe again hung over the Czech lands. This time, though, the threat stemmed not from Munich—where Oktoberfest had just begun—but from Prague itself. A coalition of antiglobalization activists, hoping to duplicate their success at the December 1999 meeting of the World Trade Organization\(^1\) ("WTO") in Seattle, gathered in Prague to disrupt the September 2000 meeting of the International Monetary Fund ("IMF") and World Bank.

Some symbolic events, like the color purple, are simply so striking that we ignore them at our peril.\(^11\) From Seattle in December 1999\(^12\) to Prague in September 2000, a trail of well-organized protesters taunted the WTO, the IMF, and the World Bank as the unholy trinity of globalization.\(^13\) The most civil voices of this increasingly powerful movement argue that globalization portends "disaster" for "American democracy—to say nothing of social justice throughout the world."\(^14\) As in 1938, global opinion has divided starkly on the proper formula for "peace for our time."\(^15\)

The antiglobalization movement, to put it bluntly, is wrong. Even modest sensitivity to human welfare over time and across contemporary space exposes the remarkable nature of the antiglobalization protests in Prague. In the heart of a country and

11. Cf. Alice Walker, The Color Purple 191 (Harcourt, Inc. 1982) ("I think it pisses God off if you walk by the color purple in a field and don't notice.").
13. In recognition of Hillary Rodham Clinton's election to the United States Senate, I shall refrain, at least in text, from describing the antiglobalization movement as a "vast left-wing conspiracy."
a region that paid dearly when an isolationist West chose "to go home and sleep quietly in [its] beds,"\textsuperscript{16} a group of self-appointed activists quite seriously tried to portray the rules and institutions of international economic relations as the greatest contemporary threat to human welfare and security. But multinational corporations do not belong in the same category as Adolf Hitler. Nor do the core institutions of international economic law, regardless of the extent to which they have facilitated the rise of the global economy, deserve the opprobrium that has hounded Neville Chamberlain since the failure of appeasement. A circumspect world, in the interest of peace, progress, and prosperity, should reject the normative claims of the antiglobalization movement.

This Essay completes a scholarly cycle in which I have defended free trade and international economic cooperation against charges that globalization will harm the environment\textsuperscript{17} and drain jobs from the high-wage economies of western Europe, Japan, and the United States.\textsuperscript{18} The demolition of geographic and social barriers since the end of the Cold War has delivered not only material wealth but also physical tranquility, political stability, and personal freedom to vast portions of the world's population. The path to peace lies today, as it did in 1938, not in a retreat to obsolete notions of local sovereignty, but in a commitment to lawmaking on a global scale.

II. PEACE FOR OUR TIME

Before proceeding further, I hasten to add that I ascribe no real legal or intellectual significance to one traveler's casual observations. Travelogue as academic critique is probably one of the more treacherous forms of scholarship by anecdote.\textsuperscript{19} I also have a confession to make. In earlier scholarship, I suggested that questions of legitimacy, especially constitutional legitimacy,

\textsuperscript{16.} Id.
should take priority over economic questions of efficiency and equity in trade law.\textsuperscript{20} No less than environmental protection or any other enterprise under positive law, legal scholarship is a learning experience.\textsuperscript{21} By the time of the antiglobalization riots of 1999 and 2000, I had come to appreciate that economic efficiency, political legitimacy, and social justice are inextricably intertwined in a world without frontiers.\textsuperscript{22} Once again I must recite the law professor's rueful refrain: "Write today, regret tomorrow, renounce mañana."\textsuperscript{23}

The globalization debate is no casual matter, however, and if I would do it justice, my penance must give way to passion. The "technologically driven expansion of . . . markets well beyond the limits of even the largest national territories and the replacement of markets and hierarchies by relational networks"\textsuperscript{24} triggered "a broad process of restructuring state and civil society."\textsuperscript{25} "Economic globalization stands as an upheaval in the relief map of the political economy on an order comparable to the abolition of slavery and serfdom, or to the Industrial Revolution with its impacts on urbanization and the division of labor."\textsuperscript{26} "The key political arguments of the next few years . . . will all be variations arising from one underlying conflict: the

\begin{footnotesize}
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\item See Jim Chen, \textit{Appointments with Disaster: The Unconstitutionality of Binational Arbitral Review Under the United States-Canada Free Trade Agreement}, 49 \textit{WASH. \& LEE L. REV.} 1455, 1457 (1992) (declining to "dispute the benefits of free trade or of international arbitration" and stating "a belief that economic and political benefits . . . should not color constitutional analysis").
\item \textit{IAN CLARK}, \textit{GLOBALIZATION AND FRAGMENTATION} 6 (1997).
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one between globalizers who want to see the world reshaped in their own image and traditionalists who want to preserve fragments of traditional culture and local independence." The dichotomy defines disputes over trade, political autonomy and sovereignty, cultural identity, and environmental protection.

Globalization’s enemies have enjoyed amazing success in framing the debate. An anarchically inclined branch of the protest movement has established a dominant narrative of American popular culture run amok, genetically engineered food, and Third World sweatshops. A parallel narrative stressing autarky targets free trade, developmental lending, and cooperation among central banks—the very *raisons d'être* of the WTO, the World Bank, and the IMF. These intergovernmental bodies, so the complaint goes, advance the interests of multinational corporations at the expense of rights too precious to be left to the vagaries of the marketplace. The triumph of the new economy


31. See Chen, supra note 18, at 23 (describing the argument against globalization as proceeding along two lines, anarchy and autarky).

32. Cf. Lasch-Quinn, supra note 14, at 593 (demanding “profound deliberation of” and a sharp distinction between “what properly belongs in the market—and what does not”).
over the welfare state has allegedly spurred nations to undertake a ruinously competitive race to the bottom. Labor standards, environmental protection, and cultural identity allegedly hang in the balance. The protest movement denounces globalization as imperialist insofar as it projects the moral values of the United States and the military interests of the north Atlantic alliance.

To be sure, the localists have the easier task. Their strategy is appallingly simple and, from a globalist perspective, simply appalling. Wave the twin banners of "sovereignty" and "autonomy,"33 recount a few anecdotes about corporate excesses,34 accuse all opponents of "neocolonialism,"35 and presto! Globalization becomes public enemy number one. Domestic support for free trade nevertheless remains strong. Americans view the WTO favorably by a two-to-one margin, and three-fifths of unionized American workers favor continued WTO membership.36 (The latter figure is huge in light of American unions' tenacious resistance to free trade.)37 So wide a gap between rhetoric and reality suggests that the legal agenda has been substantially and harmfully distorted.

The conventional case for trade rides on "essentially only one argument."38 That argument, almost entirely economic in


tone, is nevertheless "exceedingly powerful": "Free trade promotes a mutually profitable division of labor, greatly enhances the potential real national product of all nations, and makes possible higher standards of living all over the globe." The economic defense of trade is a variation of the general truism that competition allocates goods and services more efficiently than any other economic condition. Even after nearly two centuries of refinement, the theory of comparative advantage still retains its power. This is the sense in which "David Ricardo was the true winner of the Cold War."

Despite its power, the conventional argument for free trade has failed to persuade its staunchest critics. The antiglobalization arguments made at and since Seattle evidently enjoy some sort of rhetorical advantage. Perhaps the problem stems from the widely held jurisprudential view that civil liberties are not only distinct from but also superior to their economic counterparts.

A rhetorical rescue of globalization therefore lies in some sort of substantially noneconomic set of arguments. I propose to capture the essence of those arguments in a single phrase: _pax mercatoria_. I quite deliberately intend to blend the spirit of _lex mercatoria_ with the legacy of _pax britannica_ and _pax americana_. Since medieval times the law merchant has facilitated commercial transactions that might otherwise be frustrated by deep cul-

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39. Id.
42. CHEN, _supra_ note 17, at 190; cf. PAUL A. SAMUELSON & WILLIAM D. NORDHAUS, ECONOMICS 686 (15th ed. 1995) ("[T]he theory of comparative advantage is one of the deepest truths in all of economics.").
tural, linguistic, and political barriers. In the public sphere, *pax mercatoria* represents the peace dividend that develops when free trade makes nations too busy and too rich to fight. No less than war, peace has its own implicit jurisprudence. Laws fostering globalization, free trade, economic development, and international economic cooperation provide the jurisprudential infrastructure for peace.

Alas, a proposition as broad as *pax mercatoria* eludes easy proof. "Some truths are so basic that, like the air around us, they are easily overlooked." As Bill Clinton told an admiring crowd in Hanoi, globalization "is the economic equivalent of a force of nature" that Vietnam and other developing nations must learn to harness "like wind or water." Globalization thus represents, to borrow a phrase from the elder George Bush, a "new world order." The balance of this Essay will marshal evidence from diverse corners in support of the *pax mercatoria* hypothesis. First, the WTO, the IMF, and the World Bank were consciously designed to keep the peace and remain quite effective in this role. Second, the experience of the United States, the nation that has most aggressively promoted globalization, demonstrates that economic integration affirmatively enhances political well-being across the board, but most of all for the historically downtrodden. Finally, globalization promises to stabilize the least developed countries and countries undergoing the transition from central planning to capitalism.


III. PAX MERCATORIA

A. The Legacy of Bretton Woods

War, needless to say, retards trade.\footnote{51}{See Jim Chen, Filburn’s Forgotten Footnote—Of Farm Team Federalism and Its Fate, 82 MINN. L. REV. 249, 286 (1997).} Although the converse proposition—that trade retards war—may be less obvious, it happens to be the strongest noneconomic argument for free trade. Amid the devastation of World War II, this argument was dispositive. The rules and institutions that govern international economic relations today grew out of a belated understanding that peace cannot flourish in a world burdened by trade barriers. The October 1929 collapse of American stock markets destroyed the twin “cornerstone[s] of German prosperity: loans from abroad, principally from America, and world trade.”\footnote{52}{WILLIAM L. SHIRER, THE RISE AND FALL OF THE THIRD REICH 192 (1959).} By “signing . . . the Smoot-Hawley Tariff Act into law in June 1930,” Herbert Hoover committed the “most disastrous single mistake any U.S. president [ever] made in international relations.”\footnote{53}{Richard N. Cooper, Trade Policy and Foreign Policy, in U.S. TRADE POLICIES IN A CHANGING WORLD ECONOMY 291, 291 (Robert M. Stern ed., 1987).} Retaliatory tariffs helped transform a trade war into actual military conflict;\footnote{54}{Cf Glenn W. Harrison et al., Costs of Agricultural Trade Wars, in MACROECONOMIC CONSEQUENCES OF FARM SUPPORT POLICIES 330 (Andrew B. Stoeckel et al. eds., 1989) (providing a game-theoretic model of retaliatory tariffs). See generally PHILIP FRIEDMAN, THE IMPACT OF TRADE DESTRUCTION ON NATIONAL INCOMES (1974).} the destruction of trade accelerated a deflationary spiral that had begun with major powers’ collective retreat to the gold standard.\footnote{55}{Compare PETER TEMIN, LESSONS FROM THE GREAT DEPRESSION: THE LIONEL ROBBINS LECTURES FOR 1989, at 42 (1991) (blaming interwar reliance on the gold standard for the catastrophic deflation of the late 1920s and early 1930s), with id. at 80-81 (describing the destruction of world trade as aggravating rather than causing a deflationary cycle more properly attributed to bad monetary policy).} The ensuing “major world depression” energized “the nationalists in Japanese politics and paved the way for the electoral victory of the Nazis in Germany in 1932.”\footnote{56}{Cooper, supra note 53, at 291. See generally JOHN H. JACKSON, WORLD TRADE AND THE LAW OF GATT 38-41 (1969).}

When at last military victory seemed within reach, the allies convened at Bretton Woods, New Hampshire,\footnote{57}{To be precise, from July 1 to July 22, 1944, at the Mount Washington Hotel. See Mount Washington Hotel and Resort, at http://www.mtwashington.com/hotel/monetary.html.} to lay the eco-
nomic foundation for postwar peace. The three institutions born of that summit—the IMF, the World Bank, and the General Agreement on Tariffs and Trade (or “GATT”), forerunner of the WTO—received an unequivocal mandate to keep the peace.

By and large, the Bretton Woods institutions have succeeded. Until NATO forces bombed Yugoslavia in 1999, Thomas Friedman’s “Golden Arches Theory of Conflict Avoidance” accurately described international relations after World War II: no two nations with a McDonald’s restaurant waged war against each other. Although the global economy would later destroy one of Bretton Woods’ most ambitious achievements—the system of fixed exchange rates for the world’s leading currencies—this peace dividend remains one of the strongest arguments in favor of free trade.

To be sure, a causal link between trade and peace eludes easy empirical verification. Nevertheless, the Golden Arches hypothesis rests on a sound theoretical foundation. At the simplest level, interaction across borders enhances cross-cultural understanding and reduces xenophobia. Trade’s social and economic effects compound over time. Groups with a stake in the


59. Under the treaty concluding the Uruguay Round of multilateral trade talks, the WTO assumed all responsibilities theretofore exercised by GATT. See WTO Agreement. See generally Kevin C. Kennedy, The GATT-WTO System at Fifty, 16 Wis. Int’l L.J. 421 (1998).


62. Friedman, supra note 5, at 195-98.

63. At least within Europe, this is an idea whose time may have come again.


65. Quite remarkably, the contemporary American left readily accepts “diversity” as a defense of race-based university admissions but evidently rejects an analogous argument in the realm of international relations.
peaceable maintenance of open borders and open markets gain leverage over their parochial counterparts. Wealth decreases the taste for war, just as wealth increases the taste for environmental amenities. Finally, trade appears to be a one-way ratchet: once a country commits itself to the economic specialization implicit in the theory of comparative advantage, reverting to autarky and closed markets becomes prohibitively expensive.

GATT and the WTO are not the sole heirs of the legacy of Bretton Woods. Monetary stability and infrastructural reconstruction, the domains of the IMF and the World Bank, have made no small contribution to peace. Hyperinflation wrecked the German middle class during the 1920s and corroded the bourgeois virtue that ordinarily insulates civil society from extremist politics. Insurance against a recurrence of that episode is chief among the benefits from “international monetary cooperation, exchange stability, . . . orderly exchange arrangements,” and “temporary financial assistance to countries” experiencing an adverse “balance of payments” adjustment. At the core of this stabilizing mission are crisis-defusing “multibillion-dollar rescue packages,” cobbled together before “isolated economic woes in a few countries . . . grow into a global financial crisis.” Although the extent to which the IMF has “foster[ed] economic growth and high levels of employment” is debatable, Weimar-style hyperinflation has in fact all but disappeared from the developed world.

As for direct foreign aid, the tool by which the World Bank pledges to attain “a world free of poverty,” we need look no further than the opposite of Smoot-Hawley. The Marshall Plan was America’s most important and most successful foreign aid


68. See generally D.N. McCloskey, Bourgeois Virtue, 63 Am. Scholar 177 (1994).

69. See International Monetary Fund, at http://www.imf.org/external/about.htm [hereinafter IMF Profile].


71. IMF Profile, supra note 69.

program. Through both world wars and the Cold War, "the United States has consistently shown it is willing to expend its wealth, and even its citizens' lives, to bring peace to Europe." The difference in developmental trajectories between the countries that accepted American aid and those that did not—invariably under Soviet pressure to refuse—almost defies belief. The countries of western Europe went on to establish prosperous, stable democracies. Until the end of the Cold War, their counterparts did not.

Such obvious lessons of history would not bear repeating if they were not so shamefully ignored by today's isolationists. The American right has historically bemoaned almost all foreign aid, conveniently forgetting that the Marshall Plan and its counterparts fostered capitalism and liberal democracy, more or less on the American model, through much of the postwar world. For its part, the left-of-center critique of American-style globalization overlooks the crucial contribution of trade and direct aid in rebuilding western Europe after 1945.

Even after the successive crises of World War II and the Cold War, the Bretton Woods institutions continue to foster the legal conditions that promote orderly development—and deter war. Everything we really needed to know about globalization, we learned at Bretton Woods. This is especially true of the free trade rules that GATT and the WTO have enforced since 1947. Two remarkably simple principles in the original text of GATT laid a secure foundation for international trade law. First, the "most favoured nation" principle of Article I requires GATT members to treat other members no worse than any other state. Second, the "national treatment" principle of Article III requires GATT members to subject domestic producers to the same tax and regulatory burdens as those imposed on foreign producers. At its core, GATT prescribed two golden rules: Do unto others as you do unto others (Article I) and do unto others as you do unto yourself (Article III). Enhanced by the more sophisticated notions that tariffs are the least objectionable of trade barriers and that the community of nations can agree to negotiate tariffs


downward over time, GATT's golden rules formed the kernel of a trade-based charter for world law. Though the 1947 treaty was provisional by design, the decision to adopt the original rules forty-seven years later as the basis for the World Trade Organization confirmed that the original GATT was indeed "a covenant running from [that] generation of [citizens] to us and then to future generations," a charter designed to palliate protectionist passions across the ages.

B. Globalization U.S.A.

It is no accident that the words to this paean on international economic law are drawn directly from the American constitutional tradition. All expressions of public law are intrinsically hopeful enterprises premised on the optimistic expectation "that rational individuals can design and agree to political and social institutions that channel and constrain individual self-interest to the betterment of all." And the public law of the United States, in its broadest jurisdictrional manifestation, befits a process of globalization justifiably described as being of America, for America, and by America.

American constitutional law's strong commitment to freedom of movement for goods and for persons advances personal liberty and political stability. Of the many permutations on federalism, the "oldest question of [American] constitutional law," free trade among the states, may be the most important. The free trade guarantees implicit in the commerce clause, the

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75. See GATT art. II.
78. Cf. McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316, 415 (1819) ("[A] Constitution [is] intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs.").
80. See FRIEDMAN, supra note 5, at 308 ("With the end of the Cold War, globalization is globalizing Anglo-American-style capitalism . . . . It is globalizing American culture and cultural icons. It is globalizing the best of America and the worst of America.").
82. U.S. CONST. art. I, § 8, cl. 3.
privileges and immunities clause, and the import-export and export clauses are perhaps the oldest and most important of American industrial policies. The dormant commerce clause in particular guarantees an American "common market" premised on the "economic interdependence of the States." It ensures that interpersonal and commercial transactions within the United States remain "free from all invidious and partial restraints." "The free trade regime established by the Constitution reduces the influence of protectionist groups. . . , thus promoting both economic growth and accountable government."

The Supreme Court's dormant commerce clause jurisprudence establishes a judicially managed, domestic equivalent of international trade law. The states of the American union must presumptively grant the domestic equivalent of "most favored nation" status and the national treatment privilege to their sister states. America's constituent states "must sink or swim together," for "in the long run [their] prosperity and salvation are in union and not division." Unlike member-states of the WTO, however, American states may not unilaterally retaliate when aggrieved by a violation of the United States' internal free trade


norms. Instead, they must rely either on constitutional litigation or congressional relief.\(^9\) Moreover, the Supreme Court has expressed a willingness to limit the states' role in international economic relations insofar as it acknowledges that "the President's maximum power to persuade rests on his capacity to bargain for the benefits of access to the entire national economy without exception for enclaves fenced off willy-nilly by [the states'] inconsistent political tactics."\(^9\)

In the early American republic, economic crisis supplied the impetus for political union. Under the Articles of Confederation, the newly independent states freely abused property rights and pursued inflationary policies.\(^9\) The states also repeatedly denied Congress the power to regulate interstate and foreign commerce and to replenish the depleted Treasury through duties on imports.\(^9\) The 1787 Constitution's vastly stronger commitment to federalism reflected the framers' determination to reinforce political union through economic integration.\(^9\) American history has vindicated James Madison's belief that the commerce clause was principally "a negative and preventive provision against injustice among the States themselves, rather than . . . a power to be used for the positive purposes of the General Government."\(^9\) Oliver Wendell Holmes, Jr., undoubtedly agreed: "I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that

\(^9\) See id. at 169-71.
declaration as to the laws of the several States."^{96}  *E pluribus unum* and hallelujah.\(^{97}\)

The economic and political integration of the states has advanced the civil rights of Americans. If indeed the framers of the Constitution "split the atom of sovereignty,"\(^{98}\) an invaluable relief valve for political energy lies with maintaining the power of central authorities to check local abuses.\(^{99}\) During the early days of the United States, the few women and slaves entitled to vote supported a strong union among the states because economic and political integration gives rise to complex social structures and liberates groups who would otherwise remain disempowered in simpler, more traditional settings.\(^{100}\) The American polity that was most explicitly born of devotion to localism mercifully "[d]ied of [that] [t]heory."\(^{101}\)

In our time, the implied freedom to trade across state lines has spawned an extensive jurisprudence on the constitutional right to travel.\(^{102}\) Commitment to personal freedom of movement has become an essential element of civil rights in America.\(^{103}\) By contrast, ferocious hatred of upward devolution

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96. OLIVER WENDELL HOLMES, Law and the Court, in COLLECTED LEGAL PAPERS 291, 295-96 (1920).
97. Chen, supra note 51, at 262.
99. See, e.g., U.S. Term Limits, Inc. v. Thornton, 514 U.S. 779, 838 (1995) (Kennedy, J., concurring) (asserting that the federalism envisioned in the original Constitution gave "our citizens . . . two political capacities, one state and one federal, each protected from incursion by the other"); United States v. Lopez, 514 U.S. 549, 556-57 (1995) (declaring the democratic interest in preserving the United States’ "dual system of government" so as not to "obliterate the distinction between what is national and what is local"); Gregory v. Ashcroft, 501 U.S. 452, 458-59 (1991) (arguing that a "healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front"); cf. New York v. United States, 505 U.S. 144, 157 (1992) (stating that the task of confining Congress to its enumerated powers "would be the same even if one could prove that federalism secured no advantages to anyone").
of political power characterizes not only the antiglobalization crusade but also America's militia movement. Once we realize that the extreme left and the extreme right are both willing to resort to violence, the antiglobalization protests at Seattle and Prague can no longer masquerade as paragons of populist virtue. They differ from the 1995 bombing of federal offices in Oklahoma City in intensity, mayhem, and political polarity, but not in kind.

Freedom to travel also has an environmental dimension. Aggressive environmental protection safeguards the freedom of movement by severing decisions to travel or to move from variations in environmental quality. The same Commerce Clause that protects trade among the states enables Congress to address environmental problems that affect multiple states or otherwise impair the movement of goods and persons in interstate commerce. This connection becomes all the more critical in an era of unprecedented constitutional pressure on federal environmental law. Civil liberties of the first order wither when the ordinary citizen "must be afraid to drink freely from his [or her] country's rivers and streams." In this sense, official complicity in environmental degradation violates the international human

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rights norm against "arbitrary . . . exile."  

"[A] cross-the-board globalism" is the best way of coordinating free trade and environmental protection as "complementary" policies. Admittingly, simultaneously advocating free trade and environmental integrity typically earns a deluxe suite at the "very small hotel" that will be hosting the next "global convention of rabid free trade environmentalists." Yet this jarring juxtaposition is unavoidable in a world of falling frontiers. The creation of "transboundary communities" causes "environmental interconnection" and in turn the "inevitabl[e]" abandonment of "localism in all spheres." Strictly localist solutions will not suffice; "haphazard local encouragement" cannot replace coordinated responses to "diffuse, cross-jurisdictional" problems such as mobile source emissions and nonpoint-source runoff.

Environmental integrity as a human right, so central in the localist critique of globalization, is more effectively advanced by free trade than by protectionism. In the absence of clearly defined, consistently enforced trade rules, "environmental standards" rapidly become "especially attractive candidates for disguised protectionism." Standards as vague as multifunctional-

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109. Chen, supra note 17, at 192; see also Daniel A. Farber, Stretching the Margins: The Geographic Nexus in Environmental Law, 48 STAN. L. REV. 1247, 1273 n.192 (1996) (observing that most "[f]ree trade advocates" and "[e]nvironmentalists" unwittingly "accept [globalist] arguments in one sphere," whether economic or environmental, "that they regard as illegitimate in the other").

110. John H. Jackson, World Trade Rules and Environmental Policies: Congruence or Conflict?, 49 WASH. & LEE L. REV. 1227, 1228 (1992) ("[I]ncreasing world welfare can lead to citizen demands and governmental actions to improve protection for the environment.").


112. Farber, supra note 109, at 1271.


ity or sustainability are "far more susceptible to political capture" than specific and transparent environmental measures. Per-
haps no controversy depicts this dynamic as vividly as the transat-
lantic tussle over beef from hormone-fed cattle. One attrac-
tive alternative to parochial, intrinsically protectionist measures
lies in the adoption of uniform global standards. That pro-
ject, however, presumes a continued commitment to integration rather than isolation in matters affecting the global economy
and the global environment.

C. World Party

John Rawls’s difference principle poses one final obstacle. Pax mercatoria is legitimate only if it advances the welfare of society’s least advantaged class. Free trade may promote freedom and environmental quality in a country justly described as “the Michael Jordan of geopolitics,” but what does it promise beyond the shores of the United States? Far from undermining the legitimacy of pax mercatoria, a look at the developing world and at formerly Communist countries confirms the metaphysical


benefits of international economic coordination for nations rich and poor.

Although the exact relationship between political freedom and economic growth remains ambiguous, certain constants have emerged since Bretton Woods. Chief among these is the recognition that neither wealth nor liberty can flourish unless private parties can realistically expect that courts will decide cases according to reasoned law and free of interference from the political branches of government. Rule of law, taken for granted in the United States and its peer nations, remains the sine qua non for development.

Perhaps no element of rule of law is as critical as an independent judiciary. Corrupt or politically captive judiciaries impair development. The kleptocracies that have arisen in the former Soviet Union demonstrate all too clearly how corruption in judicial administration and law enforcement can stunt growth and freedom. By contrast, the restoration of Chinese sovereignty over Hong Kong in 1997 has not drained the wealth from the former Crown Colony. The difference lies in the Chinese government's respect for the independence of Hong Kong's judiciary, however fitfully and grudgingly China honors that pledge.

120. See Adam Przeworski & Fernando Limongi, Political Regimes and Economic Growth, 7 J. Econ. Persp. 51 (1993) (documenting ambiguous empirical evidence of the link between political freedom and economic growth).


On balance, increases in wealth do enhance human rights. Economically vibrant societies tend to adopt and maintain beneficent laws and legal institutions. Through these channels globalization achieves its indirect but positive impact on political freedom. "Globalization is not only the creation of world markets and transnational companies; it also means the extension of justice and democratic values into regions where barbarism still flourishes."

Much work nevertheless remains. Because human beings must secure their physiological needs before they can debate abstract notions of liberty, many politicians and intellectuals in the developing world "espouse the priority of economic and social rights over civil and political rights." For example, Lee Kuan Yew, the former prime minister of Singapore best known as the leading proponent of "Asian values," has argued that "freedom, human rights and democracy do not add up to much" for those who "are hungry [and] . . . lack basic services." Sub-Saharan Africa is another region where "pressing economic and


But pitting civil liberties against economic development is a false dichotomy. Economic development, after all, is also a human right. Reconciling democracy with development fits squarely within the established legal framework for assessing and securing human rights. A sounder view of the developmental dynamic treats wealth as a precondition for rights, not a competitor or a substitute.

Even clear economic successes, however, do not directly advance human rights. Economic progress in developing countries can “foment ethnic envy and hatred” toward an economically dominant but politically disadvantaged minority. Regrettably, much of the world still regards human rights at best as a luxury item and at worst as a badge of Western imperialism. Globalization has not yet realized its “potential to neutralize inequities

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136. See Daniel A. Farber, Rights as Signals (unpublished manuscript). “The Troubles” in Ireland provide tangential support for this proposition. Irish patriot Michael Collins believed wholeheartedly that Ireland would know no peace until it enjoyed economic prosperity independent of Britain’s. See TIM PAT GOOGAN, MICHAEL COLLINS: THE MAN WHO MADE IRELAND 422-23 (1996). The current peace process in Northern Ireland began with the emergence of Ireland as the “Celtic Tiger:” “The question of Protestant or Catholic is giving way to new ones: Visa or MasterCard,? Cash or Charge? Expanding markets and lines of credit breed goodwill toward men... And Ireland’s lively new economy—the Celtic Tiger purring in the Republic—trumps the old begrudgers and hateful rhetoric.” Thomas Lynch, A Hero of Celtic Renaissance, N.Y. TIMES, Dec. 15, 2000, at A29. On the other side of the Atlantic, residents of the world’s largest island understand all too well how economic dependency keeps Greenland within Denmark’s colonial orbit. See James Brooke, Greenland Is Pampered But Ponders Cutting Free, N.Y. TIMES, Nov. 30, 2000, at A7 (suggesting that “[i]f there were oil, independence would come in about a quarter of an hour”).


based on gender and race and to make such factors irrelevant in the calculation of opportunities available for economic advantage."^{139}

Globalization advances democracy not only by raising overall wealth, but also by improving the political climate within nations. The ability of multinational corporations and skilled workers to adopt "fight or flight" strategies encourages governments to adopt transparent policies and to broaden political participation.^{140} Businesses and nongovernmental organizations respond by cooperating with the government to form "transnational epistemic communities."^{141} Even where they are despised as scourges against local businesses, multinational corporations introduce moral values in countries that have yet to realize globalization's full benefits.^{142} At the opposite end of the ideological spectrum, even as unstable governments plunge into kleptocracy and anti-Western terrorists flourish,^{143} nongovernmental organizations have stepped into the resulting power vacuum in order to help police the morals of globalized society.^{144}

Global markets for capital and labor can discipline rogue governments swiftly and effectively.^{145} They do so by carrot and by stick. First, the carrot: "states keep their promises" because "they receive payoffs" within the community of nations "when other states successfully rely on their actions."^{146} Because global

143. See Friedman, supra note 5, at 267-83 (describing the rise of both Russian kleptocracy and terrorists such as Osama Bin Laden).
markets ostracize states that fail to secure and maintain “civilized” status, national governments still tend to pay “lip service” to international law in order if only “to avoid the inference that they are rogue states.” Only “serious intent” to comply with the rules of international monetary cooperation and free trade can secure “good standing in the international economic community.” The global capital markets measure compliance with these norms quite precisely through the “interest-rate premium” that investors “demand for buying developing-country bonds instead of U.S. Treasurys.” In the long run, compliance with globalization’s underlying legal structure fosters an “across-the-board, indivisible obligation to heed the rule of law.” “[R]epeated compliance gradually becomes habitual obedience” as international law “penetrates . . . [local] legal system[s].” Pax mercatoria, in short, becomes domesticated as part of national law.

The primary institutions of international economic law differ only in degree and not in kind from their domestic counterparts. Like national courts, the WTO, the IMF, and the World Bank “limit the flexibility of [domestic] decision makers” even though the Bretton Woods institutions “carry no arms and hold no independent purse strings.” “[I]t must be in the interest of [political] actors who establish such institutions and protect their autonomy to abide by the limits imposed by those institutions.”

Multigovernmental institutions face many of the constraints

147. Id.
150. Simmons, supra note 148, at 360.
154. Id.
that handcuff domestic decisionmakers. Acknowledging this reality all but guts the common complaint that the WTO does not permit, much less welcome, full participation by nongovernmental organizations.155 Vis-à-vis domestic courts, the WTO enjoys no greater leverage over elected lawmakers. If anything, it has far less insofar as the WTO’s only means of securing compliance is its threat to authorize retaliatory sanctions by other nations.156 But protest follows power uphill as surely as water flows downhill. As “power seeps upwards” out of national governments to international organizations, “the attention of interest groups” will follow.157 Interest groups hate the WTO precisely because it is more transparent, because the rules of free trade expose the destructive nature of domestic legislation effecting interest-group transfers.158 Granting standing to nongovernmental organizations before the WTO would gouge the public for the benefit of “a select group of well-monied interest groups,”159 particularly those whose “street demonstrations at the Seattle ministerial meeting” telegraphed their belief that “the WTO has been too successful.”160

IV. BY THE RIVER OF SWIRLING EDDIES161

A. Boom Times in Bratislava

Let us return now to the Czech and Slovak Republics. The frontier between these formerly federated nations represented a real divide circa September 2000. In a development vastly qui-

157. Spiro, supra note 144, at 958.
161. EZRA POUND, THE RIVER-MERCHANT’S WIFE: A LETTER, LL. 16-17 (1915) (“You went into far Ku-to-en, by the river of swirling eddies, / And you have been gone five months”); cf. PETER GABRIEL, Washing of the Water, on Us (UNI/Geffen 1992) (“River, o river, carry me on”).
eter than the Prague protests but ultimately more significant, Slovakia signed an agreement on September 28, 2000, that would enable it to become the thirtieth member of the Organisation for Economic Co-operation and Development (or "OECD").\footnote{162} Ivan Miklos, Slovakia's deputy prime minister, said that this step toward OECD accession "signifies Slovakia's desire and readiness to share the ... market principles and democratic orientation" embraced by the OECD and its members.\footnote{163}

Slovakia has not enjoyed comparable success in its efforts to join NATO and the European Union. Soon after the dissolution of the former Czechoslovakia, Slovakia applied for membership in NATO and the EU.\footnote{164} The Czech Republic, Hungary, and Poland joined the OECD between 1995 and 1996.\footnote{165} In 1999, these countries joined NATO, extending the Western military alliance deep into the heart of the defunct Warsaw Pact.\footnote{166} Slovak membership will come, if at all, in a later wave of NATO expansion that would include Bulgaria, Romania, and Slovenia. The European Union has left Slovakia off its fastest track for membership. The OECD has acknowledged that Slovakia is taking longer to complete the OECD's "Partners in Transition" program for "assistance ... in building the institutions and legal and regulatory structures needed for a market economy" in central and eastern Europe.\footnote{167} The five-year gap between Czech and Slovak accession to the OECD suggests that Slovakia may endure as much as a decade of delayed integration vis-à-vis its central European neighbors.\footnote{168}

This is the price that Slovakia is paying for the instability

\footnote{163. Id.}
\footnote{167. OECD/Slovakia, supra note 162.}
that marred the earliest stages of its independence. "[C]rony politics" in the new republic’s first years made Slovakia “a pariah left out of the first round of NATO expansion and shunned for entry negotiations by the European Union.” 169 Although the “rapidity with which [Eastern Europe’s] Communist regimes had fallen [in 1989] was an indication of fundamental and widespread opposition to the Communist system,” no “consensus [emerged] on what should replace it.” 170 The former Czechoslovakia disintegrated on January 1, 1993, largely because of the political ambitions of one Czech and one Slovak. Vladimír Mečiar wanted to be the founder of an independent Slovak state; Václav Klaus, the Czech economist-turned-prime minister, seized the opportunity to rid the former federation of its poorer Slovak territories. As a result, Czechoslovakia broke in two even though neither the Czech nor the Slovak population had a chance to vote directly on the issue. 171

To this day, one potential source of danger lurks in the legacy of central planning. A growing gap between public and private sector wages in the transitional economies of central and eastern Europe may compromise these governments’ ability to attract new talent, retain skilled employees, and combat corruption. 172 In Slovakia as in the rest of the world, “it is not the mere rise in per capita income . . . that is of greatest importance, but rather the changes in the class and social structure caused by industrialization and urbanization which are most consequential for democracy.” 173

By September 2000, though, more than the proverbial seven years had passed since the Velvet Divorce of 1993. Wireless phones ruled Slovak airwaves, and superstores across Slovakia stocked consumer goods whose variety and abundance were un-

171. See id. at 268-71.
thinkable even one decade before. On what seemed like every corner in Nitra, the same sign suggested that the old dream of multiethnic Mitteleuropa (or stredaevropa, if you prefer the Slovak to the German) had been reborn with a slightly different accent—privátňa jazyková škola. In Košice, U.S. Steel’s US$450 million acquisition of the VSZ steel mill may prove “crucial to re-establishing Slovakia’s credibility with the West and repairing a national image damaged by corruption and crony capitalism.” With OECD membership virtually in hand, Slovak accession to the European Union and full membership within the ranks of developed nations suddenly loomed, not as remote possibilities, but rather as distinct probabilities. Suffice it to say that Slovakia in September 2000 was easing toward pax mercatoria.

B. Never Before Have So Many Been So Wrong About So Much

The antiglobalization movement has made some extraordinary claims. Let us transplant a precept of natural science into this social realm: extraordinary claims demand extraordinary proof. From Seattle to Prague, protesters have argued that the organs of international economic law conspire with multinational corporations to sap national and local governments of legitimate power, to destabilize global security, and to poison workplaces as well as ecosystems. That case has not met even the most generous standard of proof. The antiglobalization movement has failed to refute the following:

Dramatic improvements in welfare at every wealth and income


175. Private language school.


level. Since 1820 global wealth has expanded tenfold, thanks largely to technological advances and the erosion of barriers to trade. The world economic order, simply put, is lifting people out of poverty. According to the World Bank, the percentage of the world’s population living in extreme poverty fell from 28.3 to 23.4% between 1987 and 1998. (The World Bank defines extreme and absolute poverty according to “reference lines set at $1 and $2 per day” in 1993 terms, adjusted for “the relative purchasing power of currencies across countries.”) A more optimistic study has concluded that “the share of the world’s population earning less than US$2 per day shrank by more than half” between 1980 and 1990, “from 34 to 16.6 percent.” In concrete terms, “economic growth associated with globalization” over the course of that decade helped lift 1.4 billion people out of absolute poverty. Whatever its precise magnitude, this improvement in global welfare has taken place because of, not in spite of, flourishing world trade.

The meaning of American victory in the Cold War. The liberal democracies of the north Atlantic alliance decisively defeated their primary political rivals in the Eastern bloc. Capitalism coupled with generous civil liberties crushed central planning coupled with dictatorship of the proletariat. “America, so the world supposes, won the Cold War.” And the world is right.

The true nature of the environmental crisis. The most serious environmental problems involve “the depletion and destruction of the global commons.” Climate change, ozone depletion,

185. Id. at 1.
186. See Global Economic Prospects, supra note 182, at 1, 17.
188. Chen, supra note 17, at 186.
and the loss of species, habitats, and biodiversity are today's top environmental priorities. None can be solved without substantial economic development and intense international cooperation. The systematic degradation of the biosphere respects no political boundaries. Worse, it is exacerbated by poverty. Of the myriad environmental problems in this mutually dependent world, "persistent poverty may turn out to be the most aggravating and destructive." We must remember "above all else" that "human degradation and deprivation . . . constitute the greatest threat not only to national, regional, and world security, but to essential life-supporting ecological systems."

The enhancement of individual liberty through globalization. By dislodging local tyrants and ideologies, globalization has minimized the sort of personal abuse that too often seems endemic to one place, one population. The twenty-first century will witness "people voting with their feet to escape from some village elder’s idea of how to live, or some London School of Economics graduate’s idea of protecting Indian folkways." This changing social reality will undermine the conventional assumption that capital is mobile but labor is immobile. Generations of scholarship on trade and international relations hang in the balance. At the very least we will have to recalibrate existing race-to-the-bottom models and their sensitivity to "giant sucking sounds."

189. See ENVIRONMENTAL PROTECTION AGENCY, SCIENCE ADVISORY BD., REDUCING RISK: SETTING PRIORITIES AND STRATEGIES FOR ENVIRONMENTAL PROTECTION 13 (1990); cf. ESA Oversight, Hearings Before the Subcomm. on Environmental Pollution of the Senate Environment and Public Works Comm., 97th Cong., 1st Sess. 366 (1981) (quoting Edward O. Wilson for the proposition that "the loss of genetic and species diversity by the destruction of natural habitats" is probably the contemporary crisis whose mismanagement "our descendants [will] most regret" and "are least likely to forgive"); E.O. WILSON, THE DIVERSITY OF LIFE 254 (1992) ("I cannot imagine a scientific problem of greater immediate importance for humanity [than the destruction of biodiversity.").


192. Cf. THE FEDERALIST No. 10, at 54, 60-61 (James Madison) (Edward Meade Earle ed., 1937) (urging the creation of a large republic as a public-regarding counterweight to self-serving "faction[s]").

193. McCloskey, supra note 181, at 132; cf. Chen, supra note 17, at 172 ("[I]n America, it is the losers who stay put, who never leave their hometowns in pursuit of education, adventure or opportunity." (emphasis in original)).
Nor has localism propounded plausible solutions to challenges such as food security,\(^{194}\) AIDS and other epidemiological crises, and barriers to full equality for women and children.\(^{195}\) The localist package of autarky, retaliatory protectionism, and isolationism would be catastrophic. It really is a shame that Ralph Nader will probably not be named "the first U.S. ambassador to North Korea," where he could "get a real taste of what a country that actually follows [his] insane economic philosophy—high protectionism, economic autarky, anti-markets, antiglobalization, anti-multinationals—is like for the people who live there."\(^{196}\) The policies preferred by the protesters at Seattle and Prague guarantee penury for most, security for some, and power for an unjustly privileged few. That way runs anew the road to serfdom.\(^{197}\)

One last aspect of the antiglobalization narrative deserves mention. The protest movement’s plea for a return to strict localism cannot be taken at face value. If restoring local sovereignty and ensuring accountability to geographically defined political communities were the primary objectives of the antiglobalization movement, we would be witnessing a wholesale rejection of international law. Human rights law, United Nations peacekeeping, and ambitious multilateral environmental agreements such as the Montreal Protocol,\(^{198}\) the Convention on Biological Diversity,\(^{199}\) and the Kyoto Protocol\(^{200}\) would draw vehement protests as infringements on national sovereignty. The

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United Nations’ Millenium Declaration, issued during the summer of 2000, would have drawn localist protesters from around the world, and Manhattan’s East Side would have resembled the set of “Escape from New York.”

In an ironic reversal of the familiar progressive slogan, the antiglobalization movement thinks locally and acts globally. Much of the protest against globalization treats the WTO, the IMF, and the World Bank as proxies for complaints over “the direction of national government policies,” especially those affecting labor and employment in the developed world. As Justice Harry Blackmun said in a completely different context, the localist complaint “reeks of wages.”

Despite their impressive magnitude, gains from globalization attract scant scholarly notice and even less popular attention. Globalization’s benefits are distributed among too many people and across too much geographic space to compete for attention in an affluent but self-absorbed First World. Why indeed were the demonstrators who swamped the WTO in Seattle “overwhelmingly Anglo?” By contrast, real and imagined job losses from globalization easily captivate a First World populace that sympathizes much more readily with relatively wealthy, media-savvy First World workers than with any group in developing or formerly socialist countries. “If patriotism is . . . the last refuge of the scoundrel, wrapping outdated industry in the mantle of national interest is the last refuge of the economically dispossessed.” And given the human propensity to notice strife over serenity, it hardly surprises that one bad week in Seattle has overshadowed half a century of earnest work toward pax mer-

201. See In Statement by the U.N.: The Need for Balance, N.Y. Times, Sept. 9, 2000, at A4 (resolving to halve by 2015 the populations “whose income is less than $1,” who “suffer from hunger,” and “who are unable to reach, or to afford, safe drinking water”).


204. See, e.g., Michael T. Hayes, Lobbyists and Legislators: A Theory of Political Markets 101-02 (1981) (describing the wealth transfers that government can be expected to effect whenever benefits are concentrated and costs are distributed).

205. Elizabeth (Betita) Martinez, Where Was the Color in Seattle? Looking for Reasons Why the Great Battle Was So White, in Globalize This!, supra note 179, at 74.

catoria. "To attain any genuine measure of social justice on a
global scale, we must eliminate First World localism."207 We
must fight it in the hills, we must fight it in the streets, we must
fight it even in the law reviews.

C. Peace for Our Time (Reprise)

Globalization is "the particularization of the universal and
the universalization of the particular."208 Let us bid farewell to
Neville Chamberlain, the singular but timeless politician whose
misplaced sense of pacifism inspired this Essay's title. By yield-
ing to Hitler's demands at Munich, Chamberlain earned perma-
nent disdain as the architect of appeasement. He did not, as he
had fervently hoped, "come back from Germany to Downing
Street . . . with honour."209

In a broader historical sense, however, his declaration of
"peace for our time" should rank a remote second in notoriety
to another of his pronouncements preceding the annexation of
Czecho-Slovakia. In his radio broadcast to the British people
three nights before the announcement of the Münchner Diktat,
Chamberlain declared it "horrible, fantastic, incredible" that the
Western powers "should be digging trenches . . . because of a
quarrel in a faraway country between people of whom we know
nothing."210 He thereupon erected the ultimate rhetorical mon-
ument to isolationism. The next six years of world war sacrificed
millions upon that altar.211

To this horror the international community has solemnly
responded, "Never again." Absent pax mercatoria, how credible is
that pledge? In its place, what does the antiglobalization realisti-
cally propose?

207. Chen, supra note 18, at 11.
208. ROLAND ROBERSON, GLOBALIZATION: SOCIAL THEORY AND GLOBAL CULTURE
177-78 (1992); accord Fredric Jameson, Preface, in THE CULTURES OF GLOBALIZATION, at
xi, xi (Fredric Jameson & Masao Miyoshi eds., 1992).
210. JOHN W. WHEELER-BENNETT, MUNICH: PROLOGUE TO TRAGEDY 151-52 (1948)
(quoting the Prime Minister's radio address).
211. In fairness to Chamberlain, there is a respectable argument that the year he
bought at Munich proved indispensable in enabling Britain to prepare adequately for
war against Germany. See C.B. PYPER, CHAMBERLAIN AND HIS CRITICS: A STATESMAN VIN-
DICATED 78-79 (1962). The military merits of appeasement aside, the bitter irony in the
description of the events at Munich as "peace for our time" secures Chamberlain's
place in contemporary rhetoric.
The protesters quit have Prague. Let us return. Look back on the river, now that the IMF, the World Bank, and their antagonists evacuated the Czech capital. "[T]he Vltava ha[s] already flowed through the city, leaving behind the glory of the Castle and churches; like an actress after a performance, it [is] tired and contemplative; it flow[s] on between its dirty banks, bounded by walls and fences that themselves bounded factories and abandoned playgrounds."212 Little do passersby "care that a river flow[s] from century to century through their ephemeral city."213 "[T]he sight of the [Vltava's] flow [is] soothing and healing. The river flow[s] from century to century, and human affairs play themselves out on its banks. Play themselves to be forgotten the next day, while the river flows on."

"[H]umankind, in the aftermath of two world wars, has reached a turning point in its history, . . . a new era of global interdependence . . . "215 No man, no woman, no child, no nation is an island. "For you, too, feed the River timelessly. / And few evade full measure of their fate . . . ."216

213. Id.
214. Id. at 170.
215. Berman, supra note 76, at 1621.