

This paper starts with the observation that national democratic accountability and transnational challenges undermine trust and collective action. It gives an abstract and well-written account of major problems prevailing in today's global architecture. It suggests that we need a normative framework to solve them.

- The paper outlines ...

... an interesting research project on differences and commonalities of such norms and notes that norms are not set in stone. I think it would be worthwhile to explore in greater depth how such norms change in the international realm, and consequently, what conditions and processes may help to establish a joint normative framework to engage collectively on a global scale. **Comment: [Social norms are the explicit or implicit behaviors and cues applicable within a society or group, used to clarify and enforce appropriate, and discourage inappropriate, values, beliefs, attitudes and behavior. Norms have also been defined as collective expectations about proper behavior for a given identity.]**

Deference to the social norms applied within a group enables one's acceptance by other members, while failure to apply them results in criticism, ostracism and sanctions, and even expulsion. Within a group, norms allow each member to predict the responses of others. Not surprisingly, social norms vary between groups, including social classes, and evolve over time, often differing from one age group to another.

Law is a system of rules (or *codified social norms*) violation of which attracts legal penalties; which is applicable to the whole of a particular society and is enforced through its institutions. The law seeks to facilitate relations between members of the society by peremptorily clarifying their rights and responsibilities, balancing their interests, and regulating the behavior of individuals and groups in accordance with that balance. The society to which the law applies is usually that number of persons physically present within the national territory of the lawmaker, and thus subject to the jurisdiction of its courts. There are a limited number of exceptions to the principle of national jurisdiction, including diplomatic and consular immunity, public international law, including Human Rights law, and the extraterritorial reach of certain taxation regimes.

The evolution of formal systems of law parallels the emergence and development of large societies, from shortly after 3000 BC to the present. As a societal, or civilizational, artifact, its evolution has resulted both in numerous branches, and more importantly, distinct systems of law, the product of the codification of the social norms of different societies and civilizations, at different times, in different places.

Over the centuries, norms have been codified as laws by religious and secular lawgivers (Leviticus, Numbers and Deuteronomy, notably the Ten Commandments, the Code of Ur-Nammu, the Code of Hammurabi, The Draconian Law Code, Solon's reforms, the Institutes of Gaius and Justinian, the Analects of Confucius, and the prescriptions of the Legalists in China, the Corpus Iuris Canonici etc.) These were applicable either to adherents of a particular system of belief, or to the subjects or citizens of a particular kingdom or state.

In the international realm, Grotius' *De iure belli ac pacis* (Paris, 1625) based the circumstances in which a resort to war was justified (*ius ad bellum*), and the rules governing its conduct once hostilities were engaged (*ius in bello*), on the principles of natural law - said to be binding on all, irrespective of their culture or religion. *De iure belli ac pacis* had a profound, foundational influence on the subsequent development of public international law. Its significance lies not in its

enforceability – the conventional distinguishing aspect of a law – but in its normative importance. It shaped the behavior of European courts, and of those who came into contact with them, and laid the foundations of the Geneva Conventions two and a quarter centuries later, and over the century following that.

Many of the principles codified by Grotius to regulate the excesses of the wars of the Christian religion, were widespread in other traditions. In the early 7th century, the first Rashidun Caliph, Abu Bakr, laid down rules of warfare for his armies. Islamic legal treatises on international law from the 9th century onward applied Islamic military jurisprudence to international law, regulating conduct on the battlefield; respect for treaties; the treatment of diplomats, hostages, refugees and prisoners of war; the right of asylum; the protection of women, children and non-combatant civilians; the use of poisonous weapons; and restrictions on the devastation of enemy territory. Muslim armies in the Crusades, notably those commanded by Saladin (An-Nasir Salah ad-Din Yusuf ibn Ayyub) and Sultan al-Kamil, applied these laws. There are also similar writings by Hindu and Chinese authorities.

Similar principles of restraint and reciprocity have informed the norms of diplomatic practice for centuries, permitting exchanges of envoys between even warring sovereigns.

From the 19th century onwards, the growing economic capacity of Western Europe, notably Britain, due to the industrial revolution, led to legal principles deriving from English “Common Law”, Roman-Dutch Law, the principles of the European *Enlightenment*, and the *Code Napoleon* and *Code Civil*, being applied throughout the territories under European control, modified in Asia by principles deriving from local literate traditions. These “Western” codes, backed by military capability, underpinned the principles of international law that informed the *League of Nations* created after the First World War, and those that defined the *Bretton Woods institutions* and the *United Nations* after World War II.

The rising power of the United States of America in the 20th century, and the defeat of National Socialism and Fascism in Western Europe, led to efforts to ‘universalize’ “Western” norms and legal precepts after 1945. Examples include the *Universal Declaration of Human Rights* (1948), and the *International Covenant on Civil and Political Rights* (adopted 1966/entry into force 1976). Likewise, the *General Agreement on Tariffs and Trade* (1947/1948) embodied contemporary Western principles on international trade.

Within COMECON and the Warsaw Pact, different norms and legal instruments applied, premised on Soviet norms. The *International Covenant on Economic and Social Rights* (1966/1976) reflected the disagreement of UN member states on the relative importance of negative *civil and political rights* and positive *economic, social and cultural rights*, with the latter championed by the USSR, and many Afro-Asian states, while the former was promoted by the “Western” powers. The USA has still not ratified the *International Covenant on Economic and Social Rights*.

International legal arrangements, premised on *norms of national sovereignty* – with very limited exceptions, e.g. action by the UN Security Council under Ch. VII of the UN Charter, offset by the right of veto by the five permanent members of the UN Security Council – enabled co-existence between the NATO and Warsaw Pact blocs between 1945 and 1989/91. Treaties on *Nuclear Nonproliferation, Strategic Arms Limitation, a Comprehensive Test Ban, Intermediate Nuclear Forces*, and later *Strategic Arms (and Offensive weapons) Reduction*, were adopted, notably the Non-Proliferation Treaty (1968-69), SALT I (1969–1972), ABM Treaty (1972), SALT II (1972–1979),

INF Treaty (1987), START I (1991). The process continued after 1991 with START II (1993) and New START (2010).

Norms of efficiency led progressively to the adoption of proven Western (notably Anglo-Saxon) economic models after China's economic reforms beginning in 1979, Germany's reintegration in 1989, and the implosion of the USSR in 1991. Progressively greater global digital and financial integration and the liberalization of capital flows, led to deeply integrated, long transnational supply chains and the application of economic norms similar in many ways to those applied in the USA, giving rise to the "flat World" cliché originated by Nandan Nilekani, and popularized by Tom Friedman (1995-1997). Prior to this, alternative "Asian" social and political norms, some premised on alternative macroeconomic principles, had enabled an *East Asian Miracle* engendered by eight high-performing Asian economies between 1965 and 1990. (World Bank/OUP 1993)

Today, the rise and continuing economic success of China and India, disquiet with the "Western" (U.S.-led) model seen to have given rise to the 2008 financial crisis, and Russia's positioning in opposition to Western domination, leave us without a common normative position on a global level, and without any ability to impose one. Constructive devices of the sort suggested in the article, to stimulate national, and then transnational, debates across key sectors of societies, on a future global order, are thus needed.

- The question of agency is not clearly specified. The COP21 and SDG processes are identified as bottom-up approaches, but the policy brief mostly acknowledges the importance of state actors. What role does civil society have to play in the process of defining the global order, for instance?

Comment: The experience of crafting the SDGs is instructive for this purpose, and will need to be both followed, and extended at the national level: The SDGs (seventeen overlapping "Global Goals" with 169 associated targets) were adopted as *Agenda 2030* on 25 September 2015, because the process by which they were developed allowed all states to contribute.

Discussion on the post-2015 framework began in a *UN System Task Team on Post 2015 Development Agenda* which released a report - "*Realizing the Future We Want*" – in June 2012, identifying four dimensions of a global vision for sustainable development: *Inclusive Social Development, Environmental Sustainability, Inclusive Economic Development, and Peace and Security*.

In parallel, the UN Secretary General's *High Level Panel on Post 2015 Development Agenda* was constituted, and submitted a report to the Secretary General in 2013 after extensive national and regional consultations, involving broad swathes of civil society and business in most countries.

On 19 July 2014, the *UN General Assembly's Open Working Group on Sustainable Development Goals* forwarded a proposal to the Assembly.

On 4 December 2014, the UN Secretary-General presented the *Synthesis report of the Secretary-General on the post-2015 Sustainable Development Agenda* to the UN General Assembly.

On 5 December 2014, the UN General Assembly accepted the Secretary-General's Synthesis Report stating that the agenda for the post-2015 SDG process would be based on the Open Working Group's proposals.

The *Intergovernmental Negotiations on the Post 2015 Development Agenda* began in January 2015 and ended in August 2015, permitting the UN General Assembly to adopt the Goals in paragraph 54 of UN Resolution A/RES/70/1 on 25 September 2015.

At an early stage in the process leading to adoption of the principles for a *Global System 2030*, the UN General Assembly should adopt a framing resolution specifying that the national dialogues should be broadly inclusive and seek to develop proposals reflecting the perspectives and interests of each national society.

- The author writes that the conference will help counter fact-free populism and allow reciprocal learning. While this would be a welcome outcome of such an initiative, the Paris Climate Agreement has stirred substantial domestic contestation in many countries, with debates being limited to national, if not local audiences in a polarized domestic political climate. What are the conditions for creating such mutual learning processes and make national debates dispose of prejudice rather than fostering it? **Comment: Contestation is inevitable on matters that require decisions involving trade-offs. Two conclusions can, however, be drawn from the process that led to the Paris Agreement. First, as each national polity was required to set for itself ambitious, but achievable, goals in carbon reduction and to live up to that pledge, the quality (and rational content) of the national debates on how best to pursue development with decarbonization, was significantly enhanced. Acceptance of the “science” of climate change has been advanced in the past seven years, and business, in particular, has, in the main, adopted a far more constructive posture. Secondly, the declarations by many states, cities and businesses in the United States that they will meet and exceed their commitments to the Paris Agreement despite President Trump’s announcement that the U.S. will withdraw, and the extensive critical analysis of the weaknesses of his argument in mainstream media, provide evidence of more fact-based policies in many quarters.**

- The policy brief is rather silent on trade-offs between certain goals (e.g. economic development and environmental sustainability) and does not address the political economy behind the definition of a certain global order, especially where norms and interests of state and other actors collide. What is the concrete process of bridging normative differences? How to compensate losers from the implementation of the order that is to be agreed? **Comment: As the thesis is that prescriptive approaches by intellectual and policy elites, have failed, with well-intentioned top-down efforts producing no results, while the Paris Agreement on Climate and Agenda 2030, which succeeded, were structured to give states – and within them, social partners – a voice in constructing national proposals, the question about how best to bridge normative differences, and practical proposals, will only arise once the national proposals have been formulated.**

On the trade-off between economic development and environmental sustainability, the paper argues that “If respecting planetary boundaries requires new models of growth, we need (i) an ethos that legitimizes restraints on carbon emissions and excessive consumption; and (ii) new development models that enable human progress and poverty reduction, despite reductions of production, trade, transportation, and distribution.” This will be part of the brief that frames the endeavor.

- Likewise, the current global architecture is differentiated and has developed in principle over the past decades to respond to new challenges. However, it is the implementation of generally agreed goals and – at times rivalling – principles, as well as procedures to derive at common positions and mediate conflicts that has proven inefficient and problematic in the past. It would thus be interesting to hear why a new global order would need to differ from the one that is currently established in its abstract terms and principles (as the UN is largely committed to values of humanity etc.), and to learn about how suggestions on such a new order would be flanked by a more efficient

system that works to address common challenges in practice. **Comment:** The thesis, based on experience in conflict resolution, is that, if agreement on the defining elements of an end state in 2030 can be crafted from the various national contributions, discussions thereafter on how to achieve such an order will be far more constructive.

The focus of national discussions among the key stakeholders in each state is to define a desirable end state for the global order in 2030, without explicit reference to present structures or systems, employing the topics of the Global Agenda – *balancing environmental sustainability with equitable socio-economic advancement, and human, national and global security* – as a frame of reference, and building on *Agenda 2030* and the *Paris Agreement*. Each state is invited to clarify the values that motivate its proposals, and to suggest what the norms and legal instruments would best advance them.

After receipt and analysis of the national contributions, a *UN General Assembly Open Working Group* akin to that assembled for *Agenda 2030*, should reflect on, and discuss, with the assistance of a synthesis paper prepared by the *UN Secretariat*:

- The shared interests and common values of humanity, the diversity of individual, community and national interests, and the ways in which human societies assemble hierarchies of values;
- the principles – based the dignity of the human person and the need to balance environmental sustainability with human, national and global security, and equitable socio-economic advancement – that should guide the workings of systems of governance at national, regional and global scales;
- the rules of international law by which state parties agree to be bound, and the normative conventions they will commit to respect, in their relations with one another;
- the purposes and characteristics of an international order in the 21st century;
- the institutions needed to keep the peace, enable responsible growth and development, and promote human dignity and ecological responsibility;
- the ways in which states, communities, interest groups and individuals ought to be represented in, and able to influence the deliberations, decisions and actions of, these institutions;
- the nature and workings of an appropriate world system that will enable dynamic stability through the expression, aggregation and reconciliation of divergent interests; prudent legislation and efficient administration of matters affecting the global commons; and effective, legitimate adjudication of disputes by applying recognized statutory, and peremptory principles of customary, international law.

The outputs from these discussions will provide the answers to the important questions about a new global order underpinned by more efficient systems.