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# World Conferences and the Cheapening of International Norms

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## **World Conferences and the Cheapening of International Norms,**

by Anthony D'Amato,\*

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**Abstract:** As long as we understand that world conferences only *address* problems, we will not be disappointed in them. We will only be disappointed if we think that a world conference is supposed to *solve* problems. Is there any point in getting a lot of people together, at great expense, just to address a problem without any prospect of solving it? My answer is a qualified *yes*. A world conference is a cultural artifact. It has an impact upon our collective sense of civilization.

**Tags:** World Conferences, International Norms, Global Environment, Earth Summit 1992

[pg9]\*\* International lawyers and policy wonks enjoy getting together and talking, so it was inevitable that their international conferences would mushroom into world events. The planet's first one manifested itself in Rio de Janeiro in June, 1992—the "Earth Summit." It was proclaimed a resounding success even before it took place. In the succeeding two years, Vienna hosted a World Conference on Human Rights, and Cairo welcomed the Population and Development Conference. Although these world conferences and more that are coming are still a long way from achieving the prominence accorded to soccer and boxing championship events, in our lifetimes we may yet see a world conference featuring as many as three operatic tenors. A good beginning was made for many of us at the Earth Summit, where we were treated to a heavenly concert at Rio's lagoon pavilion under a full moon and stars featuring one of those three tenors—Placido Domingo—and, more importantly, Brazil's great composer, the late Tom Jobin, who for the occasion composed and sang a lovely song about the environment, which I have since been unable to find in any record store. If you can get one, I will trade you a ticket to a forthcoming world conference.

Why is it that an Earth Summit is a less prominent media event than a World Cup? Why does a heavyweight championship fight grip the attention of people all over the world while a Population Conference is lucky to get five minutes of prime time on CNN? Is it because sport is more important than law? Let me answer this question outrageously, and then go on to defend my position. My view is that international sporting events are, compared to international conferences, actually closer to what "law" is all about.

Law, as I see it and practice it, should not have primary importance in the ordering of human affairs. It should be a distinctly secondary phenomenon. It exists only to help people solve their problems fairly and peaceably. The major decisions in life should be made without legal contamination. Law should only intrude when someone's decisions conflict with those of others. We do not really want law to order people's lives; we only want law to step in when there are conflicts that need to be resolved.

Law is rather good at solving problems. It provides standards. Its practitioners are professionally dedicated to serving the interests of justice. A judge, for [pg10] example, should strive to achieve the just solution of controversies. Law plays a part—but not an exclusive role—in determining what justice requires. FN1 A trial is a mechanism for determining the truth by allowing the introduction of evidence that is probative of justice, and excluding evidence that is prejudicial to justice. A trial, like legal procedures in general, is rule-bound.

In these respects law can be compared to sport. Two persons, as in boxing or tennis, or two teams, as in soccer or baseball, compete with each other to determine a winner. They compete fairly, according to a set of neutral and fair rules. Umpires and referees decide whether the rules are observed. In all these respects, a sporting event is analogous to a trial: plaintiff vs. defendant, stay within the rules, and someone wins.

Even sporting events that do not involve opposing teams are analogous to legal determinations. Ice skating and gymnastics, for example, are scored by judges on point systems according to a predetermined set of standards that are known to the competitors. Similarly, a court deliberating an advisory opinion (such as the International Court of Justice) will make its determination according to preexisting legal rules, even if there are no opposing sides represented in the deliberative process.  
FN2

More importantly, law exists for solving problems. Sport also solves problems, but they are exceedingly trivial problems—like who is Number One in college football, who is the best figure skater, who is the heavyweight champion, and which country has the best soccer team. In contrast, law addresses the most important problems of our lives. In terms of the sheer dramatic interest of its subject-matter, a world conference on environment, population, or human rights should have a vast media advantage over an ephemeral sporting event.

This inherent advantage is dissipated, in my opinion, because world conferences are simply not designed to solve problems. They are designed to address problems, but I argue in this essay that that is an entirely different thing. The impetus for the Earth Summit in Rio was a growing conviction that if human beings continue their destruction of the global environment, soon it will no longer sustain human life. The people who descended on Rio in 1992 shared a huge common concern about the continued viability of life on Earth. (Can any boxing match have as much dramatic significance as the question of whether the human [pg11] race will survive?) The conferees were prepared to address the problem of the global environment. Yet the Conference was not set up to solve it, or to solve any part of it. For my part, I doubted in advance of the Conference whether it would settle even a single concrete issue relating to the destruction of the global environment. Yet because I am the sort of thorough-going skeptic who doubts his own doubts, I attended the Conference anyway.

## I.

No one can expect a single conference actually to solve the environmental crisis, but if we have any hope of solving it, the absolute minimum that is required is intellectual rigor and the courage of our informed convictions. I suggest that the structure of the Earth Summit, and of subsequent world conferences, is designed to achieve the exact opposite of intellectual rigor. World conferences are designed to achieve, and in fact do achieve, a unique brand of intellectual slovenliness.

To illustrate, let us cut to a typical meeting at the Earth Summit. I am sitting in a room housing a sub-meeting of a sub-committee on a sub-section of the pollution section of the part of the Earth Summit's agenda relating to environmental degradation. A speaker from Africa spends twenty minutes familiarizing us with agricultural problems back home. She rails against the industrialized world, which has not done enough for her country. She is followed by a scientist from a country in South America, who lectures us on a particular process for recombinant fertilizer that other countries ought to license if they are interested in increasing their crop yields. He is succeeded by the

leader of an NGO who believes it is unfair to blame advocates of the Right to Life movement for causing overpopulation and pollution, because sound methods of contraception and abstinence present a morally preferable alternative to abortion. And so it goes, around the table, each person advocating his or her own highly specific position. A few factual and informational questions are asked, but since everyone wants to get her own position reflected in the committee's final report, there is a kind of tacit agreement not to be too critical of the other speakers. After all, if the meeting were to erupt in accusations, retaliation, and recriminations, the chairperson might summarize the meeting by reporting, "We were unable to agree on anything." Instead, by presenting one's own position, and cordially welcoming all the positions of the other conferees, each group might get its own favorable sentence in the final report.

Sitting there listening to this cacophony, I decided that I could not blame the speakers. After all, they were saying what their respective groups and countries sent them here to say. They were ambassadors of ideas. The mishmash was not in their own ideas (well, not entirely), but in a conference that mixed all their ideas in the same stew. Well, then, why not blame the organizers of the Conference for allocating time to these people? Surely no rational organizer could have entertained the remotest hope that these people could deliberate together to help solve the problem of the global environment. Yet if the organizers did not give these [pg12] people time to speak, there would be no conference, because all the committee meetings in all the rooms all over the conference grounds and throughout the Conference were proceeding precisely like this one.

The main failing, as I reflected upon it, was that no one was willing, and perhaps no one was able, to *prioritize* the discussions. How can you solve even a trivial problem—much less the problem of the environment of the entire world—unless you take it a step at a time, starting with the most important issues and working your way down the list? Yet no one—not the organizers of the Conference, the chairperson at the meeting, or any participant—was willing to prioritize or even discuss the importance of prioritization. To do so would be to invite the wrath of those persons assigned to the lower half of the priority list. And so the Conference proceeded on its merry way with blissful disdain of prioritization. My overall assessment was that this group could not prioritize an orderly exit from the building if a fire alarm went off, much less deal rationally with the ozone layer, desertification, or the depletion of the rain forest. Even if more than a few rational individuals were present at the Conference, collectively they were irrational.

When we use law to solve a problem, we prioritize our arguments. A legal brief begins with its most important argument, then proceeds to the less important ones. An opening argument before a court starts with its most important proposition. Much of what is valuable in law school training is learning how to organize and prioritize arguments. When a client tells an attorney an unruly story, the attorney asks questions designed to elicit the most important points; much of the attorney-client dialogue is an exercise in removing irrelevancies.

But world conferences do not begin with problems; they begin with a list of speakers and topics. The organizers of the Conference make no attempt to prioritize ideas. And no one at the Conference seems concerned with the importance of prioritization.

When ideas are not prioritized, they rapidly attain equality. At world conferences, every idea is believed to be worth hearing, and every idea is given equal time. People would be offended if someone suggested that one idea was better than another idea. For all ideas are born equal and are endowed by their Creator with equal worth. No idea should be stigmatized and labeled as inferior to any other idea. No idea should suffer from invidious discrimination. Equalization of ideas rapidly

transmutes into the principle that each idea is, at bottom, the same as every other idea. To employ for the first time a pun I invented years ago in a boring high school French class: one man's meat is another man's poisson.

But maybe when our sub-committee report is kicked upstairs there might be hope. At a step upward in the hierarchy of the Conference, all the sub-committee reports will be scanned for common themes. Given the widely disparate interests of the speakers, there will be very few common themes, but there will be some. These will be culled, rewritten, and shunted up to the next committee. As the reports ascend the committee structure, the common themes grow fewer and vaguer. Finally, at the apex, the executive board of the Conference gathers all the reports and issues a final position paper on the Conference—a paper that may [pg13] have been drafted prior to the Conference. In fiddling with the draft, the board members do not need to read the underlying reports, although some may do so. For the board already knows what it has to say. It has to say something that pleases everyone and offends no one. The language of its final report must be vague and ambiguous enough so that no group attending the Earth Summit can claim that its position was disregarded by the executive board. Every participant should go home with a measure of satisfaction in the Final Report of the Conference. That measure of satisfaction is critical to everyone's judgment that attending the Conference was not a waste of time. Secure in that judgment, the participants can look forward without guilt to attending the next world conference.

What the executive board came up with in Rio was an ultimate reduction of all ideas and themes and reports into a magical two-word slogan. If someday the human race is wiped out because there is no oxygen left in the atmosphere, or fried to death due to the depletion of the ozone layer, God might look down and draw a little cartoon about the folly of planet Earth. The cartoon should show a now-gray little planet with a tombstone sticking out of it. The tombstone would be emblazoned with the two-word slogan of the Rio Conference: SUSTAINABLE DEVELOPMENT, R.I.P.

Actually, that slogan had been kicking around before the Earth Summit took place. All the executive board had to do was have the requisite wisdom and intelligence to adopt the slogan as the official one for the Conference. Come to think of it, if the board had no wisdom and no intelligence, it would not have had the talent to invent a different slogan, so "sustainable development" would have emerged in that event as well.

Do not get me wrong, it is a terrific slogan. It gives us a standard to live by. We all want development. But we do not want it at the expense of the global environment. So what we really want is sustainable development. But what exactly is sustainable development? Sustainable development, as best I can determine, is development with an adjective in front of it.

Most nations want development. The number of nations that regard themselves as "developing" is much greater than the number of nations that regard themselves as "developed." The developing nations were in the majority in Rio. Their problem was to take an environmental conference and turn it into a development conference. Their inspired solution was to make *development* the noun and *sustainable* the adjective. And to make sure that the slogan was implemented, they invited economists to the Conference.

Economists are characters who, by and large, favor development over all other values. Development means factories, products, bookkeeping, business cycles, and most importantly, jobs for economists. In contrast, ecologists are people who share with economists the prefix "eco," and practically nothing else. To an ecologist the global environment is fragile and endangered, whereas to an

economist it is robust and resilient. How can we bring economists and ecologists together? With the slogan "sustainable development." The Clinton campaign slogan, "It's the economy, stupid!" becomes "It's sustainable development, stupid!" But can a mere slogan actually bring ecologists and economists together? Yes, if [pg14] it is a magic slogan and the Conference is held in Disney World. FN3 All you need is an unshakable belief in the power of magic.

Those who tried to work within the slogan at Rio argued, on occasion, that a given practice was unsustainable. Poor folks, they were actually trying to give some *content* to the slogan to see if it was falsifiable. Immediately they were hit with a barrage of guilt from the developing countries. For example, when ecologists from the developed nations questioned the clear-cutting of the Brazilian rain forest, the answer they received was that the developed countries where the ecologists came from had already clear-cut their own forests, polluted their streams and atmosphere, killed off numerous species, and had grown fat, rich, lazy, and conservative, and now wanted to prohibit others from doing what they did. Weren't people in the developing world also entitled to lead the good life? Dazed from this attack, the ecologists weakly replied: "There won't be any good life for anyone if we lose the oxygen-regenerating resources of the rain forest and no one can breathe any more." Not missing a beat, the developing countries at Rio responded: "A starving Third World family is worried about surviving for the next 24 hours; it is hardly going to be moved by your concern that all the oxygen will be gone in 24 years."

## II.

Perhaps my perspective of the Earth Summit was skewed by my participation in it. Let me turn to the recent Cairo Conference on Population and Development, whose report FN4 I can reflect upon in the tranquillity of prior uninvolvedness.

The population problem that presumably attracted people to Cairo is easily stated. The present world population of 5.6 billion is increasing at a net rate of 86 million annually. According to my Almanac and pocket calculator, this means that each and every year for the foreseeable future we are adding to the human population a net total number of persons equivalent to the present combined populations of New York City, Los Angeles, Chicago, Mexico City, Rio de Janeiro, London, Paris, Berlin, Vienna, Rome, Moscow, Bombay, Melbourne, Beijing, Shanghai, and Tokyo. Do these figures strike you as significant or interesting? If so, you would look forward to what the Cairo Conference had to say. The problem before the Conference, suggested by its very title, was how to achieve economic growth and development in the face of a world population of 5.6 billion, a figure which is annually increasing by 86 million net.

So let's see what the Report has to say about this. The very first thing I note is that Rio's phrase "sustainable development" has insinuated its way into the Cairo Conference without losing a bit of momentum. The first paragraph of the Preamble to the Report of the Conference states optimistically:

[pg15] PREAMBLE 1.1. Never before has the world community had so many resources, so much knowledge and such powerful technologies at its disposal which, if suitably redirected, could foster sustained economic growth and sustainable development. FN5

And like an insistent drum-beat in the background, the phrase "sustainable development" reverberates throughout the paragraphs of the Final Report.

Next we have a modest observation:

PREAMBLE 1.15. While the International Conference on Population and Development does not create any new international human rights, it affirms the application of universally recognized human rights standards to all aspects of population programmes. FN6

This disappoints me. A big conference like that and they do not manage to create even one eent-sy-weentsy human right? For all I know, the human right that they did not bother to create might be one that I desperately need for self-actualization, even though I am unaware of my need for it.

Enough of the Preamble. Let us turn to the Report's Programme of Action. It tells us:

PRINCIPLE 2. Human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature. FN7

I am not surprised by this centrality accorded to human beings. After all, no one invited whales, porpoises, elephants, aardvarks, apes, armadillos, monkeys, chimpanzees, cows, gazelles, giraffes, llamas, leopards, lemurs, pigs, sheep, or tigers to the Conference. If representatives of any of these groups were present at all, they probably appeared as food. We should not be surprised that the conferees would agree among themselves that "human beings" are at the center of concerns for sustainable development.

The next principle is slightly more surprising:

PRINCIPLE 3. The right to development is a universal and inalienable right and an integral part of fundamental human rights, and the human person is the central subject of development. . . . The right to development must be fulfilled. . . . FN8

Why "inalienable"? Shouldn't someone be free to give up her right to development? Suppose a group of people tell the state, "We want to farm here, in the wilderness, and we would like to be left alone." Is the Cairo Conference telling these people that they cannot give up their right to "development," and that, like it or not, factories, roads, pollution, and McDonald's are coming their way so that the state can forcibly fulfill their right to be developed?

Anyway, here is a principle to live by:

[pg16] PRINCIPLE 6. Sustainable development as a means to ensure human well-being, equitably shared by all people today and in the future, requires that the interrelationships between population, resources, the environment and development should be fully recognized, properly managed and brought into harmonious, dynamic balance. FN9

Bravo, but doesn't this sort of thing belong back in the Preamble? What is it doing as part of the *Action Programme*? Just sitting there, fuzzing up the landscape? If we assume for the moment that it *is* part of the action program, then we are entitled to ask what it means. What does it tell us to do? As far as I can see, it requires us to "fully recognize" a basketful of "interrelationships." Wasn't it the responsibility of the Cairo Conference itself to "fully recognize" these "interrelationships?" What gives the Cairo conferees the right to pass the buck to us? They had the fun; why don't they do the work? By what authority do they tell us to fully recognize these interrelationships? Looking back at the sentence just quoted, it appears that the authority is none other than our favorite slogan, "sustainable development." Yes indeed, fresh from its victory in Rio, Sustainable Development has grown a body, sprouted wings, and transformed itself into a World Dictator of Ideas. It has become the highest ideological authority in the world, higher even than the Cairo Conference itself (which is so timid by comparison that it is afraid to create new human rights).

Sustainable Development has given us our orders. It commands us to fully recognize a bunch of interrelationships, properly manage them, and bring them into harmonious, dynamic balance. So our task is cut out for us. All we have to do is figure out what Sustainable Development has in mind. What—just to take the last two words—is "dynamic balance?" If something is balanced, how can it be dynamic?

As we proceed through the newspeak of this Action Programme, I am omitting the countless re-statements of rights and principles culled from numerous international human rights covenants and reworded for the worse. I wish Cairo had just referred to the Covenants by name and left it at that. But no, there is an apparently insatiable desire among participants at world conferences to repeat the sayings of others and improve upon them. If someone has said that something is a "right," the report of the world conference improves it by saying it is an "inalienable right." If something has been said to be part of something else, the Conference calls it an "integral part." If something is a requirement, it becomes an "indispensable requirement." If there is a relationship, it becomes an "interrelationship." If something is just an international human right, it becomes a "universal international human right." Like bad coins driving out the good, bad language at world conferences smothers good language.

One of the things I am looking for is how the Conference handled the issue of abortion. I know from the newspaper reports about the Conference that the Pope and the Islamic nations joined forces to bring anti-abortion pressure on the participants in Cairo. The pressure obviously bore fruit:

[pg17] PRINCIPLE 8. States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health-care services, including those related to reproductive health care, which includes family planning and sexual health. Reproductive health-care programmes should provide the widest range of services without any form of coercion. All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so. FN10

Does this language include the possibility of counseling a woman to have an abortion? Or of providing a doctor in order to perform an abortion? Can we infer that information about abortion may be provided from the phrase "widest range of services?" Later the Report explicitly states that abortion does not come under the heading "family planning":

Para. 7.24. Governments should take appropriate steps to help women avoid abortion, which in no case should be promoted as a method of family planning . . . . FN11

We can readily imagine how governments will respond when asked to take appropriate steps to help women avoid abortion. How do governments help people avoid anything? Easy. Whatever they want people to avoid, they criminalize. FN12

If this were a legal text—such as an international convention—then we might peruse its language to attempt to determine what it says about family planning, FN13 but it is only a text that parodies a legal text. It is for wannabe lawyers who wanna tell governments what to do but are afraid to tell them to do anything they do not wanna do. I would not have been surprised if the provision relating to [pg18] family planning said something like, "All couples and individuals have the basic right of sustainable development with respect to the number and spacing of their children." I mean, we have a real protean phrase—sustainable development—so why not include it here? Then we can leave it to future world conferences to address the question of whether decisions about pregnancy are really decisions about sustainable development.

Anyway, now that we have by implication taken care of the possible conflict between discouraging abortion and discouraging runaway world population growth—i.e., by sidestepping it—we can return to the more general question facing this Conference, which you will recall is how to achieve economic progress and sustainable development in the face of runaway world population growth. The answer is provided in a section of the Report entitled "Integrating Population and Development Strategies." The key language is:

Para. 3.3. Sustainable development implies, inter alia, long-term sustainability in production and consumption relating to all economic activities, including industry, energy, agriculture, forestry, fisheries, transport, tourism and infrastructure, in order to optimize ecologically sound resource use and minimize waste. Macroeconomic and sectoral policies have, however, rarely given due attention to population considerations. Explicitly integrating population into economic and development strategies will both speed up the pace of sustainable development and poverty alleviation and contribute to the achievement of population objectives and an improved quality of life of the population. FN14

Since it is quite a mouthful, let me restate the above in plain language:

Economic activities are good. We have got to keep them happening. The problem is that when economists get together and plan for these activities, they forget about people. This is bad. What we have got to do is sit these economists down and tell them that their plans really should include the population. If they do that, lots of good things will happen. Economic activities will be speeded up, poor people will become rich, the quality of life will improve, and whatever population objectives we might have will be achieved.

Check to see if this isn't what Paragraph 3.3's stilted language really means. We have come down to One Grand Idea. It is even better than Rio's slogan because it is shorter. Rio required two words. The Cairo Conference gives us a single word: people. Somehow all those delegates and gov-

ernments and NGOs in Rio in 1992 had overlooked the people factor. It took another world conference with the word "Population" in its title to give the conference participants the glimmer of the possibility of adding people to the strategy of sustainable development. It is a good thing, too. Just think: if we just had sustainable development without people, what would the sustainable development be for? I do not think the animal kingdom would benefit from sustainable development; they got along much better in the past before it was invented. So we have to look for a different beneficiary. And lo! the Cairo Conference has come up with precisely the right beneficiary: people. Yes, people, just like you and me. Not only that, the Cairo Conference has gone beyond simply telling the sustainable developers that it is [pg19] people who are the ones who should benefit from sustainable development. The Conference makes the additional intellectual contribution that people should also be included in the very strategy of sustainable development itself. Thus, *in addition to* economists, people should participate in sustainable development.

Well, Paragraph 3.3 may have been a mouthful, but there is no doubt that the Cairo Conference has come up with a lollapalooza. It is an idea to live by, a triumph of the collective wisdom of the heads of state, government officials, boards of directors of governmental international organizations, heads of NGOs, international lawyers, and all the other people who went to Cairo in 1994. A simple, yet powerful, idea. From now on, in discussions of the global environment, sustainable development, and population strategies, *we should not forget to include people*.

I could go through the other paragraphs of the Action Programme, but you get the general idea. Oh yes, how about the question with which we began? What are we going to do about those 86 million people added each year to the world's population? All the Final Report says is that we have to take those folks into consideration in our planning. Everyone, plus economists, should take those folks into consideration. The Report does not say whether 86 million people added to the world population every year is a cause for alarm. (The last thing you want to do at a world conference is offend the fathers and mothers of *eighty-six million babies*.) So what about the title of the Conference: The International Conference on Population and Development? Did the title give you the impression that there could be a clash between population and development? If it did, read the Final Report. It assures us that we can have population *and* development. We can do this by taking population into account while we are developing.

### III.

I saw many of my international law friends at Rio, and after the Conference was over, we exchanged observations about it. They told me that the Conference increased their sense of depression about the global environment. I told them that the Conference increased my sense of depression about conferences.

As far as the global environment was concerned, there were probably people at Rio who had sound ideas about what to do about it. There were experts at the Conference, and they represented even more experts back home. What was needed was a sound procedure to bring these experts together and reach a consensus. A series of small, quiet meetings would have been a good way to start. A necessary ingredient would be an overall expert who could prioritize the meeting's agenda. After a couple of months of meeting, the experts could issue a report, an "Action Program."

The wrong way to tackle the problem is to call a world conference; give each expert twenty minutes; add a lot of non-experts, public relations spokespersons, NGO activists, and political leaders;

treat each idea as the equal of any other idea; steadfastly refrain from prioritizing anything; and kick all problems upstairs where they would eventually be "solved" by an executive board that drowns the [pg20] problems in a convoluted report replete with bloated language that simulates legalistic prescriptions.

All this tells us something about those who organize and participate in these world conferences. The organizers and many participants are the kind of people who take great satisfaction in putting in a hard day's work deciding what other people should do. They regard themselves as World Legislators, prescribing a cure for the world's ills by enacting legislation compelling other folks to do certain things. Leaving aside the mildness of their nostrums (such as telling economists that they must from now on take people into consideration), the fact is that they get a kick out of devising and issuing orders for the rest of the world to follow. They spend eight hours in the daytime inventing edicts, and then use the nighttime to socialize, drink cocktails, mingle with fellow legislators, and toast their mutual satisfaction at having contributed to the solution of a planetary crisis.

Looked at existentially, it is not a bad way to spend time. During the day you play Caesar straight. During the night you play Caesar dissolute. Hard work followed by hard fun—or is it hard fun followed by hard fun? "Honey, what did you do today?" asks the voice on the long-distance phone calling one of the participants in Rio. The participant replies: "Nothing much, sweetheart. Saved the world."

At world conferences, problems do not get solved, but lots of legislation gets thrown at problems. The number of problems addressed by the Conference is directly proportional to the vacuousness of the legislation. How many trees had to be clear-cut to provide all the reports that were compiled and distributed at the Rio Conference?

At its best, law is a mechanism for solving problems. Sometimes, when a problem is solved, legislation is needed to extend the solution of the problem to other people similarly situated. Thus, in a domestic context, the best form of government—i.e., the government that governs least—is the one whose legislation is enacted only when absolutely necessary to extend the solution of a problem (reached by a court or by a well-run administrative agency) to the general population.

That is why I say that world conferences are not law-like. They are not designed to solve problems, and they do not solve problems. Rather, they produce a mass of bloated legislation without solving the problems. I suspect that much of this legislation is drafted even in advance of the Conference, perhaps to ensure that it will have nothing to do with the actual solution of problems.

#### IV.

It would be easy to conclude by disparaging the whole idea of world conferences. That would tie up this little essay with a nice red ribbon. But candor commits me to a slightly different conclusion.

What we need is a change in what we expect world conferences to do. Disappointments in life come from having unrealistically high expectations. If we lower our expectations, then we will not be disappointed.

[pg21] Or to put it more personally: I am in no position to advise the United Nations as to how it should organize its conferences. They would not listen to me in any event. I am, however, in a

position to attempt to lower expectations about conferences. So, if you are still reading this essay, it is all about lowering your expectations.

And so I say: We should not expect world conferences to solve problems. This is admittedly hard to do, because they address problems. People attend these conferences because they believe that the conferences will attempt to solve the problems that are addressed. As I have tried to show, the conferences are structurally incapable of solving the problems.

The Earth Summit in 1992 addressed the problem of environmental degradation. The Vienna Conference in 1993 addressed the problem of human rights. The Cairo Conference in 1994 addressed the population problem. As long as we understand that these world conferences only *address* problems, we will not be disappointed in them. We will only be disappointed if we think that a world conference is supposed to *solve* problems.

Is there any point in getting a lot of people together, at great expense, just to address a problem without any prospect of solving it? My answer is a qualified *yes*. A world conference is a cultural artifact. It has an impact upon the noo-sphere—upon our collective sense of civilization.

Addressing a problem at a world conference is a way of promoting *awareness* of the problem, and this is a Good Thing. If lots of people by now are not aware that the global environment is a finite resource, then a conference on threats to the environment could be a Good Thing for those people. I do worry a bit about whether some people who were already aware of the finiteness of the environment before going to Rio might be assuaged by the soothing language of "sustainable development" that emerged. That and many other cheap slogans tend to dull one's senses and reduce awareness.

Judging from the attention given to women's rights, the Cairo Conference undoubtedly helped increase its participants' awareness of the horrible suffering that women have endured, and continue to endure, in many nations. This kind of consciousness-raising is more than enough reason to conclude that the entire Cairo enterprise was worthwhile.

In sum, I believe that the net effect of the Rio and Cairo Conferences was to make more people aware of the major problems of our era. I am encouraged when my friends come back from Rio saying that the Conference increased their sense of depression about the global environment. When the fate of life on Earth is at stake, a dose of depression is a dose of realism.

## FOOTNOTES

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\*\*Number in the format "pg9" etc. refer to the pagination of the original article.

FN1 In my view, law is simply a fact that enters into our calculations of what the just result should be. I have defended this position at length in Anthony D'Amato, *On the Connection Between Law and Justice*, 26 U.C. DAVIS L. REV. 527 (1993).

FN2 Occasionally some of the most fundamental results in sport and in law are achieved in the face of almost evenly split judges. Oksana Baiul won the Olympic gold medal in figure skating with a

microscopically thin judges' edge over Nancy Kerrigan, yet it was obvious to the most casual observer (well, at least to this casual observer) that the competition was not even close—Baiul is perhaps the greatest figure skater of all time. Similarly, as I used to tell my students in Constitutional Law, the remarkable thing about *Near v. Minnesota*, 283 U.S. 697 (1931), was not its result—that prior restraints violate the First Amendment—because one could hardly imagine what freedom of speech would amount to in its absence. Rather, what was utterly remarkable about the case was that it was a 5-4 split decision.

FN3 Looking down at beautiful Rio from the top of Mount Corcovado, it really looked to me like a Magic Kingdom.

FN4 Report of the International Conference on Population and Development, Cairo, 5-13 Sept. 1994, U.N. Doc. A/CONF.171/13 (1994) [hereinafter Report].

FN5 *Id.* at pmb., § 1.1.

FN6 *Id.* at pmb., § 1.15.

FN7 *Id.* at princ. 2.

FN8 *Id.* at princ. 3.

FN9 Report, *supra* note 4, at princ. 6.

FN10 *Id.* at princ. 8.

FN11 *Id.* ¶ 7.24.

FN12 Later in the Report, in paragraph 7.2, we find the qualification that the right to be informed about methods of family planning is trumped by any law any state wants to pass: it speaks of "the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law . . . ." What kind of a right is it that any state can take away by enacting a law? And what about the qualification "acceptable"? "Acceptable" to whom? Not to the men and women, presumably, because if it is a method "of their choice," then we do not need the word "acceptable." I suspect that "acceptable" was put in here to reassure all those nations, cities, towns, and communities who disapprove of abortion and who are afraid that "family planning" might include abortion, that there can be no method of family planning that is not "acceptable" to them. *Id.* ¶ 7.2.

FN13 The language of Principle 8 appears to come down in favor of increasing parental knowledge about reproductive health care and family planning. Indeed, the Report spells it out later in paragraph 7.6: "Reproductive health care in the context of primary health care should, inter alia, include: family-planning counseling, information, education, communication and services . . . ." Then how can the Report, in paragraph 4.23, urge governments "to take the necessary measures to prevent . . . prenatal sex selection . . . ."? How can Principle 8 and paragraph 7.6 on the one hand, and paragraph

4.23 on the other, logically co-exist? The Report does not tell us, perhaps because the Report feels no obligation to be logically consistent or intellectually honest.

FN14 Report, *supra* note 4, ¶ 3.3.