



Department of Political Science

Chair of Political Philosophy

Escaping Westphalia - Possible Integration
Pathways

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INTRODUCTION

«Conventional wisdom holds that we lack the effective international cooperation we need to meet transnational challenges. Contemporary global governance has been called 'unfit for purpose,' in a state of 'permanent deficit' and increasingly “gridlocked”». ¹

The Westphalian system established in 1648 transformed territorial entities into sovereign states. This characteristic that defines countries is impeding progress and practical cooperation. We are said to live in a state of global anarchy, but the United Nations Security Council established a hierarchy between countries. Indeed, the United States, the United Kingdom, France, Russia, and China enjoy special powers in international security matters. The ability to veto resolutions provides a further tool to protect personal interests and escape global coordination.

As we acknowledge, the world rests on a precarious balance between opposing forces. After World War Second, we decided to put cooperation and brotherhood over nationalism and statehood. Unfortunately, the basis of this collaboration is insufficient and leaves space for corruption, illegality, violence, and injustice. Sovereign territorial countries are free to violate international norms and are not bound to consent over issues that transcend physical borders and enclose multilateral consequences.

When assembling the structure of the UN, states transferred part of their sovereignty to become members of the International Community. However, the United Nations' decision-making powers are minimal. In short, the UN can suggest policy resolutions, make legal provisions, and influence the actions of non-complaining member states by imposing economic sanctions, but, in practice, its enforcement mechanisms are far from complete. To furnish some striking examples, the UN could not force the US to sign the Paris Agreement under Trump's administration, stop the US from attacking Afghanistan

¹ Thomas, Hale. David Held et al. Beyond Gridlock. Cambridge: Polity Press, 2017

after 9/11, obligate Russia to act by its obligations under the INF treaty, or prevent the Russian invasion of Ukraine under Putin's infinite mandate. Why? Because each Member State makes the UN, and if the UN pushes countries too much, there would be no UN. The UN funds mainly come from participating states, so there is no real space for free movement and efficient functioning of the international institution. Russia already tried to shift the nuclear balance in 1962 and is doing the same now. They were jeopardizing the US then and Europe at this very moment. Basing our security on military force means living in peace because of threats of violence, which is quite paradoxical. Therefore, if we address war as inherently wrong, we should reform international organizations in a way that goes beyond territorial sovereignty and unites ideological distances.

Providing stability and equity in such a heterogenous world is not straightforward. The critical change could consist in modifying an institutional structure that protects the hegemonic position of some at the expense of the rest. Creating a United Nations Scientific Council could decrease the decision-making power of the five permanent members of the United Nations Security Council and ensure a higher degree of equity. How? The fifteen specialized members of this second UNSC would vote on Resolutions, and the double affirmative intention of the two Councils would cancel out the vetoing power of the permanent members. Moreover, addressing crises that jeopardize international peace and security would require the agreement of both Councils. This process would test member states' goodwill and ensure a fair assessment of the situation.

Therefore, global justice can be achieved by applying the philosophy according to which international relations can improve if the international norms that regulate it change the structure of the institutions for international cooperation.

The international system is going through a profound crisis. It is explicit that the institutional structure cannot meet the demands of a world that aims at achieving common goals. Another critical aspect regards the enforcement powers and the jurisdiction of the International Court of Justice. If states are superior to international

norms, we will keep living in a world where state actors are free to decide the content of international law and whether to respect it. This thesis examines the background in which a change in the legal and institutional setting may become necessary. To achieve justice and increase fairness, we need to modify the legal and institutional settings that create an unequal world in the first place. Moreover, the environment in which international relations take place will be described. The bases on which this thesis lies will be reported, and the current global trends will be analyzed.

CHAPTER ONE - International Organizations in The Westphalian System

When member states decided to create International Organizations, they gave up part of the sovereignty they gained after adopting the Westphalian Model in 1648. Since being sovereign is often said to be the essential constitutive feature that defines states, it is crucial (to fully grasp why International Organizations were established in the first place) to analyze how states have chosen to conduct their international relations during history.

According to Hobbes, before setting a political and judicial structure/community, humanity lived under the persistent threat of a "state of war." Therefore, human beings have turned fear of one another into a rational collaboration to escape this security dilemma. We then reached our present "civilized human condition," which has been predominantly driven by fear of death. In conformity with this theory, though, civilized life can only be enjoyed within states and not beyond or between them. Consequently, another state of nature, from which there is no escape, is created between states because of the impossibility of forming a world government. Member states had thus to cope with the so-called "International Security Dilemma."

Until the two world wars broke out, states enjoyed full territorial sovereignty and political independence. The approach they used when conducting international relations and coping with the global security dilemma can be described as intensely realistic. The logic behind this "method" follows a so-called "zero-sum-game," namely: what one actor wins, the other loses. This strategy aims to achieve short-term interests, and its usage leads to self-interested interactions between states where national interests, the survival of the state, and the security of its people are the only goals that fundamentally matter. Unfortunately, though, the long-term consequences of this type of state's behaviors reached their apex with the unprecedented price humanity had to pay for government leaders' choices: the Second World War.

Analyzing Mearsheimer's stability and hegemonic theory, it is possible to link this result with the fact that all states were playing under "offensive realism" rules and were seeking to gain a hegemonic position within the International Community. In this system, International Organizations had very little, or none, *raison d'être*. After the "failure" of this method, regional hegemonic roles were assigned to the winners of the Second World War, and a new multi-centric world emerged. It is composed of diverse "sovereignty-free" collectives which exist apart from and in competition with a state-centric world of "sovereignty-bound" actors. From that moment on, we assisted to an increase in transnational relations because, while the costs of using force had dramatically increased, the benefits had profoundly declined.

Hence, Member States were "bound" to find a new approach to cope with the International Security Dilemma: Liberalism. According to this approach, we can achieve peace thanks to trade and interdependence between states. To play this new "positive-sum-game" and to deal with the lack of trust between them, Member States established International Organizations. According to Keohane, a high level of institutionalization significantly reduces the destabilizing effects of multipolar anarchy identified by Mearsheimer.

Until very recently, thanks to the high degree of transnational ties established by the Member States and carried out through International Organizations, we have been experiencing peaceful relations of state actors within the "security community." Current events, however, strongly suggest that the liberal approach is being questioned and that a change of direction towards states' self-interested and realistic relations is being preferred over cooperation and coordination policies.

1.1 The United Nations Security Council

The only organ of the United Nations capable of issuing legally binding resolutions is the Security Council. According to Art. 39 of the UN Charter is up to the Council to identify what constitutes breaches or threats to international peace and security on a case basis. Therefore, a clear and well-established definition does not exist; Council's resolutions create a policy framework that states must follow. It is indeed in the power of the Council to determine how a given crisis should be addressed and solved. As we acknowledge, the five permanent members enjoy the power of vetoing decisions that jeopardize their interests, and enforcement actions can only proceed if permanent members support them or abstain from vetoing them.

While it might be too early to propose a change of hierarchy within the international organization, it might be appropriate to integrate organs that would at least provide a higher degree of equity. Laws are not self-sufficient moral instruments, and agreements do not guarantee the fairness of terms. Consequently, it is wrong to conceive the international system based on the current founding principles. We might equip the organization with resources that rule out differences in power and ensure just outcomes. Recognizing crises and framing them should be disinterested and impartial, not subjective and forceful.

1.1.2 Darfur Case

The regulations, powers, and paradoxes of international organizations and the security council, in particular, shaped the global response to the Darfur case. The Sudanese government arranged attacks on the people of the Darfur region using para-military forces. The government of Sudan used violence to destroy three ethnic groups and eliminate a potential source of political opposition. The fact that the government organized mass killings against innocent civilians places this act at the top of modern

crimes against humanity. For this reason, the Darfur case is precisely the type of issue that can help us define the limits and powers of the United Nations Security Council. The first requirement of any Council intervention is that it must satisfy Art. 2(7): the Security Council cannot act on matters "essentially within the domestic jurisdiction" of a member state. Therefore there must have been a breach of, or a threat to, international peace and security. Since the characteristics of the conflict are part of the internal politics of Sudan, the decision of whether to intervene has been highly controversial. The same point arose in 1994 when the Security Council deliberated on how and whether to respond to the Rwandan Genocide. In the first days of the genocide, the Security Council reunited to assume a position on the matter and decided that since the killings were within the borders of Rwanda and targeted Rwandans instead of foreigners, they did not constitute a threat to international peace and security under Article 39. Hence, the United Nations had no power or responsibility to respond.

The Rwanda case shows that the legal interpretation of "domestic matters" is politically compelling. In all these circumstances, the domestic exclusion of Article 2(7) protects the behaviors of the pertinent governments. Therefore, neither the Security Council nor any other body of the UN system had legal authority. However, the final word on the legal interpretation of such claims is of the Security Council. It can determine what is or is not a threat to international peace and security under Article 39. By observing the practice of the Security Council in identifying breaches in specific situations, we can know the extent of state sovereignty. However, genocide is a particular case as it is among a small number of actions automatically identified as threats to international peace and security. This categorization exemplifies why in 1994, the United States refused to call the massacre in Rwanda "genocide." To acknowledge the killings as genocide would instantly invalidate the legal interpretation according to which the case was a domestic matter and not a threat to international peace and security. Therefore, the inaction of the Security Council would be much more challenging to justify.

1.2 The Gridlock Argument

«Gridlock is defined as the inability of countries to cooperate via international institutions to address policy problems that span borders. It refers both to deadlock or dysfunctionality in existing organizations and the inability of countries to come to new agreements as issues arise». ²

There are some alarming patterns when we examine the amount of newly founded international entities. The bars in figure 1.1 displays, from the middle of the 20th century to the present, the total number of international organizations and their offshoots. The line depicts the yearly growth rate of these organizations. We can see two trends plainly. First, after World War Two, there has been an expansion of formal global government, with thousands of international organizations now active in all spheres of human endeavor. Second, even as interdependence increases, the development of new international institutions has practically come to an end.

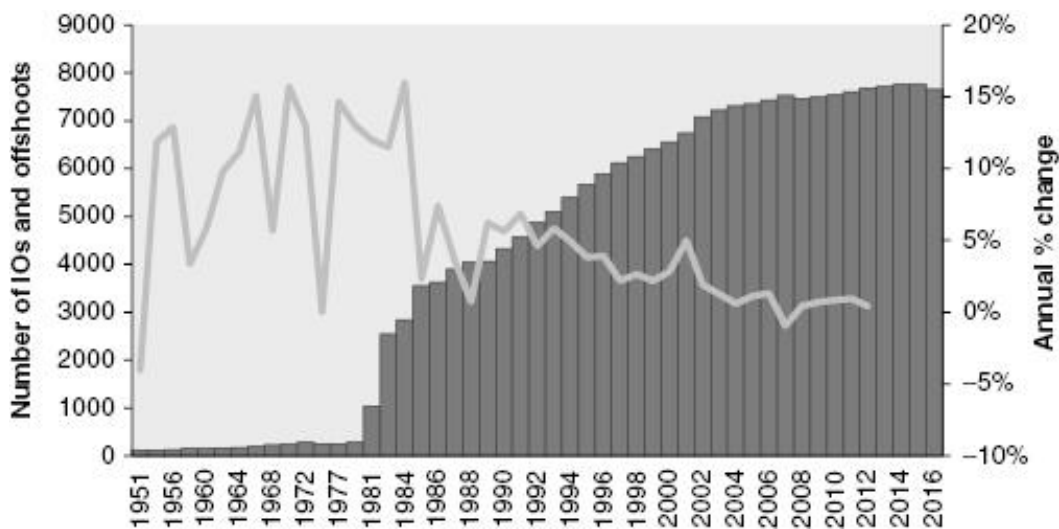


Figure 1.1 International organizations and their offshoots, absolute number (bars) and the annual rate of growth (line) ³

² Thomas, Hale. David Held et al. Beyond Gridlock. Cambridge: Polity Press, 2017

³ Source: Union of International Associations 2016

Vital collective issues, from the spread of mass destruction weapons to the climate change challenge, are not being adequately assessed by the international community and, given the universal and dangerous character that the consequences of inadequate management of these policy areas may lead to, there is a substantial risk that mankind may not end the twenty-first century as well as we began it. As the Gridlock argument enlightens, nation-states have to deal with their inability to cooperate through international institutions to solve problems crossing countries' borders.

Specifically, the argument focuses on the main trends emerging from gridlock and analyses their mechanisms to identify possible pathway solutions such as:

- Shifts in major powers' core interests;
- Autonomous and adaptive international institutions;
- Technical groups with effective and legitimate processes;
- Multiple, diverse organizations and institutions coalesce around common goals/norms.

As the realist international relations theory points out, when one or more great powers have a strong national interest in making policies that create a global public good, they will be incentivized and, therefore, often able to provide that public good. Furthermore, the increasing authority of some international institutions over the national interests of their member states, and their capacity to autonomously generate rules as new circumstances arise represent a remarkable step forward for the creation of effective global policies; while delegating the assessment of specific issues to technical experts, ensures more transparency and legitimacy to the policies themselves. Last but not least, the diffusion and entrenchment of common principles, norms, and goals of different organizations and institutions across a policy domain can help enlarge their scope.

CHAPTER TWO - Global Governance and International Justice

The nature of the Westphalian state model allows the establishment of international legal norms, which are, however, subject to Member States' consent to be considered effectively binding. The direct implication of Member States' sovereignty is, therefore, a practical difficulty in establishing a just international regime regarding transnational issues and, therefore, a suitable degree of state compliance. The absence of a single overarching authority is perhaps the most noteworthy characteristic of international law. Indeed, for those who insist that law is only law if it emanates from a single sovereign, international law cannot be law. At best, as the nineteenth-century positivist thinker John Austin puts it, international law can be seen as "positive morality": it is more or less binding on states, but as a matter of morality, not as a matter of law. Examining, for instance, the regulations for the Use of Force under International Law will help us to underline some essential limits of the discipline itself, which are due both to the Westphalian Model's structure and to the soft power of international organizations in actual enforcement mechanisms.

2.1 The Limits of International Public Law

Under the UN Charter, there is a well-known total ban on using force, with only one recognized exception other than the possibility of engaging in collective security acts: the right to self-defense. But what conditions trigger and provide a legal justification for the right to self-defense under Article 51 of the UN Charter? It is generally accepted that the condition under which self-defense may be exercised is rather strict: self-defense must be engaged "if an armed attack occurs." Specifically, the attack must be attributable to another state actor, and it must be "sufficiently grave." Furthermore, for self-defense to be lawful, two other vital conditions must be met, namely: necessity and proportionality; together, they imply that self-defense should not be punitive.

The International Court of Justice affirmed in its ruling on the Nicaragua Case that the attacker must be identified in order for the right of self-defense to be justified. If it could be demonstrated that the activities of the so-called Contras, a rebel group supported by the USA, were "effectively controlled" by the US Government, then the USA would bear responsibility and Nicaragua would eventually be justified in directing its self-defense actions, the Court stated when asked whether the acts of armed groups within Nicaragua could be attributed to the USA. Moreover, in its judgment

on the case matter, the Court concluded that to be considered an armed attack: “it will be necessary to distinguish the gravest forms of use of force (those constituting armed attacks) from other less grave forms.”

But following the attack on the World Trade Center in New York on September 11, 2001, the US and numerous other nations asserted that they were fighting Afghanistan in self-defense. NATO's Article 5 states that any armed attack against one of its members may be seen as an attack on all of them, and it grants the other members the power to aid the attacked state militarily. After the 9/11 twin tower attack, NATO member nations famously used article 5. They agreed that the attack on the US on that day constituted an attack on the US and that, as a result, they were legally justified in aiding the US in defending itself. But can the World Trade Center attack be categorized as an armed strike? Was it sufficiently grave to invoke article 5 of NATO? Does this response meet the condition of proportionality in article 51 UN Charter and the one of “effective control” set by the International Court of Justice during the Nicaragua case in 1986? Could terrorist Al Qaeda effectively be linked to Afghanistan’s government?

Within the framework regulating the use of force under International Law, we assist to an interaction of two critical legal sources: the UN Charter and International Customary Law. The legal justification behind the act in question does not lie in the UN Charter because the US had no right to act in self-defense according to the conditions stated above. The attack of 11 September 2001, in fact, clearly suggested that there were still holes in the network of the conventions regarding legal attribution’s requirements, and to counter this, the Security Council controversially adopted Resolution 1373. Following this resolution, member states must “prevent and suppress the financing of terrorist acts.” The legality of US actions against Afghanistan, then, is provided by Customary International Law since it came from the broad support the USA received, from other member states, in acting under self-defense justification.

Hence, following 9/11, the amount of state practice regarding acting in self-defense against a not state actor seems to be considered ‘sufficient’ and, consequently, ‘justified’ under International Law. What this may mean is that even though the law regarding armed attacks has not changed (UN Charter), the rules regarding attribution did change, regardless of treaty law and International Court’s decision in the Nicaragua Case.

The above analysis stresses how states' behaviors influence international law practice creating new customs as issues arise. The consequences of this type of attitude do not guarantee states' follow-up of detailed international law sources. They may imply the modification of regulations following political leaders' personal choices.

2.1 Populist Attitudes

Although the law branch should remain independent and sovereign to be considered as such, it would seem that populist political attitudes tend to prevail over this principle, especially in situations of emergency. The recent drone strike that killed Iranian military commander Qasem Soleimani in Iraq, ordered by US President Donald Trump, constitutes another suitable example for enlightening the limits of public international law due to political leaders' sovereign decision-making powers. The United States declared: "This strike was aimed at deterring future Iranian attack plans." Even though, as previously stated, international law is clear on when a state is legally justified to use armed force as a self-defense measure (if an attack occurs), this definition tends to be interpreted by Governments.

"In the Soleimani case, the US is claiming it acted on self-defense to prevent imminent attacks, a category of action which, if in fact true, is generally seen as being permissible under the UN Charter" says Dapo Akande, professor of public international law at Oxford University. But Agnes Callamard, UN special rapporteur on extra-judicial killings, has tweeted about the strike saying this test is unlikely to be met as the test for so-called anticipatory self-defense is very narrow: it must be a necessity that is "instant, overwhelming and leaving no choice of means, and no moment of deliberation."

Moreover, it may be argued that this killing constitutes a political strategy aimed at helping President Donald Trump be re-elected. Traditionally, a US President facing a major foreign policy crisis benefits from at least a short-term bump in public support.

Situations of national crises, as the analysis of 2016 Trump's election campaign shows, describe how potential threats to the status quo of a nation or its security can influence people's incentives to

act and, in this case, vote. The fast-growing economy of China, which has been presented as a threat to the hegemonic position of the United States within the World order, has been constructed as such.

The analysis of Joseph S. Nye Jr's in "The rise and fall of American hegemony from Wilson to Trump" stresses that «even if China does some day pass the US in total economic size, that is not the only measure of geopolitical importance. Power—the ability to affect others to get what you want—has three aspects: coercion, payment and attraction. Economic might is just part of the geopolitical equation, and even in economic power, while China may surpass America in total size, it will still lag behind in per capita income (a measure of the sophistication of an economy). On military and soft power indices, meanwhile, China is well behind the United States. US military expenditure is currently four times that of China. While Chinese military capabilities have been increasing in recent years, analysts who look carefully at the military balance conclude that China will not be able to exclude the United States from the western Pacific. The RAND Corporation estimates that while the war between the two powers would be costly for both, the United States would prevail». ⁴

The importance of this academic article lies in its capability to explain facts and provide further relevance to theories that emphasize the crucial role of populism as a political style and the consequences of policies designed by politicians instead of experts. According to Benjamin Moffitt and Simon Tormey: «The collapse of the legitimacy of "traditional" or "mainstream" politics - characterized by the decline of ideological cleavages, the displacement of the class character of politics and the alienation of ordinary citizens from traditional party politics (Mair, 2006) - has led to the increase of the "stylization" of politics». ⁵

All of these factors (territorial sovereignty, political independence, and social constructivism) provide an analysis of how political forces and, therefore, how nation states' course of action influence the effective implementation of both international legal regulations and the constraints imposed over its construction.

⁴ Joseph S. Nye, *The rise and fall of American hegemony from Wilson to Trump*, 2019

⁵ Benjamin Moffitt and Simon Tormey, *Rethinking populism: politics, mediatization and political style*, 2013

How can we ensure justice to the inhabitants of the global community if the respect of public international law almost entirely depends on states' consent instead of relying on an established suitable line of conduct? How can we ensure a practical and technical resolution of transitional issues if their social constructive elements are linked to national geopolitical and domain interests? A clear example that enhances the meaning of these questions is easily identified with the global warming issue: United States' production levels would be challenged by experts' policy resolutions and the constraints imposed by the Paris Agreement. Trump has, indeed, shown no, or very little, interest in meeting necessary cross-border demands.

As the degree of almost complete state sovereignty is becoming increasingly dangerous for the individual rights of the inhabitants of the global community, an institutional shift towards an actual limitation of their powers may be considered a necessary condition for achieving global justice and adequate transnational policy formulation and implementation. The individual-based approach to human rights is, so far, the better option we currently have to ensure a meaningful degree of progress.

2.3 Human Rights and Moral Progress

Human Rights are the most important source of international law concerning individuals. Even though they are often described as universal in character, their implementation and their cross-cultural validity are to be considered incomplete and, therefore, as a political argument.

Defying progress may be challenging, but in general terms, we make progress as we act by the intuition that our species is one and that each individual who is part of it is entitled to equal moral consideration. The language of human rights systematically exemplifies this intuition. The more this intuition gains influence among individuals, the more we progress. According to Richard Rorty, progress is the ability to consider people's differences as morally irrelevant.

Human rights emerged in the wake of the Second World War as a reaction to the horror that could occur when Westphalian nations had unrestricted sovereignty and their citizens lacked normative justifications for defying morally dubious laws. To give people the civic courage to resist when the

state forces them to do wrong, the Universal Declaration of Human Rights (UDHR) symbolized a return of the European tradition to its natural law legacy.

Therefore, prior to the outbreak of World War II, only governments were granted rights under international law. Individual rights were given international legal legitimacy with the Universal Declaration of Human Rights in 1948. Individuals received rights for the first time that they might use to oppose repressive state law or traditional practice. Many nations participating in the UDHR's formulation saw no apparent conflict between upholding global standards overseas and maintaining domestic oppression. Fifty years later, most contemporary states have ratified the international human rights conventions. With the establishment of the European Court of Human Rights (ECHR) in 1953, people of European States now have the option of bringing an appeal against abuses in civil and state administration to the Strasbourg-based European Court.

Human rights laws are frequently seen as an ethical outcome of economic globalization. Actually, there is a more hostile relationship between money and human rights (labor and environmental practices of large global corporations). Local actions have a worldwide impact on human rights. Even though we are doubtful of the motivations of individuals who helped bring about this global dispersion of human rights culture, we can nevertheless call it a type of moral development. A network of voluntary human rights organizations, such as Amnesty International and Human Rights Watch, have emerged to pressure governments to uphold their commitments to human rights, even if it has not been enough to stop the bad guys.

The advocacy revolution has ended the state's monopoly on managing global issues and given the power to what is now referred to as a global civil society. However, many of these NGOs frequently promote extremely particularist causes using the universalist rhetoric of human rights, which may be at odds with universalism. Activism for human rights often presents itself as being anti-political. In reality, impartiality and neutrality are more practical than having an all-encompassing regard for each person's human rights. In addition, moral principles discipline or restrain human rights politics. This means that their ability to stand up for and on behalf of the people whose rights they defend is still open for debate (no election, for instance, or question of representation). However, NGOs continue to carry out the crucial task of publicizing violations.

Human rights arguments are now being used more frequently to argue that values should take precedence over interests when they point in opposite directions. This new reality is starting to be reflected within the UN system itself. The UN decided in the 1990s to establish its own cadre of human rights campaigners under the direction of the High Commissioner for Human Rights after 40 years of respecting the sovereignty of states. There are now actual repercussions when human rights violations are named and shamed. The international community has also developed new tools to penalize offenders. Even if only through temporary means, each suspect's arrest and each conviction by a court contribute to demonstrating the actuality of universal jurisdiction for crimes against humanity. For example, the establishment of a permanent International Criminal Tribunal should be supported.

2.3.1 The Common Language of Human Rights

Although the human rights rhetoric implies universal rights and obligations, resources (such as time and money) are limited. It is unavoidable to be disappointed.

Rights advocates must respect the independence of those agents because the whole aim of rights language is to safeguard and develop individual agency (informed consent). Coercive human rights interventions can only be permissible in particular circumstances of necessity (when human life is in danger). The legitimacy of the West's rights standards is questioned as it meddles more frequently but inconsistently in the affairs of other civilizations. All of the noble goals of life enumerated in the Universal Declaration of Human Rights — liberty and equality, freedom and security, private property, and distributive justice — are in opposition to one another. Using language that makes claims about one's rights does not encourage compromise. Rights, at most, establish a common framework. However, using the same language does not always make things easier. The idea that human rights are beyond politics is another delusion. Human rights are nothing more than politics, one that must reconcile moral aims to real situations and be prepared to make painful compromises not only between methods and purposes but between ends. Sometimes must be precisely specified when human rights as politics become a call to arms.

Not all practical issues with balancing interests and morals in engaging with nations that abuse human rights exist. The advancement of individual human rights and preserving the nation-state

system's stability also compete with one another. The state's unity can occasionally be threatened by secessionist challenges, which are frequently supported by terrorism (China justifies human rights abuses as the price required to maintain the unity of a continental nation-state subject to many regional, ethnic, religious, and tribal pressures). Chinese policymakers contend that upholding state stability and advancing human rights are ultimately irreconcilable. Chinese human rights advocates maintain that a democratic government that upholds human rights is the best assurance of Chinese national unity.

Human rights and democracy are not always brought about by liberalization and free markets. Most states in the post-Cold War era avoid this tension (contradictory principle) in their fundamental policy objectives by supporting human rights while also supporting unstable states (aiding or funding countries with appalling human rights records). This suggests that democracy and human rights frequently clash. The Balkans, Africa's Great Lakes region, and the southern Islamic border of the former Soviet Union remain fractured after the Cold War. A blatant indication that stability may quickly take precedence over justice.

In light of the Kurdish issue, for example, it is evident that governments have a greater stake in appeasing Turkey as a dependable friend than in pressuring it to amend its constitution. States in the West with human rights priorities are compelled to return to a tactic of covert diplomacy that makes bets on both the ruling government and the disadvantaged minority. It subtly supports each while diminishing each, with results that actually undermine the moral authority of its own language.

In a similar vein, until 1998, nothing was done to stop Indonesia from violating human rights in East Timor. In a Cold War setting, Indonesia was necessary for the area's stability before 1998, but it was no longer relevant after 1998. Granting East Timor's request for self-determination without considering their need for security resulted in the killing of civilians, the economic ruin of an already underdeveloped nation, and other adverse effects.

It is still Indonesia's sovereign territory as of this writing. What would occur if other regions of a complicated multi-ethnic, linguistic, and multi-confessional state sought independence? Western meddling may be causing Indonesia's state to disintegrate at a tremendous human cost. By

advocating for ethnic self-determination, we run the risk of jeopardizing the stability needed to uphold human rights. The unsettling reality is that democracy and human rights do not continually advance together, and national self-determination is not always in favor of individual human rights.

Constitutionalism, democracy, and human rights; without constitutionalism, democracy is essentially a dictatorship by an ethnic majority. Secessionist claims for self-determination should, whenever possible, be kept within the confines of democratic states. However, secession and independence become unavoidable when a state lacks democracy.

The Sri Lankan situation demonstrates how challenging it is to balance the rights of minorities, national sovereignty, and individual human rights. The Sinhala-dominated government began discriminating against the Tamil population in 1947, denying them access to public employment. The 1980s saw the onset of violence (in which both sides participated). Not the separate statehood demanded by the secessionist movement (and in reality, terrorists), but rather an effective self-government and autonomy for the Tamil people within the framework of a democratic Sri Lankan state no longer dominated by the Sinhala majority would be the best guarantee of individual Tamil rights.

The fact that state authority is the sole source of all social, political, and economic privileges adds to the complexity of the problems. As a result, the economic foundation for both constitutionalism and multi-ethnic pluralism must be an independent civil society (see South Africa: the white minority has a secure place in the economy and society, protecting them from the adverse effects of majority rule). The international order needs to strengthen multinational and regional organizations in order to grant nations and autonomist regions rights of participation (no insistence on full sovereignty, no further fragmentation of the state). For example, the European Community allows Catalans, Scots, and Basques to participate in promoting their regions' development.

State sovereignty and national identity will become less absolute under the transnational legal order that is currently developing. However, Michael Ignatieff argues that anticipating a time without state sovereignty is unrealistic. We must recognize how much state sovereignty underpins the international order and how national constitutional systems serve as the finest safeguards for human rights.

Today, civil conflict and anarchy pose a more significant threat to human rights than dictatorship alone. Better than no government at all are governments that provide security to their citizens without promoting democracy (see the invented example of Kazakhstan, developed by John Rawls in *The Law of People*). Consistency naturally follows from universality. Unless we accept the authority of these treaties on our own, it is illogical to impose international human rights limits on other governments (Anglo-Canadians, the US).

The Universal Declaration of Human Rights has evolved into the holy book of what Elie Wiesel has referred to as a "global secular religion" fifty years after it was first announced. A secular civilization that fears it has no other beliefs has made human rights its central tenet. These concepts of human value, dignity, and sacredness are problematic because they seem to conflate what is with what ought to be. Because they are controversial, these concepts are more likely to weaken rather than improve adherence to the obligations associated with human rights. Additionally, they are contentious because every iteration of them requires making metaphysical assertions about human nature that are inherently debatable. Human rights are a description of what is correct, not a description of what is admirable. It should also be able to sustain human rights protection regimes that each have different ideas about what constitutes a good human existence. It is not possible for victims to have unrestricted rights to define what constitutes abuse. Because they enable people to help themselves, human rights are essential.

Cultural diversity is safeguarded by moral individualism. According to this perspective, human rights serve as a "tool kit" against oppression that each individual actor is free to employ whatever they see fit within the larger context of their cultural and religious beliefs. Why is it important to provide such a "minimalist" argument for human rights? A variety of cultural factors threaten the universality of human rights. Together, they have highlighted essential concerns regarding the legitimacy of human rights norms and the validity of those norms across cultural boundaries.

For instance, Islamic leaders have questioned the legitimacy of Western human rights standards ever since the Islamic Revolution of the 1970s, which arose in opposition to the shah's dictatorial modernization. The Islamic tradition's political and legal philosophy is, in fact, foreign to the Western separation of church and state, secular and religious power.

CHAPTER THREE - Global Justice

Giving priority to the individual and his freedom of choice beyond the cultural aspects that link him to the identity of a state is a necessary condition for the achievement of global justice. Because of the heterogeneity characterizing people also within a single nation, a proper conception of global justice needs to ensure not only the highest degree of freedom with regard to personal choice, based on the principle of reciprocal respect, but also a person's right to change idea and, therefore, to identify himself with some or all the elements of a culture which is different from the one spread within his birthplace. What the last statement suggests is that to enforce a mechanism of reciprocal respect while ensuring a feeling of openness and belonging, everyone should be provided with the acknowledgment of intercultural competencies. Even though respect does not necessarily imply agreement, it does imply understanding.

To go beyond a nation-level analysis, governments should sponsor diversity and reach a legitimate compromise between the parts instead of defending the interests and preserving the culture of their nation only. This is why the creation of an online platform as an integrative, as well as a comparative, tool may be an excellent option to preserve single cultures while ensuring reciprocal respect and openness towards diversity. To practically integrate the concept of global justice as a middle way between the equal distribution of resources and intercultural recognition and to allow cross-country policy resolutions (designed by experts and legitimized by the individuals of the global community), the creation of a digital platform may be helpful. A virtual social space can potentially be identified as a possible solution to link physically distant people. It may increase their degree of recognition with the intercultural aspects that should shape the global community.

Moreover, constructing an online platform may decrease the destabilizing effects of realist political attitudes. It may incentivize not interested people to increase their degree of participation and the delegated powers in the hands of international organizations. To establish what it should be and go beyond what it is, a multipart system that favors the equality of all states should substitute the current one favoring the establishment of hegemonic positions. Even though all states are considered equal under international law, features such as geographic size, military power, human capital, and so forth make huge differences that characterize states in terms of power over and in terms of power to. The structure of the United Nations Security Council does, for instance, reflect

states' degrees of influence within the global community. As the main feature of human beings should be their evolution over time, instead of a fixed and secure relationship with the past, history should be considered in terms of education and cultural traditions. Still, it cannot be the unique element constituting identities. In other words, since the world changes continuously, we should preserve the past and its lessons but not prevent the future and its possibilities.

3.1 Justice as Reciprocal Respect

The above-stated “practical impediments” towards achieving enhanced international cooperation and sustainable development at a global level also have striking “theoretical bases.”

The conceptualization of a globally accepted justice theory is, in fact, the critical factor that requests to be assessed to ensure a universally shared ideological element upon which policies themselves are constructed and, most importantly, to fill the gap between the realist political conduct of international relations and its ideological aspects. For this reason, the “distributive” feature of liberal justice must be complemented with a “cross-cultural” element which should not be identified with religion or ethics but with the concept of “public reason.”

As Sebastiano Maffettone points out, our current idea of global justice is constrained by actual globalization processes, which have economic, social, legal, and cultural effects on the Global Community and create ethical and political issues.

To assess the concept of Global Justice, it is necessary to start from our conception of justice at a nation-state level and to understand how its limits can be extended for the achievement of its conceptualization at a global level.

The concept of justice in contemporary political philosophy has been widely discussed throughout history and conceptualized in many different forms. For both historical and conceptual reasons, examining the idea of justice primarily means exploring its distributive feature, which gives privilege to socioeconomic issues in terms of freedom, equality, and class stratification. A direct implication of this normative aspect of the justice concept implies treating the idea of justice as a form of political pluralism and recognition.

In a first-hand analysis, it is necessary to consider justice as recognition in terms of its specific difference concerning distributive justice. Sometimes, these two types of justice, as in the cases of poor ethnic minorities, tend to converge; other times, as in the cases of prosperous ex-colonized countries, the two types of justice tend to diverge. Justice as recognition and justice as redistribution are double-linked concepts. It is, therefore, challenging to discuss one of these topics without considering the other. Nonetheless, an attempt can be made if we consider the boundaries of these two ways of conceptualizing justice. To make a further step forward and, therefore, to integrate these two fundamental elements constituting the concept of justice, Sebastiano Maffettone argues in favor of a new form of liberalism based on the idea of reciprocal respect.

Democracy requires a special relationship between citizens based on reciprocal respect, and to respect each other, citizens must adopt a common language. In political liberalism, legitimacy goes beyond justice in two opposite ways. On the one hand, a just act is not automatically legitimate. On the other hand, a law can be legitimate and unjust simultaneously. Democratic decisions and laws are legitimate not because they are just but because they are elaborated through a legitimate democratic process accepted by the majority. People hold different conceptions of the good, and in a pluralistic society, people disagree about it.

Therefore, how can we ensure justice and legitimacy without using a universally shared principle?

3.2 Doing the Right Thing

Recognizing the two distinct ways in which justice and goodness might be linked is critical. Thinking about rights and justice relativistically involves examining the values currently prevalent in any particular community at any given period. Instead of judging them according to an external norm, we view justice as a question of adhering to the common understanding of a specific tradition. This method of connecting justice and goodness has a flaw in that it reduces justice to a situational product, stripping it of its fundamentally vital nature. On the other hand, according to the non-relativistic way, justice depends not on the values that happen to prevail at any given moment in a certain place but on the moral worth or on the intrinsic good of the hands rights serve.

To solve this issue, John Rawls provides a method of moral reasoning, “reflective equilibrium”. According to him, we should alternate between our carefully researched conclusions about specific circumstances and the broad principles we would assert to explain those conclusions.

DISCUSSION AND CONCLUSION

Our level of cooperation needs to be improved to meet transnational challenges. The key problem is both structural and ideological. From a practical perspective, the number of new international organizations has dramatically declined, and enhanced cooperation is being replaced by realist attitudes (for example, those of China and Russia). We currently need the tools to properly assess issues as they arise. From a theoretical perspective, we have examined the limits of international norms and the common language of Human Rights, together with the problem of applying a single principle of justice in a pluralistic society. Changing the custom of international law is a standard practice that states use to protect their interests.

The Gridlock argument argues in favor of a new way of managing common policy areas to go beyond the practical impediments to progress. I argued in favor of a change in the institutional setting of the United Nations Security Council to go beyond a system that favors and protects the hegemonic position of hard powers. Sebastiano Maffettone argues in favor of a liberalism based on reciprocal respect to provide a public good. However, the definition of the good may differ from place to place and from time to time. Therefore we need to use Rawls's "reflective equilibrium" to assess problems of global and distributive justice.

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RIASSUNTO

E' necessario aumentare il nostro livello di cooperazione per superare le sfide transnazionali. Il problema principale è sia teorico che pratico. Dal punto di vista pratico è possibile affermare che il numero di nuove organizzazioni internazionali è drammaticamente in declino e che la cooperazione avanzata viene recentemente sostituita da atteggiamenti realisti come possono essere quelli della Cina e della Russia. Per questo motivo, abbiamo bisogno di strumenti che ci permettano di risolvere efficacemente i problemi politici quando essi si presentano. Seguendo una prospettiva teorica, d'altro canto, abbiamo esaminato i limiti delle regolamentazioni internazionali e del linguaggio comune dei diritti umani insieme al problema di dover applicare un singolo principio di giustizia in una società pluralistica. Cambiare i costumi del diritto internazionale è una pratica comune che gli stati adottano spesso per proteggere i loro interessi.

La tesi dell'ingorgo internazionale suggerisce nuovi modi per poter gestire le politiche comuni ed andare oltre gli impedimenti pratici al progresso. Io ho suggerito che un cambio al livello istituzionale del consiglio di sicurezza dell'ONU potrebbe risultare necessario per andare oltre un sistema che favorisce e protegge la posizione egemonica delle superpotenze. Sebastiano Maffettone argomenta a favore di un liberalismo basato sul rispetto reciproco per poter mettere a disposizione beni pubblici. Ciò nonostante, la definizione di bene differisce di luogo in luogo e di epoca in epoca. Per questo motivo, è necessario utilizzare l'equilibrio riflessivo di Rawls per risolvere problemi di giustizia di natura globale e distributiva.