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By Joan Russow and David White

1999 was the culmination of the decade devoted to the furtherance of international law. In reporting about the WTO in Seattle, Thomas Friedman, foreign affairs columnist for the New York Times. appeared to ignore the significance of the international law negotiated at the United Nations in New York.

In his piece “those flat-earth advocates rally senseless in Seattle” *(reprinted* in the Seattle Post-inteligencer he ignored or disregarded years of international law negotiated at the UN in New York.

There appears to be two significantly different existing international regimes. The first, the WTO, NAFTA, GATT, APEC, and FTAA are negotiated primarily apart from the UN. These agreements generally promote vested economic interests. The second, the body of international law negotiated over the 56 years of the United Nations, generally promote the “public trust”. The “public trust” agreements encompass obligations incurred and commitments made to prevent war and conflict and to eliminate weapons of mass destruction; to reduce the military budget and transfer the savings into social programs; to ensure social justice, to eradicate poverty, and to guarantee human rights, labour rights, right to food and housing and civil and political rights; to preserve the environment, to reduce the ecological footprint, to respect the inherent worth of nature beyond human purpose ...

Through the public trust international agreements, the member states of the United Nations have incurred obligations under UN treaties, conventions and covenants; have made commitments under UN conference actions plans and have created expectations under UN General Assembly resolutions.

Unfortunately most states in the developed world proclaim that they have obligations under the vested economic interest agreements and display disregard for obligations and commitments under international public trust law. For example, the United States rarely signs and ratifies international public trust agreements; and Canada signs and ratifies these agreements but fails to implement them domestically. Both countries spurn the International Court of Justice by not recognizing its jurisdiction and when the ICJ rules, they do not comply with its judgments. For example, the NATO states refused to accept the jurisdiction of the ICJ in relation to kosovo; and the United States refused to act on the ICJ decision related to use of US land mines in Nicaragua.

Ironically, Friedman refers to the protesters as being ‘the Flat Earth Society. Who then are the “corporate idealists” who believe in economic growth at any cost unheeded by barriers, with only voluntary compliance with international law? We are now living in the wake of negligence from years of institutional collusion among governments, financial institutions, corporations, academic establishments and the military--negligence resulting from a complete disregard for the public trust.

In two recent United Nations conferences, the Women’s conference in Beijing and the Habitat II conference in Istanbul every member state of the United Nations made a commitment to ensure that corporations including transnationals comply with international law including international environmental law. Friedman states that you change the world when “you get the big players to do the right things for the wrong reasons”. Change will only occur when the so-called “big players”, presumably the multinationals, are prevented from doing the wrong things. Their charters and licences should be revoked for violating human rights, including labour rights, for destroying the environment, for denying social justice or for escalating war and conflict.

Friedman notes that, “because some countries try to use their own rules to erect new walls against trade, the WTO adjudicates such cases”. Much of what Friedman perceives as trade barriers, should be construed as compliance with international law. For example, when states refuse to accept the dumping of toxic and hazardous waste they are acting under the commitment in the Rio Declaration to prevent the transfer to other states of substances or activities that are harmful to human health or the environment. When other states refuse to accept genetically engineered foods, crops or animals or institute a ban on the import of asbestos, they are invoking the precautionary principle which has now, because of its inclusion in years of international and domestic law, become a principle of international customary law.

Friedman claims that he is in favour of higher standards and suggests that the WTO, “may be the vehicle to enforce them but not the main vehicle to achieve them”. The vehicle to achieve them should be the political will of the member states of the UN to comply with the standards emerging from principles extracted from the UN system. The vehicle to enforce them should be the ICJ which could be strengthened by the establishment of an International Court of Compliance where citizens could take evidence of state or corporate non-compliance with international public trust law.

The WTO should be dismantled. 1999 was the culmination of the decade devoted to the furtherance of international law; 2001 must begin the Decade of Compliance with International Law. On November 11,2001, the member states of the United Nations must seriously undertake to sign and ratify what they have not yet signed and ratified, and they must enact the necessary legislation to ensure compliance.

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