

**Why Govern:
The Strategic, Functional and Normative Logics of Global Governance**

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Abstracts

Demand for Global Governance, Spheres of Authority, and Powers

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States, NGOs, and even individuals have demanded global governance and sometimes realized their goals. Why can such diverse actors, and specifically actors with vastly different power resources, sometimes create global governance institutions? Our thesis is that actors use different types of power to realize their demands for global governance. More specifically, we argue that demand for global governance is inescapably connected to the type of power the actors possess and the sphere of authority they intend to influence. We draw on James Rosenau's idea of "spheres of authority" (Rosenau 2004; Rosenau 2007) and Michael Walzer's "spheres of justice" (Walzer 1983) to show that contemporary actors use specific types of power to influence a sphere of authority or justice. Thus spheres matter in two ways: for the type of power an actor wields, and the sphere of global governance the actor intends to influence.

To make this argument, we draw on typologies of power (Lukes 2005; Adler and Bernstein 2005; Acharya 2011; Cutler 2003; Deudney 2006; Hurrell 2007; Hall 1997; Dahl 1957; Mattern 2005; Mattern 2008; Boulding 1989). Coercive or material power is one type that is consistent with realist notions of power, namely B getting C to do what C would not otherwise choose to do (Dahl 1957). Joseph Nye offers another conception, "soft power," which is the "ability to affect others through the co-optive means of framing the agenda, persuading and eliciting positive attraction in order to obtain preferred outcomes" (Nye 2011, 21).

Without understanding the various types of power, it is impossible to comprehend how a great variety of actors from statist hegemony to small NGOs have realized their demand for global governance in certain spheres. Generally, actors exploit the type of power they have. Large states use material power to realize their demands for global governance, whereas weak states and NGOs use soft power to realize their goals.

We support our theoretical argument with several cases. First we show that materially powerful states created the post-WWII institutions, each institution with its own sphere of authority (UN, World Bank, IMF, GATT/WTO) (Ikenberry 2000). Second, we show that soft power was instrumental in creating other global governance institutions such as the International Criminal Court (ICC) because the initial state and nonstate actors that advocated for its creation were materially weak, and some materially powerful states opposed its creation. Although the US is undoubtedly one of the most materially powerful actors on earth, it could not wield this power to prevent the International Criminal Court (ICC) from being created or entering into force (Struett 2008; Schiff 2008). These examples were largely successes of demand for global governance,

but there have been partially successful outcomes and outright failures as well. We argue that drawing on types of power can help explain these outcomes, such as the UN Global Compact, which was a partial success, and global climate change through the Kyoto Protocol which has so far failed (Keohane and Victor 2011; Gardiner 2011).

We conclude that actors are strategic in their use of power and in the sphere of global governance authority they hope to create or reform, but that demand for global governance can only be understood by understanding various types of power. Interestingly, even if one defines global governance as requiring a coercive element, our argument is still persuasive because many weak actors achieve institutions with some form of coercive capacity.

Global Civics as a Harbinger to Global Governance?

Hakan Altınay

The first round of answers to why we need global governance, or why govern, are obvious and easy. The web of cross-border externalities are getting thicker, and that web needs to be managed. In the absence of one world government, global governance is the only available option. Existing patchwork of global governance systems has emerged as a response to that imperative, and we now have ways to seamlessly wire money across borders; coordinate flights and even satellite orbits; eliminate smallpox and maybe polio; build global seed banks; decrease ozone depleting chemicals; and, even apprehend some suspects. These schemes emerged with little resistance as sensible and low cost solutions to growing challenges of cross-border coordination and cooperation. The cumulative results and consequences of this more mundane global governance cannot be ignored or belittled. Yet, we increasingly have a second group of global governance challenges which defy easy consensus and low cost cooperation. The second group consists of issues such as climate change, Responsibility-to-Protect, International Criminal Court, and Nuclear Non-Proliferation.

In the early phases of the growing global governance field, there were a tendency to treat global governance as a technocratic challenge. The second group of global governance dilemmas remind us that what we are up against is not merely a technocratic puzzle to be cracked; they force us to ponder and articulate the rapport we wish to have with billions who happen not to be our compatriots. We have a sense, a narrative, and a historical trajectory of that rapport in the context of the nation state; yet, no equivalent exists globally. Without at least a draft global civics, current constellation of global governance schemes are stuck.

Steps forward would behoove us to pay attention not only to institutions, but also to the norms as harbingers of those institutions. Smith, Weber, Elster, Putnam, Williamson and others have demonstrated that a system need not just enforceable contracts to function, but also norms, predictability and trust. More recently, Robert Axelrod, Cristina Bicchieri, Samuel Bowles, Herbert Gintis, Brian Skyrms, and Edward Wilson have provided us with nuanced accounts of how norms and cooperation emerge and evolve. This growing body of scholarship should further sensitize us as we move forward in our inquiry into the current state and challenges of global governance.

In the last 200 years, we have become greater masters of our destinies though technology and democracy. Yet, we now have to accept that our lives are also being co-authored by people with

whom we do not share citizenship or obvious affinity. How to share that authorship is deeply challenging. If we do not have some way to nurture trust, maintain predictability, strengthen the fragile fabric of global norms and forge a global civics, we will fail to harness the gains from global interdependence, and surrender to widespread anomie and backlash. Therefore, the second round of answers to "Why govern?" may well be "so that the last 200 years are not a sad footnote to our descent into barbarism."

The Evolution of the Global Refugee Regime: The Sources of Demand for Change

Alexander Betts

The global refugee regime has emerged over a long history (Haddad 2009; Orchard 2010; Skran 1995). Its modern incarnation is based on two main elements. It is based on a core treaty, the 1951 Convention on the Status of Refugees, which defines who is a refugee and the rights to which such people are entitled. This is complemented by an international organization, the Office of the United Nations High Commissioner for Refugees (UNHCR), which has primary responsibility for supervising states' compliance with the convention (Goodwin-Gill and McAdam 2008; Loescher 2001). What is interesting about the regime is that its emergence has been dynamic. Since its creation, to address a particular set of challenges within a particular geographic and historical context – post-Second World War Europe – the scope and purpose of its work has evolved.

Both the application and interpretation of the convention and, even more so, the scope of work of UNHCR have expanded considerably. UNHCR, for example, has gone from being a small secretariat offering legal advice on the application of the Convention to states in Europe to being a sizable humanitarian organization providing assistance to a range of populations and operating around the world. The regime has an inherently normative regime insofar as it exists to uphold a human rights-based legal framework but it has also gradually taken on a range of additional functional tasks to address practical challenges faced by states. Indeed, Crisp has described UNHCR as "inherently expansionist". Its mandate has broadened both i) "who it protects" – the scope of its so-called population of concern ii) "how it protects" - the scope of its activities (Betts et al 2012).

The temporal evolution of the regime, and especially of the mandate of UNHCR begs two related questions that have so far remained unanswered in International Relations scholarship on the regime. First, what have been the sources of demand for change in the global governance of forced migration come from? Second, has variation in the provenance of that demand makes any difference for the legacy and sustainability of the resulting reforms? Indeed Acharya's (this volume) framework begins to offer some heuristic tools for considering these questions. It enables us to reflect on whether the sources of demand at key turning points have come from functional needs, normative changes, or power shifts (and within these categories whether the nature of that demand emerges from domestic, regional or other levels of governance). It further asks us to consider whether the provenance matters and reveals patterns in whether source of demand equates to reform outcomes.

In order to unpack this, this chapter explores six of the key turning points at which UNHCR's mandate has changed over the last 60 years and at each stage asks what the provenance of the demand was for reform, and what, if any legacy can be causally attributed to the provenance of

demand. The six turning points it looks at are: i) prolonging its existence (1952-1956); ii) geographical expansion (1957-1967); iii) the development of regional comprehensive solutions (1980-1994); iv) becoming a humanitarian relief agency (1990-2000); v) assuming responsibility for IDP protection (1998-2006); vi) protecting victims of natural disaster (2007-11). Methodologically, this approach also potentially allows exploration of temporal and within-case variation.

The chapter argues that in the refugee context “the demand for global governance” cannot be seen as static but involves a dynamic process of evolution, adaptation, and renegotiation. At different stages, the source of demand for reform emerges for different reasons and from different actors. Crucially, the provenance of that demand appears to be causally significant in determining the trajectory and sustainability of reform. The balance and sequencing of demand matter for the outcome of change. Where the provenance of demand has been too lop-sided in favor of functional, normative or power-based drivers it has led to outcomes that are either unsustainable or highly selective in application. In contrast, lasting and sustainable reform has required demand that simultaneously meets functional, normative, and power-related sources of demand, even if these are sequenced.

Why Govern Cyberspace and Social Media

Derrick L. Cogburn

Use of the Internet has grown exponentially over the past two decades, from an estimated 16 million users in 1995 to almost 3 billion today. As the Internet has grown, it has become deeply integrated into the daily activities of government, international and regional organizations, business, civil society, educational institutions, and the media. Providing a global governance process that ensures stability, reliability and growth for this critical international resource presents numerous conceptual and empirical challenges. A critical usage of international regime theory, one that goes beyond the narrow approach taken by realists in their focus on the power of nation-states, to a broader, multistakeholder approach, that includes civil society and business actors, provides tremendous analytical power in understanding global Internet governance in both the historic and contemporary terms. This paper provides a brief overview of the history of the Internet and background to the current system of Internet governance. It also explores the relationship between Internet governance and the broader concepts of the global governance of cyberspace, social media, and the Information Society. The paper starts by specifying a technical definition of the Internet (and related software and technology like the World Wide Web and applications that run on top of it like social media). This technical definition, focusing on the Transmission Control Protocol/ Internet Protocol (TCP/IP), enables us to carefully specify the institutions and individuals involved in the norm creation and decision-making processes that allow the Internet to operate as a “network of networks.” The paper then highlights the social, political, economic and technological pressures leading to the erosion of previous global governance systems for international telecommunications and the emergence of new institutions to govern the Internet, including the Internet Cooperation for Assigned Names and Numbers (ICANN). Next, the paper reviews the fundamental contestation amongst international organizations and major stakeholders for dominance in the contemporary governance of the Internet, including the substantial conflicts occurring at the UN World Summit on the Information Society and most recently at the World Conference on International Telecommunication (WCIT). We examine the post-WSIS creation of two new multistakeholder follow-on institutions, the Global Alliance on ICT and Development (GAID) and the Internet Governance Forum (IGF). The IGF, with its Multistakeholder Advisory Group (MAG) and Dynamic Coalitions, represents an entirely new mechanism for global governance. However, the IGF has major limitations. Participants in the IGF represent themselves, not their countries or organizations; it is non-binding and has no decision-

making capabilities, and the range of issues addressed by the IGF are incredibly broad, far beyond the narrow technical issues many analysts include as part of Internet governance. These limitations are so great that some scholars will not include the IGF as an Internet Governance mechanism. They favor the strict technical Internet governance provided by the aggregation of ICANN, IETF, and the Regional Internet Registries (RIRs). Understanding that there is no “one stop shop” for Internet governance, the paper ends with policy recommendations for the future.

Planetary Geopolitics, the Decline of World Government, and the Rise of Regimes, Global Governance, and Social Movements

Daniel Deudney

Since the early years of the twentieth century the human situation has been marked by a steadily rising tide of interaction and interdependence on a world wide or global scope. As this rising tide of ‘globalization’ (in the broad sense of the term) has come to shape more and more of the human world, and come to be recognized by growing numbers of observers, there has also been a steadily growing sense that existing arrangements for organizing political affairs, centered on sovereign autonomous states largely operating in an overall situation of anarchy, have become increasingly inadequate and need to be replaced. Yet as this sense of growing interdependence and need for new world-wide political arrangements has grown, there also has been, paradoxically, a slow but cumulatively great shift down in the ambition of the ‘political imaginaries’ of about post anarchic government for the world. Through much of the twentieth century, a world state, world government, or world federal union was the dominant such political imaginary. But over the last decades of the 20th century and into the first decade of the 21st much less vertical, much less state-like global political imaginaries, in the form of regimes, governance and social movements have come to dominate thinking about alternative world orders. This paper documents this global descent and offers an explanation for this descent based on the insights of what I refer to as ‘planetary geopolitics,’ an approach to mapping the material contours of the global condition, and to drawing political implications from these patterns. The key point is that globalization has produced a human situation marked not just interdependence but also by the extremely wide distribution of capabilities and by great complexity. The overall effect of wide distribution and complexity has been to block traditional paths to the creation of ‘higher’ state-like structures of authority, while at the same time making the tasks of governing the world far too complex to be accomplished by ‘higher’ political arrangements.

Health and Global Governance

David Fidler

NB: By arrangement, the paper for the October conference will be D. P. Fidler, The Challenges of Global Health Governance (CFR Working Paper, May 2010). The paper for the published volume will be a new contribution following the guidance for the “Why Govern?” project.

The relationship between collective action to protect human health and “global governance” has been, and remains, a central and controversial concern in global health. This paper defines “global health governance” as “the use of formal and informal institutions, rules, and processes by states, intergovernmental organizations, and nonstate actors to deal with challenges to health that require cross-border collective action to address effectively.” After describing how health featured historically in world politics, the paper focuses on the revolution in global health politics and governance that occurred over the past two decades. Driving this revolution was the emergence of health issues across security, economic, development, and humanitarian interests of states, intergovernmental organizations, and non-state actors.

The political elevation of health in international relations contributed to the expansion of a “regime complex” in global health. States responded to health problems by rethinking health as a foreign policy concern (e.g., linking health threats with national security interests), creating new institutions (e.g., the Global Fund to Fight AIDS, Tuberculosis, and Malaria), developing new rules of international law (e.g., the Framework Convention on Tobacco Control), integrating health cooperation more deeply into regional organizations (e.g., in APEC, ASEAN, and the EU), and operating public-private partnerships (e.g., the GAVI Alliance involving, among others, the Gates Foundation). The paper breaks down this regime complex by analyzing changes in the players, problems, processes, and principles characterizing global health governance in the early 21st century.

Although global health had become more important politically and diplomatically, critiques about the regime complex (e.g., fragmentation; erosion of the World Health Organization’s historical role) and specific features of it (e.g., too much emphasis on infectious diseases; lack of adequate funding) generated a search for a “new architecture” for global health governance. Cutting across the critiques was the concern that the proliferation of players, problems, processes, and principles was making global health governance uncoordinated, incoherent, and ineffective. Ideas posited include reforms of the World Health Organization, negotiation of new instruments of international law on health challenges, and embedding global health as an objective in new global governance processes, such as the G20.

The paper identifies obstacles to reformation of global health governance over the next decade, and developments since the paper’s publication in 2010 have underscored the limited prospects for significant changes in this issue area. The difficulty of reform suggests that political demand for better global governance in the health context is waning, leaving global health governance transformed but vulnerable to the shifting interests and ideas of states, intergovernmental organizations, and non-state actors.

Constructivism and Global Governance

Rodney Hall

This paper explores the contribution of constructivist thought to the study of international organization and global governance. It begins with a brief history and development of constructivism as an intellectual approach. It then parses current debates in the field and surveys the key criticisms that have been leveled at constructivist thinking; namely constructivist contributions to regimes theory, to the literature on multilateralism, on international organizations, their autonomy and consequences, and constructivist analysis of the nature and consequences of private authority. The chapter then concludes with a discussion of future directions for constructivist analyses of international organization and global governance.

Contradictory Legacies? The Demand for Global Financial Governance After the 2008 Crisis

Eric Helleiner

This paper examines the demand for global financial governance in the wake of the massive financial crisis of 2008. It argues that the crisis has generated both a heightened and diminished demand at the same time. Regarding the former, the crisis acted as a catalyst for a dramatic boosting of the IMF’s resources and the creation of the Financial Stability Board to strengthen international financial standards. At the same time, the crisis also reinforced many governments’ interest in self-insurance (which reduces the demand for IMF loans) and host country financial regulation (which reduces the role for international

financial standards). The paper offers several explanations for these contradictory post-crisis trends in the demand for global financial governance, and explores how they may be reconciled in the coming years.

Why Govern the Climate?

Sikina Jinnah

Climate change is a classic collective action problem—greenhouse gasses emitted anywhere yield impacts everywhere (albeit they are unevenly distributed), and the costs of decreasing emissions are relatively concentrated and very large. These problem characteristics create a functional need for collective action, which explains the underlying demand for global governance of climate change. However, the contemporary dynamics of politics within the United Nations Framework Convention on Climate Change (UNFCCC) suggest that functional demand is now only part of what sustains global governance in this area.

Rather, contemporary global climate governance is driven by a rich constellation of not just functional, but also structural and normative demands. Asymmetries between responsibility, impacts, capacity, political will, and governance solutions continue to undergird a strong functional demand in this realm. For example, developed countries bear the most historical responsibility for greenhouse gas emissions, but impacts will be most strongly felt in the least developed countries that also have the least capacity to adapt to these changes. Structural factors are also important. For example, the US has sought to reinforce existing political economic relationships by insisting that emerging economies, such as China and India, take on emission reduction commitments. Finally, normative demands, including the European Union's (EU) desire to differentiate its foreign affairs identity from the United States (US), and the need for a platform to hash out core governance norms—such as common but differentiated responsibilities for climate change—are also important in the climate governance context.

Importantly, these demands for global climate governance vary depending on who the *demandeur* is. Demands from least developed countries (LDCs) differ from those of emerging economies and developed ones, as well as from civil society and the private sector. For example, in many LDCs a central demand for global climate governance is to secure international adaption finance, whereas many emerging and developed economies are more interested in global climate governance as a vehicle to secure economic competitiveness.

This paper explores the various structural, functional, and normative demands for global climate governance from the key political constituencies in this issue area. It further outlines mediating domestic and regional forces on those demands, and identifies key challenges and possible reforms for governance of global climate change into the future.

Who's Liberal Now? Rising Powers and Global Norms

Miles Kahler

The United States as “liberal leviathan,” defending liberal norms against an array of foes in global conflicts throughout the twentieth century, is a familiar narrative, and one that is seldom questioned in mainstream American politics and foreign policy. Even those who oppose certain features of liberal internationalism—whether “little America” isolationists or anti--globalization activists—endorse the liberal internationalist narrative in the course of their attempts to

undermine it. The end of the Cold War and a subsequent moment of liberal triumphalism have been succeeded by a more ambiguous world, however, one in which rising powers, the largest emerging economies, do not fit closely the dominant narrative's categorization of liberal allies or totalitarian and autarchic adversaries. This ambiguity, which takes on immediate concern as the emerging economies catch up to the industrialized economies and challenge their hold on global governance, has led to widely divergent views of the normative content of any future international order, from an expanded, but still United States--led liberal order to a world of "multiple modernities" (Kupchan) in which contemporary Western liberalism is only one competitor.

Rather than examining the capabilities of the rising powers and their ability to shift global norms, the paper will center on the normative content promoted in global governance institutions by the United States, other incumbent powers, and the rising powers. In the first section, the contemporary liberal world order is delineated, and its ambiguities and evolution are exposed in concrete issue--areas: capital controls and intellectual property in economic governance; foreign aid and humanitarian intervention in the domain of security. Liberalism embodied in the global rules of the game is far more contested and variegated than shorthand, such as the Washington Consensus, allows. In the second section, the peculiarities of American liberalism and the American vision of liberal world order, in ideology and practice, are described. Both left--wing and realist critics of American foreign policy have taken the easy route of viewing liberal ideology and liberal practice as an instrumental disguise for the exercise of American imperial power. A more nuanced view would examine American liberal preferences as an outgrowth of American politics, which produce a highly selective and partial exemplar within the larger liberal universe. Finally, the stance of the rising powers toward liberalism is dissected. Rather than viewing the emerging economies as uniformly hostile challengers to the existing order that espouse illiberal alternatives, their endorsement of a different variant of liberalism, one based on communitarian principles and self--determination, is outlined. Liberalism as harmonization to a single set of practices (the American view) is pitted against liberalism as self--determination and diversity. As their ability to shift the normative consensus grows, these powers, contending with the incumbents, may produce a world that is more just (a larger redistributive role for states) and more peaceful (less temptation for forcible liberal intervention), though perhaps less free.

The Emergent System of Global Governance

Andrew Mack

The end of the Cold War impacted global security in two critical ways. First, it removed a significant source of conflict from the international system. Second it led to the emergence of a new form of global security governance.

In the early 1990s, liberated from the more than four decades locked into the stasis of Cold War politics in the Security Council, the much-criticized UN spearheaded a massive upsurge of international activism directed towards preventing wars, stopping those that couldn't be prevented, and preventing those that had stopped from re-igniting. The primary target of this activism has been civil wars. Over the past two decades there have huge increases in policy activism in peacekeeping, peacemaking, DDR, SSR, the creation of "Friends" groups, humanitarian assistance, post-conflict peacebuilding, etc., etc.

The key stakeholders in this emergent security system have been international agencies, regional organizations, key donor governments—and those of war-affected states—plus “Friends” and “Contact” groups and huge numbers of NGOs. In its current stage of development, the system remains inchoate, disputatious, inefficient, and prone to tragic mistakes. But, as successive Human Security Reports have argued, the evidence suggests that it has also been surprisingly effective in driving down the number and deadliness of armed conflicts. Since the end of the Cold War the number of high intensity wars being fought around the world has more than halved; minor conflicts are down by some 40 percent.

The success rates of peacekeeping and other post-Cold War security initiatives haven’t been high. But even very modest rates of success generate a substantial number of successes over time. In the Cold War years there were no such initiatives.

The latest, and potentially one of the most important policy initiatives to emerge from this still-nascent global security system has been the International Dialogue on Peacebuilding and State-Building (ID). Created in 2008, its stakeholders include international agencies, donor state government, governments of fragile states and NGOs.

The ID is an extraordinarily radical innovation in global security governance. First, it is the only official-level, multi-stakeholder process whose core rationale is the multiple security and development challenges that confront post-conflict and other fragile states. Second, the ID process is not driven by donors and IOs—the fragile state partners are “in the driving seat.” Third, there is an explicit recognition that development/ peacebuilding processes are quintessentially political—a considerable shift from traditional development practice with its emphasis on more technical issues. The ID has tasked itself with identifying and implementing an ambitious range of peacebuilding and state-building goals. It holds annual ministerial meetings and has formal and ad hoc working groups. There has been considerable progress at the normative level—much less in substantive terms.

In 2013, the ID has confronted something of a crisis with relations between the fragile state stakeholders and the IOs and major donors becoming increasingly difficult and with deep North/South disagreements stalling progress.

The second part of the paper analyzes the drivers of these divisions and the prospects for resolving them. These divisions are not unique to the ID process and have important policy implications for the still-emerging system of global security governance.

Why Govern Trade?

Susan Sell

Many analysts of global governance look to the World Trade Organization (WTO) as particularly effective and important because its treaties are enforceable. Legal scholars distinguish the enforceable hard law of the WTO from the less constraining soft law that dominates the international arena. However, in recent years states have failed to make substantial progress in the Doha round of multilateral negotiations and increasingly are negotiating plurilateral trade deals outside of the WTO. It is unclear how these plurilateral agreements such

as the Anti-Counterfeiting Trade Agreement (ACTA) and the Trans-Pacific Partnership and US-EU trade negotiations will mesh with existing multilateral institutions. Trade economist Jagdish Bhagwati bemoans the forum proliferation and regime complexity (or “spaghetti bowl”) governing trade issues. The current multilateral stalemate worries proponents of trade liberalization, who emphasize how it has pulled many millions out of poverty and fueled the emerging markets of China, India, and Brazil.

Hard feelings remain in the wake of the Uruguay Round of trade negotiations over broken promises and costly demands. Two of the touchiest issues are agricultural trade and intellectual property, the latter of which Bhagwati argues has turned the WTO into a royalty collection agency for OECD-based firms. The quid pro quo in the Uruguay Round was that developing countries would accept an Agreement on Trade-Related Aspects on Intellectual Property (TRIPs) in exchange for expanded market access for developing countries’ textile and agricultural exports. The OECD countries have yet to fulfill the agricultural market access end of the bargain. At the disastrous 2003 Cancun trade negotiations then-USTR Rob Portman blamed developing countries for the impasse and made a clear distinction between the “can do” and the “won’t do” countries.

By the same token, China, India, and Brazil are gaining greater influence commensurate with their rising economic clout. The multilateral impasse and the growing assertiveness of China, India and Brazil have prompted continuous forum shopping and shifting. The U.S. and the E.U. have engaged in extensive bilateral and plurilateral negotiations seeking to achieve deals that they could not achieve multilaterally. This exercise in vertical forum shifting not only weakens multilateral governance institutions, but also raises important concerns about legitimacy. These concerns are particularly sharp in both intellectual property and agriculture. Many of the bilateral and plurilateral efforts focus on obtaining much stricter standards for intellectual property protection and tougher enforcement penalties for infringement than TRIPs requires. Indeed, only the plurilateral Trans-Pacific Partnership and US-EU Transatlantic negotiations can be considered to be bona fide trade negotiations insofar as they include more than just intellectual property provisions. ACTA and most of the bilateral free trade agreements (and European Economic Partnership Agreements) are strictly about intellectual property. China, India, Brazil and others have raised concerns about these agreements and their relationship to the multilateral system. Outgoing-WTO Chairman Pascal Lamy has expressed fears that these agreements may weaken or undermine the multilateral system.

As Andrew Hurrell states: “governance [whether domestic or global] has ... three overriding objectives: the management of power, the promotion of common interest, and the medication of differences.” The problems with trade governance today include rules out of sync with economic power, the difficulty of agreeing upon a common interest, and the OECD’s apparent desire to avoid multilateral forums and its refusal to try to “medicate” differences.

Human Rights as Constitutive Norms of Global Governance

Kathryn Sikkink

In this volume, as in many volumes about international relations, human rights are treated as yet another of the multiple issue areas that need to be regulated or governed, or even a “niche” issue compared to the core issues of security, trade, and development. I will argue here that far from

being a niche area, human rights protection is one of the main answers to the question, “Why Govern?” that animates this volume. Just as human rights demands were constitutive in each of the waves of emergence of new sovereign states (Reus-Smit, 2013); human rights issues have also been one of the key constitutive norms of the moves to regional and global forms of governance. I do not claim that human rights are the most important constitutive norms of global governance, but rather that they are one such key constitutive norm. There are some regional governance arrangement, like ASEAN, for example, where human rights norms have been explicitly absent, and there are other global institutions, like the WTO, where attention to labor rights have been sidelined to other goals. But human rights norms have animated the demand for global governance well beyond the reach of specific human rights governance arrangements.

This chapter responds to the framing paper’s call for a demand-side understanding to global governance, but goes beyond it as well. I argue that the demand for human rights protections beyond the state led to the emergence of specialized human rights governance arrangements, such as the ICC, but also helps explain more generally why actors seek and support global forms of governance. Not only did states create formal general purpose organizations such as the UN, the European Union, and the OAS with human rights norms at their core, but human rights norms also contributed to the emergence of informal governance arrangements such as the rise of election monitors. Perhaps more interesting and relevant for other chapters in this volume are the ways in which human rights norms have led to the transformation of existing global governance arrangements, such as the ways in which the ideas and practices of rights-based development are currently changing development institutions, or how humanitarian law is transforming dramatically the global governance of war.

The framing paper suggests that ideas and norms may explain the varying demand for global governance. This chapter envisions thinking about this at two levels; constitutive norms and emerging norms. If human rights are constitutive of global governance, it may help explain why new norms that embody human rights ideals such as R2P, transitional justice, human security, or rights-based development have expanded more rapidly and been more robust than, for example, the Common but Differentiated Responsibility principle in climate change governance debates. Finally, exactly because human rights norms have been constitutive of many global governance arrangements, they also form the major yardstick by which to evaluate the success or effectiveness of such arrangements.

Humanitarian Crises and Global Governance: A Gap Analysis

Ramesh Thakur

Global governance advances and retreats by filling or widening five analytical gaps: knowledge, norms, policies, institutions, and compliance (Weiss & Thakur 2010). Over the past decade and a half, concerned citizens, engaged academics and reflective practitioners have joined mandated and nongovernmental organisations in becoming exercised about a much more acute empirical gap, namely the protection gap. Since the conscience-shocking scenes from the 1990s, of atrocities in Rwanda (1994), Srebrenica (1995), Kosovo (1999) and East Timor 1999) in particular, several efforts have been launched to strengthen the protection gaps in global governance. With respect to knowledge gaps: What are the causes of atrocity crimes and contributing factors behind them? Can we identify early warning signs? Who are the actors best placed to respond quickly and effectively to avert or halt atrocities? On normative gaps: How can old, out-dated and ineffectual norms be replaced by robust new powerful ones? Who are the norm entrepreneurs, brokers, champions, carriers and spoilers? Can we identify the cascade tipping point and is

it then irreversible? On policy gaps: What policy remedies work best? By whom can they be adopted? On institutional gaps: Do we need new institutions or can existing ones be adapted, reformed and improved to be made fit for purpose? How can the division of labour between them be optimally allocated to avoid duplication and institutional infighting? Most crucially, what are the compliance gaps and how can they best be filled to ensure predictable, credible and reliable protection? How can global governance compliance mechanisms be reconciled with state sovereignty?