THE RIGHT TO HEALTH, GLOBAL SOLIDARISM AND INTERNATIONAL LAW'S CONSTITUTIONAL MOMENTUM IN THE AGE OF COVID-19

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Abstract

In this contribution, I claim that in the face of the global pandemics, international solidarism in protecting and realizing right to health as well as other human rights is not only a legal obligation but also a matter of legitimacy of the system. Using Ronald Dworkin's view of the moral foundations of international law, I argue for a global constitutionalist project. The essay starts with a brief overview of the present situation of human rights in the face of the pandemic and implies that choosing between human rights protection and emergency laws to save allegedly more fundamental goods is a false way of framing the issue (section 1). Instead, realizing human right to health (section 2) is a legal obligation to be pursued by each state individually as well as in cooperation with others. Section 3 undertakes the analysis of the legal philosophical and political justification for the obligation to cooperate internationally. Last but not least, a view of a constitutionalized legal order that is more apt in addressing the coming age of global threats and coordination problems is briefly presented (section 4).

Key words: *health law, right to health, covid-19, global constitutionalism, human rights, international law, political legitimacy*

INTRODUCTION

One of the major concerns of the post-pandemic world will be the need to answer the fundamental questions about the purview of the international cooperation in the future. At the beginning of the present pandemic of the SARS-CoV2 virus and the related COVID-19 disease some scholars and thinkers have already described the present situation in terms of alternatives between "nationalist isolation" and "global solidarity" [Harari 2020]. The choices made now will determine the resulting nature of the international community as well as the continued relevance of human rights. On the deeper level however, these are the issues already raised (and largely solved, as I am to argue) by relevant international law in force here and now. The real point is whether we, as a global community, are willing to take the international law seriously and to carry its promise further into the 21st century.

1. FALSE FRAMING: PUBLIC HEALTH VS. HUMAN RIGHTS

The 2020 SARS-CoV2 pandemic has unleashed a global human rights crisis, which is unfortunately yet to unfold fully. Some of the limitations to our rights and freedoms, especially in the democratic countries of the global North are perceived as largely justified and necessary restrictions following the sudden need to save the lives and health of the citizenry. As long as the process of combating the epidemic is focused on its aim and confined within the frames set by the rule of law, the chances that the extraordinary measures will not deteriorate democracy in the long run are high. It is imperative that the restrictions are strictly necessary, proportional to the threat we face and of limited duration in time, respecting human dignity and other principles of human rights law, as well as neither arbitrary nor discriminatory in their application, and always subject to

review by an impartial court[1]. Even though the anti-epidemic measures undergo a rigorous test, they still may be potentially harmful due to their sheer scale and consequences of application. For instance, voices of concern are raised on issues such as markedly increased cyber surveillance of the citizens by their governments [Harari 2020], as well as potentially lasting encroachment on individual liberties: freedom of movement and assembly [Delvac 2020], freedom to practice religion [Parke 2020], as well as freedom of expression and information [Council of Europe 2020].

Unfortunately, the majority of the 7.8 billion population of the planet will not be given protection of the rule of law. For some of us, the violations of human rights will come as splinters from the process of application of the necessary emergency measures. When 1.3 billion Hindu population, including millions of migrant workers from rural areas and women with children, were ordered by Prime Minister Modi to go back and remain at their homes for weeks or face repressions while given only four hours' notice to comply with - this must undoubtedly raise concerns [Lewis, Kennedy 2020]. Clumsy leadership during crisis can have potentially severe implications and cannot be always be excused by the severity of the threat. Still, any action taken may be better than inertia. Ignorance and denials like in case of Nicaragua, where Daniel Ortega's government refused to lockdown schools or churches or to introduce any safety measures at all, including wearing face masks, or similar public denial campaigns by President Jair Bolsonaro of Brasil or Mexico's Andrés Manuel López Obrador [Amon, Wurth 2020] do not simply amount to wickedness; I believe that, legally speaking, this type of public policy contradictory to any scientific evidence could

1 On the legitimate limitation and derogation from internationally protected human rights see in particular *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights* [U.N. Commission on Human Rights, 1984].

be considered as a mass violation of the right to health. Even worse still, for many – if not most of global citizens – the acutely experienced violations of their human rights will come as direct malice and shrewdness of the authorities eager to secure or seize more power under the pretext of a "state of emergency". It is clearly visible in case of some governments, who use the pandemic to pursue awaiting political goals and persecute dissidents without any scruple. The Chinese government initially censored all discussions concerning the spread of the new coronavirus, withheld the information from the public and prosecuted people like doctor Li Wenliang who had warned about the disease before it literally took his own life [Tan, Wenliang 2020]. The Western democracies also have their own faults. US President Donald Trump kept talking in a xenophobic tone about the "Chinese virus", even when reports of discrimination and abuse against Asian-Americans got prevalent [Helier, Zhaoyin, Boer 2020]. In Hungary, Victor Orban seized the Covid-19 pandemic as an opportunity to pass a new emergency law, which allows him (as the president) to sidestep the parliamentary process and exercise arbitrary and unlimited power as long as the threat continues, which is itself subject to his regime's decision [Human Rights Watch 2020]. Many other governments, for instance in Cambodia, Bangladesh or Sri Lanka used the pandemic to come after those who dared to criticize the government and its actions amid the crisis [Amon, Wurth 2020].

The worst is yet to come, however. The humanitarian consequences of the massive violations and disturbances of economic, social and cultural rights that are coming are likely be playing the major role in defining our political future globally. Only a handful of examples reported by human rights activists give a foretaste scary enough of what is about to come. The lockdown in most national economies has struck hard and disproportionately the most vulnerable populations, denying the means of satisfying even their basic needs. The International

Labour Organization estimates a global loss of 195 million full time jobs in the second quarter of 2020 alone [U.N. News 2020]. Weak health care systems, especially in African countries, previously struck by infectious diseases such as Ebola, are on the verge of total collapse [Amon, Wurth 2020]. In addition to 260 million children already excluded from education, there are now 1.5 billion more pupils out of school and the vast majority of them has not received any education for months [Amon, Wurth 2020]. Domestic violence is reported to have increased markedly in many countries during the lockdown and quarantine [U.N. Department of Global Communications 2020]. These are not unexpected effects of a sudden natural event. Before this crisis, the present international community had not done enough to meaningfully minimize economic, social and cultural inequalities globally. Although some of the UN Millennium Development Goals were achieved, the shortfalls of social policies and globally growing income disparities are glaring. The risk is that the effects of the pandemic will catalyse the slowdown in social progress, exploiting decades of negligence.

For the reasons mentioned above, framing the discussion on how the SARS-CoV2 pandemic impacts the clash between human rights standards and guarantees *versus* the necessity to preserve public health is misconceived. Let us not get things wrong – obviously, as mentioned before, some human rights, like the freedom of assembly probably need to be temporarily limited for sanitary reasons, at least in some cases. The point is that there are no other, more fundamental, non-human- right values or aims that could justify setting aside those "annoying notorious human rights", when the "real life-threatening issues" are at stake. On the contrary, the core of the debate is entirely about and within human rights. Any appeal to the need of reviewing them from the outside "political" or "emergency" point of view is a delusion. Taking their unity and universality into account, human rights comprise a coherent legal framework.

Issues arise out of the immediate threats to human rights posed by the present situation, as well as – or perhaps even more so – of international community's negligence of the role and significance of the economic, social and cultural rights. Therefore, human rights are not something standing in the way of effectively containing the coronavirus. On the contrary, any limitations to certain freedoms need to be defined in that language as a matter internal to the human rights protection system in order to make it deemed legitimate. Public health is a value realized by and within the system of human rights, not outside of or against it.

2. THE GLOBAL RIGHT TO HEALTH

It is worth to change the antiquated frame and consider that it is not merely "public health" that is at stake in governments' struggle with any epidemic, but rather their citizens' *right to* health. Legal protection of this right includes a set of legal obligations as stated by the International Covenant on Economic, Social and Cultural Rights (ICESCR)[2], an international treaty ratified by the great majority of states[3]. The wording of the ICESCR gives that the right to health is the "right of everyone to the enjoyment of the highest attainable standard of physical and mental health" (Art 12). Health itself is not defined in the Covenant, however, related international law can provide some guidance. For instance, according to the Constitution of the WHO[4] as well as other relevant documents, such as the Declaration of Alma-Ata[5], health is "a state of complete physical, mental

2 International Covenant on Economic, Social and Cultural Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 3 January 1976, in accordance with article 27.

3 There are 171 state parties as of 14th August 2020 according to United Nations Treaty Collection, accessed: https://treaties.un.org/doc/Publication/MTDSG/Volume%20I/Chapter%20IV/IV-3.en.pdf.

4 Constitution of the World Health Organization, accessed: https://www.who.int/governance/eb/who_constitution_en.pdf?ua=1.

5 Declaration of Alma-Ata. International Conference on Primary Health Care,

and social well-being and not merely the absence of disease or infirmity". This wide concept of health is currently universally accepted both on the level of international human rights law as well as in the state legislation of many jurisdictions.

But to what actions, in practice, are we entitled to when speaking of the "right to health"? Undoubtedly, there is no legally enforceable right to *be* healthy [ECOSOC 2000]. On the contrary, a state is obliged to guarantee access to proper medical services and healthcare to everyone without discrimination as well as to a range of "other facilities, goods, services and conditions necessary for the realization of the highest attainable standard of health" [ECOSOC 2000: 9]. So-called core obligations connected to the realization of the right to health include also access to the minimum essential food, which is nutritionally adequate and safe, freedom from hunger, access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water and essential drugs. Authorities must also adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population [ECOSOC 2000: 43]. In addition, Art. 12.2 of the ICESCR also prescribes that full realization of the right to health shall include, among others, steps necessary for "the prevention, treatment and control of the epidemic (...) diseases". Under this obligation each state is expected to create "an adequate system of urgent medical care and humanitarian assistance" but also to make use of "epidemiological surveillance as well as to implement or enhance immunization programmes and other strategies of infectious disease control" [ECOSOC 2000: 16].

According to Art. 2 of the ICESCR, all of the obligations mentioned above must be fulfilled to the maximum of the available

Alma-Ata, 6-12 September 1978, accessed: https://www.who.int/publications/almaata_declaration_en.pdf?ua=1.

resources. The term “resources” needs to be understood widely – it is proposed that besides financial or material means there are also important organizational and service capacities, information and technical expertise, as well as human resources, including medical personnel. Article 2 of the ICESCR makes it plainly clear, that the above-mentioned resources include also those, which can be obtained through “international assistance and cooperation”. States are therefore *obliged* to cooperate with each other and share resources. The governments who are in need of help not only have the right but also are in duty to request assistance from abroad.

It follows that human health should be of concern to every public authority. In case of infectious diseases, the concept of public health cannot be divided between territorial states and depicted as an “internal” matter or sovereign point of concern. Every country has a legal duty to respect the right to health of any population, also abroad. The UN Economic and Social Council (ECOSOC) has rightly pointed out that governments are under obligation to prevent the third parties from violating the right to health in other countries and should even influence them by legal and political means, if necessary [ECOSOC 2000: 39]. Special duties are bestowed on wealthier states towards the less developed ones to help them in facilitating the access to essential health infrastructure, goods and services. Last but not least, it needs to be underlined in the context of the present pandemic, that global health crises are doubtlessly of concern not only to particular states acting separately or even cooperating jointly but constitutes the responsibility of the international community as a whole. The ECOSOC makes it bluntly clear: “given that some diseases are easily transmissible beyond the frontiers of a State, the international community has a collective responsibility to address this problem” [ECOSOC 2000: 40].

The global right to health warrants the obligation of cooperation between the states. This is worth remembering when the

proponents of raging nationalist instincts fan the flame of xenophobia by implying that the coronavirus is something foreign, something threatening *our* national political community from the outside (of the high walls of our would-be-castle), and therefore every nation should carry out the fight on their own. Such instincts may be not only illegal in the face of human rights law but also illegitimate. To see that clearly, we must refer to the moral foundations of international law. In this regard, I propose to follow Ronald Dworkin's argument.

3. DWORKIN'S NEW PHILOSOPHY OF INTERNATIONAL LAW FOR POST-COVID WORLD

The outline of the concept of the new philosophy of international law presented by Ronald Dworkin [2013] can be summarized in three main theses. The first states that the **international law requires an interpretative understanding and grounding in the political morality of the international community**. Dworkin argues that what is needed is an interpretive, and not a categorical (sociological) theory of international law. According to the author of *Law's Empire*, an interpretative approach to law assumes the existence of a certain political community within which we can share a doctrinal concept of the law of this community. It seems that international community could meet this requirement. Dworkin [2013: 11] explains that the political community shares the concept of law "not by agreeing about tests for [law's] application but by agreeing that something important turns on its application and then disagreeing, sometimes dramatically, about what tests are therefore appropriate to its use". Within this framework, we may ask questions about what arguments or tests should be implemented by a hypothetical world court (with effective sanctions and compulsory jurisdiction) to determine those rights and obligations of subjects of international law (i.e. states) that require coercion in the process of their enforcement. According to Dworkin, these

are the questions related to the political morality of the international community, a special part of which is international law. The problem with such an interpretative theory of law, based on the political morality of a given community, is that it is difficult to separate the existing law from the normative postulates about its desired contents, which are also based on political and moral criteria. In short, the problem is that a judge of a world court applying this law may confuse what the law actually *is* with what she thinks it *ought* to be. The hypothetical judge may easily find herself in a situation of applying an evolving moral standard rather than an agreed upon legal rule. For the purposes of the discussion on international law, Dworkin [2013: 12] synthetically presents an answer to this problem by proposing to conduct the following test: "we identify the law of a community by asking which rules its citizens or officials have a right they can demand be enforced by its coercive institutions without any further collective political decision" [Dworkin 2013: 12]. In other words, laws are only those enforceable rules, which application is not conditional upon carrying out any additional political decision-making process.

Dworkin's second thesis about international law can be formulated as follows: **the political legitimacy of power is uniform at both the national and international level**. The American legal philosopher, noting the critical moment for the development of modern international law in the emergence of the Westphalian system in Europe, believes that the 17th century political process balkanized not only sovereignty, but also political legitimacy in general [Dworkin 2013: 16]. The fundamental question of political morality – what justifies the use of coercion by a political authority – cannot be limited only to the area of one state but is addressed to the international system of states as a whole. Hence, since there is a general obligation of each state to improve its political legitimacy, there must also be a general obligation of each state to contribute to the improvement of

the political legitimacy of the entire international system. If you want your state power to be legitimate, you also need the international system within which it operates to be legitimate. This includes the need for states to impose real and shared restrictions on their exercise of power. According to Dworkin [2013: 17], this requirement constitutes the true moral foundation of international law. Tolerating the misunderstood concept of an "unlimited" sovereignty is a negation of the obligation of working towards strengthening the legitimacy of the international community. It contributes to the erosion of respect for the human rights and other fundamental rights of citizens. Every state, even a democratic and liberal one, has a duty to undertake continual efforts to maintain an international system that is in power to prevent degradation of states towards tyranny (or a failed state) [Dworkin 2013: 17]. Operating on the principle of unlimited sovereignty, or supporting such an understanding of the concept, is also equivalent to not taking any necessary interventions towards other states. Therefore, it prevents the citizens from fulfilling their moral obligation to protect other people in the countries where they are subject to persecution and mass human rights violations. States act against their citizens when they are unwilling to engage in international cooperation, which is indispensable for preventing health or environmental disasters due to the existence of coordination problems on a global scale [Dworkin 2013: 17-18].

In the face of the above, a question arises – what is the best way to implement the universal obligation to strengthen the legitimacy of the international legal order? How to build a consensus among at least several hundred entities possessing important legal voice within the community? Dworkin's third thesis is the postulate of **implementing the principle of salience in international law as a fundamental structural principle**. Here he explains how it works:

> "If a significant number of states, encompassing a significant population, has developed an agreed code of practice, either by treaty or by other form of coordination, then other states have at least a *prima facie* duty to subscribe to that practice as well, with the important proviso that this duty holds only if a more general practice to that effect, expanded in that way, would improve the legitimacy of the subscribing state and the international order as a whole." [Dworkin 2013: 19]

The mechanism of the principle of salience can be compared to the snowball effect. Dworkin [2013: 20] himself uses a cosmic metaphor: imagine a "moral gravitational force" of every widely accepted 'norm' or 'principle' in international law. The moral significance of a given standard, resulting directly from the amount of support that it enjoys, attracts interest and acceptance from other states, which in turn increases its importance and influence on other entities.

According to Dworkin, such a theoretical structure better explains, for example, the contemporary operation of customary international law or the entire normative order based on the Charter of the United Nations. In 1945 in San Francisco, international law based on the principle of salience was re-created. The UN Charter, together with such sources as the Geneva Conventions, the Convention on the Prevention and Punishment of the Crime of Genocide, or major human rights treaties like the ICESCR, are universal international law binding for everyone not through formal consent of states, but thanks to the moral force of the principle of salience [Dworkin 2013: 20].

4. THE CONSTITUTIONAL MOMENT IN INTERNATIONAL LAW

The need for global solidarism among and between the states and international organizations as members of the international community is morally and politically legitimate as well as founded on legal grounds provided by international human rights law and inherent in the contents of, for instance, the global right

to health. It is also logical, because universal threats such as the present SARS-CoV2 pandemic create difficult problems of coordination that can be effectively solved only through a joint action of the international community as a whole. The one remaining question is, whether this argument can be carried further in order to permanently transform the international legal environment. Indeed, even greater threats to humanity, such as the challenge of climate change are lurking just behind the corner.

One of such possibilities is a call for a constitutional re-interpretation of international law. According to the proponents of such view, from time to time, there occurs a "constitutional momentum" which allows the particular legal system, in this case the international one, to fundamentally redefine its principles and interpretative practices [Widłak 2015]. In other words, international law may progress not only systematically, but even more by way of "quantum leaps" for which the window of opportunity opens up especially during or after a major crisis [Aksenova 2020]. One of such moments was in the 1940s at the end of the World War II; perhaps another one is coming up now, in the post-pandemic world whilst global threats are heading our way. The attempt to "constitutionalize international law" means an attempt to borrow the concept and language of "constitutionalism" from the rich tradition of modern European and American political philosophy and philosophy of law and transplant it to the new ground of contemporary international law. In this sense, constitutionalism can be seen as a certain theory of political morality based on which – as Dworkin proposes – a doctrinal concept of international law can be built. According to the established view, the ideology of constitutionalism is characterized by the coexistence of two elements: the legitimacy of the legal and political system, which is conditioned on the proper placement of individual rights at the top of the normative hierarchy, and the existence and primacy of a constitution as

a guarantor of these rights. When translating these conditions to international law, two hypothetical theses of global constitutionalism can be formulated:

1. basic moral justification and source of legitimation for the international legal system is the existence and primacy of rights of individual subjects (members) of this system; the members are either states (under a weak interpretation) or all individual human beings (under a strong or cosmopolitan interpretation),
2. international law includes at least a group of privileged constitutional norms, characterized by their universality and primacy over other rules and normative systems. The constitutional norms should provide for major limitations on potential abuse of power by any authority.

Now, taking Dworkin's theoretical framework for international law as reconstructed above, we may verify, whether these two constitutional theses fit the proposed vision of international law. Regarding the first constitutional condition requiring the primacy of subjective rights, the most important question is which of the two interpretations should stand under the new philosophy of international law. On the face of it, Dworkin, like the majority of scholars, just refers almost exclusively to states and thereby recognizes their unchanging status as the fundamental subjects of international law. However, this is true only in an organizational and political sense, but certainly not in terms of moral and philosophical foundations of the system. Consent between the states as a supposed source of legal norms is neither a necessary nor a sufficient basis for legitimization. The weak interpretation of the constitutional thesis on the primacy of state rights is at least insufficient, or even wrong, since the system would not be legitimate if it was about securing the rights of states. This becomes clear when we take a closer look at Dworkin's argument that the legitimacy of power is unitary in internal and external (supranational) spheres. In order to en-

sure international legitimacy, the state must build its position on two fundamental obligations: to constantly strengthen and prove its legitimacy to exercise power (using coercion), and the obligation to mitigate the threats to international cooperation. From the perspective of a state, international law is therefore a duty-based legal system.

Taking the international law seriously, one needs to admit that the political power within the international community of states is legitimate, provided that the rights of individual people are effectively protected. This requires a state to accept "feasible and shared constraints on its own power" [Dworkin 2013: 17]. It is clear that the restrictions and limitations that states are required to impose collectively on themselves to strengthen their legitimacy are ultimately intended to safeguard the rights of individuals. International cooperation in good faith is a moral duty when it serves the ultimate benefit of the people (or peoples of the world), not the self-interests of national political power. Only the strong or cosmopolitan interpretation of the primacy of rights thesis fits the true constitutional mindset. Following Dworkin's view, this assertion would be justified by his broad criticism of sovereignty as the unfettered "right" of states and an attempt to reformulate it into an instrumental form that requires constant legitimization and justification. This has been already attempted not only politically but also legally and institutionally through the UN's introduction of the *Responsibility to Protect* (R2P) doctrine.

Finally, in the far-reaching part of his vision of the philosophy of international law describing the possible requirements for the creation of effective power at the supranational level, Dworkin envisages that any such power must respect the dignity of those over whom it exercises jurisdiction and show equal interest in all. Thus, despite the lack of a proposed catalogue of specific rights, Dworkin's proposal meets the first condition of global constitutionalism in a strong interpretation.

The second condition of global constitutionalism requires primacy of a group of constitutional norms in the system. Some scholars supporting the constitutional view of international law point to the Charter of the United Nations as a type of a constitutional treaty. Dworkin believes that the Charter is precisely of constitutional character since it is binding not on contractual basis (i.e. for its signatories only), but through the moral obligation it should be treated as binding law by members of the international community. This is the effect of application of the principle of salience [Dworkin 2013: 20-21]. Article 2 (6) of the Charter in fact requires the UN to ensure that non- UN member states "act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security". Departing from the seemingly inviolable principle of consent is justified in this case by referring to the Principles expressed in Art. 2. They are universal, as they constitute a source of legitimacy of the new international order created after the World War II. This rule of the extended validity of the Charter, which is one of the most important arguments for its constitutional character, is built largely on dogmatic-legal justification. Dworkin's concept of the principle of salience explains its political-legal and moral meaning.

Dworkin does not stop with the United Nations Charter, however. He lists other acts which may be regarded as part of international constitutional law: the Geneva Conventions, the "genocide treaties" (i.e. the Convention on the Prevention and Punishment of the Crime of Genocide) and the Rome Statute of the International Criminal Court. Other literature on international constitutionalism has also proposed a concept of the so-called "world order treaties", which are instruments concretizing and developing the constitutional principles of the international legal order [Tomuschat 1993; Fassbender 2009]. This group of would-be international constitutional laws includes a number of important universal conventions in the field of human rights,

such as the Universal Declaration of Human Rights and both Covenants, as well as other specific human rights treaties. All these treaties have made "international law for all" precisely through the operation of the principle of salience, so they bind the entire international community, not just the original signatories. A distinction should be made between these acts and other international agreements that form, for example, organizations such as the European Union or the World Trade Organization (WTO). These laws were designed from the outset as instruments for creating a certain institutional and procedural framework for a specific group of members. As specific regimes of international law, their rules cannot be meaningfully applied outside the group of explicitly admitted members – in this case, therefore, the principle of consent, not of salience, is at work. I believe that the principle of salience thus serves precisely as a tool to distinguish the matter of international constitutional law – universal rules of unlimited scope of application, which legitimize the system from the other consensual international law.

CONCLUSIONS

The SARS-Cov2 epidemic may unfortunately be only a prelude to the century full of much greater common threats and coordination dilemmas for the future international community. Our responsibility is to prepare the adequate tools at our disposal to deal with the threats. Like it or not, law in general and international law in particular are the best and potentially the mightiest instruments[6] at hand. Some will try to disavow the law's potential as merely an illusion. True, law is a social institution and stands or falls with the society, which rules it embodies, but so is any other piece of our social reality. Advancing the global rule of law means advancing our unique human ability to

6 See for instance an expert report by the Lancet Commission, insisting on the law's power and potential in managing global health and sustainable development [Gostin et al. 2019].

work together and harvest truly transformative powers of global social structures. The climate-related disasters and possibly subsequent pandemics that we are likely to face in the near future will be the ultimate exams for our species' ability to survive through cooperation that is larger than the abilities of one individual, tribe or even a whole nation. The time now is high to set in place a global constitutional framework for the international law.

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