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Strengthening International Law

Contribution to GTI Forum [An Earth Constitution: Has the Time Come?](#)

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Advocacy for a world government must be central to a Great Transition strategy, but we have to realize that only treading a long path can lead us to a world commonwealth that ensures the unity in diversity that it by necessity needs to embrace and foster. It is a long path that can only be tread through the gradual building of community at global scale, a natural expanding of the narrower loyalties that have preceded it. This is a challenging feat as illustrated by the example of the European Union. And certainly, the strengthening of global institutions, if wisely done, can act as mutual reinforcement of such a growing sense of community—if they display the qualities of trustworthy governors serving humanity without bias. It is also a path that needs treading through deep deliberation, engaging individuals and communities across the globe. Only then can we trust that the collated wisdom of our cultures is used to identify what guiding principles such a government needs to be built on. While I do not expect that one will find sufficient reasons to dismantle nations—there is need for layers of government successively closer to the diversity of history, culture, and nature—there is much to be gained from settling those unsettled issues of, for example, disputed borders with neighbors, or very legitimate claims of sovereignty of indigenous nations within nations.

Before we can discuss the guiding principles and architecture for formulating world government proposals, we must discuss the principles for deliberating the principles themselves, and then we need to identify principles for allocating responsibility among levels of governance. The principle of subsidiarity has some promise to offer here—although it needs to be understood in more depth, and also explored with regard to how it can be used as a deliberative tool.¹

I would also plead for a deep reflection on principles for other elements of the architecture:

- What will be the principles for the generation, sharing, and application of knowledge that will support a world government? The importance of nurturing a much broader access, among all people, to the systematic search for truth? Such search for truth can be through the methods of science, experienced-based learning built over generations in many cultures, and drawing on the books of revelation among the world's faiths. Such principles are important to explore, especially with regard to access to education and lifelong learning.
- What will be the principles for representation and deliberation in a world government and its supporting bodies? Should it be acceptable to lie, to slander, to distort truth for the interest of a specific group? Should those elected be tasked to represent only the interest of the constituency that elected them, or do they have obligations to the wider humanity and the planet?
- What principles should guide the election process of a future World Parliament, whether elected by direct votes or by indirect election (e.g., by the world's legislatures)? Should we simply take over the systems where those eager to have power are most likely to be elected? Or shall we find ways to promote elections based on other qualities like service, humility, and wisdom?
- What principles should guide the development of accountability mechanisms? Will they be oriented towards guarding against mistrust or towards building trust and learning from experience?

The Earth Constitution is one, but only one of many valuable ideas on the table for the architecture of a future world government. However, there is need for more than a ready package; rather, there is also need for a deliberative process increasingly involving more people and communities. Nonetheless, there is still much value in lawyers and scholars developing alternative ideas for the future institutional design. When the world is ready for deeper conversations, those proposals may form valuable injections of ideas. My own preference is to explore a route forward in UN reform while not excluding building shadow institutions, such as a UN Parliamentary Assembly adjacent to it, ready to be incorporated when states realize its value.

But more than the architecture for a future world government, we also need to consider the legal landscape. Many have promoted a kind of Vienna Convention for international environmental law, whether as an Earth Charter or a Pact for the Environment, against the backdrop of such a large

and fragmented landscape of international environmental law. And while the international laws in this field are not usually enforceable, they have been developed with most states at the table and with virtually every state having a de facto veto because of the consensus decision-making principle (which is one that needs to be gradually left behind). They form a foundation for international collaboration and a tool as yet far too underutilized to address the environmental havoc we are facing.

There is not one road, but an emerging vision of a direction and many paths need to be tread to finally get there. The path that I want to highlight as treadable already now, building on what we have, is to strengthen the culture of the rule of international law, a proposal I have elaborated with Maja Groff.² Whatever future world we aspire to, law has proved a powerful tool of just and effective governance. It is the absence of the “real” rule of law that gives major powers the room to act “above” the law—and less powerful states, lack of access to remedy. While we can focus on advocating—in our national parliaments and courts—for adhering to the Paris Agreement or the Convention on Biological Diversity or other agreements, we also need to nurture the emergence of a strong culture of the rule of international law, i.e., that states treat their international agreements as binding obligations and act accordingly.

Endnotes

1. Sylvia Karlsson-Vinkhuyzen, “The Role of Principles for Allocating Governance Levels in the 2002 World Summit on Sustainable Development,” *International Environmental Agreements: Politics, Law and Economics* 13, no. 4 (2013): 441–459.
2. Maja Groff and Sylvia Karlsson-Vinkhuyzen, “The Rule of Law as a Global Public Good: Exploring Trajectories for Democratizing Global Governance Through Increased Accountability,” in *The Commons and a New Global Governance?*, eds. Samuel Cogolati and Jan Wouters (Northampton, MA: Edward Elgar, 2018), 130–59.

About the Author



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