

XVII. Declaration of State Rights and Duties, Explanatory Article.

"The moment we recede from Right, we can depend upon nothing."

~Hugo Grotius

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There is no denying that ongoing globalization and technological innovation integrate humanity. However, challenges emerge around legitimate governance. Two major forces are at work at the international level. First, in certain areas, the world is moving toward intense cooperation under the banners of the G20, the UN, and hundreds of other international regulatory organizations. At the same time, a substantial number of nations, organized under the BRICS banner, are moving away from Western-dominated institutions in favor of multilateralism and more balanced global governance systems.¹ The world finds itself in the curious position where certain regulations—including financial ones—integrate, while political power fragments. This results in decreased international cooperation except on topics where consensus exists. Unfortunately, the desire to force the use of blockchain technology into regulated intermediaries appears to be universal. International regulators, as well as many governments, oppose unrestricted peer-to-peer finance. The crypto industry must acknowledge the regulatory hostility existing at this level of law creation—a hostility that individual states, let alone the individual, might find difficult to contest. The time is now to reestablish what is the appropriate role for international regulators. What better way to do this than with a blockchain-published declaration establishing clear boundaries between international and national affairs aiming to protect state sovereignty and collective free will from international powers?

As the German political philosopher Carl Schmitt observed, the international legal order must outline the conditions under which sovereign political communities with differing political identities can coexist. A legitimate international order must be able to accommodate a plurality of political communities with different, self-determined political identities.² Moreover, it must recognize that despite massive global regulatory cooperation and international rights declarations, force remains a tool used by political communities to express their will in the international sphere. Any conception of international order violating these two conditions becomes incompatible with political reality and thus illegitimate.³ The existing international legal order, having become complacent under unipolarity, must adapt to this reality.

This highlights our predicament: we cannot accept returning to a world where force and violence govern all interaction between states. At the same time, we cannot allow an unchecked system

1 "President Xi Jinping Chairs and Delivers Important Remarks at the High-level Dialogue on Global Development," (BRICS 2022, June 25, 2022), accessed on Oct 29, 2024, http://brics2022.mfa.gov.cn/eng/dtxw/202206/t20220625_10709986.html

2 "Carl Schmitt," (Stanford Encyclopedia of Philosophy, Aug 7, 2010, revised Aug 28, 2019), accessed on May 7, 2024, <https://plato.stanford.edu/entries/schmitt/>, 5. Liberal Cosmopolitanism and the Foundations of International Order [Author: edited for readability].

3 Ibid., 5. Liberal Cosmopolitanism and the Foundations of International Order [Author: edited for readability].

that subjects individual liberty to its policies. Administering a multi-polar world must follow civil law's central principle: justice emerges through equal rights and duties while preserving individual liberty. The imposition of one leading ideology as universal can only lead to discontent and chaos. Just as individuals resent unfair systems that do not respect their autonomy, individual states resent being subject to an unjust and unequal international order.

Accepting liberty for the individual requires the acceptance of behaviors and worldviews different from one's own. The same applies to the international sphere. What is needed is liberty within the international realm, where individual states possess the freedom to organize themselves within the international legal structure and are treated as equals. Individual liberty is formalized in law by a bill of rights. Perhaps state liberty can be so formalized as well.

§ 17.1. Failures of International Law

One of the main problems identified in the first section of this book is the substitution of working democracies with an international system without checks and balances. The use of treaties to achieve policy aims has become widespread and invasive in our everyday lives. Activists have replaced diplomats in the halls of international power. International law's influence is significant yet remains misunderstood and underestimated.

The common argument for global governance is that certain challenges are too large for individual nations to tackle alone. This question is not easily answered. Certain issues concern all of humanity, not just single states. Cross-border cooperation was necessary in the past and will remain so in the future. However, the blind pursuit of global solutions itself is ushering in a crisis in governance.

Before our eyes has emerged a legal framework that slowly erodes all national sovereignty and, by extension, individual liberty. No formal structures exist at this level of law-making that allow public participation in creating, amending, or legally challenging these regulations. It is turning the world into one of legislation without representation.

The current legal order faces issues of legitimacy. Individuals founded the state and validated it through the social contract, or, more practically, the democratic vote. The state then created international law. By turning this order around, it loses its validity. Trying to transfer the legitimacy away from the people to foreign powers with no appropriate checks and balances betrays the foundations of the state. A legal system created based on equals through a social contract cannot be replaced by a system where a small group of foreign interests gets to determine the greatest utility for all. This process truly strikes at the heart of self-determination and what it means to be a community of human beings with collective free will. As awareness of this problem grows, increasing numbers of citizens—and eventually entire nations—will reject it. These global frameworks are both powerful and brittle. When countries decide to reclaim their sovereignty by walking away, they evaporate. This situation is undesirable for both proponents and opponents of global governance because both actual *and* perceived legal overreach—along with the resulting revolts from unhappy subjects—result in legal uncertainty.

To improve the legitimacy of the international governance layer, two paths emerge: subject this system to regular checks and balances or place it under limitations as to what it can and cannot govern. With the first option, we immediately run into a range of problems. Typical checks and balances would be to have either democratic oversight or competent courts to hear disputes.

However, uniting all humanity under a single jurisdiction would be practically and politically unfeasible. As American legal scholar John Rawls (1921–2002) observed, a world government—meaning a unified political regime with the legal powers normally exercised by central governments—would either be a global despotism or else would rule over a fragile empire torn by frequent civil strife as various regions and peoples try to gain their political freedom and autonomy.⁴

Rawls proposed a social contract among states to regulate their behavior toward one another. However, he believed that only liberal countries and others he called “decent” could be part of this international order.⁵ This mentality conflicts with accepting other ways of life—a fundamental requirement of liberty. Regardless, the idea of applying a social contract to international relations intrigues. As discussed in Chapter 3, a social contract preserves individual rights against the state, thereby assuring individual liberty. The same can be done by individual nation-states regarding international and foreign powers. Can individual nation-states establish similar protections against international and foreign powers? Such an easy solution leaves nation-state structures intact while adding limits on what international law can and cannot regulate.

This solution aligns with basic legal principles: it is a well-established and globally accepted concept that certain inherently personal areas remain free from government interference. Similar liberties should apply to nation-states and perhaps even other forms of human cooperation, such as decentralized networks. This idea aligns with subsidiarity, the concept that governance should operate at the appropriate level of authority. The goal of subsidiarity is not to attack the legitimacy of governments or international institutions but to assign what is appropriate to regulate at each level. The first and obvious limitation: international law should concern itself first with the rights and duties of states, not aim to be an illegitimate executive. Next, states should remain free to focus on their core responsibilities—the distribution of equal rights and duties of citizens. Once this liberty is in place, individuals (and states) can organize themselves voluntarily in cooperative communities.

§ 17.2. The Myth of Collective Rights

Just as individuals establish equality under a rule of law through a social contract, collectives of individuals require such structure as well to relate to each other as equals. What applies to national applies as well to global governance—subjects need liberty. Without it, sooner or later, they revolt. The state is limited by individual rights. To protect the free will of a people, IOs and powerful states should be limited by state rights.

Where can we look for a balanced international legal framework of state rights and duties? A perfect starting point is the Charter of the United Nations. This charter, created shortly after WWII—a period of gross violations of international law and human rights—primarily addresses the threat or use of force against states’ territorial integrity or political independence. It establishes obligations of non-intervention in matters that fall essentially within any state’s domestic jurisdiction.⁶ Other than that, it is mostly an instrument focused on maintaining peace and stability. It achieves this by establishing procedures to prevent armed force and implementing international mechanisms to promote the economic and social advancement of all peoples.⁷

4 Rawls, John, “*The Law of Peoples, with the ‘The Idea of Public Reason Revisited,’*” (Harvard University Press, 1999), page 36.

5 Ibid., page VI, Preface.

6 “*United Nations Charter (full text)*,” (United Nations, San Francisco, 1945), accessed on May 7, 2024, <https://www.un.org/en/about-us/un-charter/full-text>, Article 2

7 Ibid., PREAMBLE.

It is noteworthy that the UN discusses both the rights and duties of nations/states *and* peoples.⁸ According to Holland, a 'people' is a large number of human beings, united by a common language and by similar customs and opinions, resulting usually from common ancestry, religion, and historical circumstances.⁹ A 'state,' on the other hand, is a numerous assemblage of human beings, generally occupying a certain territory, among whom the will of the majority, or of an ascertainable class of persons, is by the strength of such a majority, or class, made to prevail against any of their number who oppose it. A people is a natural unit, a state an artificial one.¹⁰

Work on collective rights, as opposed to individual rights, usually focuses on people's rights. The United Nations Declaration on the Rights of Indigenous Peoples exemplifies this, ensuring peoples' right to self-determination—allowing them to freely determine their political status and pursue their economic, social, and cultural development.¹¹ Another example is the African Bill of Peoples' Rights, which codifies both individual rights and duties, as well as the rights of peoples—specifically their protection against colonialism.¹²

However, according to Dutch jurist and professor emeritus Theo van Boven (1934), politicians and diplomats defending government and state interests find the notion of peoples' rights both controversial and contentious. Likewise, many legal experts do not feel at ease with this notion; they question the legal nature of peoples' rights.¹³ This skepticism stems from a fundamental issue with the concept of peoples' rights: the endless variations of groups sharing common ancestry, religion, and historical circumstances. As UN Secretary-General Boutros Boutros-Ghali explained,

*"If every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become even more difficult to achieve."*¹⁴

At this point in time, states remain the institutions that codify and protect our rights. Recognizing 'peoples' as independent actors compounds legal complexity. The will of the people expresses itself through state sovereignty, and deviating from this principle would require a revolution in every state—an unlikely and undesirable scenario. Moreover, dividing states into various peoples fuels the potential for civil strife. As a result, van Boven observed that it has become the general interpretation that people's rights are to be expressed within the framework of a state.¹⁵

8 Ibid., Article 1:

"The Purposes of the United Nations are:

To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;"

9 Holland (1916), Chapter IV, page 46.

10 Holland (1916), Chapter IV, page 46.

11 "United Nations Declaration on the Rights of Indigenous Peoples," (United Nations, Resolution adopted by the General Assembly on 13 September 2007), Article 3.

12 "African Charter on Human and Peoples' Rights," (Banjul Charter, adopted June 27, 1981, entered into force Oct. 21, 1986), Preamble:

"Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, color, sex, language, religion or political opinions;"

13 Boven, Theo van, "Human Rights and Rights of Peoples," (European Journal of International Law 6(1), January 1995), page 471.

14 Boutros-Ghali, Boutros, "An Agenda for Peace; Preventive diplomacy, peace-making and peace-keeping, Report of the Secretary-General pursuant to the statement adopted by the Summit Meeting of the Security Council on 31 January 1992," (United Nations, Doc. A/47/277-S/24111), para. 17.

15 Boven (1995), page 471: "...the promotion and protection of peoples' rights has to be pursued primarily within existing State structures."

This presents a dilemma for the crypto community members who believe their digital networks can become actors in the international legal sphere: if peoples with real connections have not been granted this position, why would it be granted to people with no connection but the Internet? In modern discourse, many of the world's governance problems are assigned to the governments of states. However, no viable alternative exists. As explained in this book, global governance as currently envisioned conflicts with principles of sound government. Moreover, the consent of states forms the foundation of this system anyway. In fact, the state serves as the foundation of all legal systems. Radical fragmentation into digital jurisdictions would result in cities with atomized citizens associated with people from all over the world but not with their neighbors—an unworkable situation. The far more obvious solution is the same as it was during the time of Rome: liberty. By reestablishing both individual and state liberty, subsidiarity can become the foundation of the legal system. Formalizing this within the existing structure represents the simplest solution—one that opens the path for the next wave of legal globalization at the appropriate law-making layer: the private, decentralized one.

§ 17.3. Reimagining State Rights and Duties

“But the body politic, i.e. the sovereign, owes its very existence to the sanctity of the [social] contract; so it can never commit itself, even to another state, to do anything that conflicts with that original act—e.g. to alienate any part of itself, or to submit to another sovereign.”
~Jean-Jacques Rousseau

Conventional international law, naturally, did not concern itself with the rights of states. States, after all, were sovereign and free to act. The focus was on codifying the duty of civility between states. International law imposed duties; it did not impose rights. But rights and duties are intertwined. When at the state level we talk about duties to one another, does this not automatically lead to rights? If a state has rights, what does this look like? Individual rights are traditionally recorded in constitutions. In contrast, international law has no constitution. Treaties, customs, rulings, and the regulations of IOs make up its structure. This international law layer expands unchecked. While this particular development is recent, the problem itself is not new. States infringe on the liberty of their subjects all the time. To keep state governments in check, the wise men of state invented safeguards such as a bill of rights and the separation of powers. In essence, a bill of rights not only assigns rights to citizens, but it also equally assigns the duty to guard these rights to the state. In addition, an extensive international framework of treaties establishes institutions to monitor rights transgressions, even setting conditions for foreign intervention.¹⁶ However, no safeguard protects either states or individuals from the overreach of this international framework and its ideologies and ‘standards.’ That is where state rights come in.

Methodology

What constitutes the rights and duties of a state? Unlike the abundance of theoretical works and documents codifying individual rights, nothing exactly like it exists for state rights. Fortunately, both official bodies and academics have explored the idea of rights and duties for states. The 1933 Montevideo Convention, for example, provides a rough overview of what constitutes a state and its

¹⁶ “United Nations Charter (full text),” (United Nations, San Francisco, 1945), accessed on May 7, 2024, <https://www.un.org/en/about-us/un-charter/full-text>, Article 42.

rights and duties.¹⁷ Next, a United Nations draft bill of state rights, a non-formalized international law instrument, provides ideas on rights and duties—especially duties—and, like most early UN documents, focuses on the law of peace.¹⁸ Rawls created a list of rights and duties for collectives, albeit for peoples and not states.¹⁹ Another list can be found in Brierly's authoritative book *Law of Nations*.²⁰ Combining these lists revealed a surprising consistency among the various sources. Extracting a list of ten articles on the basic rights and duties of states proved an easy task. This list forms the foundation of the declaration.

The novel challenge lies not just in balancing the rights and duties of states but in balancing them against the emerging overlapping layer of international law and international institutions. This is a groundbreaking idea because the literature is only beginning to acknowledge the problems caused by institutional overreach. Most people are not aware of the issue, so few look for a solution. Alvarez, mentioned in Chapter 4, criticized the international legal structure's democratic deficit, which includes the absence of elected officials, checks and balances, and public discourse, along with a disregard for basic rights. He further noted a lack of respect for the sovereign equality of states, the existence of ideological biases within these power structures, and a principal/agent gap in policy execution. In addition to reviewing these established criticisms, globalist authors' perspectives on the establishment of a global executive were analyzed to understand their objectives.²¹

These criticisms and ideas I measured against subsidiarity and liberty. Subsidiarity results from assigning the correct governance layer. Liberty for states differs from individual liberty since states are sovereign entities. The crux lies in states being fictional persons. Individuals express their free will in action. The state expresses its will through law, from which actions flow. It is the hierarchy of laws that allows the international institutions' legal order to impose superior laws and limit the liberty of states in practice. Liberty can be ensured by mandating the equality of states and maintaining their ultimate authority over their own laws and position in the international legal order. I combined these findings into several statements, added to the list of rights and duties as 'Requirements of the International Legal Order.'

17 "Montevideo Convention," (1933).

18 "Draft Declaration on Rights and Duties of States with commentaries," (United Nations, text adopted by the International Law Commission at its first session, in 1949, and submitted to the General Assembly).

19 Rawls (1999), page 37.

20 Clapham, Andrew, "Brierly's *Law of Nations, An Introduction to the Role of International Law in International Relations, Seventh Edition*," (Oxford University Press, 2012), § 3. The basis of obligation in modern international law, page 47:

"Writers differ in how they enumerate what these rights are, but generally five rights are claimed, namely self-preservation, independence, equality, respect, and intercourse. It is obvious that this doctrine of fundamental rights is merely the old doctrine of the natural 'rights of man' transferred to states."

21 Lopez-Carlos, Augusto, Groff, Maja, Dahl, Arthur, "Global Governance and the Emergence of Global Institutions for the 21st Century," (Global Challenges Foundation, Sweden, No date), page 1:

"The submission proposes a revised UN Charter, instituting a reformed UNGA directly elected by popular vote and a second civil society-focused chamber. The representatives of the latter would serve as advocates of particular issues of global concern, and the UNGA would see its powers and jurisdiction gradually expanded over time. An Executive Council of 24 members, selected by the UNGA, would take the place of the UNSC. The Executive Council would provide general oversight and ensure good governance, transparency, efficiency and coherence of an effective, new UN system. The UN will have a standing armed force, with the rule of international law forming the centerpiece of the new governance system; peaceful settlements through the ICJ or other mechanisms will be mandatory for international disputes. A new Bill of Rights is to prescribe the parameters for UN action, and the global human rights acquis will be upheld systematically by an International Human Rights Tribunal. A new funding mechanism would link members' indirect tax revenues to the UN budget in a fixed proportion."

One subtle but significant change I made to Art. 4. It now affirms that states shall *prefer* their duties to protect the rights of their citizens over their duties under international law. Because no matter the urgency, nothing in legal ordering can be more important than preserving liberty. As the state has learned where its authority ends—as indicated by human and civil rights—the international legal order needs to understand where its authority (and ideology) ends as well. We need to rebalance who regulates what. Nation-states are not perfect but are the only legitimate expression of sovereign will. The Declaration of State Rights and Duties (DoSR) represents a first step to subsidiarity. Together with the DBoL, this framework establishes legal autonomy that enables industry self-regulation at the private law creation level, thus paving the way for decentralized cooperation.

The DoSR was published on February 27, 2025, on the Ethereum blockchain.²² Explanations of its use are found on GitHub.²³ A PDF version was published on the InterPlanetary File System under its author's name and an open-source license.²⁴

The Use of the Declaration

Uploading a single document to a blockchain does not alter the world's legal framework overnight. After all, changes at this level of law-making require consensus among representatives of multiple governments. It is merely the first step in offering an alternative vision for a multi-polar world and inspiring a more informed debate on the proper role of international regulation. The original set of ideas on human rights published by Lauterpacht led first to a non-binding formal declaration, which in turn led to formalization in various treaties. This DoSR might lead to formalization one day as well!

The efforts of lobbyists, NGOs, IOs, and foreign affairs departments, who circumvent legitimate administrations by using international law as a back door to enforce their objectives, must be challenged. Change is needed. Especially since the international regulation in force today is incompatible with peer-to-peer technology. If the future is to be more decentralized, the law should reflect and facilitate this. Without coordinated action on this level of law-making, the decentralized economy cannot happen. We cannot allow this decision to be made for us by unelected bureaucrats catering to special interest groups. Only the people's representatives can make such a fundamental decision.

The will to limit the power of supranational institutes should not only exist in the hearts and minds of citizens but become part of the soul of both parliaments and executive branches. International treaties should be clearly understood as limitations on the sovereign will—and treated as a change to the constitution itself.

Within a fair and balanced system of laws, international law needs several crucial limitations. First, it must be constrained by basic natural rights—there are certain things it cannot regulate. Second, it must be restricted in setting public policy, which should remain the domain of national governments with their established checks and balances. Third, international law should limit itself to supporting the legal system by creating a fair and balanced playing field rather than serving as a

22 “Contract 0x1855cc1cd697baf8a014c5bae7f18505f855aca6,” (Etherscan, Feb-27-2025 05:12:59 AM UTC), <https://etherscan.io/tx/0x7efc964bf802e118c9ca36d477d4ca27ac6b503ef2922be9e2e8e390df06a894>

23 “Declaration of State Rights and Duties,” (Github, March 13, 2025), accessed on March 13, 2025, <https://github.com/decentralized-law/state-rights>.

24 “Declaration of State Rights and Duties,” (IPFS, February 27, 2025), accessed on March 13, 2025, <https://ipfs.io/ipfs/bafkreihse425qqhba26kcfpjkgqr73dsu3zxopniivjwlqzcfiii25xqr4>

supranational executive. Fourth, when invoked through emergencies, international law must have clear limits in both scope and duration, lest we find ourselves living in a permanent state of emergency.

In addition to placing clear limitations on the reach and scope of international law, states themselves can include several safeguards to protect them from overreaching globalization. First, states must weigh existing treaties in relation to their constitution and natural rights. For instance, in the legal hierarchy, property rights take precedence over claims about combating imaginary crimes. Second, future international agreements that restrict individual rights should require either a referendum or a supermajority of 70 percent of the vote. Third, no regulatory organizations with ongoing mandates should become permanent governing institutions, since policies affecting individual lives must remain subject to sovereign control. Fourth, states should impose restrictions on influential NGOs and foundations, requiring access to clear reporting on activities and funding sources under a two-click principle.²⁵ Fifth, they should limit the influence of alarmist policies, states of emergency, and end-of-world scenarios. While global cooperation on certain topics is necessary and desirable, it should not arise from panic and compromise individual rights, state sovereignty, or common sense. Finally, states must create awareness among their citizens about how this process operates, particularly during times of claimed emergencies that supposedly need worldwide solutions.

In short, there should be a clear and honest debate about the influence of international legal layers. By publishing this declaration in a decentralized fashion and enacting it on the blockchain, it can serve to establish immutable, permanent, and universally accessible principles to guide humanity toward healthier forms of international cooperation.

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²⁵ Author: under the ‘two-click principle,’ websites must transparently display both funding sources and their intended purposes. A small group of wealthy donors frequently hides behind NGOs and even treaty-established international organizations, often advancing policy agendas that diverge from the organizations’ stated missions.