

Holding Factory Farms Accountable Through the Power of Communityⁱ

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At last year's factory farm summit, I talked about how the tide of public opinion is shifting against factory farms—for reasons ranging from the inhumane treatment of animals to the spread of antibiotic resistant bacteria. I quoted from meta-studies that cite hundreds of individual scientific reports from highly reputable universities, government agencies, and public institutions documenting a host of negative economic, social, environmental, and public health risks that have been linked to concentrated animal feeding operations or CAFOs. I also quoted from meta-studies that refute the common claims of proponents that CAFOs support rural economies and communities and are necessary to keep domestic food prices affordable and to “feed the world.”

I am not going to repeat any of those themes today. Most of you at this “summit” have been involved in “CAFO battles” long enough to know that we now have more than 50 years of “sound science” and real world experience to support an indictment of factory farming for polluting our air and water, threatening public health, displacing family farms, depressing rural economies, and destroying the quality of life in rural communities. You also know that not only is industrial agriculture failing to provide enough nutritious, healthful food for everyone in the U.S. and has no intention of producing food for the poor and hungry people of the world. The case has been presented and the jury is in; factory farms have been found guilty as charged. The only problem is that the defendant refuses to accept the verdict, and our government officials refuse to hold factory farms accountable for their intentional deceit and irresponsible actions.

My basic message today is that “we the people” must now find ways to work together to hold factory farms accountable. We should do everything we can individually to protect ourselves from the environmental and public health threats posed by CAFOs. However, some things that we must do, we must be do together. It will take communities of like-minded people—communities created out of a common commitment to protect their way of life and shape their future—to hold factory farms accountable for their actions.

I *will* repeat one theme from my presentation at last year's summit. The ongoing national propaganda campaign to defend so-called modern agriculture¹ is little more than a temporary “holding action” against growing public concerns about industrial agriculture in general and factory farms in particular. The “agricultural establishment”ⁱⁱⁱ is simultaneously using their economic and political power to build a “legal fire wall” to prevent effective restraint or regulation of industrial agriculture, including factory farms. They know factory farms would not

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ⁱⁱⁱ The Agricultural establishment includes the large agribusiness corporations, major commodity groups, American Farm Bureau Federation, USDA, and most State Departments of Agriculture and agricultural colleges.

be economically viable if they were held accountable for their negative ecological, social, and economic impacts on rural communities and society in general. Their legislative agenda has grown progressively bolder as public awareness and resistance to factory farming has grown.

The political campaign to protect CAFOs is following the legislative agenda of the *American Legislative Exchange Council* or ALEC—a politically powerful conservative “think-tank.” The ALEC statement of “agriculture principles” begins: “*The proper role of government involvement in agriculture is to limit and remove barriers for agricultural production, trade, and consumption throughout our innovative food system. In developing public policy options... policymakers should recognize that the United States currently possesses the safest, highest quality, and most innovative food system in the world.*”² They go on to quote Thomas Jefferson in a 1787 letter to George Washington: “*Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness.*” This is nothing less than blasphemy, to use Jefferson’s agrarian ideal of the “yeoman farmer” to promote factory farms.

The ALEC agenda is clearly evident is a series of legislative initiatives to “limit and remove government regulations” affecting factory farms. I am not a lawyer and don’t know the full legal ramifications of the specific pieces of legislation. However, the intent of the ALEC agenda is clear. During the 1990s, 13 states passed laws to make it easier for farmers and food producers to sue anyone for libel who criticizes the safety or healthfulness of specific foods or systems of production. These were known as “food disparagement laws” or “veggie libel laws.”³ Even if such cases don’t prevail in court, as with the Oprah Winfrey case, the concern remains. These laws continue to have a chilling effect of potential food critics – including government and university scientists—who might point out the need for further regulation of factory farms.

“Ag-gag”⁴ laws are another example of generic ALEC legislation. At least six states have enacted laws that forbid undercover filming or photography of any activity on farms without the consent of their owner. These laws are targeted specifically to whistle-blower employees who have documented animal cruelty in factory farming operations. Eleven states have already passed legislation banning gestation crates for sows in hog operation and/or cages for laying hens in egg operations.⁵ Legislators in several other states have proposed similar legislation. Some major retailers have vowed to quit buying from producers that continue to use these inhumane production practices.^{6,7} The agri-industry fear is that growing public concern for the welfare of farm animals will lead to more government regulations of CAFOs.

The early “right to farm” laws, beginning in the 1980s, were enacted to minimize the threat to nuisance litigation and prohibitive state and local government regulation of “normal farming practices.”⁸ The early laws seemed justified and relatively benign. The ALEC agenda is to turn the family farmers’ “right to farm” into corporate agriculture’s “right to harm.” Recent laws go far beyond those initial laws by prohibiting effective government regulation of any farming practice or agricultural technology the agricultural establishment deems to be a “normal farming practice” —such as de-beaking chickens and genetic engineering of crops, and obviously factory farming. Some state laws go further to preemptively ban regulation or any *future* farming practice or technology that might be considered common or normal in the future. Some states have encoded the right to farm into their constitutions, which make them much harder to change, and other states are actively considering “right to farm constitutional amendments.”⁹

The most recent “right to farm” laws also limit monetary awards to plaintiffs in successful nuisance suites against CAFOs. An agricultural operation can still be sued by its neighbors, if it creates a “legal nuisance.” However, if neighbors win their law suit, the economic damages awarded by the court cannot exceed the depreciation in market values of plaintiffs’ property and any medical expenses of plaintiffs that can be linked directly to the agricultural operation.^{10,11} Punitive damages may be either prohibited or limited to a percentage of economic damages. More important, once the initial nuisance suit is settled, the factory farm is treated as a “permanent nuisance,” meaning it can continue to operate as usual and cannot be sued again.

Contrary to a Missouri Supreme Court ruling, these new laws essentially give CAFO operations the right of “eminent domain.”¹² Eminent domain grants the right to “take” or diminish the value of another’s private property. It can be granted to corporations or individuals but can be used only to “exercise functions of public character.” Apparently operating a CAFO is now considered a “public service.” Furthermore, eminent domain requires “just compensation,” to be paid up-front—without requiring any legal action on the part of the parties deprived of the peaceful enjoyment of their property. These new laws go beyond the controversial eminent domain powers given to corporations to redevelop slum areas of cities. Contrary to the court ruling, CAFOs are neither economically necessary nor socially beneficial and thus are not of “public character.”

The ALEC agriculture agenda has also emerged in the agricultural political agenda at the federal level. The proposed “Farm Regulatory Certainty Act” would exclude manure from CAFOs from regulations in the U.S. *Resource Conservation and Recovery Act of 1976* and would prohibit private nuisance suits against CAFOs in cases where state or federal legal enforcement action are underway.¹³ In other words, if the state government or federal government is currently in the process of investigating the possibility of imposing a “slap on the wrist” fine on a CAFO operator for a manure violation, neighbors are denied their right to file a legal nuisance suit against the CAFO operator. This federal legislative proposal seems to be part of a strategy to simply exempt agricultural operations from nuisance suits—period.

This and other state and federal exemptions of agriculture from regulation seem to be paving the way for establishing “agricultural zones” where CAFOs can operate without concerns about any form of government regulation or private legal actions by neighbors. For example the *Indiana Land Resource Council* has proposed “Model Agricultural Zoning Ordinances,” based on how “counties in other states have developed their zoning ordinances to minimize conflicting uses and ensure that agriculture remains a strong component of the county's economy.”¹⁴ The agricultural zoning proposals are designed to avoid conflicts between industrial agricultural operations and their neighbors by zoning new “non-farm” residences out of rural areas.

The proposed Indiana agriculture zoning ordinances would establish agricultural zones where new residences are strictly limited to those employed by or otherwise supporting commercial agricultural enterprises. Such zoning eventually would drive current non-farm rural residents out of their homes and into towns and cities due to noxious odors, polluted streams and groundwater, and other potentially dangerous farming practices. Missouri’s *Agri-ready Counties* must “not have any health or zoning ordinances that discourage, limit or restrict agricultural operations.”¹⁵

The 2016 Iowa Right to Farm Law provides for establishing agricultural zones where agriculture would be essentially exempt from all government regulation.¹⁶ Zoning laws actually are needed to protect farmland from commercial and residential development—to preserve enough productive farmland to meet the needs of the future. These new agricultural zoning laws would promote short-run exploitation of farmland for private economic purposes.

Rural areas would become increasingly undesirable places to live and eventually would drive the remaining independent family farmers out of their homes. Organic farms and other sustainable farming operations would be driven out of business by pesticide and GMO pollen drift and polluted irrigation and drinking water. The only people left in agriculturally zoned areas would be low-paid, hired laborers who were willing to work on industrial agricultural operations only because they were desperate for jobs. The wealthy landowners and corporate investors would live elsewhere. Current family farming communities would be turned into agricultural “sacrifice zones,” saturated with agricultural chemical and biological wastes, where corporate agriculture could pollute and plunder at will.

The ALEC political agenda is simply an acceleration of the corporate “economic colonization” of rural America, which has been going on for more than 50 years. Wendell Berry summarized the current plight of rural areas in a recent letter to the book editor of the New York Times: “*The business of America has been largely and without apology the plundering of rural America, from which everything of value—minerals, timber, farm animals, farm crops, and “labor”—has been taken at the lowest possible price. As apparently none of the enlightened ones has seen in flying over or bypassing on the interstate highways, its too-large fields are toxic and eroding, its streams and rivers poisoned, its forests mangled, its towns dying or dead along with their locally owned small businesses, its children leaving after high school and not coming back. Too many of the children are not working at anything, too many are transfixed by the various screens, too many are on drugs, too many are dying.*”¹⁷ The unrestrained industrialization or agriculture is turning our rural communities into rural ghettos. It’s long past time to hold factory farms accountable for what they are doing to rural America.

Thankfully rural people are beginning to rise up and fight back in defense of their communities. As I said at the Factory Farm Summit last year, the most important thing that keeps me fighting the seemingly futile CAFO battles is the people I meet in the process. I have believed for a long time that the future leadership of rural America is emerging from among those who are taking the lead in protecting their communities from the threats posed by factory farming. Perhaps even more important, as I am just beginning to understand, the people who coming together to confront the threat of CAFOs are creating new communities around their common concerns. I am also beginning to see, that in today’s economic and political world, the only power greater than corporate power is the power of people—in community.

I spoke recently at a public meeting in Sterling Nebraska that was organized by a former high school teacher and coach who became concerned about a proposed chicken CAFO. The proposed location was within the zoning limits of the town and thus requiring approval by the town zoning board. At a zoning board meeting, a few days after the public meeting, local residents stood up, one after another, and opposed the change in zoning that would have allowed the CAFO. The person proposing the CAFO, in this case a local resident, was at the meeting.

After numerous thoughtful and factual statements of opposition by his neighbors, he withdrew his rezoning request. It's doubtful that a CAFO will ever be built within the zoning limits of Sterling, NE. Perhaps more important, anyone considering a CAFO will know they must confront a community of people who have educated themselves and are willing to take a public stand against anyone or anything that threatens the future of their community.

Earlier, I had been invited to speak at a public event in Monroe, Wisconsin—where a 5,000 cow dairy CAFO had been proposed. When we entered the historic community meeting hall, I was immediately impressed by the thought the organizers had given to making the entire community feel welcome. There was food, drinks, and entertainment to go along with information, education, and inspiration. The organizers were mostly young farm families who felt threatened by such a large dairy operation moving into their community. They were concerned not only with the health and well-being of their families but also with the future of the smaller independent dairy farms that characterize their farming community. The young farmers and community members were the most effective speakers on the program. After three years, no permit has been issued by the Wisconsin DNR. More important, Monroe, WI now has a community of thoughtful, caring people committed to shaping the future of their community.

More recently, I was invited to speak at a community event in Yankton, South Dakota. My hosts were a couple who had relocated to the Yankton community after establishing successful professional careers. They had moved to enjoy the quality of life of living in a “cottage” on the banks of the Missouri River. Their community was being threatened by a proposal to locate seven CAFOs in the area—promoted by a politically powerful local bank. None of proposed locations were particularly close to their cottage, but the couple understood the risk of Yankton becoming a “CAFO community.” They shared their concerns with their neighbors who quickly came together as a community around their common concern. A pre-conference social event at the cottage was attended by a diversity of people, younger and older, couples and singles, well-to-do and probably not-so-well-to-do. Several people talked about how they had lived near each other for several years but didn't know each other—some had never met each other. Before, during, after the highly successful public event in the town theater, it was obvious that Yankton now has a community of concerned citizens who will help shape the destiny of the area.

In Fayetteville, Arkansas, I was privileged to speak at a public event organized by a different kind of community. The people who attended this event didn't necessarily identify with Fayetteville. The focus of their common concern was a section of the Buffalo River in northwest Arkansas that was the first river to be designated as a National Park. Many people had to fight long and hard to protect the river permanently with the National Park designation. Others in the community were opposed to the park, or anything that might restrict commercial use of the river and surrounding area. The protectors were shocked when their state government approved the construction of a large hog CAFO near a tributary of the Buffalo, just outside the park boundary. The CAFO was built before the opposition could get organized. However, as the well-attended public event and a follow-up coalition building meeting the next day made clear, the Buffalo River Alliance is now a community of informed and dedicated people committed to protecting the Buffalo River—not just for themselves and their community but for all of us.

It only recently dawned on me that what all these communities have in common is that they are all “communities of necessity”—not communities of choice. These people didn’t come together and join forces because they wanted to, but instead, because they felt they had to—to protect themselves and their communities from the threat of factory farms. Rural America once had strong communities, and it would have been difficult to build or operate CAFOs in such communities. It would have been considered socially unacceptable and morally wrong for a farmer to benefit economically at the expense of his or her neighbors. These early farming communities were communities of necessity, but they were also good places to live.

When I was a kid growing on a small dairy farm in southwest Missouri, I lived in a community that was an interwoven network of people who knew each other mainly out of necessity. Most farms in those days couldn’t actually be farmed by a single farmer or farm family. Farming was a community affair. For example, there were crews, some up to forty men and boys, who traveled from farm to farm to fill silos, thresh grain, and put up hay for winter feeding. The men and boys worked hard, but a lot of socializing—horsing around, community building—also took place at these gatherings.

The “farm wives” also renewed their community connections at time of harvest. Several women and girls would gather at the host farms on harvest days to help the host housewife prepare the noon meal for the harvest crews. The farm women also had their individual groups who gathered periodically to make quilts to keep their families warm in winter and to help each other can fruit and make preserves or cut up meat and make sausage on butchering days. The work was often tedious and tiresome but the conversations helped to pass the time.

These networks of necessity were interconnected through local churches and schools. People also visited at the country store and at the barber shop, filling station, and farmers’ cooperative exchange in town. “Giving someone a hand” wasn’t limited helping out emergencies, but was given anytime someone “needed a hand.” These communities, created out of necessity, were communities that not only helped rural people make a living but only gave them a common sense of purpose. This strong sense of community added a sense of meaning and quality to day-to-day rural life.

But “times changed” in Rural America. The industrialization of agriculture removed the necessity for community-based farming. Individually owned field choppers replaced the big silo crews, individual combines replaced big threshing crews, and inexpensive hay balers and handling equipment replaced haying crews. Farmers were free to harvest their own crops whenever they choose, rather than wait their turn to be helped by the big crews of neighbors. Modern kitchen conveniences also eliminated the need for farm wives to share housework.

Social circles in farming communities began to narrow and narrowed further as farms grew larger and surviving farmers became fewer. When new people moved into rural areas, most people didn’t bother to get to know their new neighbors because they “didn’t need to.” Rural communities eventually became a lot like cities—with people not only not knowing, but not really wanting to know, their neighbors. However, many people in rural, and urban, America are beginning to awaken to what they have sacrificed in the name of independence and economic efficiency.

The threat of factory farms or CAFOs moving into a rural community has proven to be a powerful motivation for people to think about what they have lost and are about to lose—if they become a CAFO community. People are also beginning to understand if they are going to protect themselves from the threats of CAFOs, joining forces with neighbors to regain the power of community is not just an option, it is an absolute necessity.

Margaret Wheatley, a leading thinker on institutional and cultural change recently identified three major trends in American society: First, “*A growing sense of impotence and dread about the state of the nation,*” second, “*The realization that information doesn’t change minds anymore,*” and third, “*The clarity that the world changes through local communities taking action—that there is no greater power for change than a community taking its future into its own hands.*”¹⁸

I agree with Wheatley. First, I think the prevailing mood in rural America today is one of “impotence and dread.” When we see the continuing proliferation of CAFOs—hogs, chickens, and dairy—in spite of all of our efforts to stop them, it’s easy to become frustrated and depressed. When we see the agribusiness corporations and the agricultural establishment flex their economic and political power to protect factory farms from legal accountability, it challenges our faith in the “power of the people” as the ultimate power in our democracy. Sometimes we seem powerless and the situation seems hopeless.

Second, I agree that information no longer changes minds. We now have more than 50 years of “sound science” and real-world experience that confirms the negative environmental, social, and economic impact of CAFOs on rural communities. The objective, unbiased scientific community has spoken. It doesn’t seem to matter. The agricultural establishment just uses their economic and political power to create “their own facts.” Many government institutions and public agencies accept their “alternative facts” to continue to promote CAFOs. The general public doesn’t know who to believe. Information no longer seems to even matter. We must continue to collect and quote facts to support our decisions and actions; we just can’t expect information to change minds.

So where is the hope for the future of rural America? The hope is in the *clarity that the world changes through local communities taking action*. When do communities take action? Whenever they are forced to defend themselves against nature—windstorms, floods, fires—or whenever they feel compelled to defend deeply held social and ethical values. *Honesty, fairness, responsibility, compassion, and respect!* “These five core ethical values are common to many cultures, regardless of race, age, religious affiliation, gender, or nationality,” according to the Institute for Global Ethics.¹⁹ The arrogance and indifference in the location, operation, and lack of regulation of factory farms, violates every one of these core ethical values. The realization of this disregard for the values of basic human decency compels local communities to take action.

To change the balance of economic and political power, as we must to hold factory farms accountable, people in their local communities must feel compelled to take action in defense of their core personal and community values. That’s the way change always happens; one person, then another, and another... one community, at a time. One person can’t change the balance of

power at the local level, but a small community of committed people can. It doesn't take a lot of people to pressure local elected officials to do all they can to hold factory farms accountable for their actions. If they refuse, the local community can replace them as soon as the next election.

A single community cannot change the balance of power in state legislatures that is needed to pass laws or implement regulations to hold factory farms accountable, but a coalition or alliance of local communities can. The new communities of necessity can link with other new communities to form "community alliances of necessity" with a common commitment to holding factory farms accountable. These alliances can include the older, established nonprofit organization that have been fighting for environmental protection and social justice over the years—Food and Water Watch, The Sierra Club, The Farmers Union, Humane Society of the US, and Iowa Citizens of Community Improvement, to name a few. These organizations have the funds and political knowhow to lobby state and federal legislators for change. However, they lack the political credibility or constituent standing that alliances with grass-roots local community groups can provide. The communities and organizations in these alliances need not agree on every issue or strategy, as long as they give priority to their commitment to hold factory farms accountable.

The *ultimate* objective of these new communities and alliances must be to change the balance of public opinion—from a preoccupation with short-run economic exploitation to a commitment to long run ecological, social, and economic integrity. Change in laws and regulations will be meaningless unless there is a public consensus to support the demands for new laws and regulations that hold factory farms accountable. Politicians and bureaucrats don't lead, they follow. They change when their constituents demand change. The good news is that we are winning the battle for public opinion, even when we lose individual battles. The major newspapers and mass media are filled with stories condemning factory farms for their irresponsible actions. They publish stories of public interest, stories they know people will read.

Individuals and organizations in the new community alliances need to understand that each local resistance action or political confrontation is not only an opportunity for victory but is an opportunity to awaken public opinion to the necessity for fundamental change. Each local battle also is an opportunity to strengthen alliances within and among local communities and advocacy organizations. State alliances can connect with other state alliances and evolve into national alliances. Perhaps a comprehensive legislative agenda, such as the ALEC agenda, can be developed to hold factory farms accountable at state and federal levels. That's the way change happens and the way meaningful laws and regulations change.

I wish this was going to be a quick and easy process, but it's not. The economic and political power of the corporate, agricultural establishment is formidable and their defenders are well funded and organized. The personal relationships and commitments essential for empowered local communities are inherently difficult to form and to sustain. We Americans also have a long history of striving for self-reliance and independence that it is difficult to admit that we also need to rely on each other. That said, we also have a long history of coming together whenever it has been essential to do so. That's the reason we Americans still value the "ideal" of community.

Perhaps the community of my youth is an agrarian myth or “ideal”—that never really existed. But if so, no more so than the “ideal” of the American Democracy. Regardless, these are “ideals” we must continue to strive to achieve. Our democratic “ideal” is embodied in our unalienable rights of “life, liberty, and pursuit of happiness.” In individual liberties tempered by social justice for all. In democracies, we hold each other accountable for our actions. The “ideal” of a community is a place where people make a living, tempered by strong social and ethical values—people hold each other accountable.

We need not continue to live with the sense of “impotence and dread.” Information may not change minds, but “ideals” can change minds. It may not be quick or easy, but together, as caring communities, we have the power to hold factory farms accountable. Equally important, our relationships formed out of necessity will evolve into relationships of choice. We will discover that caring for each other in our local communities and taking care of our little piece of the earth is a fundamentally better way of life. “*There is no greater power for change than a community taking its future into its own hands*”—the power of community.

End Notes:

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- ¹ Kari Hamerschlag and Anna Lappé, “Spinning Food,” Friends of the Earth, <http://www.foe.org/projects/food-and-technology/good-food-healthy-planet/spinning-food#sthash.8Xhj3lqt.dpuf> .
 - ² ALEC, “ALEC Agriculture Principles,” <https://www.alec.org/model-policy/alec-agriculture-principles/> .
 - ³ Wikipedia, “Food Libel Laws,” https://en.wikipedia.org/wiki/Food_libel_laws#Notable_cases .
 - ⁴ Wikipedia, “Ag-Gag,” <https://en.wikipedia.org/wiki/Ag-gag> .
 - ⁵ ASPCA, Public Policy, “Farm Animal Confinement Bans by State,” 2017, <https://www.asPCA.org/animal-protection/public-policy/farm-animal-confinement-bans> .
 - ⁶ Humane Society of the U.S., “Crammed into Gestation Crates,” http://www.humanesociety.org/issues/confinement_farm/facts/gestation_crates.html .
 - ⁷ The Huffington Post, Cage Free Eggs, <http://www.huffingtonpost.com/news/cage-free-eggs/> .
 - ⁸ Wikipedia, “Right to Farm Law,” https://en.wikipedia.org/wiki/Right-to-farm_laws .
 - ⁹ Missouri Constitution, Article I , Bill Of Rights, Section 35, November 14, 2016 <http://www.moga.mo.gov/MoStatutes/ConstHTML/A010351.html> .
 - ¹⁰ Ed Cox, MOIAFarmLaw.com, Agricultural Law for Iowa and Missouri, <http://moiafarmlaw.com/missouris-right-to-farm-law-held-constitutional/> .
 - ¹¹ National Agricultural Law Center, “States’ Right to Farm Laws- Iowa,” 2016, <http://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/iowa.pdf> .
 - ¹² The Free Dictionary, “Eminent Domain,” <https://legal-dictionary.thefreedictionary.com/eminent+domain> .
 - ¹³ Congress.gov, H.R. 848. Farm Regulatory Certainty Act, <https://www.congress.gov/bill/115th-congress/house-bill/848> .
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 - ¹⁵ Missouri Farmers Care, “Agri-ready Counties, Open for Business,” <http://mofarmerscare.com/agri-ready/> .
 - ¹⁶ National Agricultural Law Center, “States’ Right to Farm Laws- Iowa,” 2016, “Purpose,” <http://nationalaglawcenter.org/wp-content/uploads/assets/righttofarm/iowa.pdf> .
 - ¹⁷ Wendell Berry, “Southern Despair,” New Your Times Review of Books, Reply to Nathaniel Rich, <http://www.nybooks.com/articles/2017/05/11/southern-despair/> .
 - ¹⁸ Margaret Wheatley, “Big Learning Event,” University of Wisconsin, Madison, <http://www.margaretwheatley.com/articles/Wheatley-The-Big-Learning-Event.pdf> .
 - ¹⁹ Institute for Global Ethics, “Fast Facts,” <https://www.globalethics.org/Who-We-Are/Fast-Facts.aspx> .