

# **Why a World State is Unavoidable in Planetary Defense: On Loopholes in the Vision of a Cosmopolitan Governance<sup>1</sup>**

*Pavel Dufek*

## **1.1. Introduction**

The idea of global planetary defense against threats from outer space (hereinafter also PD), as explored in previous chapters, requires an effective global decision-making system that would both implement the necessary technology (or oversee its implementation) and deploy it in case of emergency. The proposal (Chapter XXX) is based on the assumption that such a political body would be “semi-cosmopolitan”, i.e. short of a full-fledged global political authority – a “world-state” – represented by a world government, although it implies “more centralized [global] power(s)”. The main claim of this chapter is that planetary defense against asteroids, as variously envisioned in the chapters in this book, cannot be implemented under such a model of democratic global governance. All relevant indices point to the necessity of establishing a *global political authority with legitimate coercive powers*, one that retains basic elements of statehood, which is a similar argument to the one I explored in some detail in an earlier paper on global justice.<sup>2</sup> However, it remains to be seen whether such a political system can be in any recognizable sense democratic. Put bluntly, I find it unconvincing that planetary-wide, physical-threat, all-comprehensive macrosecuritisation<sup>3</sup> (“planet-wide securitizations”, as labelled in Chapter XXX), coupled with deep transformations of international law, global centralization of core decision-making powers, de-stigmatization of nuclear weapons, and the like, can proceed, succeed, and be implemented in a non-hierarchical international system where PD constitutes only one regime among many and states basically remain the major actors – sovereign *principals*. This is the main sense in which proposals in support of a semi-cosmopolitan model of global governance driven by cosmopolitan ethics, as discussed in Chapter XXX, are too idealistic.

My field of expertise is political theory/philosophy and political science, and I believe this background allows me to spot important conceptual, normative and institutional hurdles which await any such extremely ambitious project with clear political ramifications. On a lower level of generality, the present chapter therefore provides an exposition of a number of important issues which I believe need to be seriously reflected upon also by advocates of planetary defense if their case is to be robust, persuasive, and ultimately successful as regards implementation of an enormously politically sensitive planetary defense policy. Although rationally and scientifically robust, the PD project suffers, in my view, from excessive simplification as well as naivety with respect to how both international and domestic politics works – especially if the resulting model of governance is to be democratic. It is impossible, I surmise, to insulate the scientific enterprise from the broader societal context within which it operates, and which it aims to transform.

It needs to be stressed that mine is neither a critique nor a glorification of the idea of a world state/world government, understood as a model of political-decision-making on the global level;

---

<sup>1</sup> The text is an output of a research project supported by the Czech Science Foundation (code GA16-13980S). I thank Nikola Schmidt for many suggestions regarding the shape of my argument, as well as for heated debates, both past and future, about real and imaginary limits to idealistic visions of global governance.

<sup>2</sup> Pavel Dufek, “Why Strong Moral Cosmopolitanism Requires a World-State,” *International Theory* 5, no. 2 (2013): 177–212, doi:10.1017/S1752971913000171.

<sup>3</sup> Barry Buzan and Ole Waever, “Macrosecuritization and Security Constellations: Reconsidering Scale in Securitization Theory,” *Review of International Studies* 35, no. April 2009 (2009): 253–76, doi:10.1017/S0260210509008511.

in this regard I remain agnostic.<sup>4</sup> What I am arguing is that in case of PD (and arguably other global-scale issues as well), effective, stable and legitimate solution cannot be based on the seemingly attractive yet vague and ultimately unworkable idea of “global governance without government” – that is, exercise of functions normally entrusted to state governments, such as dealing with political, economic, environmental etc. problems, without any such formal governmental body in place. “Government” would be replaced by a multi-level network of cooperating actors, bodies, and agencies.<sup>5</sup> Defenders of such a vision of PD make their own case even more difficult by insisting on a democratic character of the global decision-making framework, which activates further problems of conceptual, normative, and institutional kind.<sup>6</sup>

For clarity purposes, I divide the issues into five broad groups – law, politics, identity and society, economics, and meta-theory. As will become clear, the respective points are not strictly separated and often overlap, to the effect that a problematic feature in the realm of law and legislation affects – one might say infects – the circumstances of political action, as do unresolved issues of national, global, or regional identities. Other combinations are of course possible as well. I will not waste much space on rehearsing the arguments developed in more detail below; let me only indicate they include claims from instability; efficiency; power politics; collective action problems; conflicts among political issues; democratic legitimacy; and common identity.

The main message of the chapter could be summed up in the following way: If PD is a good idea and a desirable goal, which it very well might be, then we should be honest with ourselves and avoid wanting to have the cake and eat it at the same time, because not all good things go together in planetary defense endeavors.<sup>7</sup>

## 1.2. Law and Politics

Let me start with the realm of law, especially, even if not exclusively, international law. It sometimes gets lost on us that modern democratic politics, and the modern state as such, are fundamentally intertwined with modern law: In a sense, the modern state is first and foremost a *legal* state, which means that political decisions have to be promulgated and implemented strictly in the form of a legal norm, be it constitutional laws, regular laws, or subordinate legislation. The rationale behind the primacy of law – we usually speak of the *rule of law*, the *Rechtsstaat*, or the *prééminence du droit* – is to prevent unchecked discretion of the rulers, as well as to stabilize legal expectations and ensure legal certainty.<sup>8</sup> From this follows the

---

<sup>4</sup> For a recent discussion of the desirability of a world-statist solution to global problems see Shmuel Nili, “Who’s Afraid of a World State? A Global Sovereign and the Statist-Cosmopolitan Debate,” *Critical Review of International Social and Political Philosophy* 18, no. 3 (May 4, 2015): 241–63, doi:10.1080/13698230.2013.850833.

<sup>5</sup> The classic here is 2. James Rosenau and Otto Czempel, eds., *Governance without Government: Order and Change in World Politics* (Cambridge: Vambridge UP, 1992). See also James Rosenau, *Study of World Politics, Volume II: Globalization and Governance* (Abingdon, UK: Routledge, 2006). For a widely cited conceptual clarification see R. A. W. Rhodes, “The New Governance: Governing without Government,” *Political Studies* 44, no. 4 (September 29, 1996): 652–67, doi:10.1111/j.1467-9248.1996.tb01747.x.

<sup>6</sup> For an internal critique of how loosely the concept of global governance has been used in the study of international relations see Thomas G. Weiss and Rorden Wilkinson, “Rethinking Global Governance? Complexity, Authority, Power, Change,” *International Studies Quarterly* 58, no. 1 (2014): 207–15, doi:10.1111/isqu.12082.

<sup>7</sup> I am paraphrasing here the title of an important article on democracy promotion. See Sonja Grimm and Julia Leininger, “Not All Good Things Go Together: Conflicting Objectives in Democracy Promotion,” *Democratization* 19, no. 3 (2012): 391–414, doi:10.1080/13510347.2012.674355.

<sup>8</sup> Brian Tamanaha, *On the Rule of Law: History, Politics, Theory* (Cambridge: Cambridge University Press, 2004); Danilo Zolo, “The Rule of Law: A Critical Reappraisal,” in *The Rule of Law: History, Theory and Criticism*, ed. Pietro Costa and Danilo Zolo (Dordrecht: Springer, 2007), 24.

paramount role of the judiciary, and less optimistically, the always-present tension between what the law in force requires versus what the ever-changing democratic will off the people wants. Although it is an open question how to approach law and legislation on the supranational level where there is no single source of legitimate legislation, it is an eminently *important* one. The absence of a legal framework both enabling and constraining the exercise of democratic politics makes room for the game of *power* politics, and this eventuality should be taken seriously by the PD community.

### 1.2.1. Shared framework or fragmentation

The guiding idea behind my argument then is that PD requires, or entails, an overarching legal framework shared and respected by all actors, as is the case with other global issues.<sup>9</sup> This will require reconstruction, or transformation, of both domestic and international law in whose language will be PD-related policies formulated. Given that PD aims to transform both policy priorities across existing countries and symbolic and cultural self-understanding of the respective actors (governments, peoples, social groups, interest groups, individuals etc.), while providing for *efficient* global decision-making machinery, we cannot expect the extant body of international law to be sufficient for such a momentous shift. Empirically speaking, however, such preconditions are not there.

Of course, certain changes in both domestic and international law have been taking place, as many observers and cosmopolitan-minded thinkers argue. However, the developments point rather to a continuing polycentering, pluralization, and fragmentation of the emerging “global law”, even though “sectoral constitutionalization” (unification within individual policy or issue areas) might be emerging simultaneously.<sup>10</sup> This means that instead of a centrally promulgated, uniform, comprehensive system of law valid for each and every actor – as is the case with citizens of nation-states and their standing vis-à-vis domestic law<sup>11</sup> – we observe the emergence of overlapping, criss-crossing, and not seldom conflicting bodies of legal regulations. This is (very briefly) the empirical picture of how things are in international affairs. Normatively speaking, many if not the majority of legal scholars as well as political philosophers reject the *monist* scenario of a world-state, i.e. replication of the pyramidal hierarchical structure of the modern state on the global level. The reasons for such reservations can be traced back to Immanuel Kant’s concerns about global despotism, and despite the wave of world-statism after the Second World War which was fueled by fears of a global nuclear disaster, this is the dominant narrative in contemporary academia.<sup>12</sup>

In other words, most observers invest their hope into a pluralistic, polycentric vision of law which seems to align nicely with the *governance* approach to international politics. But all that is arguably inconsistent with the necessity of a shared and enforced legal framework for a task of PD-like dimensions, which by definition ought to take priority over other, lesser issues (as explained in more detail in 1.2.5, 1.2.8 and 1.3.3). To repeat, I am not putting forward a normative case in favor of a world-state; what I am offering is an *if-then* conditional based on a certain reading of the nature of international politics. To the extent that the case for PD is

---

<sup>9</sup> Mattias Kumm, “Constituent Power, Cosmopolitan Constitutionalism, and Post-Positivist Law,” *International Journal of Constitutional Law* 14, no. 3 (2016): 697–711, doi:10.1093/icon/mow050; David Held, *Cosmopolitanism: Ideals and Realities* (Polity, 2010).

<sup>10</sup> Anne Peters, “Membership in the Global Constitutional Community,” in *The Constitutionalization of International Law*, ed. Jan Klabbers, Anne Peters, and Geir Ulfstein (Oxford: Oxford University Press, 2009), 153–178; Anne Peters, “Constitutional Fragments: On the Interaction of Constitutionalization and Fragmentation in International Law,” *CGC Working Paper*, no. No. 2 (2015): 1–42.

<sup>11</sup> Federal countries might be thought to undermine this claim; however, there is always a layer of federal law applicable to all actors within the jurisdiction. The European Union is a unique case that will be commented upon later in the chapter.

<sup>12</sup> William E Scheuerman, *The Realist Case for Global Reform* (Cambridge, UK: Polity, 2011), chap. 2; Lu Catherine, “World Government,” in *Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta, 2012, <https://plato.stanford.edu/entries/world-government/>.

rationally overwhelming and will be construed as such by major political actors, it could be perhaps said that my position overlaps with the famous argument by the foremost international relations theorist Alexander Wendt, who claimed that a world-state (accompanied by a corresponding shift in identities) is ultimately inevitable as a matter of self-interest of actors involved in international politics, including great powers.<sup>13</sup>

### 1.2.2. Judicial reasoning as the panacea?

I noted above that the judiciary has a central role and function in any political system based on the rule of law. How to establish the rule of law on the global level in a decentralized system of governance, though? Some supporters of a “global constitutionalism” claim that judicial reasoning – as opposed to political action – can provide the bridge among numerous levels of decision-making.<sup>14</sup> The European Union, and especially the Court of Justice (CJEU), is often presented as a model case. However, notwithstanding the recent trend of recapturing of decision-making capacities by member-state’s executives, in response to the need of a more flexible and efficient decision-making than the EU political system is currently capable of providing,<sup>15</sup> the CJEU itself quite unambiguously functions as the main engine of further *unification* of the Union.<sup>16</sup> It thus again seems questionable that we can have authoritative judicial decisions linked to the principle of legal certainty (which co-forms the core of the rule of law) *and* a non-hierarchical soup of particular legal systems.<sup>17</sup> Also, the sanitized world of judicial reasoning cannot be really isolated from the messy realities of mundane politics, including power competition. After all, the judicial branch of power is still only one among others. Numerous institutional and normative concerns thus apply, not least with regard to the efficiency and legitimacy of various governance options. Some of them, such as the problem of democratic political representation (1.3.1) or collective action problems (1.3.4) I discuss in the following sections, though the general point can be stated already here: Namely that PD cannot do without a robust political theory of international politics.

### 1.2.3. Formal or material points of intersection

The fact of societal diversity and pluralism is far from a new discovery. As however Michel Rosenfeld points out, the deep and wide plurality within modern societies has been always held together either by a formal legal framework (i.e. constitutions) consisting of “nodes” which encompass fundamental rules of cooperation in any political society, or by consensus over material/substantive values, principles etc., or most commonly by both.<sup>18</sup> The reason is straightforward, namely to ensure conditions of social cooperation and stability of the social order. Since a fragmented and non-hierarchical global/international law cannot provide the

---

<sup>13</sup> It should be noted that Wendt’s claim rested on a specific recognition-based teleology. See Alexander Wendt, “Why a World State Is Inevitable,” *European Journal of International Relations* 9, no. 4 (December 21, 2003): 491–542, doi:10.1177/135406610394001; Alexander Wendt, “Why a World State Is Inevitable,” in *Global Governance, Global Government. International Visions for an Evolving World System*, ed. Luis Cabrera (Albany: SUNY Press, 2011), 27–63. is an updated version of the argument.

<sup>14</sup> Neil Walker, “Beyond Boundary Disputes and Basic Grids: Mapping the Global Disorder of Normative Orders,” *International Journal of Constitutional Law* 6, no. 3–4 (2008): 373–96, doi:10.1093/icon/mon016.

<sup>15</sup> Vojtěch Belling, “Exekutivní Vládnutí Jako Nový Model Politiky v Evropské Unii? Krizová Politika EU a Její Dopady Na Politický Systém,” *Mezinarodni Vztahy* 49, no. 4 (2014): 9–27.

<sup>16</sup> Examples include the principles of *direct effect* as well as *supremacy* of EU law over domestic law, as settled by the CJEU itself. This means that provided certain procedural conditions are met, European laws (so-called *regulations* and *directives*) take precedence over member states’ legislation. Paul P. Craig and Gráinne De Búrca, *EU Law: Text, Cases, and Material*, 6th ed. (Oxford: Oxford University Press, 2012).

<sup>17</sup> For a related discussion of pluralism and monism in international law see Alexander Somek, “Monism: A Tale of the Undead,” in *Constitutional Pluralism in the European Union and Beyond*, ed. Matej Avbelj and Jan Komárek (Oxford: Hart Publishing, 2012), 343–380.

<sup>18</sup> Michel Rosenfeld, “Rethinking Constitutional Ordering in an Era of Legal and Ideological Pluralism,” *International Journal of Constitutional Law* 6, no. 3–4 (2008): 415–55, doi:10.1093/icon/mon023.

formal pillar (i.e. unified body of global constitutional law, containing the said “nodes”), global societal integration greatly depends on the construction of a common cosmopolitan framework of values and self-understandings. Even though it might constitute a commendable moral ideal, a shared, even though presumably thin, global identity is a fragile utopian goal, as the recent wave of populism, nationalism, and cultural and economic protectionism amply attests. Achieving such a shared feeling of global commonality is certainly a tall order (more on this in section 1.4 pod), rendered even more difficult by such explicit rejection on a unified legal system.

#### 1.2.4. *The point and purpose of law*

If “achieving social order” is one of the basic purposes of law,<sup>19</sup> then it needs to be made public and well known, so that everyone affected can, at least in principle, verify which legal rules are in force. Only legal rules are in principle accessible by their recipients can be thus binding for them (To complicate things a bit, it could be argued that only those legal rules I can reasonably expect the majority of other actors to uphold are binding; I discuss this point in section 1.3.4). If PD is to operate within the bounds of legality, and if the resulting legal rules are to be binding for all relevant actors (sometimes that might mean directly all individual human beings), then PD-related decisions need to be promulgated publicly, continually, globally, authoritatively, and consistently. How this could be done in a decentralized system of governance remains a matter of concern.

An objection might be pressed – and this is indeed a fairly common response in contemporary legal and political theory – that such a view of law and legal obligation remains locked in the old hierarchical understanding of law. My response is that I simply cannot see how long-term global cooperation with respect to PD can proceed effectively in a non-hierarchical system of international law. Insofar as the foundational rationale of judicial decision-making is to aim for “authoritative resolution of a legal problem,”<sup>20</sup> and as long as conflicts among different norms or legal orders are inevitable in a decentralized system of global governance, then global cooperation in such a huge task of coordination as represented by PD is difficult to envision. Flexibility and open-texturedness of the emerging global system of law might be considered virtues in many areas of human activity (such as, say, commercial law), as they arguably involve engagement with different value systems and their cultural backgrounds. PD is however one of those areas where these qualities become vices. Development, deployment, and control of such sensitive technology as laser beam and nuclear weapons is simply not the right object of legal and political experiments, not least because the common goal is fully known beforehand.

#### 1.2.5. *Securitization, pluralism, and self-government*

There are, of course, other rationales behind the decentralized approach. One basic point of global governance models concerns the importance of preservation of autonomy and self-government on lower levels of political organization (from regional formations to as low as municipalities), in order to avoid the danger of global authoritarianism and retain both the idea and practice of democracy. The principle of *subsidiarity* has a foremost place in such visions and has been commonly invoked with respect to the European Union.<sup>21</sup> One weighty reason behind this principle is the fact of moral, cultural, religious diversity. Liberal conscience counsels toleration, or even celebration, of diversity (within certain limits specified by liberalism itself). If, however, PD presupposes *securitization* – more precisely, existential-threat macrosecuritization on a planetary level (see 1.3.3 pod) – which I argue it necessarily does, then fairly limited room remains for pluralism and self-government, simply because of the

---

<sup>19</sup> Lon L. Fuller, *The Morality of Law*, 2nd ed. (New Haven: Yale University Press, 1969), chap. 3.

<sup>20</sup> Pavel Ondřejek, “Státní Moc a Mezinárodní Právo Mezi Nadřazeností a Dialogem,” in *Kolos Na Hliněných Nohou? K Proměně Srtátu a Jeho Rolí*, ed. Jan Kysela and Pavel Ondřejek (Praha: Leges, 2016), 125.

<sup>21</sup> Neil MacCormick, *Questioning Sovereignty* (Oxford: Oxford University Press, 1999). The principle originated within Christian (mostly Catholic) social teaching/ethics; see Arno Anzenbacher, *Christliche Sozialethik: Einführung Und Prinzipien* (Paderborn: Ferdinand Schöningh, 1998), 210.

unconditional and depoliticizing nature of securitization. The threat is labelled as objective, and the discretionary (i.e. insulated from normal democratic control and accountability) decision on how to cope with it is thus rendered immune to protest and disagreement. Of course, asteroid threats are claimed to be genuinely objective, as they can be explained and calculated in precise scientific language – including the possibilities of collision aversion and/or asteroid trajectory alteration. Such securitization might be very well a *just* one, as Nikola Schmidt argues in Chapter XXX;<sup>22</sup> nevertheless, it would still imply unconditional compliance with the selected course of action by all involved actors – from states to international organizations to individual human beings. Unless PD is properly securitized (i.e. if it is “merely” *politicized*, introduced as a relevant political topic in public debates), it is unclear why it is to take immediate priority over other policy goals – say, eradication of world poverty (see 15.2.7 for a discussion of competing securitization initiatives).

In effect, this creates a dilemma between two scenarios: Securitization at the expense of self-government, and no-securitization at the expense of survival of humanity (or so the argument goes). My point is not that the former course of action is not preferable, but that we cannot have both – that is, subsidiarity/self-government and PD-level securitization – at once. Incidentally, all this also seriously weakens the case for a “judicial dialogue” across the many levels and sectors, which is however precisely the way how defenders of global legal pluralism/polycentrism envision the possibility of binding common decisions. Plainly, a dialogue is of little use if we know that enforceable decisions are made elsewhere and on highly different grounds.

#### 1.2.6. Global rule of law and constituent power

The preceding sections employ the notion of a *rule of law*. This is a inconspicuous concept; however, the fact is that without a rule of law, there can be no democracy, no protection of human rights, and arguably, no reciprocal social cooperation, at least not a democratic one. It is not by chance that the rule of law constitutes a conceptual, normative and institutional pillar of liberal constitutional democracies, and a precondition of consistent enforcement of citizens’ fundamental rights.<sup>23</sup> It could be even argued that establishing a functional rule of law is the most basic challenge for any stable transnational or cosmopolitan legal and political system.<sup>24</sup> As with previous issues, weighty reasons have been put forward by scholars of legal and political theory against a monistic conception of a global legal system, that is, one imposed from above by highest-level institutions such as currently the UN Security Council.<sup>25</sup> Such a rule of law would be unilateral, they claim, rooted in the allegedly obsolete conception of modern sovereign statehood, and would thus undermine autonomy and self-government based the principle of subsidiarity.

But herein lies the paradox. In order to fulfil its rule of law-specified and -constrained functions, law needs to be the same for all affected subjects and its force needs to be inescapable (at least in principle), and this is highly dubious in a fragmented system of global governance that lacks constitutionalized and legalized enforcement power.<sup>26</sup> The PD regime would be only

---

<sup>22</sup> See also Rita Floyd, “Can Securitization Theory Be Used in Normative Analysis? Towards a Just Securitization Theory,” *Security Dialogue* 42, no. 4–5 (2011): 427–39, doi:10.1177/0967010611418712.

<sup>23</sup> See e.g. Martin Loughlin, *The Foundations of Public Law* (Oxford: Oxford University Press, 2010), chap. 11.

<sup>24</sup> Gianluigi Palombella, “The Rule of Law beyond the State: Failures, Promises, and Theory,” *International Journal of Constitutional Law* 7, no. 3 (2009): 442–67, doi:10.1093/icon/mop012.

<sup>25</sup> The infamous *Kadi case* which concerned the hierarchy between international law – specifically UN Security Council resolutions – and EU law (and by implication, of domestic law as well) is probably the clearest recent example. See G De Búrca, “The European Court of Justice and the International Legal Order after Kadi,” *Harvard International Law Journal* 51, no. 1 (2010): 1–49; Matej Avbelj, Filippo Fontanelli, and Giuseppe Martinico, *Kadi on Trial: A Multifaceted Analysis of the Kadi Trial* (Abingdon: Routledge, 2014).

<sup>26</sup> For some further reflections on the rule of law in global context see William E. Scheuerman, “Cosmopolitan Democracy and the Rule of Law,” *Ratio Juris* 15, no. 4 (December 2002): 439–57, doi:10.1111/1467-9337.00218.

one among many, without having any clear priority which it implicitly requires (for reasons stated above). If, alternatively, the recognition of valid norms were to proceed via an emergent consensus on substantive normative commitments (e.g. the content of the *ius cogens* and *erga omnes* obligations;<sup>27</sup> then we would quickly enter the domain of (international) political theory which has been centrally concerned with ways of accommodating normative conflicts among actors as well as among orders on which various actors operate. By entering this field, questions and problems for PD supporters multiply in both number and nature, as will be clear from section 1.3 pod.

To take stock before advancing further, I am of the view that robust global democratic governance cannot do without elements of (postnational) statehood, even if this does not amount to a blind replication of a sovereign state on the global level. Coupled with the securitization-fueled urgency of PD, it seems obvious to me that a solid global rule of law is cannot be squared with a decentralized model of lawmaking – the two rationales simply collide. Consequently, PD calls for significant transformation of how international and/or global politics is done and understood by both its protagonists and the global audience (which is mostly a metaphor). My hunch is, however, that such a shift cannot be rationally designed and swiftly executed, because evolution of such complex systems as international law and politics is simply beyond the capacities of any existing actor. Some hope has been invested into reconstruction of the United Nations,<sup>28</sup> much hope into the European Union as a laboratory of global governance. Yet the outlook is ambiguous, as most recently the Brexit has shown.

The inescapability of political-theoretical considerations of this kind is further confirmed by looking into the process of norm generation in the global realm.<sup>29</sup> On a liberal intergovernmentalist model of global governance which seems to inform the vision defended in this book, the bulk of public legal and administrative regulations is produced by countries' executives or executive-authorized agencies (where the latter can be national, transnational, or global). One problem here is the tendency of international bodies towards becoming independent on their supposed principals (see further 1.3.2 pod); another problem concerns the legitimacy of thusly generated legal norms. Put schematically, the *chain of legitimization* is too long, too abstract and too incomplete in order for such norms to gain – or perhaps just retain – democratic legitimacy. Technically speaking, a country's executive as one branch of *constituted* power directly or indirectly co-creates on supranational level new bodies, norms, and corresponding duties, the latter of which are meant to bind the citizens ("the people") who are in fact the *constituent* power – i.e. logically and normatively prior.<sup>30</sup> The problem lies in the fact that the constituent power has little real influence over such global-level decisions, or little opportunity to effectively contest them – national parliaments which normally represent the people are notoriously weak actors in international politics. This may result in various pathologies of power exercised by trans- or supranational bodies, as discussed further in 1.3.2. After all, even in constitutional democratic states themselves there is preciously little public

---

<sup>27</sup> Palombella, "The Rule of Law beyond the State: Failures, Promises, and Theory."

<sup>28</sup> Held, *Cosmopolitanism: Ideals and Realities*, 230.

<sup>29</sup> Markus Patberg, "Against Democratic Intergovernmentalism: The Case for a Theory of Constituent Power in the Global Realm," *International Journal of Constitutional Law* 14, no. 3 (2016): 622–38, doi:10.1093/icon/mow040.

<sup>30</sup> This is a common distinction in constitutional law literature. In a constitutional democracy at least, *constituent* power is embodied in the *sovereign people* who is the foundational source of all power in a state. The people as the sovereign "gives" itself the constitution which, in turn, gives birth and form to the political system, including the highest constitutional institutions (branches of power, constitutional court, central banks etc.) and the division of power among them. All these are created in the act of constitutional self-giving, and as such are *constituted* powers. This is a very interesting if highly abstract and philosophically challenging issue concerning the deepest sources of legitimacy in a democratic society (recall occasional tensions between parliaments and constitutional courts), and here I have to simplify things somewhat. Cf. Loughlin, *The Foundations of Public Law*; Andrew Arato, *Post Sovereign Constitutional Making: Learning and Legitimacy* (Oxford: Oxford University Press, 2016), 1–74.

deliberation, and thus democratic control, over the goals and purposes of political action in the international/global realm. Widespread indifference to EU-related issues among citizens of EU member states is an illustration of this problem.

The upshot is that we need global constituent power – a *global demos* no less, whatever kind of actors and procedures this entails – if the global rule of law is to function properly and global law is to be perceived as legitimate.

### 1.2.7. Conflicts of regimes, goals, and purposes

All this is because, as already hinted, conflicts among regimes, actors, levels of decision-making as well as goals and purposes are to be expected – if only for reasons of sheer complexity of global governance in an expected multi-level pluralist setting. Scholars have recently begun to speak about non-hierarchical *regime complexes* or *regime complexity* which depicts “presence of nested, partially overlapping, and parallel international regimes that are not hierarchically ordered.”<sup>31</sup> Under such fragmented conditions, clarity of legal obligations erodes. Some authors add that such a labyrinthine system of governance is open to exploitation by great powers.<sup>32</sup> More sympathetically minded alternatives such as *global experimentalist governance* aimed at “participatory and multilevel collective problem solving”<sup>33</sup> assume a highly decentralized system of rule-making and rule-enforcement, which, again, goes directly against what PD appears to require.

More specifically, once we look into contemporary realities of power and politics in the international realm, as well as into the issues that motivate global political activism, it becomes clear that PD will be merely one among many competing macrosecuritizations. Paradoxically, given the nuclear-destigmatizing ethos of PD carried by the hope in a rationally justifiable mitigation method the anti-nuclear movement coupled with fears that destigmatization might undermine the non-proliferation regime may actually rival PD as regards (macro-)level, degree, and perhaps acceptance as well.<sup>34</sup> Moreover, it is far from inconceivable and actually quite likely that competing versions of a desirable PD regime *itself* will be put forward and steadfastly stuck to by their supporters – including, as it were, various IR research communities with their idiosyncratic assumptions and/or normative preferences. But of course, PD is precisely the kind of issue which requires consensus, cooperation, and orchestrated political and financial effort. Will there be an actor capable of, and legitimized to, decide which course of action is to be taken with respect to a macrosecuritized topic such as PD?

If the answer is affirmative, then we are faced with something or someone akin to a global sovereign: Recall that PD-related macrosecuritization is to take absolute priority over competing macrosecuritizations, let alone regular political goals. Such a state of affairs can hardly be achieved by simply coming up with just another international regime, especially if the new global political authority were to carry *democratic* legitimacy, not least in order to keep other powerful actors in check.

### 1.2.8. State of exception as the norm

Let us assume that PD-based macrosecuritization has been successful and the global audience consents to granting unquestionable priority to PD-related policies and/or actions.<sup>35</sup> This means, among others, that the regime has been isolated from regular politics and made

---

<sup>31</sup> Karen J. Alter and Sophie Meunier, “The Politics of International Regime Complexity,” *Perspectives on Politics* 7, no. 1 (2009): 13, doi:10.1017/S1537592709090033.

<sup>32</sup> Daniel W. Drezner, “The Power and Peril of International Regime Complexity,” *Perspectives on Politics* 7, no. 1 (2009): 65–70, doi:10.1017/S1537592709090100.

<sup>33</sup> Gráinne De Búrca, Robert O. Keohane, and Charles Sabel, “Global Experimentalist Governance,” *British Journal of Political Science* 44, no. 3 (2014): 477, doi:10.1017/S0007123414000076.

<sup>34</sup> Buzan and Waeber, “Macrosecuritization and Security Constellations: Reconsidering Scale in Securitization Theory,” 259.

<sup>35</sup> See chapter XXX of this volume for the nuts and bolts of securitization theory.



impervious to change by normal (constitutional) means. What will be the legal status of the newly securitized regime? Chapter XXX mentions a “special legal regime”, but also hints to the possibility – forcefully campaigned for by the PD community – that PD measures (especially in its nuclear-friendly version) could rather operate “beyond the pale of legal regulation”, that is, in a *state-of-exception* mode – presumably for reasons of efficiency and speeding up of decision-making procedures. In my view, there are two areas of concern, or at least of uncertainty.

First, a successfully securitized extra-legal global PD regime would be difficult to desecuritize, and perhaps desecuritization would be undesirable, given the seriousness and omnipresence of the threat. In such a case, we would have a state of exception that became the norm. Not just intuitively, however, there is something deeply unsettling about the possibility of a perpetual state of exception. Indeed, a standard objection against normative use of securitization theory as such points out that securitization proceeds at the expense of regular democratic politics. The omnipresence of a securitized asteroid threat would seem to preclude any moves towards strengthening democratic legitimacy of decision-making structures and procedures on the global level. Quite the contrary, argue critics of securitization: It would represent a step towards global hegemony of whoever is able to exploit and perhaps control the language of securitization.<sup>36</sup> Nurturing collective fears of immigration as an imminent danger to citizens of European countries is a useful example-analogy: Different beliefs and policies follow from framing immigrants as (variably) “people in need”, “terrorists”, “victims of Western colonial imperialism”, “parents of four”, “cheap labor force”, “threat to employment rate”, “threat to social security system”, or “enrichment of diversity”.<sup>37</sup>

Second, paraphrasing the famous proposition by constitutional and legal theorist Carl Schmitt,<sup>38</sup> whoever decides on the introduction of a (global) state of exception becomes the sovereign power in the given realm; it is also to be expected that whoever he is, this actor will control the means of defense against extra-terrestrial threats and will decide on their deployment. Insofar as, due to the comprehensive global nature of the threat, PD ought to assume priority over other concerns and policy goals, those endowed with the power to decide on PD will in effect structure limits and possibilities of political action in other areas as well.

Thus arises a global sovereign power as a result of PD-based macrosecuritization. Although we cannot simply assume it will become authoritarian or despotic, abuse of power is always a distinct possibility, and this is why thinking about the institutional context of PD needs to be more acutely aware of the legal-political context. The role and secure status of *political opposition*, without which a healthy democracy can be hardly imagined,<sup>39</sup> is one such issue for further reflection.

### 1.3. Politics and Democracy

Democratic cosmopolitan governance has recently become almost a magic formula for political theorists. Although some doubts expressed in the previous section (1.2) do apply here as well, there is a host of discipline-specific questions to be asked. Most generally, insofar as policy (including budgetary) priorities need to be set among competing goals and purposes, we are speaking about *political* decisions which necessarily precede efforts of bureaucratic-rational policy administration and implementation.

---

<sup>36</sup> For a more discussion of such claims see Paul Roe, “Is Securitization a ‘negative’ Concept? Revisiting the Normative Debate over Normal versus Extraordinary Politics,” *Security Dialogue* 43, no. 3 (2012): 249–66, doi:10.1177/0967010612443723.

<sup>37</sup> I use these examples in a slightly different context in Pavel Dufek, “Lidská Práva, Ideologie a Veřejné Ospravedlnění: Co Obnáší Brát Pluralismus Vážně,” *Právnický* 157, no. 1 (2018): 62.

<sup>38</sup> Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago: University of Chicago Press, 2011), 5.

<sup>39</sup> Ian Shapiro, *Democratic Justice* (Yale: Yale University Press, 1999), 39–45.

### 1.3.1. Political representation and legitimacy

In section 1.2.6 the notion of a *chain of legitimization* was mentioned, concerning the implicit transfer of legitimacy from the domestic level, where elections ensure reasonable proximity between citizens and institutions of state power, to international organizations and other supranational bodies whose democratic legitimacy is at best indirect, mediated via selected domestic actors (especially the executive in its foreign policy role). Now similarly to the domestic case, values such as long-term stability or political loyalty invite a search for ways of linking the decisions made on transnational/global level to interests, preferences, or identities of those in whose name they are made. After all, even if we cannot reproduce on the global level the type of democracy we are intimately familiar with on the nation-state level, presumably greater rather than lesser responsiveness, accountability, and responsibility is called for – so that the lack of democratic proximity is partly offset by other means. This is the domain of (a theory of) political representation, which obviously applies to PD as well if democracy is a political regime (model of political decision-making) worth retaining.

In my view, there are essentially four ways of approaching the challenge. One possibility is to reject these desiderata and argue that some kind of paternalism is required – that is, thinking and acting *for* (meaning *instead of*) ordinary people who are incapable of recognizing their true interests. Some hints in this direction can be traced in other contributions to this volume; cf. the ideas of “technology interdependence” (chapter XXX) or the disdain for “delusional people” (chapter 21). But this will be hard to square with the democratic ethos which otherwise permeates the international community, a great majority of international political theory (including EU studies), and also the general ethical background of the present PD project.

Another possibility is to argue that since the PD regime will be securitized in case of its successful implementation (thus acquiring priority over other regimes and policy goals), regular democratic politics – consisting, as it were, in bargaining, deliberation, bartering, compromises, fulfilled and broken promises, clever subterfuges, and so on – loses relevance (as it should be with securitized issues anyway). Yet this implies that a state-of-exception becomes the norm (see 1.2.8), otherwise PD would have to return to the normal (politicized) stage after some time. Not only would issues of representation immediately reappear, but also the capacity to efficiently deal with PD-related tasks and challenges would be lost. Obversely, however, we have seen that a permanent state of exception is hardly desirable from a democratic point of view, and this is why the problem of democratic representation cannot be simply blocked off in that way.

A third option would be to follow recent attempts to separate representation from the electoralist channel it has become identified with, and argue that various actors – such as scientists or (groups of) activists – can lay down the *claim* to represent the interests of the humanity, without having been provided any authority at all to do so via the electoral mechanism.<sup>40</sup> This approach to representation has been labelled *constructivist*. The problem with constructivism concerns the absence on the global level of a robust *electoral* mode of representation which arguably forms the precondition for the alternatives to flourish. While constructivists present their dynamic version of representation as complementary to the standard electoralist model, they stop short of claiming that we can actually do *without* elections – these are taken as necessary, even though not by themselves sufficient for democratic representation. But if this is the case, then supranational constructivist political representation is radically incomplete, insofar as electoral representation is basically non-existent there, save for the notoriously problematic case of the European Union.<sup>41</sup>

---

<sup>40</sup> Michael Saward, *The Representative Claim* (Oxford University Press, 2010).

<sup>41</sup> Alessandro Mulieri, “Beyond Electoral Democracy? A Critical Assessment of Constructivist Representation in the Global Arena,” *Representation* 49, no. 4 (November 2013): 515–27, doi:10.1080/00344893.2013.846276.

The fourth possibility has been already hinted to – namely the emergence of a global constituent power which would serve as the source of political legitimacy, analogously to the constitutionalist fiction of “a people” upon which existing constitutional (liberal) democracies rest. Let us assume for the sake of argument that such a scenario is in principle conceivable.<sup>42</sup> However, the question then naturally arises who or what will be the *constituted* power? If a global parliament, then a global government comes as a natural corollary; after all, what use is a legislative body without an efficient executive to implement the legislation. If it is to be “merely” a global government of sorts, then not only the role of the UN General Assembly becomes unclear; the very notion of a legislative body loses meaning. And I have discussed above (15.2.2) the indispensability of the judiciary. In short, it seems difficult to imagine under this fourth scenario a system of political representation which would be significantly different from the domestic model.

### *1.3.2. Agent–principal relationship and independence of international bodies*

Some contributors to this volume seem to assume, in a broadly intergovernmentalist manner, that global bodies authorized to either make or carry out PD-related decisions would be at least accountable to governments of involved countries, under the classic principal–agent model of delegation: Principals set goals while agents are authorized to seek them, being in turn held accountable by their principals. Yet research into institutions such as the IMF or the UN Secretariat reveals that they tend to become at least partially autonomous actors independent on the will or interest of their founders (i.e. principals).<sup>43</sup> As agents possessing more or less legitimate authority and capable of defining “problems” and mobilizing resources for their solution, international organizations wield *power*, or the ability to force other actors behave in a way they otherwise would not. Creating and enforcing obligatory rules regarding human rights and humanitarian intervention are two prominent examples of this power.

There is no reason to assume that duties or obligations related to PD would be different, and as long as PD can be categorized as a “huge, aspirational task”, then even *more* power is probably required.<sup>44</sup> Yet the problem of accountability looms hard. As long as there is no meaningful political layer over the global bureaucratic/administrative/scientific networks (understood as embodiments of rationality and impartiality), then it becomes difficult to assign responsibility if things go wrong in some way, as they very well might. Recall that responsibility is one of the desiderata applicable to democratic representation on the global level, especially in situations which call for deployment of sensitive technology. Barnett and Finnemore elaborate on inevitable pathological tendencies within the bureaucratic juggernauts that are international organizations (in their case, IMF and two UN agencies), singling out (a) routinization and ritualization of internal practices and (b) compartmentalization resulting in tunnel vision by the agencies as well as their subunits.<sup>45</sup> Several more particular dysfunctions are the consequence, which should cause some concern for those who view trans-and supra-national actors as mostly transmission belts for lower-level goals and preferences.

### *1.3.3. Macrosecuritization = macrodepoliticization = dedemocratization*

It is worth repeating that PD presupposes planetary-wide, physical-threat, all-comprehensive macrosecuritization in order to have reasonable chance for success. I argued above (1.2.5) that such a move is incompatible with normative and political pluralism, including

---

<sup>42</sup> For an interesting discussion see Christian List and Mathias Koenig-Archibugi, “Can There Be a Global Demos? An Agency-Based Approach,” *Philosophy and Public Affairs* 38, no. 1 (2010): 76–110, doi:10.1111/j.1088-4963.2009.01174.x.

<sup>43</sup> Michael Barnett and Martha Finnemore, *Rules of the World: International Organizations in Global Politics* (Ithaca and London: Cornell University Press, 2004).

<sup>44</sup> Dufek, “Why Strong Moral Cosmopolitanism Requires a World-State,” 197.

<sup>45</sup> Barnett and Finnemore, *Rules of the World: International Organizations in Global Politics*, 38–41. See also MN Barnett and Martha Finnemore, “The Politics, Power, and Pathologies of International Organizations,” *International Organization* 53, no. 4 (1999): 699–732.

local or regional self-government based on the principle of subsidiarity, if the result is to be stable (uncontested) in the long term. Here I want to emphasize my worry about *macrodepoliticization*, since depoliticization in the given realm is what this securitization entails.<sup>46</sup> Schematically, depoliticization stands simply for “taking an issue off the political agenda”, or alternatively, “making it a public non-issue”, thus avoiding democratic political conflict of interests, opinions, preferences, identities etc. Appeals to scientific facts or rational inevitability (they usually go hand-to-hand) are quintessential depoliticizing moves, perhaps most resolutely employed by environmentalist groups. The scientific rationalistic discourse attached to PD-type macrosecuritization obviously follows this depoliticizing logic, not least because it is *meant* to achieve precisely that.<sup>47</sup> As might be clear from the preceding sections, detachment of decision-making from public involvement comes at a hefty price, even though it might be deemed necessary by involved actors. Ultimately, behind all this lurks *rule by experts*, a kind of scientific-administrative epistocracy which by definition needs no *democratic* legitimacy. While the case for such epistocracy might very well be rationally convincing, the resulting political regime would be *anything but democratic* – in contrast to the original vision of PD embedded in multi-level global democratic governance. As indicated before, not all good things go necessarily together in PD.

Now the PD community could collectively reply that the relevant agenda will be limited, both sectorally and with regards to its scope, not least because the envisioned type of global political authority is semi- and not fully-cosmopolitan. This response is highly implausible, because, first, it is *question-begging*: Whether the suitable political counterpart is semi-cosmopolitan multi-level global governance, or full-fledged global political authority, is precisely the point of contention, and cannot be thus used as an argument (as it would be supporting itself). Most of what I say in this chapter is meant to show that the latter option – the “world-state model” – is much better equipped to make PD policy legitimate, efficient, stable, and thus ultimately successful. Second, and similar to nuclear weapons macrosecuritization, it makes sense to construe PD as a widely inclusive (i.e. comprehensive) macrosecuritizing move across multiple sectors, as its very rationale is to minimize “the number of separate concerns, issues and conflicts that achieve strong securitization separately from the macrosecuritization.”<sup>48</sup> This basically means that due to its all-encompassing nature and scientific interdisciplinarity,<sup>49</sup> PD has to be accorded complete or near-complete priority *vis-à-vis* other candidates for securitization or even macrosecuritization. I truly do not find it convincing that such an ambitious plan as PD can be successfully implemented in a weakly centralized system of governance, and certainly not in a genuinely democratic one.

#### 1.3.4. Public goods production and collective action problems. Expectations of respect for rules

One central reason for such skepticism has to do with public goods provision. “Public good” in the sense I use it here is a technical term in economic science, defined by two basic attributes. PD seems to constitute a (rare) *pure* public good, as it is both *non-excludable* (no one can be intentionally excluded from its enjoyment once supply has started) and characterized by *non-rival consumption* (its enjoyment does not reduce the amount left for others).<sup>50</sup> Yet this

---

<sup>46</sup> I leave aside the debate on the „politics of securitization“ (e.g. Ole Wæver, “Politics, Security, Theory,” *Security Dialogue* 42, no. 4–5 (August 21, 2011): 465–80, doi:10.1177/0967010611418718.) as it addresses different types of issues.

<sup>47</sup> See also Chapter XXX on weapons of mass protection and the risk of rational science argumentation.

<sup>48</sup> Buzan and Wæver, “Macrosecuritization and Security Constellations: Reconsidering Scale in Securitization Theory,” 258.

<sup>49</sup> Seen from this angle, the present chapter might be perhaps also read as an appeal to the importance of social sciences and humanities in this interdisciplinary undertaking.

<sup>50</sup> Gerald Gaus, *On Philosophy, Politics, and Economics* (Belmont: Thomson Wadsworth, 2008), 88. By implication, there are also *impure* public goods which are either non-rivalrous but excludable (such as copyrighted works), or non-excludable but subject to congestion (such as fish stocks).

obviously gives rise to a textbook incentive to free ride, especially in Prisoner's Dilemma-type of situations which are supplied generously by international politics.<sup>51</sup> The plurality of independent actors in international politics – in the first place, sovereign states, but certainly not merely them – is not kept in check by an efficient superior authority. If the standard response from within normative political theory is correct, then the very existence of government – in our case, global government – endowed with sufficient power to deter potential free-riders is not only (morally) permitted, but also rationally required. Arguably, the more essential the public good is – technically speaking, the more we can expect that having the good (either paid or unpaid for) is strictly preferred by relevant actors to not having the good –, the stronger the case for global government (and by implication, global taxation and administration and all the related stuff) becomes. Of course, PD trades on the claim that the good it is primarily meant to secure – the very physical existence of mankind – is conceptually and normatively prior to any other conceivable human good.

Two points seem to weaken this line of argument. First, there are seemingly excludable technological and commercial side-benefits of PD from the enjoyment of which the parties to the larger deal would not want to be excluded (as argued in Chapter XXX), and this by itself should produce incentives not to defect (free-ride), even under the current interstate system. My hunch is that at least with respect to technology, this fix would work for only a limited timeframe, for reasons of technology diffusion and, obviously, theft. As regards extra-terrestrial extraction of resources (Moon base etc., see Part III of this book), no one should be surprised if those actors who contribute the most – presumably current great powers – would want to benefit the most, to the effect that access to the benefit would be highly unequal, further weakening the case for wide voluntary cooperation (not to mention competition *among* great powers).

Second, it might be argued that there are cases where public goods can be provided without contribution of each and every actor (e.g. funds and capacities by 150 out of 200 actors, such as states, suffice to provide the good). But this is a slippery slope: For a social rule (norm) to be considered authoritative and binding by the actors, they need to expect observation of the rule by a sufficiently large set of other actors.<sup>52</sup> If non-defecting actors see that one can get away with defecting, then the stability and perhaps very existence of the rule is put in jeopardy. In my view, all this points to the indispensability of a legitimate political authority on the global level (in case of PD). Although the arch-globalist David Held agrees that public goods provision as a positive externality of great powers' national interests can be no longer *assumed* in an increasingly multipolar and heterogeneous world,<sup>53</sup> he nevertheless thinks that especially "in the face of incontrovertible security threats" can relevant powerful actors "gain much more from cooperation than from conflict"<sup>54</sup> (see also chapter XXX of this volume on the motivation not to be excluded from benefits of cooperation). In other words, it is in the interest of great powers to keep producing public goods, which means that we can have the cake (comprehensive global governance) and eat it at the same time (i.e. avoid world statism).

Equipped with this assumption, Held et al. furnish their cosmopolitan visions with a wide array of norms and principles to be observed by all actors. Although no leading author I know of has directly engaged the issue of PD, the general normative outlook of cosmopolitan democratic work is very much in line with the one elaborated in other chapters of this book. I hope to have shown why a mere existence of a norm (written or customary) cannot by itself assure compliance by sufficient number of relevant actors. In a case such as PD, where what is at stake

---

<sup>51</sup> Ibid., 109.

<sup>52</sup> Christine Bicchieri, *The Grammar of Society: The Nature and Dynamics of Social Norms* (Cambridge: Cambridge University Press, 2006), 11; Gerald Gaus, *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World* (Cambridge: Cambridge University Press, 2011), 165; H.L.A Hart, *The Concept of Law*, 2nd ed. (Oxford: Clarendon Press, 1994), 56.

<sup>53</sup> David Held, "Elements of a Theory of Global Governance," *Philosophy & Social Criticism* 42, no. 9 (2016): 843–45, doi:10.1177/0191453716659520.

<sup>54</sup> Ibid., 844.

is control and deployment of extremely powerful (thermos)nuclear weapons, it seems to me that the existence of an (ideally) impartial external and supreme authority capable of enforcement constitutes a precondition for willing cooperation.

## 1.4. Democracy, Identity, and Society

### 1.4.1. Global “we” as a prescriptive project

In 1.2.3 nad, I discussed the possibility of material points of intersection as a path towards global cooperation, adding that this consideration points towards a “common global identity”. For sure, though, no such “global we” is currently available, apart from philosophical conceptions of what has been termed *moral cosmopolitanism*, whose links to political practice are loose at best.<sup>55</sup> Talk of a “multinational global cosmopolitan village” (Chapter XXX of this volume) sounds too journalistic to my liking; mostly members of affluent countries’ middle and higher strata see the world this particular way, and the ongoing “immigration crisis” in Europe (as of 2018) attests that a widespread “cosmopolitan we-feeling” is mostly a philosopher’s pipedream (see also 1.4.3 pod). Put differently, the “perspective of humanity” is an essentially *prescriptive* notion packed with not a little controversial normative baggage. We can look at difficulties with procuring even the most basic human rights worldwide, or the failure of most developed (well-off) countries to achieve the target of development aid (0,7 % of gross national income), to see how different the world is.

It might be replied that a threat of “planet-killer asteroid” magnitude would bring humanity together. Perhaps it would; the catch is that designing and building of the PD infrastructure, including the overarching political architecture, cannot wait until the threat materializes, and in such a case all reservations noted in this chapter apply. Forging common identities is not a task that can be accomplished overnight, as will be further pointed out in 1.4.5. Historic experience of modern statehood suggests that the existence of a common political-institutional framework serves as a useful and perhaps indispensable instrument for constructing common identities. All the hype about “common European identity” built around what the political philosopher Jürgen Habermas and others have called *constitutional patriotism* assumes that there is a set of universally valid constitutional values and principles which are embedded in and promulgated by shared political and judicial institutions.<sup>56</sup> I add that for a task of PD proportions, “mere” constitutionalization of world politics is insufficient and would need to be accompanied by establishing a robust system of global political institutions.<sup>57</sup>

### 1.4.2. Public identity and internalization of public rules

So the birth of common cosmopolitan identity needs to be assisted somehow. In fact, one often overlooked yet fundamental element of liberalism as political theory<sup>58</sup> is complementarity of private and public individual identity, where the latter corresponds with the individual’s

---

<sup>55</sup> Moral cosmopolitanism stands for the belief that all human beings are members of a moral community of mankind, which means that they share certain morally relevant characteristics which should bear upon further moral and political considerations (as regards, say, duties to immigrants, human rights policies, poverty reduction and so on). See Simon Caney, *Justice Beyond Borders. A Global Political Theory*. (Oxford: Oxford University Press, 2005); Thomas Pogge, *World Poverty and Human Rights*, 2nd ed. (Cambridge: Polity, 2008); List and Koenig-Archibugi, “Can There Be a Global Demos? An Agency-Based Approach.”

<sup>56</sup> Jan Werner Müller, *Constitutional Patriotism* (Princeton: Princeton University Press, 2009); Jürgen Habermas, *Zur Verfassung Europas: Ein Essay* (Berlin: Suhrkamp, 2011).

<sup>57</sup> For a defense of constitutionalization of world politics, see Jürgen Habermas, “A Political Constitution for a Pluralist World Society?,” in *Between Naturalism and Religion: Philosophical Essays*, ed. Jürgen Habermas (Cambridge: Polity Press, 2008), 312–52.

<sup>58</sup> Liberal political ideas inform the bulk of cosmopolitan political thought, so that cosmopolitanism is usually a shorthand for *cosmopolitan liberalism*. The part of liberalism which is most relevant here is its emphasis on basic rights and liberties of the individual, as well as insistence of fundamental moral equality of all human beings. These ideas normatively co-ground constitutional democracies.

internalization of shared public rules and norms which set up the basic normative framework of a given polity. This is, in fact, a precondition of the realization of individual liberty, and it has a lot to do with the importance of the rule of law (see section 1.2.6). To drive the point home, there has to be a legitimate political authority which ensures that these rules and norms are publicly promulgated, respected, protected and enforced, not least because they may entail both rights and obligations. As pointed out above (1.3.4), mere existence of a norm cannot by itself ensure compliance. If there is no such authority on the global level, and if cosmopolitan liberalism is deemed a desirable normative vehicle for dealing with global challenges and issues, then it follows that some such global political body needs to be created.<sup>59</sup> Not surprisingly, this perspective overlaps with reflections on the rule of law above (1.2.6) as well as with the “guiding idea” that an overarching legal framework is required (0).

#### 1.4.3. In-groups and out-groups. Global political identity.

Another set of reasons for the previous conclusion is provided by social psychological research which plentifully reveals that people are generally pre-programmed to define their social identity (self-understanding) in terms of social groups defined by objective or quasi-objective traits (ethnic, geographical, gender etc.), and in opposition to individuals/groups which do not fit into the self-definition. This is the basis for the *in-group* vs. *out-group* distinction explored by social psychologists and neuroscientists.<sup>60</sup> Such a self-identification with in-group traits inevitably carries moral distinctions: “We” are *better* than “the others”, because we do things *right* and they do things *wrong* – where “better” ultimately means “our way”. The upshot is that the prescriptive project of a “global political identity” is highly ambitious in the sense that it challenges certain deep human inclinations without actually providing the tools for overcoming them (apart from idealistic hopes). In my view, this finding should further dampen the global governance-based optimism about PD.

#### 1.4.4. Reasons vs. motivation for respecting norms.

Many contributions to this volume assert that participating in PD (i.e. not free riding) is the rational option and that any rational actor will be inevitably compelled to conclude that doing his/her part is advantageous. The problem is that *reasons for action* cannot be equated with *motivations to act*. Akrasia (weakness of the will) is one trivial example why this is so; (fear of) relative power gains in international politics – i.e. my gain is another’s loss, and vice versa – is another. Only fully idealized actors (see 15.6.1 below) can be expected not only to calculate flawlessly what is in their interest but also to consistently act upon it (while we need to assume that their individual interest overlaps with common good, i.e., with realization of PD which is an unalterable, necessary goal). Recall that conflict among goals, purposes, regimes, or even macrosecuritizations is to be expected. How are we to ensure that those issues which urgently need our attention, capacities, and resources will be preferentially engaged? One type of answer would point to cosmopolitan civic education in existing societies;<sup>61</sup> however, convergence of school curricula is a touchy issue even in contemporary EU whose member states are comparably close as to the cultural beliefs and historical experiences of the respective societies.

---

<sup>59</sup> Sylvie Bláhová and Pavel Dufek, “Identita v Liberální Politické Teorii a Dilema Kosmopolitismu,” *Filosofický Časopis* 66, no. 3 or 4 (Forthcoming) (2018).

<sup>60</sup> Henri Tajfel et al., “Social Categorization and Intergroup Behaviour,” *European Journal of Social Psychology* 1, no. 2 (1971): 149–78, doi:10.1002/ejsp.2420010202; Jonathan Haidt, *The Righteous Mind: Why Good People Are Divided by Politics and Religion* (New York: Pantheon Books, 2012); Joshua Greene, *Moral Tribes: Emotion, Reason, and the Gap Between Them and Us* (New York: Penguin Books, 2013); Gerald Gaus, “The Open Society and Its Friends,” *The Critique* January 15 (2017), <http://www.thecritique.com/articles/open-society-and-its-friends/>.

<sup>61</sup> Léa Ypi, “Statist Cosmopolitanism,” *Journal of Political Philosophy* 16, no. 1 (2008): 55, doi:10.1111/j.1467-9760.2008.00308.x; Scheuerman, *The Realist Case for Global Reform*, 106–13; Richard Price, “Moral Limit and Possibility in World Politics,” *International Organization* 62, no. 2 (2008): 206, doi:10.1017/S0020818308080132.

#### *1.4.5. The constructivist hope and timeframe of change of self-understanding*

I wish to stress that I find the constructivist appeal to malleability of identities and self-definitions plausible and even convincing as a normative-theoretical position. After all, I have myself found refuge in the constructivist camp in my texts.<sup>62</sup> The problem with constructivism in PD is the urgency of the practical task which does not correspond with the much larger timeframe needed for evolutionary transformation of identities: Even Alexander Wendt's famous constructivist argument that a world state is ultimately inevitable (see 15.2.1) assumes a fairly long run – Wendt's initial guess was 100–200 years. So PD-related visions cannot rely on a parallel cultivation of cosmopolitan sensibilities, and for the abovementioned reasons, this should either weaken the ambitions accordingly, or push towards a different – more realistic, paradoxical as it may sound – world-statist perspective.

### **1.5. Economics and Finance**

#### *1.5.1. Funding before commercial use of extra-terrestrial resources commences. Global taxation*

Funds required for setting up and maintaining an effective system of PD would be probably astronomical (pun intended); committed chapters in this volume unfortunately say few specific things on that matter, although they include interesting discussion of commercial exploitation of space outposts. Although commercial use of new technology or the Moon hub certainly provides a plausible idea how to reduce or offset the costs, return on investments will not start coming in until after the whole technology is deployed and tested (assuming that everything after goes without hitches and according to plan, a bold assumption in matters of extra-terrestrial exploration). Until then, either voluntary contributions by involved actors – countries, firms, individuals – or specifically targeted tax money need to keep the whole enterprise afloat. If my argumentation on public goods provision in 1.3.4 is correct, then relying on voluntary contributions is risky: Imagine a successful populist like Donald Trump who thinks space exploration, not to say PD, is a complete waste of resources which should be used elsewhere (like, say, to boost military budget). Commercial enterprises, on the other hand, can go under for numerous reasons (such as, say, wrong investment decisions as regards research, development, and production) – and at any rate, it remains to be seen why large businesses should care about producing public goods at the expense of increasing profit. Funding of PD needs to be continuous and secure, and the firmest source of funding would thus seem to be some system of targeted global taxation – each actor paying her share of money each year.<sup>63</sup>

Now the question arises, can global tax collection do without global tax collecting corps authorized to issue sanctions? I think not, and for sanctions to have any purchase there needs to be real possibility of their enforcement, which is doubtful in a weakly centralized system (recent experience with human rights protection/enforcement worldwide again provides a sobering reminder). Similarly, if the tax money is to remain targeted and not dissolve in completely unrelated projects (as is normal with national budgets), some global body would need to make sure it is consistently channeled to the desired destination. We have to keep in mind that the issue in question is a macrosecuritized, planetary-wide, existential-threat one, and the means of dealing with the threat once it materializes are highly destructive weapons whose potential abuse, and the ensuing reaction by nuclear powers, invokes the worst nightmares. Under such conditions, it seems unreasonable to leave decisions on the allocation of funds to a plurality of self-interested actors. The European Union might again serve as an example-analogy: The lesson from the debt crisis and particularly the Geek bailout quagmire seems to be that the

---

<sup>62</sup> Dufek, "Why Strong Moral Cosmopolitanism Requires a World-State"; Pavel Dufek and Michal Mochtak, "A Case for Global Democracy? Arms Exports and Conflicting Goals in Democracy Promotion," *Journal of International Relations and Development*, 2017, doi:10.1057/s41268-017-0114-0.

<sup>63</sup> Global taxation belongs among David Held's proposals for democratic transformation of the global order. See Held, *Cosmopolitanism: Ideals and Realities*.



EU/Eurozone needs a much tighter common fiscal policy, which is just a different term for pressures towards further centralization of crucial fiscal as well as monetary decisions.

## 1.6. Metatheory

### 1.6.1. Ideal theory, full compliance and limits of moral possibility

PD visions proceed on the level of ideal theory, which means in the present context that, first, relevant actors are fully rational and voluntarily comply with the demands and obligations placed upon them (see 1.3.4 on collective action problems); and that, second, theoretical visions of PD as such are utopian, in the sense that they first construct a desirable world which is in relevant respects remarkably different from our own and only then ask whether it is possible to achieve it in reality. In order to answer the latter question affirmatively, however, some link between idealized actors and their real-world counterparts needs to be provided.

Methinks that the approach canvassed in this volume underplays the indispensability of *political agency*, that is, the fact that there needs to be a real-world actor or a group of actors who are capable of not only making the ideal plan reality, but also of overseeing its long-term stability (which includes widespread acceptance, i.e. legitimacy). This is a precondition for both effectiveness and a “motivationally sustainable development” of a particular conception of PD (this in fact applies to any comparable global political project).<sup>64</sup> It is not enough to claim, I tend to believe, that the desirable course of action is simply “rational” and “inevitable” for major actors, if by that we do not imply some metaphysical notion of historical necessity or causality (which would be questionable for separate reasons). Much more needs to be said as to how procurement of an ambitious goal such as PD can proceed in a world where (great-)power competition, rather than cooperation, arguably still intensifies.

## 1.7. Conclusion

By way of conclusion, let me briefly sum up my argument, and add one generalizing remark. I have provided various legal, political, and sociocultural reasons why planetary defense against asteroids requires a centralized global political authority, as opposed to a multi-level decentralized system of global governance which informs the political-institutional dimension of the PD project. I have also explained that democratic legitimacy of any system of supranational decision-making represents a tough nut to crack, one that cannot be solved by invoking (controversial) normative visions supplied by cosmopolitan-minded political theorists. Both these claims are much reinforced by the fact that PD relies on existential-threat macrosecuritization.

If the political-institutional background of PD is anything but self-evident, then PD is anything but a done deal, its rational-scientific merits notwithstanding. The message I am trying to convey is that the PD community should be more aware of the social and political context of their own enterprise, a context which implies that not all good things go together in planetary defense. Moreover, to the extent that so-called *large technical systems* (LTS) provide the technological muscle for global governance – and PD infrastructure is a LTS of the highest order –, they are enmeshed in the “politics of science and technology” which inevitably accompanies any such complex projects.<sup>65</sup>

The generalization is this. In diachronic perspective, large technical-political formations rarely stick to the initial design, due to both technological advances and socio-political changes. While the PD project as outlined in the present volume is strong in incorporating the former dimension, it needs in my view to work out its socio-political interface. In the long run, evolution beats rational design, and my Wendtian bet is that PD will end up in a world-state (unless the

---

<sup>64</sup> Although Ypi’s subject matter is global justice, I see no reason why the argument cannot be generalised. See Léa Ypi, *Global Justice and Avant-Garde Political Agency* (Oxford: Oxford University Press, 2012).

<sup>65</sup> Maximilian Mayer and Michele Acuto, “The Global Governance of Large Technical Systems,” *Millennium - Journal of International Studies* 43, no. 2 (2015): 660–83, doi:10.1177/0305829814561540.

asteroid strikes first, which would obviously change the game a bit), a possibility the PD community should take more seriously.

## 1.8. References

- Alter, Karen J., and Sophie Meunier. "The Politics of International Regime Complexity." *Perspectives on Politics* 7, no. 1 (2009): 13–24. doi:10.1017/S1537592709090033.
- Anzenbacher, Arno. *Christliche Sozialethik: Einführung Und Prinzipien*. Paderborn: Ferdinand Schöningh, 1998.
- Arato, Andrew. *Post Sovereign Constitutional Making: Learning and Legitimacy*. Oxford: Oxford University Press, 2016.
- Avbelj, Matej, Filippo Fontanelli, and Giuseppe Martinico. *Kadi on Trial: A Multifaceted Analysis of the Kadi Trial*. Abingdon: Routledge, 2014.
- Barnett, Michael, and Martha Finnemore. *Rules of the World: International Organizations in Global Politics*. Ithaca and London: Cornell University Press, 2004.
- Barnett, MN, and Martha Finnemore. "The Politics, Power, and Pathologies of International Organizations." *International Organization* 53, no. 4 (1999): 699–732.
- Belling, Vojtěch. "Exekutivní Vládnutí Jako Nový Model Politiky v Evropské Unii? Krizová Politika EU a Její Dopady Na Politický Systém." *Mezinárodní Vztahy* 49, no. 4 (2014): 9–27.
- Bicchieri, Christine. *The Grammar of Society: The Nature and Dynamics of Social Norms*. Cambridge: Cambridge University Press, 2006.
- Bláhová, Sylvie, and Pavel Dufek. "Identita v Liberální Politické Teorii a Dilema Kosmopolitismu." *Filosofický Časopis* 66, no. 3 or 4 (Forthcoming) (2018).
- Búrca, G De. "The European Court of Justice and the International Legal Order after Kadi." *Harvard International Law Journal* 51, no. 1 (2010): 1–49.
- Búrca, Gráinne De, Robert O. Keohane, and Charles Sabel. "Global Experimentalist Governance." *British Journal of Political Science* 44, no. 3 (2014): 477–86. doi:10.1017/S0007123414000076.
- Buzan, Barry, and Ole Waever. "Macrosecuritization and Security Constellations: Reconsidering Scale in Securitization Theory." *Review of International Studies* 35, no. April 2009 (2009): 253–76. doi:10.1017/S0260210509008511.
- Caney, Simon. *Justice Beyond Borders. A Global Political Theory*. Oxford: Oxford University Press, 2005.
- Catherine, Lu. "World Government." In *Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, 2012. <https://plato.stanford.edu/entries/world-government/>.
- Craig, Paul P., and Gráinne De Búrca. *EU Law: Text, Cases, and Material*. 6th ed. Oxford: Oxford University Press, 2012.
- Drezner, Daniel W. "The Power and Peril of International Regime Complexity." *Perspectives on Politics* 7, no. 1 (2009): 65–70. doi:10.1017/S1537592709090100.
- Dufek, Pavel. "Lidská Práva, Ideologie a Veřejné Ospravedlnění: Co Obnáší Brát Pluralismus Vážně." *Právník* 157, no. 1 (2018): 50–70.
- . "Why Strong Moral Cosmopolitanism Requires a World-State." *International Theory* 5, no. 2 (2013): 177–212. doi:10.1017/S1752971913000171.
- Dufek, Pavel, and Michal Mochtak. "A Case for Global Democracy? Arms Exports and Conflicting Goals in Democracy Promotion." *Journal of International Relations and Development*, 2017. doi:10.1057/s41268-017-0114-0.
- Floyd, Rita. "Can Securitization Theory Be Used in Normative Analysis? Towards a Just Securitization Theory." *Security Dialogue* 42, no. 4–5 (2011): 427–39. doi:10.1177/0967010611418712.
- Fuller, Lon L. *The Morality of Law*. 2nd ed. New Heaven: Yale University Press, 1969.
- Gaus, Gerald. *On Philosophy, Politics, and Economics*. Belmont: Thomson Wadsworth, 2008.

- . “The Open Society and Its Friends.” *The Critique* January 15 (2017). <http://www.thecritique.com/articles/open-society-and-its-friends/>.
- . *The Order of Public Reason: A Theory of Freedom and Morality in a Diverse and Bounded World*. Cambridge: Cambridge University Press, 2011.
- Greene, Joshua. *Moral Tribes: Emotion, Reason, and the Gap Between Them and Us*. New York: Penguin Books, 2013.
- Grimm, Sonja, and Julia Leininger. “Not All Good Things Go Together: Conflicting Objectives in Democracy Promotion.” *Democratization* 19, no. 3 (2012): 391–414. doi:10.1080/13510347.2012.674355.
- Habermas, Jürgen. “A Political Constitution for a Pluralist World Society?” In *Between Naturalism and Religion: Philosophical Essays*, edited by Jürgen Habermas, 312–52. Cambridge: Polity Press, 2008.
- . *Zur Verfassung Europas: Ein Essay*. Berlin: Suhrkamp, 2011.
- Haidt, Jonathan. *The Righteous Mind: Why Good People Are Divided by Politics and Religion*. New York: Pantheon Books, 2012.
- Hart, H.L.A. *The Concept of Law*. 2nd ed. Oxford: Clarendon Press, 1994.
- Held, David. *Cosmopolitanism: Ideals and Realities*. Polity, 2010.
- . “Elements of a Theory of Global Governance.” *Philosophy & Social Criticism* 42, no. 9 (2016): 837–46. doi:10.1177/0191453716659520.
- Kumm, Mattias. “Constituent Power, Cosmopolitan Constitutionalism, and Post-Positivist Law.” *International Journal of Constitutional Law* 14, no. 3 (2016): 697–711. doi:10.1093/icon/mow050.
- List, Christian, and Mathias Koenig-Archibugi. “Can There Be a Global Demos? An Agency-Based Approach.” *Philosophy and Public Affairs* 38, no. 1 (2010): 76–110. doi:10.1111/j.1088-4963.2009.01174.x.
- Loghlin, Martin. *The Foundations of Public Law*. Oxford: Oxford University Press, 2010.
- MacCormick, Neil. *Questioning Sovereignty*. Oxford: Oxford University Press, 1999.
- Mayer, Maximilian, and Michele Acuto. “The Global Governance of Large Technical Systems.” *Millennium - Journal of International Studies* 43, no. 2 (2015): 660–83. doi:10.1177/0305829814561540.
- Mulieri, Alessandro. “Beyond Electoral Democracy? A Critical Assessment of Constructivist Representation in the Global Arena.” *Representation* 49, no. 4 (November 2013): 515–27. doi:10.1080/00344893.2013.846276.
- Müller, Jan Werner. *Constitutional Patriotism*. Princeton: Princeton University Press, 2009.
- Nili, Shmuel. “Who’s Afraid of a World State? A Global Sovereign and the Statist-Cosmopolitan Debate.” *Critical Review of International Social and Political Philosophy* 18, no. 3 (May 4, 2015): 241–63. doi:10.1080/13698230.2013.850833.
- Ondřejek, Pavel. “Státní Moc a Mezinárodní Právo Mezi Nadřazeností a Dialogem.” In *Kolos Na Hliněných Nohou? K Proměně Srtátu a Jeho Rolí*, edited by Jan Kysela and Pavel Ondřejek, 101–129. Praha: Leges, 2016.
- Palombella, Gianluigi. “The Rule of Law beyond the State: Failures, Promises, and Theory.” *International Journal of Constitutional Law* 7, no. 3 (2009): 442–67. doi:10.1093/icon/mop012.
- Patberg, Markus. “Against Democratic Intergovernmentalism: The Case for a Theory of Constituent Power in the Global Realm.” *International Journal of Constitutional Law* 14, no. 3 (2016): 622–38. doi:10.1093/icon/mow040.
- Peters, Anne. “Constitutional Fragments: On the Interaction of Constitutionalization and Fragmentation in International Law.” *CGC Working Paper*, no. No. 2 (2015): 1–42.
- . “Membership in the Global Constitutional Community.” In *The Constitutionalization of International Law*, edited by Jan Klabbers, Anne Peters, and Geir Ulfstein, 153–178. Oxford:

- Oxford University Press, 2009.
- Pogge, Thomas. *World Poverty and Human Rights*. 2nd ed. Cambridge: Polity, 2008.
- Price, Richard. "Moral Limit and Possibility in World Politics." *International Organization* 62, no. 2 (2008): 191–220. doi:10.1017/S0020818308080132.
- Rhodes, R. A. W. "The New Governance: Governing without Government." *Political Studies* 44, no. 4 (September 29, 1996): 652–67. doi:10.1111/j.1467-9248.1996.tb01747.x.
- Roe, Paul. "Is Securitization a 'negative' Concept? Revisiting the Normative Debate over Normal versus Extraordinary Politics." *Security Dialogue* 43, no. 3 (2012): 249–66. doi:10.1177/0967010612443723.
- Rosenau, James. *Study of World Politics, Volume II: Globalization and Governance*. Abingdon, UK: Routledge, 2006.
- Rosenau, James, and Otto Czempel, eds. *Governance without Government: Order and Change in World Politics*. Cambridge: Vambridge UP, 1992.
- Rosenfeld, Michel. "Rethinking Constitutional Ordering in an Era of Legal and Ideological Pluralism." *International Journal of Constitutional Law* 6, no. 3–4 (2008): 415–55. doi:10.1093/icon/mon023.
- Saward, Michael. *The Representative Claim*. Oxford University Press, 2010.
- Shapiro, Ian. *Democratic Justice*. Yale: Yale University Press, 1999.
- Scheuerman, William E. *The Realist Case for Global Reform*. Cambridge, UK: Polity, 2011.
- Scheuerman, William E. "Cosmopolitan Democracy and the Rule of Law." *Ratio Juris* 15, no. 4 (December 2002): 439–57. doi:10.1111/1467-9337.00218.
- Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Chicago: University of Chicago Press, 2011.
- Somek, Alexander. "Monism: A Tale of the Undead." In *Constitutional Pluralism in the European Union and Beyond*, edited by Matej Avbelj and Jan Komárek, 343–380. Oxford: Hart Publishing, 2012.
- Tajfel, Henri, M. G. Billig, R. P. Bundy, and Claude Flament. "Social Categorization and Intergroup Behaviour." *European Journal of Social Psychology* 1, no. 2 (1971): 149–78. doi:10.1002/ejsp.2420010202.
- Tamanaha, Brian. *On the Rule of Law: History, Politics, Theory*. Cambridge: Cambridge University Press, 2004.
- Wæver, Ole. "Politics, Security, Theory." *Security Dialogue* 42, no. 4–5 (August 21, 2011): 465–80. doi:10.1177/0967010611418718.
- Walker, Neil. "Beyond Boundary Disputes and Basic Grids: Mapping the Global Disorder of Normative Orders." *International Journal of Constitutional Law* 6, no. 3–4 (2008): 373–96. doi:10.1093/icon/mon016.
- Weiss, Thomas G., and Rorden Wilkinson. "Rethinking Global Governance? Complexity, Authority, Power, Change." *International Studies Quarterly* 58, no. 1 (2014): 207–15. doi:10.1111/isqu.12082.
- Wendt, Alexander. "Why a World State Is Inevitable." *European Journal of International Relations* 9, no. 4 (December 21, 2003): 491–542. doi:10.1177/135406610394001.
- . "Why a World State Is Inevitable." In *Global Governance, Global Government. International Visions for an Evolving World System*, edited by Luis Cabrera, 27–63. Albany: SUNY Press, 2011.
- Ypi, Léa. *Global Justice and Avant-Garde Political Agency*. Oxford: Oxford University Press, 2012.
- . "Statist Cosmopolitanism." *Journal of Political Philosophy* 16, no. 1 (2008): 48–71. doi:10.1111/j.1467-9760.2008.00308.x.
- Zolo, Danilo. "The Rule of Law: A Critical Reappraisal." In *The Rule of Law: History, Theory and Criticism*, edited by Pietro Costa and Danilo Zolo, 24. Dordrecht: Springer, 2007.