



Policy Forum Article

Ethics, International Affairs and Western Double Standards

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Abstract

The stability of the global order is a function of the reconciliation between universal ethical principles and power asymmetries. Both principles and power are embedded in international institutions. As relative power shifts away from the West, the ability of the latter to exempt themselves from the reach of global norms—on human rights, international criminal justice, the rule of law, the use of force, the possession of nuclear weapons—will lessen. They will have to accommodate to the new normal either by bringing their conduct within the operation of international normative instruments, or else risk mass defections from global regimes. The relative loss of power means they have a material interest in strengthening, not weakening, a rules-based global order.

Key words: Ethics, power, justice, double standards, Western and rising powers

1. Introduction

The world may be at the intersection of two consequential long-term trends: a shift from the power towards the normative end of the spectrum as the pivot on which history turns; and a realignment of global power equations as the pendulum of history swings back to mute the relative role and influence of the West in structuring world order. Allison (2015) has popularised the notion of the ‘Thucydides Trap’: of sixteen cases of power transitions in the last 500 years, 12 resulted in warfare. A more consequential Thucydides trap is the seductive belief that power trumps ethics in dealings with non-great powers. Thucydides (1910, 5.89) writes of the stern admonition from Athens to Melos that questions of right and justice apply only to relations among equals in power. For others, ‘the strong do what they can and the weak suffer what they must.’ Subsequent history has substantially modified the thesis with a steady reduction in violence based on the ‘better angels’ of human nature (Pinker 2011).

The rising powers show increasing reluctance to take part in institutions and processes in which their voice and vote are sidelined and underrepresented. The emergence of a polycentric global order represents a serious challenge to the post-1945 liberal international order not so much because the rising powers reject the ethical underpinnings of the order, but because the status quo powers have subjected others to while exempting themselves from ‘global’ norms. The West is losing its ability to impose policy preferences, values and double standards on the rest. In February 2016, the United Nations (UN) Working Group on Arbitrary Detention, in Opinion

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No. 54/2015, concluded that Julian Assange had been arbitrarily detained by Sweden and the United Kingdom in violation of the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights, and ordered his release with compensation (WGAD 2016). Sweden and the United Kingdom said they disagreed with and would disregard the finding, thereby confirming once again that for Western governments, the UN human rights machinery exists only to apply Western standards on the rest. The rest of the world is better educated, read and informed about global events in real time and can spot hypocrisy regardless of the internationally dominant Western media's lack of interest in the selective ethical outrage by Western governments and commentators. Edward Snowden tweeted that Britain's and Sweden's response to the Assange ruling 'writes a pass for every dictatorship to reject UN rulings' (BBC 2016).

Consequently, a much needed moral as well as geopolitical rebalancing is in train. In particular, the discrepancy between the West's universalistic rhetoric of principles and particularistic pursuit of interests is going to be increasingly unsustainable. In one of the most important studies from Chatham House, while European elites emphasised America's historical 'moral leadership,' many Asian elites view the United States as hypocritical, overbearing, arrogant and disinterested in others, aggressively pushing its own policy priorities instead (Dormandy 2014). Either the normative architecture of world order will be truly universalized, or else the world will edge back closer to the power end of the spectrum.

I begin with a brief word on the importance of ethics in international affairs. The substantive issues on which the central thesis is developed are then taken up in the following order: human rights, sanctions, international criminal justice, killer drones, the use of force and nuclear weapons. Looking at them together highlights just how broad the front is across which the problem exists.

2. The Centrality of Ethics

To paraphrase the mantra of Realism, international politics, like all politics, is a struggle for normative ascendancy: the establishment and maintenance of the dominant normative architecture of international order through the interplay of power, ideas and values. This might seem an odd claim to put forward in the wake of the geopolitical upheavals in Europe following the Ukraine crisis, the refugee crisis engulfing Europe, the civil war in Syria, the unresolved maritime territorial disputes in the South China Sea, the unchecked nuclear ambitions of North Korea, and the global fears of international terrorism. Yet the fact is that even the language and structure of justifications of claims and counter-claims for all these disputes are framed fundamentally as ethical and normative challenges: sovereignty, self-determination, aggression, peaceful settlement of disputes, mimetic violence, human dignity, international and humanitarian law, civilian atrocities, the lawfulness and legitimacy of the use of force both domestically and internationally, climate change and the principle of common but differentiated responsibilities, and our duties, responsibilities, and rights as 'good international citizens' vis-à-vis strangers in peril and distress. Underlying the struggle for power therefore are ethical contestations over the norms and values that constitute not just international society but the international actors engaged in global social practices (Frost 2008). It is not just the balance of power that provides order and stability and keeps anarchy at bay, but also a common set of values and international practices appropriate to them. An ethical definition of world order places considerable emphasis on international solidarity. National rights entail corresponding international obligations. The vision of the global good life, and the ethical principles underpinning it, find their most authoritative and eloquent articulation as the purposes and principles enunciated in Article 1 of the UN Charter.

3. Human Rights

The rise, diffusion and extension of human rights norms and international humanitarian law (IHL) were among the great achievements of the last century. Greenhill (2010) holds that, owing to socialisation effects, international organisations have a surprisingly powerful influence on the human rights practices of member states. During the twentieth century, there was growing isomorphism among states with respect to international human rights norms. Despite that, in the early twenty-first century there is neither a homogeneous international society with respect to human rights and humanitarian concerns, nor a unifying normative architecture. Rather, the reality of norm variation attests to the existence of a polymorphic international society.

Too many Western analysts seem to believe that human rights is a problem only in non-Western countries: ‘the diffusion of international norms in the human rights area crucially depends on the establishment and the sustainability of networks among domestic and transnational actors who manage to link up with international regimes, to alert Western [sic] public opinion and Western [sic] governments’ (Risse & Sikkink 1999, 5). Self-evidently, only non-Western governments can be norm-violators; Western governments—Abu Ghraib, Guantánamo Bay etc. notwithstanding—can only be norm-setters and norm-enforcers.

International and non-governmental organisations and the international media are among the array of instruments available to Western societies to assert dominance and normative primacy in world affairs. Western countries are quite happy to use UN, Amnesty International and Human Rights Watch reports as handy sticks with which to beat other countries on human rights. But they are outraged at the idea that their own human rights record, for example with respect to the condition of their indigenous peoples, the racial bias in the death penalty or the treatment of refugees and asylum seekers, might merit independent international scrutiny.

It is difficult for many former colonies not to weigh present rhetoric against the historical

record on human rights by the Western powers during the colonial period and present practices. The British suppression of the Mau Mau rebellion in Kenya in the 1950s was brutal. Bass (2013) details how President Richard Nixon and National Security Advisor Henry Kissinger knowingly ignored the genocide in East Pakistan in 1971 in order to court China against the Soviet Union on the global geopolitical chessboard. The West champions the cause of whistleblowers and dissidents in China and Russia but demonises and punishes Assange, Bradley Manning and Snowden despite their role in exposing the extent of the secret surveillance state operating in grey legal areas, if not outside the law. Australia has enacted 350 laws, 60% of them after 9/11, that infringe basic democratic standards with increasing severity (Williams 2015). In Europe, the rollback in civil liberties in state responses to terrorist attacks have combined with a diminishing effectiveness of traditional human rights instruments and tools, threatening to turn human rights into ‘an optional extra instead of a core value’ (Ward 2012).

4. International Criminal Justice

The International Criminal Court (ICC) was designed as a court of last resort for ending impunity for the perpetrators of the most heinous crimes of concern to the international community. But there is a growing perception that an initiative of international criminal justice, meant to protect vulnerable people from brutal national rulers, has been subverted into an instrument of powerful against vulnerable countries. Africans are being held to international accountability for domestic criminal acts, but Westerners—and those reliant on them for protection from the reach of international criminal justice—escape accountability for international acts of possible war crimes.

Many developing countries find the ICC’s exclusive focus on Africa deeply troubling. The centrepiece of their concern is the case of Sudan’s President Omar Hassan al-Bashir who is under indictment by the ICC. The African Union (AU 2009) collectively and many African leaders individually have

denounced the ICC for a neo-colonial approach to Africa; Kenya and South Africa have threatened to withdraw from the court; and Ethiopia's Prime Minister Hailemariam Desalgen even accused the ICC of 'hunting' Africans because of their race (BBC 2013). In June 2015, South Africa's government defied its own courts in permitting Bashir to leave peacefully after an AU conference. In a further sign of the growing rebellion against the court's authority, President Bashir was welcomed as an honoured guest at the third India–Africa Forum summit held in New Delhi on 26–29 October 2015 despite being under ICC indictment (Haidar 2015).

In April 2014, a four-year Senate inquiry into the CIA's practice of torturing detainees after 9/11 concluded that 'the CIA's interrogations, secret detentions and outsourced torture sessions were "brutal, and far worse than the agency communicated to policymakers"' (Ackerman 2014). The world learned of such practices as forced 'rectal feeding.' The report paints a not very pretty picture of the United States as a national security state. Yet at the end of all that, the 'enhanced interrogation techniques' produced either faulty intelligence, or no intelligence at all (Borger 2014). There developed also the distasteful practice of 'rendition to torture,' sending prisoners to their home or third countries known to practise torture as part of their interrogation routine. But neither individual, nor collective responsibility and punishment followed.

The abused accounted for a minority of prisoners held by the United States but were integral to the war and provided the standard of terror by which the good behaviour of the rest would be judged and enforced. Many other democracies, including Australia, Canada and the United Kingdom, joined the United States in shifting the balance of laws and administrative practices towards state security. Unsurprisingly, China, which has long accused the United States of gross hypocrisy in challenging other countries on human rights given its own sorry record, covered the Senate report extensively. A foreign ministry spokesman, Hong Lei, said 'the US side should reflect upon and rectify its relevant behaviour, earnestly obey

and implement the provisions of international conventions' (Feng 2014).

Nobel Peace Laureate Desmond Tutu (2012) refused to share the stage with former British Prime Minister Tony Blair and pulled out of a scheduled international event in Johannesburg. Those responsible for the suffering and loss of life caused by the 2003 invasion of Iraq, he explained, 'should be treading the same path as some of their African and Asian peers who have been made to answer for their actions in the Hague.' Until such time as presidents, prime ministers and generals from some major Western countries are also indicted, convicted and punished for war crimes, the ICC will remain suspect as the vehicle for dispensing biased justice of the strong against the weak. Either we will have universal justice, or the ICC will collapse as a normative enterprise.

5. Sanctions

Sanctions, supposedly a humane alternative to war, shift the burden of harm largely to civilians, mainly women and children and cause large-scale death and suffering through 'structural violence' (starvation, malnutrition and disease). According to Mueller and Mueller (1999), sanctions caused more deaths in the twentieth century than all weapons of mass destruction throughout history. As Gordon (1999, 124) notes, 'If sanctions were indeed peaceful, there would be no ethical dilemma. If, on the other hand, they were flatly understood as an act of aggression, the framework of the rules of war would offer guidance for their use.'

As well as their morally questionable effects, its globally dominant position has shielded the West from the widely shared perceptions of double standards and hypocrisy in the imposition of sanctions. The effort to sanction Iran for possibly pursuing a nuclear weapons program was led by countries that hold 98% of the world's stockpiles and give no indication of giving them up. When Egypt's first freely elected president was deposed by the military after mass protests in 2013, Secretary of State John Kerry said the army was

‘restoring democracy’ (Gordon & Fahim 2013). When the Thai military took power through a coup in 2014, also after sustained mass demonstrations and political instability, Kerry (2014b) insisted there was ‘no justification for this military coup,’ and US military assistance was suspended.

In Ukraine, the West supported street mobs who ousted the elected pro-Russian president and installed a pro-Western government. When Moscow responded along predictable lines given the history and geopolitics of the region and re-absorbed Crimea, Washington and Europe imposed sanctions. It is not hard to imagine hardline US reactions to equivalent China- or Russia-fomented instability in Canada and Mexico, and the installation of anti-American regimes, in Canada and Mexico. In a jaw-dropping interview on 2 March 2014, Kerry (2014a)—who had voted for the Iraq war—declared that in the twenty-first century, you cannot just invade countries on a ‘completely trumped-up pretext.’ The Russian president (Putin 2014) and foreign minister (Lavrov 2014) were quick to recall North Atlantic Treaty Organization actions in helping to detach Kosovo from Serbia in 1999 without any plebiscite.

6. Killer Drones

Subjecting American leaders to the full force of international criminal law could conceivably see President Barack Obama in the dock for command responsibility in ordering a program of targeted assassinations in foreign jurisdictions that have killed as many people as died on 9/11 in New York. Its high-tech arsenal enables the United States to project military power to the remotest corners of the world. Such technological prowess holds the seductive promise of ‘war lite’ and ‘morality lite’ with respect to blood, treasure and conscience. Judgments about the status of enemy combatants and terrorists, and therefore about the definition of legitimate targets, are not technological but moral determinations that can be made only by humans, not machines.

Drones are a tool deployed in service of a policy of targeted assassination. Does this represent an extraterritorial extension of the

normative authority of the state to cover gaps in the existing legal order, or is it a covert attempt to breach the limits of the legal competence of a state over conduct in foreign jurisdictions? An exhaustive study of the use, impact and legality concluded that the US drone strikes violate international law, IHL and international human rights law. Individual strikes could also ‘constitute acts of illegal extrajudicial assassination’ under US domestic law (International Human Rights and Conflict Resolution Clinic (Stanford Law School) and Global Justice Clinic (NYU School Of Law), 104–22). Troubling enough for democracies, the use of drones deepens the discomfort level as a policy tool for authoritarian regimes. What if China eliminated the Dalai Lama in a drone strike?

7. War

On the one hand, since 1945, the UN has spawned a robust norm against going to war except in self-defence against armed attack or when authorised by the UN itself. On the other hand, the United States has been the most war-prone country for several decades. It used force overseas 216 times from 1798 to 1989, or 1.1 times per year on average. In the 25-year period since the end of the Cold War, it has deployed force abroad on 152 occasions, for an annual average of 6.1 (Torreon 2015). This explains why a WIN/Gallup (2013) poll of opinion in 65 countries at the end of 2013 found that the world’s biggest threat to world peace was considered to be the United States, with 24%; Pakistan was the next, with 8%, followed by China (6%), North Korea, Israel and Iran (5% each).

In May 2014, President Barack Obama (2014a) insisted: ‘The United States will use military force, unilaterally if necessary, when our core interests demand it.’ In September, Obama (2014b) demanded: ‘all of us—big nations and small—must meet our responsibility to observe and enforce international norms.’ The two statements are incompatible and indeed the second was in the context of criticising Russia for actions in Crimea and Ukraine undertaken in defence of its core

interests. China too is closely watching US international behaviour. Stephanie Klein-Ahlbrandt notes that, having studied how US hegemonic behaviour ‘blatantly violates international law when it’s in its interest,’ China concluded this is ‘what first-class powers do’ (quoted in Himmelman 2013).

8. Nuclear

Most countries have chosen nuclear abstinence because of overwhelming abhorrence of these most indiscriminately inhumane weapons ever invented. Their non-use since 1945 is also largely explained by the strong moral taboo. Recently, the Holy See (2014) circulated an article arguing it was time to question the former distinction between possession and use as the governing assumption of ethical discourse on nuclear deterrence. A ‘global ethic ... of solidarity’ points to a ‘morally responsible global future’ which can only come from nuclear abolition. As well as ‘legal obligations,’ the disarmament treaties ‘are also moral commitments.’ The concept of nuclear deterrence now ‘works less as a stabilising force and more as an incentive for countries to break out’ of the Non-proliferation treaty (NPT). The ‘double standard’ in enforcing non-proliferation on some and not others ‘undermines the universality on which the NPT was constructed.’ Because of the known damage to civilians, nuclear deterrence rests on shaky moral ground. And investment in nuclear weapons siphons off resources for poverty alleviation and development that ‘is essential to social justice.’

The humanitarian impacts movement could be a precursor to a growing defection from the NPT regime by frustrated non-nuclear weapon states. Its factual premise is the lack of individual or collective capacity to cope with the humanitarian impacts of a nuclear war. From this, it follows that for the sake of humanity’s survival, nuclear weapons must never be used again under any circumstances. And the only guarantee of non-use is total elimination (NZ 2013). The initiative thus updates the old World Court project in challenging the IHL compliance of nuclear weapons use. Moreover, the leaders of the nuclear-

armed states have an ethical obligation to inform and educate their citizens about the reality of incapacity to cope with the devastation of a nuclear war.

If the consequences of a nuclear war are systemic then decisions on arsenals, doctrines and use cannot be solely a matter of sovereign privilege. The same is true with regards to the safety and security aspects of nuclear energy for peaceful purposes. Because a bad accident in one country can have horrific effects in neighbouring countries, they have the moral right to have their voices heard in the decision to build and operate nuclear plants to global safety standards: no incineration without representation. At which point do non-nuclear weapon states conclude that defection from the NPT regime is likely to be politically effective, is morally permissible and may well be the ethically responsible course of action (Doyle 2009)—precisely the dilemma with which the AU is grappling vis-à-vis the ICC?

9. Conclusion

Former president Bill Clinton said at a private function in Los Angeles in October 2002 that as the top dog in the world, the United States faced a fundamental choice. It could make every effort to stay top dog. Or it could use its unchallengeable dominance to create a world in which it was comfortable living when no longer top dog (quoted in Evans 2013). Washington chose the first through a military doctrine based on overwhelming force and global strike capability that would deny any adversary the ability to resist US firepower. A wise Washington would have chosen the second course to build legal frameworks and political institutions of cooperation, from Eastern Europe through the Middle East to Asia-Pacific. For countries of the region, binding a rising and increasingly assertive China with global norms and laws is a doomed exercise unless US exceptionalism can be eliminated. Nor can Eastern Europeans succeed in the quest for the ‘Gulliverization’ of Russia—where a major power is tied down with numerous threads of laws, norms and rules restricting

its unilateral use of force—as long as the United States exempts itself from the constraints and fetters of the UN Charter and Geneva protocols governing the use of force, as per Obama's West Point address. As relative power shifts away from the West, the ability of the latter to exempt themselves from the reach of global norms will lessen. They will have to accommodate to the new normal either by bringing their conduct within the operation of international normative instruments, or by accepting a softening of the latter. As Clinton implied, the relative loss of power means they have a material interest in strengthening, not weakening, a rules-based global order.

10. Policy Implications

- 1 The stability of the global order is a function of the reconciliation of universal ethical principles and power asymmetries in national policy and international institutions in which both principles and power relativities are embedded;
- 2 The rising powers will continue to seek recalibrations of their voice in writing global rules as they move from being norm takers to setters and enforcers;
- 3 As relative power shifts to some of the rest, Western countries have a material interest in the consolidation of a rules-based order; and
- 4 The normative enterprise of a rules-based global order is undermined with growing perceptions of double standards and hypocrisy in the observance of global norms by countries that exempt themselves because of a self-sustaining belief in exceptionalism.

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