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## **The New Geopolitical Constellation: Conflicts of Legitimacy between Institution and Action**

No one can deny it—we are living among new geopolitical alliances. The multilateral Atlantic world order, which has prevailed for 70 years, is in decline.

Under the generally benevolent hegemony of the United States, a distinctive process of internationalization had been developing since 1945. International organizations from the UN, the EU, ASEAN, the IMF, NATO, the WTO, and the OECD to international courts of justice are foregrounding the world of supranational politics. On this basis, the old power-states [*Machtstaaten*] have allowed themselves to become increasingly interdependent. The ongoing primary areas of national politics were moderated and structured by an increasingly dense network of treaties and international organizations. The states' aspirations to absolute sovereignty (in theory at least) were relativized by the principle of mutual commitments. At international conferences or European Council meetings common goals were formulated, agreements made, and compromises reached. The focus was on ensuring open trade routes and fair trading conditions, currency and economic issues, arms limitation, collective peacekeeping, and containment of the consequences of war. It was about cross-border issues such as education, combating epidemics, securing the world's food supply, protecting species, the global climate, and the debate about social or ecological projects. Today, all of this has converged to form a supranational agenda. Over the course of decades institutions of “global government” have been consolidated.<sup>1</sup>

After the end of the Cold War it looked as though “global government” was not just a no-nonsense technical description of an intergovernmental culture of conferences and negotiations, but had what it took to create a form of world government and gradually bring about the end of states as the determining subjects of history. In his philosophical sketch, *Perpetual Peace*, the astute late-Enlightenment thinker, Immanuel Kant, had conceptually explored the two paths towards civilized state relations or a unified world republic.<sup>2</sup> Earlier, Thomas Hobbes had justified the modern absolutist state of the 17th century, legitimizing it through an image of human existence in the state of nature in which each individual is at war against the other, and the law of the stronger (that is, no

law) prevails. Accordingly freedom for Hobbes, understood as applying to individuals, was only possible if one entered the state of legality under the rule of law and the rule of a holder of the monopoly of power—the Leviathan. Kant then applied this rational, reasonable legitimization of the state to a higher level—the world of states. In this world of sovereign states, the unbridled law of the stronger originally dominates too—through the doctrine of *jus ad bellum*, the right to war. The process of civilizing states through to the international prohibition of violence<sup>3</sup> is a process that also establishes legality between states and gradually creates guarantees of such legality.<sup>4</sup> But Immanuel Kant has not simply taken Hobbes' ideas one level higher from the world of individuals to the world of states. The Königsberg philosopher's ideas go a little deeper than those of political realist Thomas Hobbes. For if Kant had remained true to the Hobbesian model as he moved up a level, he would have had to posit a global state, a world Leviathan in terms of the philosophy of reason. But that is exactly what Kant did not do. Although he sees the substance of everyone's global civil rights in the international peace imperative, he even considers war between states to be the lesser evil by comparison with a world state, which in its functionally necessary abstraction from all real living conditions and in view of the right of political communities to self-determination could only result in "soulless despotism."<sup>5</sup>

Nevertheless, since 1990 we might get the impression that an international elite network was vigorously promoting a project of disestablishment and denationalization in favor of new forms of government. Today, some misguided souls consider foreign politicians and diplomats, intellectuals and entrepreneurs, NGOs and scientific advisors, officials of the EU Commission and OECD experts, or global political foundations and judges at international courts to be part of a network of secret societies with an agenda that is potentially destructive, or at least not democratically legitimate. During the Enlightenment, traditional supporters of the absolute monarchy or the corporative state must have regarded the Freemasons with equal suspicion. Today names such as "Bilderberg Conference," George Soros, or Bill and Melinda Gates are bandied about by every self-respecting conspiracy theorist.

But there is no dark conspiracy. What has existed for decades was and is a rationally justified agreement and well-intentioned cosmopolitan common sense, according to which every step towards supranationally strengthened commitments is justified precisely because of the risk of the atavistic power-state flaring up once again. Any mechanism for integrating states was considered good, and any reinforcement of mutual dependencies was considered positive. At the end of a marathon negotiation in Brussels in late July 2020, France's President Macron was not only able to

justify assuming a joint burden of debt to deal with Covid-19 aid measures as a necessary evil, but he was also able to celebrate it as an historic step.

The constraints involved in previous steps towards integration, conceived as future-proof elements of denationalization, such as the monetary union or the common asylum policy, are now proving to have an impact that creates pressure to remove the boundaries of traditional institutions, such as democracy, parliamentary budgetary powers, the stability of currencies, or that of the financial markets. Internal and external factors are strangely intertwined. The global economy offers enormous advantages, but as an exogenous, unmanageable process it can also cause considerable difficulties in adaptation and bring about costs within states. Governments react to global (exogenous) uncertainties by increasing their public spending on social welfare in the domestic economy. If greater economic integration then leads to greater global insecurity, this can destroy the benefits of globalization.<sup>6</sup> The same is true from a cultural perspective.<sup>7</sup> The architects of supranationalism have good reason to see themselves as representatives of the Enlightenment and as pioneers of universal human rights and global common interests. But today they are up against reactive powers of opposition.

But who exactly were the actors in this unilateral world order that is now falling apart? The important actors on this stage were the states' diplomatic staff, but also international scientific organizations, global companies, private aid funds, economic interest groups, and politically oriented non-governmental organizations. The great process of globalization took place within this framework, the latter itself gradually becoming more stable and established practice. Under Cold War conditions, this unilateral framework was always precarious. But its ritualistic processes and standards of behavior nevertheless stood for a predominant trend that was linear and powerful. As has been shown both sociologically and socio-psychologically, over decades an international elite has emerged that sees itself as progressive within its states and its national cultural arenas and works towards disciplining the egotism of the state.<sup>8</sup> This project is about civilizing the old power-states through new forms of rational political cooperation and law-making.

But history seldom operates in a linear way. It does not always travel along a rational path of progress. The trend towards internationalization existed and still coexists with that of resilience—the tenacity and inertia of national and regional domains of rulership. The treachery within the dialectical course of history can lie in the fact that even the best forces can conjure up opposing forces which—if they are powerful enough—can certainly distract from the “path of progress.” This

can also be traced back to genuine conditions of political rulership, which are dependent on strong patterns of identity, especially in situations of tension or centrifugal forces—feelings of community whose provenance is cultural, linguistic, socio-structural, family, ethnic, or (time and again) religious.<sup>9</sup>

In addition, there is a dangerous loss of knowledge about institutions. Anyone who understands the state only in its aberrant form as the power-state of the great world wars and sees it as a danger to peace and the goals of the global common good may miss the enormous potential of this modern form of rulership. The institution of the modern state had reduced the complexity of the political system. Concentration of state power, a professional civil service, rational rulership through codified law, and belief in scientific, technical, and social progress—these are all characteristics of the modern state. In the democratic constitutional state in particular, an institution emerged that could be seen—even in a functionally differentiated society—as the focus of society that was capable of taking action. This is a focus legitimized by the *volonté générale* of its citizens and by their continued consent through elections and polls (Art. 20 (2) sentence 2 Basic Law).<sup>10</sup>

But the increasing efficiency of the state, its pluralistic, domestic openness, and the opening up of the German state to the outside that took place after 1945 and then after 1990 increased the complexity of the political system once more. The internal pluralization of liberal societies and their external confederation, especially in supranational Europe, banished the threat of dictatorship and war in a highly effective way. But governing transnationally while maintaining national and regional legislation and administration made politics enormously complicated.

The reality of political rulership today is once again reminiscent of pre-modern models that the rational state had at one time transcended. EU reforms or changes to the US electoral system, for example, are about as “simple” as fundamental social and economic reform in ancient imperial China or the reorganization of the financial and military system in the medieval Holy Roman Empire. The highly differentiated horizontal and vertical separation of powers is not the only cause. Political logjams and an erosion of institutions can also be observed in countries without a supranational tradition, such as the United States. On the one hand, the space of public opinion is globalized and universally focused with its emphasis on human rights, diversity, and a global agenda for the common good. In the liberal, progressive section of the political spectrum, the sense of community is abstracted into global relationships and at the same time parceled out into group identities of diverse thinking. The political left is far-reaching in its cosmopolitan and universal

attitudes, and at the same time equally particularizing and divisive in terms of ecological locality and its group-specific emphasis on identity. The conservative, right wing of the political system continues to look for communities in cultural or national realms of experience and adopts a global perspective as a geopolitical theme of national self-assertion and building a world order. Both major political directions divide the space of public opinion “provincially” and even tribally—albeit in different ways—internally it is increasingly fractured into fragmented spaces of experience.

Equally, the political ambition to control creates enormous complexity. It reduces the possibilities of observing relevant real life, simply because too much is happening that is objectively complicated. The relentless attempt to control society using laws and regulations or even to transform it completely, the attempt to combat economic crises and imbalances through fiscal and monetary interventions, has led to oppressive overregulation and a hybridization of the financial and fiscal economy that stretched old institutions such as the banking system and central bank policy to their limits. Such pressure to remove boundaries exists not only in the EU, but also in Japan, Brazil, and North America. In their *Dialogues on Development*, the Indian political philosophers Ramashray Roy and Raj Kamal Srivastava have identified the machinery of political legislation’s inability to rein itself in and impose self-discipline as its greatest disadvantage: “The greatest drawback of our rulers is their lack of discipline. They cannot maintain discipline among themselves nor can they maintain discipline over their administrative machinery.”<sup>11</sup>

In a theoretically challenging sense, politics is not simply legislation and the enforcement of laws through administration. Political rulership takes place in an open and networked process of communication in which the goals of the common good are debated and which focuses on the enforcement of obedience only at the end of a long process. For example, a climate protection conference debates whether the target of two degrees by the end of the century is a sensible project capable of achieving consensus; international organizations and supranational institutions such as the EU then align themselves with this and individual states commit themselves accordingly through national regulations or by accepting emissions trading schemes through international treaties. Transnational reason pursues such large projects, thereby becoming legitimized by their substance and the telos of history.

Those who combat global hunger, the oppression of women in underdeveloped societies, who fight illiteracy, child mortality and epidemics, global warming and its consequences, are objectively and morally legitimized. The legitimacy of international projects, the intrinsic value of cooperation, and

the expert authority of institutions such as the World Health Organization (WHO) appeared more and more alongside the classic legitimacy of international legal commitments. Groups of experts and political actors from NGOs or private foundations such as Melinda and Bill Gates linked up with international organizations. In addition to the usual diplomatic intergovernmental conferences, a supranational arena for communication and action came into being, which influenced the policy-making of state and international bodies, even providing assistance with complementary or proactive campaigns, for example in dealing with famine, promoting development, schooling, or the consequences of climate change. After the end of the Cold War, this one-world alliance operated as the indisputable matrix of a universal world order. The spirit of the world republic pervaded intellectual and media discourse.

The technical reality and dissemination of the World Wide Web seemed to be a coincidence in technological, political, and structural terms. In the early 1990s the US Vice-President Al Gore talked about the “digital agora.” The dream of a global democracy and completely new forms of participation seemed possible; by contrast, thinking in terms of constitutional and international legal categories seemed old-fashioned. Even major, established democracies such as England were only to be conceived as regulatory frameworks geared to global interests of the common good and institutionally engaged. The global network looked like the keystone of the logos of history. At the start of the second decade of this century, many saw the Arab Spring as a necessary and logical uprising of young people who organized their rebellion using social networks.<sup>12</sup> As early as 2014, mass demonstrations of overwhelmingly young people using their smartphones had become the symbol of the digital agora, which seemed to turn every national and territorial claim to rulership into a hopeless undertaking.<sup>13</sup>

The development of a normatively and institutionally integrated form of sovereignty has been approaching its limits for a long time, however. What we are experiencing today is a rebellion against this system—a serious “counterrevolution.” In this struggle, new geopolitical alliances are emerging. China accepted the Atlantic system as a condition of its own economic advancement only as a default position, but never wanted to become part of this system. Ancient China was Sinocentric, regarding its neighbors as mere vassals. When the Europeans destroyed China in the 19th century through their principles of trade and the formal equality of states, the Chinese called them “unequal treaties,” and they remain an important memory that informs Beijing’s policy to this day. The tanks on Tiananmen Square in 1989 sent a clear signal that China will neither liberalize nor democratize domestically, and that it will not allow itself to be unilaterally integrated with the

outside world either. China's priorities are harmony, reputation, and the self-assertion of its community—not the centrality of universal human rights. In China, the Party and the state have classified the universal claims of the liberal worldview as a subversive threat.<sup>14</sup> The more powerful China becomes, the more the United States jeopardizes its hegemonic position, and the longer Europe remains incapable of establishing itself as an independent global power, the more significantly the balance of geopolitical power mechanisms will shift.<sup>15</sup>

Since Putin came to power and since Erdoğan adopted his neo-Ottoman, autocratic policies in Turkey, the number of anti-Western players has increased. The multilateral world has become a multipolar world. Equally, the Western democracies are losing the stability that made them strong during the Cold War. The United States is internally divided, provocations appear from right and left, rifts are being deepened. Even beyond Trump, “America First” is likely to remain on the agenda of the old global power. Brexit took place under the emotive slogan of “Take back control.”<sup>16</sup> For the public sphere of opinion in continental Europe, this was typical English quirkiness, perhaps even the result of an internally and externally controlled manipulation of the referendum; in any case it was seen as a completely incomprehensible deviation from the secure road of reason. But that half of the British public who voted for Brexit wanted above all their own democratic self-determination back and rejected an ever closer union. This was also a rejection of a project that had once been launched with significant participation from the United Kingdom and which now stands at a fork in the road.<sup>17</sup> Should we carry on and keep our head down? Or do new alliances have to be forged in order to escape the trap of a new friend/enemy distinction?

Anyone who is really serious about global projects today has to recognize the conditions underpinning any kind of political action. Moral and factual discourses are always tied to institutional contexts. Those who uncompromisingly adopt a morally or factually well-grounded position can deserve respect. But if they espouse their position in such a way that the institutions of constitutional democracies are damaged, then they are violating the basic conditions of political morality. For example, there are very good reasons to call for the phasing-out of coal-fired power. But there is no single good reason to use force against police officers in a democracy.<sup>18</sup> Young people's anger over what they believe to be a lack of climate change policy is legitimate. But the assertion that an entire generation has failed or that parliament has been subverted by lobbyists is a repudiation of democracy. In the migration crisis that began in 2015, states or the vast majority of citizens who were critical of borders being opened without controls were not rogue states or inhumane people, and not unchristian. But the moral mechanism of forming friend/enemy camps

snapped shut like a trap. Opposing political opinions must be explored and sustained more vigorously before the guillotine of moral condemnation falls. Those who violate people's dignity or stir up violence and hatred deserve the disregard and possibly the harshness of the rule of law. But debates must be conducted openly beyond these limits—without prematurely turning one's opponent into an enemy or an evil-doer using the mechanisms of a politically skewed morality. A new alliance of political officials and actors in civil society must overcome this new, paralyzing political thinking in camps, not with the aim of creating a new conformity, but rather the other way round—with the aim of launching a new culture of debate.

The new geopolitical alliances force us to rethink. The democracies will have to invest more in themselves, in the vitality and functionality of their states, so that they can invest in the application of human rights and in the public goods of humanity worldwide. A policy that is prepared to rethink will take the ability to act and the self-assertion of institutions much more seriously again and connect it to every kind of subject. The wisdom of the centuries is preserved in institutions. We know that free world trade was a prerequisite for world peace not only for Immanuel Kant. We know that the market economy, especially the social market economy, is far superior to any state-determined command economy. We know that without an effective rule of law individual freedom is impossible. Nobody should lag behind John Locke, the state philosopher of the Enlightenment and American independence, and believe that one could trade peace for freedom or vice versa. And nobody should believe that in the long run peace and equitable prosperity can flourish based on lack of freedom.

The rule of law is one of the fundamental institutions.<sup>19</sup> The independence of the courts is just as important as respect for public servants who have been appointed by democracy. Police officers, firefighters, and paramedics are bound by the law and therefore require legal and public oversight; but they are also entitled to expect effective protection if they are attacked. Political culture that loses respect in this regard loses one of its lifelines. Political judgment requires the ability to contextualize and to create sociocultural sustainability. Those who want a sustainable democracy will not only invest in climate protection but also balance the national budget and not let democratic responsibility for the budget dissolve into uncertain joint debt securities like sugar cubes in hot tea. Sustainable politics promotes pioneering technological achievements and a competitive edge. It recognizes education and social integration in the labor market as a prerequisite for a society based on solidarity.

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Individual freedom, our innate human rights, to which everyone is equally entitled, form one bond in a normative double helix that coexists with another strand of information.<sup>20</sup> This other bond is collective, political freedom, i.e. popular sovereignty, communal self-determination—both converge while remaining distinct in one ordered constitutional state. These two genetic codes of individual self-development and communal self-determination are never identical but they belong together and they are the prerequisite for the West's ability to assert itself in a new geopolitical constellation, which at the end of the day will result in a new balanced and peaceful order.

## Notes

1. Joel P. Trachtman, *The Future of International Law: Global Government* (Cambridge: Cambridge University Press, 2013).
2. Immanuel Kant, *Perpetual Peace: A Philosophical Sketch*, [http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20\\_Perpetual%20Peace\\_.pdf](http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20_Perpetual%20Peace_.pdf) (accessed December 14, 2020).
3. “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.” *Charter of the United Nations*, Art. 2 no. 4.
4. See Michael Zürn, “‘Positives Regieren’ jenseits des Nationalstaates. Zur Implementation internationaler Umweltregime” in *Zeitschrift für Internationale Beziehungen*, vol. 4, issue 1 (1997), p. 41 ff.; *ibid.*, *Regieren jenseits des Nationalstaates* (Berlin: Suhrkamp, 1998).
5. Kant, *Perpetual Peace* (First Supplement), [http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20\\_Perpetual%20Peace\\_.pdf](http://fs2.american.edu/dfagel/www/Class%20Readings/Kant/Immanuel%20Kant,%20_Perpetual%20Peace_.pdf) (accessed December 14, 2020).
6. See the review of the literature in Canh Phuc Nguyen and Christophe Schinckus, “The Spending Behaviour of Government through the Lenses of Global Uncertainty and Economic Integration” in *Journal for Economic Forecasting*, 23 (2020), pp. 35 ff.
7. Rüdiger Safranski, *Wieviel Globalisierung verträgt der Mensch?* (Munich: Fischer, 2019).
8. Lasse Folke Henriksen and Leonard Seabrooke, “Elites in Transnational Policy Networks” in *Global Networks*, 2020, <https://doi.org/10.1111/glob.12301> (accessed 11 November 9, 2020).
9. Every kind of political rulership has to justify the improbable asymmetry of command and obedience and also give it a foundation in affect. Such justifications always involve fictions of unity. See Udo Di Fabio, *Herrschaft und Gesellschaft* (Tübingen: Mohr Siebeck, 2019), pp. 22 ff.

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10. Klaus Thomalla, *Herrschaft des Gesetzes, Nicht des Menschen* (Tübingen: Mohr Siebeck, 2019), pp. 232 ff.; Georges Goedert, “Die souveräne Gemeinschaft und ihre Untertanen. Zur ‘volonté générale’ bei Jean-Jacques Rousseau” in *Perspektiven der Philosophie*, Neues Jahrbuch, vol. 38, 2012, pp. 257 ff.
11. Ramashray Roy and Raj Kamal Srivastava, *Dialogues on Development. The Individual, Society and Political Order* (New Delhi: Sage, 1986), p. 97.
12. Kamal Eldin Osman Sali, “The Roots and Causes of the 2011 Arab Uprisings” in *Arab Studies Quarterly*, vol. 35 (2013), pp. 184 ff.
13. Fern Tay Huey, “Hong Kong student ‘umbrella revolution’ movement takes to social media to separate fact from fiction in pro-democracy protests”, ABC News, September 30, 2014, <https://www.abc.net.au/news/2014-09-30/feature-social-media-use-in-hong-kong-protests/5780224>, (accessed December 7, 2020).
14. Barbara Lippert and Volker Perthes (eds.), “Strategische Rivalität zwischen USA und China” in *SWP Studie* (1) (2020), p. 38. For a somewhat older analysis of China’s cultural characteristics in foreign policy, see Jürgen Bellers, *Politische Kultur und Außenpolitik im Vergleich* (Berlin: De Gruyter Oldenbourg, 1999), pp. 42 ff. A similarly older notion that China would gradually abandon its ideological adherences (see for example Hans Helmut Taake, “China: von der ideologischen Fixierung zu außenpolitischem Pragmatismus” in *Entwicklungspolitiken. 33 Geberprofile*, ed. Reinold E. Thiel (Hamburg, 1996), pp. 233 ff.), would certainly have to be updated, as a new ideology is emerging that points away from Marxism and towards a new form of Sino-nationalism.
15. Hanns W. Maull (ed.), “Auflösung oder Ablösung? Die internationale Ordnung im Umbruch” in *SWP Studie* (2017), p. 21.
16. One does not have to be convinced of the rightness of this notion (“a fools’ game”?), to appreciate its effectiveness: Juliette Ringeisen-Biardeaud, “‘Let’s take back control’: Brexit and the Debate on Sovereignty” in *French Journal of British Studies*, XXII-2, (2017).
17. Di Fabio, *Herrschaft und Gesellschaft*, pp. 235 ff.
18. Even in Switzerland, the right is now already discussing a new kind of flexibility: Andrés Payer, “Klimawandel als strafrechtlicher Notstand. Zugleich Besprechung des Urteils des Bezirksgerichts Lausanne” PE19.000742/PCL/llb, January 13, 2020, *sui generis* 2020, pp. 226 ff.
19. Hasso Hofmann, *Geschichtlichkeit und Universalitätsanspruch des Rechtsstaats* in *Der Staat*, 34 (1995), pp. 1 ff.; Thomalla, *Herrschaft des Gesetzes*, pp. 387 ff.
20. Udo Di Fabio, *Schwankender Westen* (Munich: C.H. Beck, 2015), pp. 137 ff.