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# Dismantling of the Rules-Based Global Order

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iCES Occasional Paper XXVII  
Institute of Contemporary European Studies

## **iCES Occasional Paper XXVII**

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Dr Kori Schake, Geoffrey Robertson, Sir Mark Lyall Grant, 2019

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ISSN 2040-6517 (online)

First published in Great Britain in 2019 by the  
Institute of Contemporary European Studies (iCES)  
Regent's University London, Regent's Park, London, NW1 4NS

[regents.ac.uk](http://regents.ac.uk)

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# Lord Hannay of Chiswick, OM

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Chair, Senior European Experts Group

Lord Hannay is a Crossbench member of the House of Lords. In a distinguished diplomatic career, his postings included Head of the Middle East Department of the Foreign Office and UK Permanent Representative to the European Communities 1985-90 and to the United Nations, 1990-95.

# Foreword

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Welcome to this latest seminar, which the group I chair, the Senior European Experts Group, prepare for seminars, three per year, here at Regent's. We have chosen this subject because it seemed to us to be singularly topical and also a way of going a whole evening without mentioning Brexit! And so since I think many people, probably some in this audience, might like to spend an evening off from talking about Brexit – I seem to spend my life talking about nothing else – we chose this topic.

Some people may disagree with the exact term we use, 'dismantling'. Some will say 'destroying', some would say 'undermining'. You get the thrust of what we mean.

The paper we have written sets out to do three things.

The first thing is to describe a little bit what the international rules-based order is. Nothing irritates me – and I imagine an enormous number of people around the country – [more than] having a lot of politicians talking about this thing called 'the rules-based international order' without explaining what on earth it is. And without explaining what connection there is between it and their daily lives. And that is not helpful. So I pass a lot of my time when I speak to explain it and the links with people's everyday lives.

Also, I think we are bit remiss in this particular period when we are celebrating the centenary of the end of the First World War to explain the chain of events that led from before the First World War, through the inter-war period, the Second World War, and the setting up of the institutions which run what we call 'the rules-based international order'.

That background history is also important not because it helps us to prevent history repeating itself, because it seldom does exactly, but because it tells us what sort of mistakes were made in the past and what sort of problems arise if you have nothing better than say, something vaguely called the 'Concert of Europe,' which then didn't function when it was needed to stop the First World War.

Then we describe a little the challenges to the rules-based international order, which are pretty numerous and have been there for a long time. Of course the Cold War was one of the biggest challenges to it because it stopped most of the universal institutions like the UN from functioning properly as they were meant to function until 1989. There were other challenges like the fact that some of these institutions weren't terribly good at doing their job and wasted a lot of money, and so on.

But now, I think, and this is the thesis in the paper in so far as it has a thesis, we are in a rather different period when there really are some quite systematic and pretty deliberate attempts to dismantle large bits of this structure. Whether it is the World

Trade Organisation with President Trump refusing to nominate any panellists to the dispute panels, or whether it is the withdrawal by the US from a number of things like the Human Rights Council, the Paris agreements and the nuclear agreement with Iran, or whether it is the efforts of President Putin to recreate influence around Russia which looks singularly like the Soviet Union in drag.

And I think we have an ambivalent but rising power in China. Ambivalent because I am afraid it is the arch practiser of Boris Johnson's doctrine of having your cake and eating it as far as the international community is concerned. Because the bits they like, climate change, freer and fairer trade and so on, they certainly say they support and in some cases they really do. The bits they don't like, like human rights or the law of the sea, they don't. They are in a different category, I would suggest, than the disrupter in chief, President Trump, or Putin, who actually wishes to overturn the European order that was set up in the Paris Charter of 1994.

We sketch out those and also, of course, try to work our way through understanding why populism, in lots of different parts of the world, is actually strengthening the undermining of the rules-based international order. What has driven populism, obviously that requires a book, or several books, but we have tried to set that in context.

We have not gone into detail but clearly if countries like Britain, France, Germany, Japan, Australia and others do attach real importance to the rules-based international order, they can't stand around wringing their hands and saying this is a terrible thing. They have got to think constructively about ways of dealing with the grievances which have given rise to the undermining of the international rules-based order, and of ways making the international institutions which, Heavens knows are not perfect, more effective.

So that's the background to this and I will now call on our three speakers.

We have Kori Schake, who will speak first, who is the Deputy Director of the International Institute for Strategic Studies, she has worked in a number of positions in different Republican US administrations, but is perhaps we could say living in exile in London now, or not quite, but she's very welcome. She will speak about things from an American point of view.

Then Geoffrey Robertson QC will talk principally about courts and human rights and that whole area of the rules-based international order, which is often neglected. It is not alas as effective as it should be as it has very little enforcement machinery.

Thirdly, Mark Lyall Grant who was High Commissioner to Pakistan, then Ambassador to the United Nations and he then became National Security Adviser, a job from which he retired last year.

I think we have a big spread of speakers and I think the subject matter deserves a panel as good as we have got.



# Dr Kori Schake

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**Deputy Director-General, International Institute for Strategic Studies**

**Dr Kori Schake is a contributing editor** at *Atlantic*, the author of *Safe Passage: The Transition from British to American Hegemony*, and co-editor of *Warriors and Citizens: American Views of Our Military*, (Hoover Institution). She has worked as director for defence strategy and requirements on the US National Security Staff, as deputy director of policy planning in the State Department, in OSD Strategy and Requirements, and on the Joint Staff. She was senior policy advisor on the 2008 McCain-Palin presidential campaign. She teaches in war studies at King's College, London and has previously taught at Stanford University, the United States Military Academy, the John Hopkins School of Advanced International Studies, and the University of Maryland.



# Dr Kori Schake

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I would make five points about the rules based international order and the turbulence we are experiencing with it right now.

The first is that even as the Lord Hannay was talking I was thinking you didn't actually give enough background about why the order was created. Because very often people who object to contemporary parts of it, the International Criminal Court or the European Court of Justice, forget that this order was built by the people who had had to fight Nazi Germany and Imperial Japan. This wasn't some faculty club project at some leftist American university that set out to imagine what the optimal world should be.

The international order institutions, the rules of the road, the security guarantees between like-minded countries, the trading encouragements that increase all of our prosperity, this wasn't a big idea somebody had. What it was that the people who were so fearful that we nearly lost World War Two, and the forces that had driven the rise of fascism in Japan, in Italy, in Germany and in other places, needed to be defanged and they needed to be defanged by creating patterns of co-operation and transparency and mutual benefit that would buy us a wider margin of error than the world had experienced in the 1930s and the 1940s.

The other thing that I would say about the foundation of the order is that even the people who built it, the hard-men who had to get ten million Americans under arms in the space of nine months in order to respond to the challenge, the Europeans who fought for years before the United States entered the war, those men built this order sequentially. They had, particularly the Americans, wanted to do as little as possible with the rest of the world, in order to get that outcome.

The first step, as the report very nicely points out, was the institutionalised co-operation at the United Nations. The belief that countries co-operating and compromising in an institution where everybody played by the same rules. One of the things about that is to legitimate the rules for the weaker powers, the countries that don't have the heft to shape the rules, unless you have an institutionalised order.

That was where we started but that didn't prove adequate to the challenges and so then you get the Marshall Plan to begin to try and create positive outcomes in prosperity, to bind people in to those co-operative patterns. And that doesn't prove enough, so when the Soviet challenges to Berlin and the Korean War you begin to get an institutionalised security co-operation. So you don't have any those military structures anymore because people were hoping that more institutionalised patterns of co-operation would be enough but they are not.

So you get this accretion of the different steps of the order. First, institutionalisation, then economic co-operation, then security guarantees and then the last strain of what comes to be the liberal international order, is the liberal part. Which is when American leaders realise you can't get my mum to care about the rest of the world unless she feels like she has a stake in those people. People who share our values of individual liberty, limited government, and all the things that feel like they are under pressure with the rise of populism now. Those shared values were imported in order to make mutual prosperity, the institutionalisation and the security guarantees work. One of the challenges now, as people starting chipping away at the order, a question you should ask yourself is: 'Can those four separate strands operate unless they are all braided together' and I think the answer is 'no' and we are having a big test of that now.

The second point that I would make, and I agree with both the report and with Lord Hannay that is the first time we have had an American President who genuinely doesn't believe in the order. He genuinely doesn't believe that institutions help create patterns of co-operation and forums for participation that are advantageous to the United States. He genuinely doesn't believe that alliances are a comparative advantage for the United States in the world and reduce the costs of almost everything we are trying to do. He genuinely doesn't believe that trade is a mutual sum outcome and he genuinely doesn't believe, as yesterday's White House statement about Saudi Arabia made disgracefully clear, in a values component in American foreign policy.

I do think that the order is under strain and not just from the official bad guys, the Russians and the Chinese, but from the people who built it, and who have been its guarantor these last few years.

My third point: I am not nearly as negative as the report is because I am actually confident that the system is much more resilient than it feels right now because of the throng of pressures it is under. But I would just point out to you that the system is holding.

Let's take the NATO summit. What we remember of the NATO summit from a few months ago is President Trump's disgraceful behaviour but what we overlook is that the 28 NATO allies agreed to reconstitute the second fleet to co-operatively protect the Atlantic shipping lanes. They agreed to the 'thirty-thirty-thirty' fighter squadrons, brigades, battleships to be available to the Alliance for 30 days. This is a huge improvement in our ability to protect ourselves and that slipped through under the radar. And all the NATO allies have increased their defence spending; President Trump wasn't the reason, the reason was Russia as a challenge to the eastern states. But still, all the NATO allies were willing to give the President of the United States a win on it but the president just didn't want to take it. What we should be afraid of is the President wouldn't take part. But the reassuring part is just as how much ligature is holding the world order together and I will give you two examples of it.

One is that Canada, Mexico, Australia, Japan and South Korea, and Chile, kept the trans-pacific partnership even though the United States withdrew. The middle powers are stepping forward to sustain the order and in my judgement that, unless China provokes an actual military confrontation, I would give that process ten years for my country to come to come to its senses and to see whether it is genuinely true that China can navigate the middle income trap without becoming a liberal country. I myself still believe Hegel had it right that as people grow they become more demanding political consumers. There is no surprise that those sustainably prosperous countries in the international order are those that had to create that liberal country, you have to create an economy. All of those countries are liberal countries and there is a reason for that which is that the kinds of people who create dynamic economies are demanding political consumers.

The fourth point I would make is to plead with you to have a little patience with my reckless official country and to point out that even though President Trump is a gigantic wrecking ball I would also point out to you that the UN Secretary-General Antonio Guterres announced about two months ago that the first country that is going to meet its Paris climate change goals is the United States of America. Despite President Trump withdrawing from the treaty, despite the overt hostility of the federal government, the great golden state of California, 31 American mayors, 12 governors, Apple Computers, BP, American consumers, American businesses are driving us into alignment without the federal government. And that is almost always the saving grace of the United States, how little power are federal government generally has.

The last point I would make is that for me, the most resonant chord you struck in the report was in the section on challenges – that one of the central challenges the report identifies is a loss of confidence of all of us in the liberal order. We have lost confidence that it serves our interests. I would just encourage you to think about what an order that somebody who wasn't the West would create? Try to imagine what rules of order China would set? Or Russia would set? Unless we actively believe in this order and fight for its preservation I fear that the order that comes next is going to be one that is a lot less amenable.

# Geoffrey Robertson AO, QC

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Author and human rights lawyer

Geoffrey Robertson QC is a distinguished international human rights lawyer. He was the first president of the War Crimes Court in Sierra Leone. After a career as leading counsel in many Old Bailey trials, he has defended hundreds of men facing death sentences in the Caribbean and has won landmark rulings on civil liberty from the highest courts in Britain, the Commonwealth and the European Court of Human Rights. He received the New York State Bar Association's award for Distinction in International Law and Affairs and the Order of Australia in 2018 for his promotion of international justice.

His books include, *Crimes Against Humanity*, hailed as an inspiration for the global justice movement, *The Tyrannicide Brief* and *An Inconvenient Genocide: Who Now Remembers the Armenians?*

He is founder and head of Doughty Street Chambers and a Master of the Bench at Middle Temple. His latest book is a memoir, *Rather His Own Man: In Court with Tyrants, Tarts and Troublemakers*.

# Geoffrey Robertson AO, QC

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I agree with Kori that while this is an excellent report and while it does lay out how we are destroying the international order rather than reforming it, there are prospects. The very nature of the challenge to particular institutions will force much needed reform and then there is an interesting alternative at a time when the international order is under threat. Maybe a national order or a national order in democratic countries could replace it with much more effect and I will have a word about the Magnitsky Law as an example of that.

I want to talk about the prospect of reform because in my area, the international legal order dates back indeed to Nuremberg. And it was Nuremberg that started it, then there was Eleanor Roosevelt's committee which produced the Universal Declaration of Human Rights. That judgment at Nuremberg came down on 30 September 1946. I know that because I was born on that day. As the judges came in, I came out! I am a sort of precise temporal measure of the extent to which we have succeeded and not succeeded on delivery of that great promise, that perpetrators of crimes against humanity would not go unpunished.

Nuremberg was progenitor of the great triptych of human rights in 1948/49. The Genocide Convention, the Universal Declaration on Human Rights and the Geneva Conventions. These were followed in the next 20 years by all sorts of good conventions – against racism, against apartheid, against ill-treatment of children and so forth. But they none of them had any enforcement mechanism. This was, and still is, the great problem for international human rights – the lack of an enforcement power. It was said, surveying the killing fields of Rwanda, that 'the road to hell is paved with good conventions'.

Finally, in the 1990s, towards the fag end of a twentieth century in which 60 million people had been killed in war and atrocities, we did get the ad-hoc tribunals for Rwanda and ex-Yugoslavia and we marched on to the International Criminal Court. And after dealing with people like Milosevic, Karadic, Miladic, the court I was president of in Sierra Leone, put paid to Charles Taylor, who is now serving a long sentence in a British jail. It did seem by 2011 that the Security Council for the first time united on the responsibility to protect the people of Libya by all necessary means against Colonel Gadhafi – that was, I think, the high point of international justice. Thereafter, it started slipping and going to the dogs.

There was of course, Assad. I have in my mind the picture of those 2011 peaceful demonstrators in Damascus with their big sign, 'send Assad to The Hague'. Well, we created too high expectations. There was no question of Assad going to The Hague when Russia decided it was necessary to retain its Mediterranean sea port and when China returned to its curmudgeonly position of blocking human rights initiatives by the Security Council – which is now polarised. The threat of a big power veto has prevented the United Nations from carrying out its responsibility to protect. It is

does so up to a point, however and the Human Rights Council has taken important initiatives. By, for example, identifying the Burmese generals who are responsible for the genocide of the Rohingya people, but who is prepared to prosecute them? This year we have had the Skripal poisonings, then we had the Khashoggi assassination, but who will set up a court to prosecute for that international crime of a barbaric murder in a foreign embassy? It doesn't happen; no one has even suggested it is possible.

In other areas of human rights treaties, enforcement is problematic. I will give you one example which is perhaps not commonly known. We saw a few weeks ago a fascist elected to the presidency of Brazil, a man who believes that you solve gun crimes by issuing citizens with free guns. Until three months ago he was trailing badly in the polls behind a much-loved former president, Lula Da Silva. Lula was in prison but his final appeal, for which there were very strong grounds, had not been heard. Brazil has ratified the optional protocol of the International Covenant on Civil & Political Rights whereby human rights cases can be appealed to the UN's Human Rights Committee. The Committee ordered the Brazilian Government and judges to allow Lula to stand for the presidency and to allow him to campaign for it, unless or until his conviction was affirmed by the Supreme Court. Had that order been honoured then of course we would not now have Mr Bolsonaro in charge of Brazil, because Lula would have won. But it wasn't, the Government said 'it's not binding,' even though a few years ago they signed a treaty to say they would be bound. The judges said agreed, and disqualified Lula before his final appeal.

What is the point of going to this great Human Rights Committee, the court of the Human Rights Council, if an adverse decision can simply be laughed at? Well, it shows that enforcement is not only difficult at the level of the International Criminal Court, it is difficult in terms of the Human Rights Council.

And now of course we have John Bolton. John Bolton and I go back a long way. We debated around the United States in the 1990s. He always ended up when he was in a tight corner saying, 'well we can use our nuclear power', which horrified students. He came through from the first Bush administration after being responsible, along with Jesse Helms, for the Hague Bill – 'Bomb the US' – that meant the President could invade the Netherlands if an American serviceman were to be imprisoned by the ICC. When Trump was elected, according to Bob Woodward, Bolton was first choice to be National Security Adviser. Trump met him and loved his ideas but hated his moustache, so he had to wait 18 months before his appointment.

He made an extraordinary speech to the Federalist Society a couple of months ago saying that ICC judges should be arrested and imprisoned if they came to New York, if they ever authorised the arrest of American troops in Afghanistan, the 'death squads'. It is American NGOs that claim that they *were* organised; but Bolton wants to criminalise the ICC if it takes any action on their complaints.

It is the kind of destructiveness that is represented by John Bolton that allows the Magnitsky movement to have, I think, some force. Sergei Magnitsky was a lawyer for a rather extraordinary character called Bill Browder who is actually a relative of Earl Browder, who was the great American Communist leader of the 1930s. Instead of following his grandfather, he became a hedge fund trader in Russia and made a lot of money. Magnitsky was arrested after blowing the whistle on a big tax scam involving his companies. He was thrown in prison without a trial, he was kept there by lickspittle judges and the very people who pulled off the scam arranged for his death.

In order to commemorate Sergei Magnitsky, Bill Browder started an international campaign. He convinced the Obama administration to pass the first Magnitsky Law, and then Canada last year passed a better Magnitsky law and so did a lot of European countries. Let me tell you what the idea is. It is taken partly from Boris Nemtsov, who said: 'The only way of changing Putin is to stop the oligarchs who support him sending their children to Eton'. The fact is that a lot of human rights abuses, not the diplomats or the leaders but the train drivers of Auschwitz so to speak, those who assist human rights abuse and corruption at a lower level, and make money out of it, don't want to stay and keep their money in the country where they made it. They want to put it into banks in the west, they like to gamble in the casinos of Cyprus and Paris.

So the idea emerged simply that these bad guys should not only be stopped from entering western countries, their assets in banks should be frozen, their children should be stopped from going to private schools in the West, and their parents should be stopped from going to Harley Street and hospitals and so forth. Normally we don't like to punish children, for example, for the sins of their parents. But I have to say the most corrupt man I have ever investigated, who was an ex-Israeli general who was selling arms to the Medellin cartel, pleaded with me not to name him because he said 'I only did it for my family'. Well, it seems fair enough that the families should be expelled as well as the corrupt parents.

The idea behind the Magnitsky laws, and the American laws are Magnitsky-lite at the moment (the Canadian laws are better) is that it not only identifies, names, shames and blames those who are responsible for human rights abuses, but it prevents them and their children and their parents, from enjoying the fruits of their corruption in the west.

The spread of this idea, the attraction of it, is that it doesn't need international law. It uses international law principles developed through the ICC and other courts but it is entirely an exercise of national sovereign power. Britain has a Magnitsky law after the Foreign Office opposed it for years. It was the Skripal poisoning which finally allowed Magnitsky laws in the Sanctions Act that was passed a couple of months ago. But of course it has just been announced that the regulations will not come into force for two years, because of Brexit.

So, there we are – it is an example of the ingenuity that is finding alternatives to the Trump regime demolition of the international rules-based order. The hope is that that democratic countries will unite in identifying and punishing those who are involved in human rights abuses. So, I have reason to be a little more optimistic than the paper.

# Sir Mark Lyall Grant GCMG

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Visiting Professor, King's College London and former UK National Security Adviser

Mark Lyall Grant qualified as a barrister before joining the diplomatic service in 1980. Over the next 35 years he served in Pakistan (twice), France, South Africa and the US as well as holding numerous positions in the FCO and the Cabinet Office in London. He was High Commissioner to Pakistan (2003-06), political director in the FCO (2007-09) and Ambassador to the UN (2009-15). In his final government service job, he was the National Security Adviser to David Cameron and to Theresa May until April last year. He is currently a visiting professor at King's College, London, a bencher at Middle Temple, and holds various advisory positions focused on national and international security.



# Sir Mark Lyall Grant

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I want to give you my thoughts from the perspective of a practitioner in the international rules-based order and an Ambassador at the United Nations for five years. But I want to focus a little bit on what I call the golden era of the rules-based international order. I think I rather shocked some of Lord Hannay's colleagues in the International Relations Committee in the House of Lords when they said, 'when was this golden era?' and I said it was from 1989 to 2012. A very specific period and a rather short period.

If you think what happened in that time with the end of the Cold War, freeing for the first time the UN Security Council, which then mandated all these peacekeeping missions around the world, particularly in Africa. The setting up of the Human Rights Council and the International Criminal Court, the arms-trade treaty, the cluster munitions treaty, the focus on women's rights, on LGBT rights, responsibility to protect, humanitarian intervention – all these things happened in that period shortly after the fall of the Berlin Wall.

What is striking about these initiatives is that every single one goes in a very strong liberal direction. Even during that period there was some opposition, particularly at the United Nations. We used to say at the UN that there were the A team and the B team. The A team, the activists and the B team the blockers. The activists wanted to use the international system to do things and the blockers wanted to basically stop things happening.

What we saw towards the end of this period, around 2011/12 was a more systematic pushback against this liberal order. To my mind it was led by a slightly unholy coalition of more conservative Muslim countries, some of the traditional non-aligned countries that still existed, the Holy See on some issues, right-wing American NGOs on some issues, and Russia on almost all issues.

The pointy edge of the spear, seen from New York, was actually LGBT rights. Because on LGBT rights that brought in on the wrong side of the argument quite a lot of African countries and Caribbean countries. To such an extent, and I give you just one example, in 2015 when we wanted to celebrate the twentieth anniversary of something called the 'Beijing platform for action'. The Beijing platform for action was a sort of base consensus document on women's rights. It wasn't very dramatic or very far reaching but nonetheless it was a document agreed in Beijing in 1995. It became clear that it was not only very difficult for us to celebrate the twentieth anniversary of this document in 2015, it would not have been possible to negotiate that document that had been agreed twenty years earlier in Beijing. That is how far the pushback had happened by 2015. And that is why I date the end of the golden era to around 2012/2013.

Now why was there this systematic pushback? As I said, I think maybe we made some tactical errors, pushing too hard on some things like capital punishment, LGBT, with trying to impose human rights standards that weren't appropriate to all countries in the world. That was part of the over-reach but there was another important Western if you like over-reach, which was the military interventions in Iraq and Libya. Which a lot of people felt went beyond the responsibility to protect in to regime change and imposing different governments, different values on unsuspecting countries.

The financial crisis of 2008; one should not forget that. Very important because it gave impression to many around the world that the elites had lost control of capitalism, they could no longer manage the economic liberalism that was at the heart of the Washington consensus and the international order. That too was very important.

And there was the underlying geopolitical shifts. The rise of China, the rise of many other countries who weren't necessarily at the centre of the rules-based order set up after the Second World War by the few countries who were victors in that war. And China's different approach, the sort of market authoritarianism approach, began to attract some admirers and even imitators around the world.

And that is I think is the background to some of the things that we have seen more recently, some of the blatant violations of the rules-based order. Whether that is the Russian annexation of Crimea, or the Chinese militarisation of the South China Sea, or the genocide of the Rohingya in Myanmar, North Korea and Iran seeking nuclear weapons status, the use of chemical weapons in Syria, etcetera. All these blatant violations of taboos that had been built up over some time I think is a very worrying trend.

Equally worrying is the sort of drift towards authoritarianism. I think it was *The Economist* in June in that said that in 2017 there were 89 countries that went backwards on a spectrum of democracy and only 27 went forwards. That is reversing the trend to such an extent that I would say now that for the first time since the Second World War the ultimate triumph of democracy and economic liberalism can no longer be taken for granted. And so when as Francis Fukuyama talked about the end of history twenty years ago, we now are in age of unprecedented uncertainty even about what the end state is likely to be.

I think one of the issues that the paper underplays is the role of China in this. Because there is no question that China is going to play a very important role in whatever comes next in the international order. It was impossible for me at the UN to interpret China's long-term plans because China plays a very bizarre role at the UN. It is almost entirely subordinate to Russia in the Security Council. In five and a half years on the UN Security Council I cannot think of a single initiative that China that took, not a single initiative. Not a draft press release, presidential statement, not a draft resolution – in five and a half years. In that time Russia probably came up with a hundred initiatives, mostly deeply unhelpful but just occasionally more constructive. Russia very active; China very passive and subordinate to Russia. And that was a strategic decision. They

vetoed resolutions they had difficulties with. On Syria for example they agreed it but then they vetoed it because Russia asked them to. So it was a very difficult place to interpret China's long-term plans.

You are beginning to see at little bit more light, perhaps. Last year at Davos, President Xi was talking about filling the vacuum left by Trump on free trade. Fine, that sounded relatively benign but then when you saw him speaking in mandarin at his party congress this summer he used language like: 'China must rebuild all of the global governance system to be based on the concepts of fairness and justice'. If that means a new order based on China's values then, as said previously, it is going to be a very different values system to the one that we have been used to for the last 70 odd years.

Now, there is no doubt that China's rise deserves recognition and that they have earned the right to be part of the discussion about what the new order is. The problem is that actually China is one of the greatest blockers to change and reform. One of those many paradoxes. If you take UN Security Council reform, which I think is in many ways the lodestar of international governance because it is based on a situation 75 years ago, and we have been talking about reform for 25 years at least but nothing has happened. The biggest blockage to Security Council reforms is in fact China because they do not want to share their Asian monopoly status as a permanent member with either India or Japan both of which would be natural candidates to be permanent members.

One of the most undiplomatic I heard in the UN, certainly from the Chinese anyway, was in a debate in the general assembly about Security Council reform and the Japanese Ambassador had stood up and set out the case why Japan should be a permanent member. The Chinese deputy Ambassador said: 'You cannot change the outcome of the Second World War in a general assembly resolution'. For China believe me, when they only ever talk about stability, non-interference, dialogue and sovereignty, this is strong meat. They are themselves blocking some of the governance changes.

My concern, the reason why I am perhaps more pessimistic than some, is that in changing the governance structure if we do it by disjunction and conflict rather than by dialogue and diplomacy, then in doing so we will undermine the order, the liberal order we have been talking about, which governs all international interactions from civil aviation to shipping and communications etcetera, that lies beneath that. If that happens then I think we are in for a very turbulent time.

Now, a lot of these trends. We can't get away from the fact that the traditional champion, the President of the United States, doesn't himself believe in it as other panellists have made very clear. And that is damaging.

Well what should we do? I say a couple of things. I think myself, as Kori was saying, we have to be confident in our values system and stand up and defend it, for the next

six years of President Trump, in a very robust way. But I think we do have to take the initiative and accommodate China and we mustn't forget that this is not a Western thing today. Actually, the UN is made up mainly of small countries. One hundred and five countries in the world, over half, are less than five million, which is the definition at the UN of a small country. They rely much more than we do on the rules-based international order. We need to be making allies of these people to stop those who oppose the order, the Putins and various others around the world from actually doing harm to us. I think that is something that is really, really important as well.

But at the end of the day we cannot impose a values system by force. We can only do it by positive example. We can show that there is a good reason why the founders of the international system after the Second World War got it right. They did it not because it was in America's self-interest but because there was a more global interest.



# Discussion

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## Human Rights

An honorary fellow of Regent's University asked about the pressures on the UK remaining a member of the European Convention on Human Rights (ECHR) in the future and whether there were any prospects for a similar kind of enforcement procedure elsewhere in the world.

Geoffrey Robertson replied that the ECHR was under less question now in the UK. Theresa May had thought the ECHR was responsible for stopping deportations of some foreign criminals. What would happen after Brexit was that UK citizens would lose the protection of the EU's Charter of Fundamental Rights after Brexit. The Charter goes further than ECHR but ECHR protection will remain after Brexit, including the Human Rights Act.

Mr Robertson observed that the International Covenant on Civil & Political Rights was influenced by the ECHR. It had been ratified by 160 countries, although only about 60 accepted the jurisdiction of the Committee on Economic, Social & Cultural Rights and it was difficult to enforce. The Inter-American Court of Human Rights is based in Costa Rica and it draws upon ECHR but it was now very slow. There is growing interest in Asia in an establishing independent human rights court. There is already an African Court of Human Rights which has delivered some good judgments, so the idea of tribunals to adjudicate on human rights has spread.

Noting that Mr Robertson had observed that the European Court of Justice (ECJ) had rarely made a bad judgments against Britain, David Hannay noted that the UK farewell to the ECJ would be a long one. Its jurisdiction will remain same during the transition period. Lord Hannay thought the demonisation of ECJ was 'frankly absurd'.

## Populism and 'fake news'

Asked by a former British diplomat whether the threat to the rules-based global order was just a symptom of something bigger – the threat to fact-based, scientific policy-making, Kori Schake said that she didn't think it was this that was driving this problem. To her, part of the reason this time feels so difficult is that we are 'in the midst of a revolution in which technology is changing so fast' that it is producing a lot of economic upheaval that has social and political consequences. She thought that globalisation was making us all treasure the intensively local but we were also benefiting from the universal. But 'the stuff in the middle is falling out'. Taking local bookshops as an example, Ms Schake noted how people treasure their local bookstore in the US and Amazon was doing fine but anything between was no longer a sustainable business model.

For the public, Ms Schake observed, they were unable to control global things that were unrelated to the local things they liked. Polls in the US showed that people like local and state government because they can see its effects but dislike federal government.

This problem of a disconnect between federal government and people had been seen before in American history, for example during the Westward expansion in the 1820s and 1830s. Pioneer politicians such as Andrew Jackson and Abraham Lincoln came into the mainstream to respond to problems the federal government wasn't addressing. The same happened in the 1890s with the changes brought by the telegraph, railroads and enormous waves of immigration. There was a big backlash and conservative politicians responded with anti-trust initiatives and the foundation of trade unions.

Mark Lyall Grant thought that the Kori Schake's example of the squeezed middle applied to government. There was pressure on national sovereign government caused by regionalism, regional organisations taking power, independence movements, the internet, multinational corporations that are difficult to tax and hold accountable, religious movements that cross borders and terrorism. He pointed out that governments used to be first know, now they are often the last to know. This was proving a big shock for individual governments and was a long-term threat to nation states as the main governance structure.

Geoffrey Robertson liked Kori Schake's analogy of local bookstore 'but this is democracy'. We might criticise the populists but they were giving the public what they want. He noted that, broadly, the educated had voted Remain in 2016 and the uneducated voted Leave. He did believe that voters can be swayed by fake news and that we are suffering as a consequence. The answer was education but he admitted that education hasn't got us that far because it hasn't overcome racism.

David Hannay wondered what the effects on society will be when the 45 per cent in higher education in the UK are distributed across the population in future. It will pose a challenge but will also be an opportunity.

### **Repeating the League of Nations experience?**

Asked whether the world was at risk of repeating the fiasco of the interwar League of Nations because of an absence of American leadership, Kori Schake said that this was something she worried about a lot. Americans had never been comfortable with the notion of being an imperial power; 'we are a provincial country'. She described the limit on America's involvement in the world 'has always been my mum's apathy for most things'. That was why values matters so much – it was through shared values that you get Americans to care about the rest of the world. Ms Schake believed that Woodrow Wilson could have secured a win in 1919 in the Senate for the Treaty of Versailles.

She went on to observe that she feared that we might 'someday look back at this time and call it the interwar years'. We are, she said, 'indulging a lot of foolishness' and it would be costly to rebuild the order that produces so many benefits. At the moment the foremost beneficiaries feel like victims.

Ms Schake was less concerned about the rules-based order surviving because she felt that the ligatures that held it together were very strong; reflexes are strong. She also believed that the middle powers could sustain things for a fair amount of time and gave as an example the way countries had come together to save the Trans-Pacific Partnership after Trump pulled out. She also felt that as the international order began to erode, the cost would become apparent. Ms Schake did have concerns about the Chinese: 'they are predatory in their belt and road policy'. Some countries were getting nervous about this and that would create opportunities for the US to intervene again.

Mark Lyall Grant pointed out that the UN was deliberately designed to avoid the failure of the League of Nations. The UN had become the only universal body – the first thing any new country does is join the UN. The danger in his view was not that the UN will disappear but that it will become less central; it might degenerate into a talking shop. He thought that the China-based institutions were a challenge, for example the belt and road and Shanghai Co-operation Council initiatives, because they don't include the USA and might in time threaten the UN.

Sir Mark noted that there had been no resistance to G8 amongst the wider body of UN members but the creation of the G20 had led to huge massive resentment at the UN because suddenly the traditional champions of third world (such as India and South Africa) were in the G20.

Geoffrey Robertson highlighted the strong strain of exceptionalism in the US which makes it an awkward partner. But conversely, the US does like being the leader of the free world. He gave as an example of the US' difficult behaviour how the ratification of US membership of the International Criminal Court was blocked because although President Clinton was outside the Pentagon was opposed and Clinton was preoccupied with the Lewinsky affair and unable to act.

David Hannay agreed on the importance of US exceptionalism. He thought that the UN had tolerated US exceptionalism because US support for UN was a good thing but as China grew more powerful the UN would have to learn accommodate Chinese exceptionalism. He thought that the country that would find it most difficult to accept this will be the US 'but that's a problem for 30 years' time'.



# The Dismantling of the Rules-Based Global Order

Background Paper by the Senior European Experts

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## Introduction

Since the end of the Second World War, countries have worked together to create a system of international rules and institutions that manage and facilitate peaceful, economically effective and politically robust relations between nation states. A wide range of institutions and international treaties have created a complex, interlocking web of rules covering everything from military conflict to trade that collectively provide the most effective system for regulating international relationships yet created. Nations accepted the constraints of the rules to which they signed up because of the benefits to them, which would not otherwise be available.

By establishing international institutions such as the United Nations, and its many specialised agencies, the European Union, the World Trade Organisation and the North Atlantic Treaty Organisation, nations that had often been in conflict with one another devised better and more effective ways to manage their relationships in an increasingly interdependent world. As historians and commentators have observed, there were no such effective organisations to stop the world sliding into two world wars.

The development of what is today called globalisation increased the importance of these institutions and rules. Cross-border trade and other relationships have grown more important not just to the global economy but to our culture and our everyday lives. Nations have used these institutions and rules as a means of working together to manage issues and problems which cannot effectively be addressed by one country alone.

Having survived opposition from the USSR (1945-90), what is often called the 'international rules-based order' (referred to for brevity as the 'international order' in this paper) is now facing fundamental challenge. Whether it be Russia's 2008 invasion of Georgia or its 2014 annexation of Crimea, President Trump's withdrawal from the Paris Climate Change accord and his challenge to trade rules in the WTO or his reluctant support for the guarantee of mutual defence through NATO, or the rejection of the EU by populist parties and governments in Europe (including the 2016 Brexit vote in the UK), it is not just the *way* the international order operates but its *existence* that is being questioned. Commentators now speculate whether the international order can survive the ferocity of present challenges.

Regent's University London and the Senior European Experts group decided that this was the right time to debate the future of this international order. This background paper was prepared for a seminar in November 2018 and is published as a contribution to debate.

### **The international order today**

It would be wrong to suggest that this 'system' of international institutions was intended at the outset to be a single mechanism for regulating relationships between nation states. It developed in the aftermath of the Second World War under US and UK leadership in response to the widespread feeling that after two major conflicts in under 50 years the world needed to find a better way to manage international relations.

The period immediately before Second World War, one of widespread economic failure and poverty, had left many politicians determined to find more effective ways to promote economic growth and in particular, to enable the free flow of trade following the disastrous imposition of protectionist rules during the great depression of the 1930s.

In addition, many of the problems left behind by the Second World War, such as huge movements of refugees, colonial disputes, and the physical and social devastation caused by the conflict, could more easily be solved by nations working together.

Over a period of time a network of institutions emerged in response to these three sets of problems. The most important in the immediate post-war phase was the creation of the United Nations, which replaced its failed predecessor, the League of Nations, as a mechanism for the prevention of conflict and for securing human rights. The urgency of so doing was emphasised by the detonation of atomic bombs at Hiroshima and Nagasaki in 1945 which showed that future conflicts had the potential to be even more devastating than those of the recent past.

The many organisations that are seen today as being part of the international order have several common elements:

- in the case of the UN itself and its agencies, they are universal;
- they have been established through treaty agreement between sovereign nations;
- they operate under jointly agreed systems of rules;
- they have mechanisms for resolving disputes between their members;
- they have some cross-border purpose.

But while there are these common elements, which led to the use of the expression 'the rules-based international order', the organisations are diverse in their make-up, constitution and function. Many are global but there are also a significant number of regional bodies, particularly in the economic field, and these have increased in number over the last 30 years.

Although the international order has been effective in many ways, it still relies upon nation states to comply with the rules that they have agreed to accept; when they decline to obey rules there are only a limited range of sanctions available to the other member countries and in the case of human rights, almost none.

The EU is unique in the extent to which its Member States have agreed to cooperate with one another using a system of law where collective decisions of the EU are binding on its Member States and are legally judiciable. Indeed, many issues are decided by qualified majority vote rather than unanimity. But the bulk of the EU legislation decided by QMV is regulatory and concerns the Single Market. Matters of exceptional importance to its Member States, such as decisions on foreign and security policy and on taxation, still require unanimous agreement.

The international order is not wholly comprehensive. It does not constitute a single system of law with enforcement agencies and courts in the way in which individual countries have systems of law.

### **Global political and security institutions**

The United Nations is the sole global organisation for political and security cooperation. Its Charter empowers its member countries and institutions to work together to maintain world peace. And its 15 member Security Council can adopt economic sanctions and authorise the use of force in cases of aggression. Its permanent members (China, France, Russia, the UK and the US) have a veto over its decisions. While its effectiveness is often in doubt, there is no other organisation operating in the same way and on the same scale able to provide global leadership on vital political and security questions. Over time it has developed a substantial role in international peace-keeping.

Many of the UN's activities are delivered through its agencies. These include: the World Health Organisation; the World Food Programme; the UN High Commissioner for Refugees; and the UN Development Programme.<sup>1</sup> The UN is often the forum where global issues are first addressed and then new bodies are established to report on them, such as the UN Intergovernmental Panel on Climate Change.

The UN's role in peacekeeping is overseen by the Security Council with peacekeeping operations established through Security Council resolutions. The UN has no military forces of its own and peacekeeping duties are carried out by forces generated from member countries.

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<sup>1</sup> See the UN's webpages for further details of its agencies and programmes:  
<http://www.un.org/en/sections/about-un/funds-programmes-specialized-agencies-and-others/index.html>

## Global economic institutions

A family of global economic institutions has developed since 1945 to promote growth and economic stability and to manage the economic relationships between states. There are three main organisations:

- the International Monetary Fund – which provides both a warning, monitoring and advisory mechanism for the global economy and national economies and a structure that enables financial support to countries in crisis;
- the World Trade Organisation – the most recent of these organisations, in 1995 the WTO took over the work of the General Agreement on Tariffs and Trade, which had been established in 1947; it is the main forum for the global arbitration of trade disputes; all major countries in the world are now members of the WTO;
- the World Bank – focuses primarily on economic development, particularly in the poorest countries of the world.

In addition, there are two informal but important groups of countries, the G7 and the G20. The first was created on an initiative of the French President and the German Chancellor in 1975 and is an annual meeting of the leaders of the six leading industrial countries at that time (France, Germany, Italy, Japan, the UK and the US), and joined by Canada the following year.<sup>2</sup> The President of the European Commission and the President of the European Council also now attend. Russia joined in 1998 but has not been invited since the annexation of Crimea in 2014. The G7 does not include China, India and Brazil so it can no longer be said to represent the world's leading industrial nations. It is nonetheless an important forum of countries with shared values; and discussions often cover more than just economic matters.

The gaps in the G7's membership were realised by the G7 itself and in 1999, partly in response to the Asian banking crisis, G7 finance ministers called a meeting of the 20 largest economies. Today the G20 consists of the 20 'systemically important advanced and emerging economies, representing all regions of the globe'.<sup>3</sup> Importantly, the G20 includes not just the G7 and Russia but also Brazil, China, India, South Africa and other emerging economies.<sup>4</sup> The EU, the IMF and the World Bank are also represented.

The G20's importance has grown following the global financial crisis in 2008. A key criterion for membership is that countries should be 'systemically important', i.e. banking failure in those countries could affect the whole of the global financial system. It provided a forum for agreeing measures to mitigate the crisis and to prevent a recurrence. Its meeting in November 2008 agreed on important policy changes in response to the crisis.<sup>5</sup>

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2 History of the G7, note by the German government, 2015:  
[https://www.g7germany.de/Content/EN/StatischeSeiten/G7\\_elmau\\_en/texte\\_en/2014-11-05-geschichte-g8.html](https://www.g7germany.de/Content/EN/StatischeSeiten/G7_elmau_en/texte_en/2014-11-05-geschichte-g8.html)

3 *The Group of Twenty: a History*, 2007:  
<http://www.g20.utoronto.ca/docs/g20history.pdf>

4 The full membership is: Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, the Republic of Korea, Mexico, the Russian Federation, Saudi Arabia, South Africa, Turkey, the United Kingdom, the United States—and the European Union.

5 'G20 leaders promise action on economic crisis,' CBC News, 15 November 2008:  
<https://www.cbc.ca/news/world/g20-leaders-promise-action-on-economic-crisis-1.770984>

## International Courts

Since 1945 four main mechanisms for settling international disputes have developed:

- the International Court of Justice – this was created by the 1945 UN Charter and it is the principal judicial organ of the United Nations;<sup>6</sup>
- the International Tribunal for the Law of the Sea – this was created by the 1982 United Nations Convention on the Law of the Sea;
- the International Criminal Court – was established in 2002 to try cases concerning genocide, crimes against humanity, war crimes and the crime of aggression; 123 countries are parties to the treaty that established the Court; the most notable non-signatories are China, India, Russia and the US;<sup>7</sup>
- the dispute resolution procedures of the WTO whose decisions are binding on its members.

In addition, the Permanent Court of Arbitration in The Hague has existed since 1899. It is not a court in the proper sense of that term but an administrative body that provides arbitration tribunals to settle disputes between countries. Originally established to try to resolve disputes with the potential to trigger conflict between countries, the Court of Arbitration now handles complex disputes between countries where both parties are agreed that they should resolve the matter through independent arbitration. Recent examples include the settling of a territorial dispute between Slovenia and Croatia.

From time to time international tribunals have been established through a resolution of the Security Council. These tribunals are not permanent institutions but are established to deal with the aftermath of major conflicts, in particular to try those alleged to have committed crimes against humanity. Examples include the Nuremberg tribunals used to try leading members of the Nazi and Japanese regimes after World War Two, the International Criminal Tribunal for the former Yugoslavia (including Kosovo), which tried those accused of war crimes in the conflicts of the 1990s, and the tribunal for Rwanda.

One of the best known international courts, the European Court of Human Rights (ECHR), has regional jurisdiction on human rights in cases in most countries on the continent of Europe. It was established by the regional cooperative body, the Council of Europe. The ECHR's judgments have been of great importance in establishing a common code for human rights across Europe leading to many national measures, including those designed to tackle discrimination in all its forms, to abolish the death penalty, and to protect the liberty and property of individual citizens.

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<sup>6</sup> See the UN international courts and tribunals web page at: <https://www.un.org/ruleoflaw/thematic-areas/international-law-courts-tribunals/international-courts-and-tribunals/>

<sup>7</sup> For further information see the Court's website: <https://www.icc-cpi.int/>

## Regional organisations

There are a large number of regional organizations throughout the world. They include:

- NATO – established in 1949, its 29 member countries are participants in a mutual defence pact that maintains an extensive network of military cooperation;
- the European Union – the largest single market in the world, the EU was originally established as the European Economic Community in 1957; its 28 Member States engage in a wide range of economic, political, social and environmental cooperation using a common set of rules and a court, the European Court of Justice;
- Mercosur – was established in 1991 and is a trade bloc of five countries in South America (Argentina, Brazil Paraguay, Uruguay and Venezuela, the last has been suspended since 2015); the member countries now form a customs union;
- The African Union – which includes all countries in that continent and has both security and economic functions, and is assuming increasing importance;
- the seven regional economic organisations covering Africa which have political and economic goals. The most developed is the Economic Community of West African States (ECOWAS) – established in 1975, this is a regional economic union of 15 countries located in West Africa which promotes economic development in its member countries and trade between them; it is also involved in security questions, providing peacekeeping forces that have been involved in a number of conflict areas in Africa in recent years.

There are many other regional bodies, such as the Organisation for Security & Co-operation in Europe, the Association of South-East Asian Nations, and most recently, the Trans-Pacific Partnership. Some regional organisations established after 1945 have either been wound up or ceased to function as circumstances have changed. For example, several bodies established during the Cold War no longer operate, including the South East Asia Treaty Organisation, the Central Treaty Organisation, the Western European Union and the Warsaw Pact.

## Major international treaties

In addition to the treaties that established those universal and regional organisations, there are other treaties which have played, and continue to play, an important part in the international order. Since 1945 they have included the Helsinki Final Act, the Paris Charter of 1990 that ended the Second World War and confirmed the current boundaries of European countries and the more recent agreements on climate change.<sup>8</sup>

Although these treaties all have their own individual purpose, collectively they make up the rules-based international order. Very often they are linked in some way to the institutions and structures of the United Nations.

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<sup>8</sup> The Charter for a New Europe was important in establishing the boundaries of post-Cold War Europe: <https://www.osce.org/mc/39516?download=true>

## Past challenges

Challenges to the international order are not new. The Cold War often paralysed the UN. Many countries declined to participate in the international order until the 1970s or did so to only a limited extent. China and Russia have, for example, only recently joined the World Trade Organisation. Some countries have participated in organisations such as the UN but have in effect denied authority to those bodies by not implementing policies, such as in the field of human rights, which are necessary to meet their obligations under international law.

During the Cold War the USSR and its satellite countries only participated in some parts of the international order, although they did not challenge its existence. Indeed, they sometimes imitated western cross-border institutions, for example with the creation of the Warsaw Pact between the communist countries of Europe (which shadowed NATO) and Comecon, the economic community that covered a similar group of nations.

The UN's effectiveness has often been reduced by disagreements amongst the five permanent (P5) members of the Security Council. These disagreements have prevented, for example, the approval of intervention in Syria in 2011 and have often frustrated attempts to resolve the long running Israel-Palestine dispute.

The attitude of the US to the UN has often been ambivalent and sometimes hostile. The US embraced the idea in 1945 but has found the reality not always to its liking, particularly when the General Assembly has taken policy positions to which it objects. The US withheld its contributions to the UN budget from 1985, partly in protest at a resolution equating Zionism with racism but also because it argued it paid too large a share of the UN's running costs. The US share was subsequently reduced but claims from its politicians (including President Trump) that the US contributes too much have been renewed.

The work of the UN was also hampered in the past by the provision in its Charter that it did not interfere in the internal affairs of its member countries. The Rwandan and Srebrenica genocides in 1994 and 1995 led to that doctrine being questioned and the development of an alternative concept based on an international 'responsibility to protect'. Under this doctrine, the UN Security Council can authorise intervention in the internal affairs of a member country because the wider international community has a responsibility to protect their fellow human beings from abuses such as gross violations of international humanitarian law in circumstances where their own governments are unwilling or unable to act.

The Non-Aligned Movement, which brought together many former colonies in Africa, Asia, the Caribbean and South America after 1955 and now has 120 member countries, challenged the notion in the Cold War of the world being divided between two great blocks. The countries in the Movement saw the international order as being an elitist project that benefited developed countries at the expense of developing ones.

This approach led to the adoption of the radical economic agenda known as the New International Economic Order which was briefly an important part of the debate about the global economy in the 1970s but has now faded into history.<sup>9</sup> It could be argued that recent attempts to support developing countries, including through the Doha trade round, the adoption by several countries (including the UK) of the UN target of donating 0.7 per cent in development aid and zero tariff policies to assist the poorest countries to export, have all helped to rebalance the global economy. In addition, emerging economies now have more influence in international affairs through the development of the G20. And there remains the Group of 77 (now 134 countries) who formed a coalition in 1964 to promote their economic interests.<sup>10</sup>

## The new challenges

### The end of history?

Some believed that the end of communism in Europe meant what was neatly summed up by Francis Fukuyama as the ‘end of history’ – that is, that dictatorships, repression and the rejection of democratic institutions and the rule of law would now be things of the past.<sup>11</sup> These commentators heralded a new era in which the world would experience greater freedom and prosperity, and a degree of safety, security and happiness mankind had never achieved before.

Looking back from 2018, this appears absurdly optimistic. The world is arguably more insecure now than during much of the Cold War. Although democracy spread to many countries after the end of European communism, we now see it being challenged in some of those same countries and repressive regimes still hold power on many continents. The optimism of the Arab Spring has disappeared in the savagery of the Syrian civil war, the chaos in Libya and revolution in Egypt.

### Challenges since 1990

Although the election of Donald Trump as the 45<sup>th</sup> US president in 2016 is seen by many as the moment when the international rules-based order faced its most serious threat, some of the elements of these threats were already in existence. A conference on ‘challenges to the rules-based international order’ was held by Chatham House the year *before* Mr Trump’s election. That conference identified a number of challenges to the international order:

- legitimacy – the actions of President George W Bush’s administration after 9/11 in ordering the invasion of Iraq without a UN Security Council resolution, its use of torture and the Guantanamo Bay prison all undermined US claims to be the leading supporter of the international order; this encouraged others to break the rules;

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9 See ‘The New International Economic Order: A Reintroduction,’ in *Humanity*, 19 March 2015: <http://humanityjournal.org/issue6-1/the-new-international-economic-order-a-reintroduction/>

10 See their website: <http://www.g77.org/doc/>

11 *The End of History and the Last Man*, Francis Fukuyama, Free Press, 1992.



- equity – the question of who gains from a the current international order is important; such an order must clearly benefit the majority of citizens affected and if it does not, then its legitimacy will be open to question; arguments about equity have been particularly acute in international trade since the Seattle conference of the World Trade Organisation in 1999;
- a loss of self-confidence – the longevity of the international order has contributed to a damaging combination of complacency and loss of self-confidence; political leaders have appeared at times overwhelmed by public criticism, to lack effective responses to it and seem reluctant to embrace suggestions for making it more equitable.<sup>12</sup>

To this list of challenges to the international order, might be added:

- fears of a loss of cultural identity – this is particularly associated today with European countries expressing concern about the impact of large scale immigration from Islamic countries but – perhaps ironically – it is also found within Islamic and African countries where the promotion of western liberal ideas about, for example, the role of women in society or homosexuality, are regarded by many as threatening their cultural identity; there is a sense too that Western values have had a culturally-flattening effect, replacing long-standing cultural differences with a bland, homogenised, basically secular culture that owes more to Hollywood than to the bible, the Torah or the Koran;
- the attraction of authoritarian rulers and the preference of strong leaders over strong institutions
- equity between and within nations – many international organisations have been created with the express purpose of promoting economic growth – this was one of the reasons for establishing the EU; but the global financial crisis in 2007/8 triggered a debate about whether the international order works to the advantage of all nations and shared benefits widely enough for ordinary people or has primarily benefited international companies that appear to many to be rootless and adept at avoiding paying tax;
- the rise of China – in terms of its economic, political and military power, which is proving difficult for a number of other countries to accommodate;
- perceptions of a lack of accountability – international organisations have difficulty in being accountable to the public because they are formed by governments; attempts at direct or indirect democracy such as the NATO Assembly or the European Parliament have not been wholly effective in overcoming this problem;
- the polarisation of political debate, exacerbated by social media;
- technological change – since the industrial revolution there have been several waves of technological change each with profound economic and social consequences; the fourth industrial revolution, that is the development of powerful information technology, has had and will continue to have major effects on economies; this technology can be positive – mobile phones have enabled many Africans living in rural areas to be connected where there was little hope of

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<sup>12</sup> See, *Challenges to the Rules-based International Order*, Royal Institute for International Affairs, 2015: <https://www.chathamhouse.org/sites/default/files/London%20Conference%202015%20-%20Background%20Papers.pdf>

them being connected to a landline; drones are being used to deliver medicines in remote areas – but in other places the tech revolution has resulted in a loss of employment, increasingly of middle class as well as working class people.

### **The challenge of populism**

Of all the challenges to the international order in the last 20 years that posed by the inchoate phenomenon often summed up as ‘populism’ is currently seen by many as the most powerful. Although forms of populism vary from country to country they have several common elements:

- a highly nationalistic approach which regards international rules and the courts that uphold them as unacceptable restrictions on national sovereignty;
- concern about cultural identity – especially a perceived threat from Islam, even in countries that have had little or no immigration;
- a focus on economic disadvantage – the widespread perception that a small number of people have gained from global economic growth and many more have lost; this has been successfully promoted as a major issue even in countries like the United Kingdom where the gap between rich and poor has narrowed in recent years but is still seen by many as unacceptably high;
- a contempt for constitutional government and the rule of law – democratic institutions and the courts are routinely portrayed by a populist critics as being weak or obstructive and as beholden to minority interests;
- a sense of being bullied – populists generally portray their country as the victim of bullying by other countries or by international organisations; this is often extended in domestic politics to suggest that particular groups or bodies are pushing ordinary people around;
- an attack on elites – populist leaders portray themselves as battling against corrupt, remote, unaccountable and arrogant elites; they are often able to do this despite the fact that it’s common for populist leaders to be men of wealth and to have come from what would usually be described as an elite background;
- dismissal of equality and anti-discrimination laws– populists tend to attack concepts of equality, particularly in international law and to portray it as something that works to the disadvantage of the majority.

Populist political movements can come from both the right and the left. It is not uncommon for populists to blend ideas from opposing ends of the political spectrum and to promote views on the basis that existing political parties are ‘tired’, intellectually bankrupt and/or excessively ideological (this cross-dressing is not new – both Mussolini and Hitler used it).

The most important populist political leader elected to office in recent years has been Donald Trump, the President of United States. His election in 2016 amounted to a reaction against much of America’s post-war public policy. His campaign was robustly critical of international trade, arguing that the current global trading system works to the disadvantage of the U.S.

Trump portrays America as a vulnerable place at risk in a dystopian world. Instead of confirming America's traditional alliances with, for example, NATO as a means to protect the US in the face of these threats, he questions the mutual defence clause at the centre of the NATO treaty and repeatedly promotes the idea of reaching some kind of accommodation with Russia which could extend the latter's sphere of influence. More recently, he has gone so far as to suggest that the EU is an economic 'foe' of the United States.<sup>13</sup>

In office, Trump has substantially implemented several of the measures he had promised in his campaign. These include withdrawing from the Paris climate change accords, unilaterally imposing tariffs and other trade restrictions on China, the EU and several other countries; restricting travel and immigration into the US from a number of countries that are mostly Muslim; and withdrawing the US from the international agreement on Iran's nuclear programme and from the UN's Human Rights Council. While these actions are not necessarily dissimilar from those of previous American presidents, they go much further in their scope.

Throughout its history the U.S. has gone through periods of isolationism. In the interwar period, the US Congress rejected membership of the League of Nations and adopted protectionist trade measures that helped to turn the Wall Street crash into a global depression.

In what sense is Trump different from previous presidents like Calvin Coolidge or Herbert Hoover who saw advantages to the US from standing away from the world? Not only do Trump's challenges amount to a significant change in US policy since 1945 – no major country has done more to promote a rules-based international order than the US – but they appear to chart a course towards a world without the structures and rules that have helped to smooth relationships between nation states.

Trump's supporters argue that his policy agenda is influenced by his own experience of business. This is not an uncommon argument deployed by a populist leaders and their supporters, many of whom have entered politics after a career in business. They tend to assert that their ability to do deals makes them ideally qualified for national leadership.

An early assessment might note the conflict in his approach between actions such as imposing tariffs on European steel imports and then meeting the President of European Commission and announcing that he hopes to be able to reach a major trade agreement with the EU. This sort of approach has become very common with Trump; he has used similar tactics with the leader of North Korea and with President Xi Jinping of China. He combines severe criticism with flattery in a manner that is perhaps deliberately confusing.

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<sup>13</sup> 'Donald Trump: European Union is a foe on trade,' BBC News, 15 July 2018: <https://www.bbc.co.uk/news/world-us-canada-44837311>

One commentator has pointed to the assessment of senior figures in China who argue that far from being the chaotic, reckless figure portrayed in Europe, Trump is a 'master tactician' trying to protect his country from the consequences of its relative decline. In this view Trump is pursuing a policy of 'creative destruction' which will pull apart the international order so that it can be re-made in ways more amenable to the United States.<sup>14</sup>

Previous attempts at correcting trade imbalances to the disadvantage of the US through the imposition of punitive tariffs, for example to protect the US steel industry under George W Bush, have failed. However, Trump's interference with the workings of the World Trade Organisation by the destructive tactic of blocking the appointment of new members of the WTO Appellate Court, risks doing lasting damage.

If Trump is intent on rendering the post-war trade system inoperable he may, at least initially, have some success. But it is likely that other countries who have much to gain from the preservation of the international order will – as a number of Pacific countries have done with their relaunch of the Trans-Pacific Partnership after Mr. Trump took the US out of it – seek to save the WTO. Whilst the departure of the US from the WTO would be a very serious matter, it would be enable China and the European Union to take the lead in the setting of the international trade rules. Such an approach could have serious adverse consequences for the US in the long run.

### Responding to the challenges

Most countries in the world support sustaining the international order. Small and medium sized countries perhaps have most to gain as larger countries have a greater chance of exercising leverage in a world where relationships are based on raw power. This means that the attacks on the international order are likely to provoke a range of defensive responses. If they are to be effective it is important that they do not shy away from addressing some of the problems that have triggered objections in the first place.

### Economic action

To ordinary people the fact that the response of the international community to the global financial crisis was largely effective in that it reduced banking failures and restricted the impact on the real economy is beside the point. As far as they can see the people who caused the crash have largely escaped justice and ordinary people have had to pay for the consequences.<sup>15</sup> It is vital for the future that this lesson about accountability for misjudgements and inappropriate behaviour is fully learnt and applied by political leaders in their countries.

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<sup>14</sup> 'The Chinese are wary of Donald Trump's creative destruction,' Mark Leonard, *Financial Times*, 24 July 2018: <https://www.ft.com/content/f83b20e4-8e67-11e8-9609-3d3b945e78cf>

<sup>15</sup> See 'Why have so few bankers gone to jail?' *The Economist*, 14 May 2018: <https://www.economist.com/the-economist-explains/2013/05/13/why-have-so-few-bankers-gone-to-jail>

The citizens of many countries have reason to argue that their incomes have remained static or even fallen in real terms in recent years. In the year 2000 at least half the households in 43 of the US states were middle class. By 2013 that had fallen to 28 states.<sup>16</sup> Stagnant income growth, persistent low productivity and a skills mismatch have led to serious economic and social problems.

If the populist challenge to the international order is to be successfully resisted, countries need to promote sustainable, long-term economic growth. And they need to ensure that the benefits of this growth are shared, and are seen to be shared, across society. Ironically, the best way to do much of this is to strengthen the international order so as to reduce barriers to trade, to reduce systemic risks in the financial system to prevent another crash, and to tackle complex regulatory problems such as the balance between privacy and economic gain in the information technology sector.<sup>17</sup>

But in addition much economic action is needed at nation state level because it relates to improving skills, and to improving the infrastructure so as to enable companies to succeed.

In some countries measures are needed to tackle market failures. These often include the failure to pay statutory minimum wages, to ensure that workers will have a decent income in retirement and to protect employment rights in new economic sectors.

### **Social action**

Measures to strengthen society can help to address some of the fears that motivates voters to turn to populist political leaders. Concern about migration for example should not be ignored. Arguments about the economic value of migration are well made but it is important to recognise that the concerns of many populations about migration relate to the social and cultural impact as much as to the economic consequences.<sup>18</sup>

This points to a particular difficulty with the behaviour of elites – the tendency to focus on economic arguments and to avoid ones about culture and identity. Populist politicians will continue to exploit the discomfort of elites in discussing cultural and identity questions until political leaders in mainstream parties address these concerns. In many countries the problem is worsened by an unwillingness to make the arguments for the social as well as the economic benefits of migration. There is also a tendency to suggest that migration cannot be controlled because of forces

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16 'Middle class' in these terms means households earning between two-thirds and twice the state's median household income. The figures are from research by Stateline 12 April 2018 and available at:

<http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2018/04/12/in-most-states-the-middle-class-is-now-growing-but-slowly>

17 See 'Can long-term global growth be saved?' by James Manyika et al, McKinsey Global Institute, January 2015: <https://www.mckinsey.com/featured-insights/employment-and-growth/can-long-term-global-growth-be-saved>

18 The Migration Observatory at Oxford University publishes extensively on this topic: <https://migrationobservatory.ox.ac.uk/>

such as globalisation that are beyond the control of national leaders. The latter argument merely makes the situation more unacceptable because it is the very powerlessness that many people feel about immigration that is the cause of their concern. National leaders need to demonstrate their ability to manage migration effectively.

In a number of western countries there is not just a lack of growth in real wages, and a loss of jobs from changes in the workplace, there is also a lack of social mobility.<sup>19</sup> Strengthening education systems, removing unfair advantages to elites, such as corruption in appointments, and many other measures can increase social mobility over time. The key challenge of social mobility lies in the length of time it takes to bring about meaningful change. Political leaders need to demonstrate the direction of policy and give confidence that perceived unfairness is being tackled effectively.

### **Political action**

These measures can combine to show that political leaders are responding to public concern. But also successful reform of international institutions and rules demonstrates the leaders are listening and are treating voters' concerns with respect. It is critical, as Hillary Clinton found in the 2016 presidential election, not to give the impression that elites have a lack of respect for ordinary people and their concerns. Any perception that those in power or who seek power are contemptuous of people they disagree with is likely to rebound in favour of populist politicians.

The international order would be greatly strengthened if some of the major challenges to peace and stability in the world could be successfully addressed. The failure to reach any kind of negotiated settlement of the Syrian Civil War, the collapse into disorder of Libya since the western intervention there, the continued flouting of international law by Russia in Crimea and Ukraine and China's expansionist activities in the South China Sea are all vivid examples of the apparent failure of the international order to deliver the peace that it promised.

These are difficult problems and the structure of some international organisations makes solving them particular difficult – both Russia and China have vetoes in the UN Security council for example. But supporters of the international order must show the resolve and determination necessary to address these and other problems. Failure to do so will only embolden critics of the international order and increase its vulnerability.

October 2018

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<sup>19</sup> 'Social mobility in the richest countries has 'stalled since 1990s'', *The Guardian*, citing a report from the OECD, 15 June 2018: <https://www.theguardian.com/society/2018/jun/15/social-mobility-in-richest-countries-has-stalled-since-1990s>



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