

THE  
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Jeremy Rabkin

# IS NATIONAL SOVEREIGNTY OUT OF DATE?

INSTITUTE OF PUBLIC AFFAIRS

## Introduction

Many voices now tell us that sovereignty has become irrelevant or anachronistic in our age of globalization. I don't believe this claim. I don't see how anyone can seriously believe it. Certainly, it would make the dispute between Israel and the Palestinians quite easy to solve, if these peoples could see that sovereignty is irrelevant. But they are still fighting about who has sovereignty over what portions of Jerusalem. Perhaps they have noticed that no other patch of land in the world operates under the shared sovereignty of two different states, because it matters too much who gets the last word over any particular territory.

The simple truth is that, for most countries, there really is no decent alternative to national sovereignty. But a lot of people want to hide this fact from others or from themselves. This confusion can make a fair bit of trouble for all of us while we are recovering our wits.

Churchill said, 'You can always count on the Americans to do the right thing—after they have first exhausted every other alternative'. In this respect, America is not at all an exceptional country.

We might all save ourselves a lot of trouble if we acknowledged that sovereignty is serious and here to stay, and then viewed our respective national policies accordingly. But contrary pretences have a lot of momentum right now. Let me start by explaining why that is so, before returning to my argument that these pretences can't finally be more than that.

## The Will to Believe

Something remarkable has happened in Western Europe in recent decades—that is true. The European Union is a remarkable example of ancient states coming together under a new form of supranational authority. But it is unique in the world—that is why it is so remarkable. (For speculation about the sources of European uniqueness, see the Endnote appended to this lecture.) Meanwhile, year by year, the European Union seems to be evolving into a federal super-state rather than a specialized supranational body. It already has its own Parliament and its own court, along with its own flag and its own

ambassadors. It now even negotiates and signs its own treaties with outside countries on behalf of its member states. It is now developing its own currency, its own criminal law and its own military force.

So, if the European Union does not fall apart, it will cease to be a remarkable exception and emerge as another sovereign state in its own right. It will be different from the federal governments of Australia or Canada or the United States, only in having acquired its sovereignty in stages and by some degree of stealth and trickery rather than in an open and honest constitutional act at the founding.

But to project this example to the world at large is surely chimerical. One is tempted to describe talk of 'global governance' as 'visionary'—except that visionaries believe in their visions, as pacifists genuinely believe that disarmament is the path to peace. What feeds talk of 'global governance' is better described as 'sentimentality'—the mood of the audience at the end of a 'heart-warming' film, where the story ends so much more happily than it would in real life. It is what literary critics call 'suspension of disbelief'—the willingness to follow the twists and turns of an improbable plot-line without worrying about whether it could really happen that way.

A sovereign state is one that is not subject to higher legal authority, not subject to the commands of a superior. Member states of the European Union are no longer quite sovereign in this sense, since EU councils and the EU court can legally override even enactments of national parliaments in the member states. And of course, Western Australia, California, Ontario and other states in federal systems are not sovereign in this ultimate sense. The terms of their co-operation with the other states in their federal scheme are determined, in the last analysis, by federal authorities.

But what stands above states that *are* actually sovereign? Clearly, we don't have a world government. Clearly, we wouldn't much enjoy one, if it existed. Do a thought experiment if you doubt this: Suppose we had a world authority accountable to the member states or to their peoples. How long before China, India and the majority of states (or the majority of the world's population living in these less

developed states) ganged up on the handful of affluent nations in the West and sought to redistribute their wealth to those who need it more? How long would it take, then, for Western nations to revolt against this onerous world system? Probably they would not try to conquer every other country but just insist on their 'separate and equal station among the powers of the earth'—as Thomas Jefferson put it, in the American Declaration of Independence.

When we aren't indulging in sentimental fantasies, we can just skip to the obvious conclusion and acknowledge that successful countries are not going to sacrifice their independence. Advocates of global governance, however, like liberal screenwriters in Hollywood, seem to believe that if we are confronted with enough sentimental images, we will come to accept the sentiment for reality. And we have, for fifty years, seen the construction of sentimental institutions—rather like the theme rides at Disney World which perpetuate the memory of successful films.

The greatest of these, of course, is the United Nations, a standing monument to the high hopes—or high rhetoric—of the Allied victors in World War II. The UN Charter was supposed to have made war unlawful. In the old days, before the establishment of the United Nations—or its more short-lived predecessor, the League of Nations—you would, if attacked, have to defend yourself by military means. Now, under the new system, if attacked you can ... still defend yourself. The UN Charter may say that no one state should attack another. But it guarantees nothing to the victims. Yes, the UN has a Security Council which has the power to impose binding resolutions to settle conflicts in the world. In the bad old days, a small country could ignore great powers, so long as some other great powers would serve as its shield or champion against others. Now, small countries must obey the great powers on the Security Council—unless one or more of the great powers wants to take the side of the small country in question and veto the Council's resolution (which must have unanimous approval from the permanent members of the Council).

You can view all this as a great change in the world if you want to. And if you do, you will

find it equally plausible to think that the United Nations has also worked a great change by establishing a convention against genocide. Perhaps you will be a bit discomfited when you recollect that this convention was duly signed by Cambodia, Rwanda and Yugoslavia, before any real trouble started in those places (and when Bosnia was a part of Yugoslavia), yet neither the UN nor any other power did much of anything to stop mass slaughter in these places. If you want to, you can console yourself with NATO's three-month bombing campaign against Serbia in the spring of 1999, ostensibly to stop ethnic cleansing of Albanian separatists in Kosovo. You can say (as some politicians and editorial writers said at the time) that this episode marked a dramatic change in world affairs and gave real force to international humanitarian law. Then you must say that it was sheer good luck that NATO sustained not a single casualty among its own forces in this venture. And you must believe that NATO countries and others would still be quite prepared to risk significant casualties to uphold human rights in the next venture.

If you believe this sort of thing, you will find it quite plausible to think that the endless enumeration of human rights obligations in UN conventions is gradually changing the world. You will find it quite plausible to think that as Western governments submit their own conduct to inspection by brutal regimes in poor countries, the latter will respond to criticism by Western countries and everyone will be much improved by these exchanges. (As workers in the old Soviet Union pretended to work, while the state pretended to pay them, brutal governments around the world pretend to honour human rights standards, so you can pretend to believe them.)

You should then find it quite easy to believe that Western countries will actually reduce their energy use by almost one-third over the next decade—as they have promised in the 1997 Kyoto Protocol—to reduce emission of greenhouse gases, primarily carbon dioxide, supposed to be generating a global warming trend. You will believe that what the OPEC cartel could not do in the 1970s, an international treaty structure really can do now. And you will believe that less developed countries (soon to represent

more than half of global energy consumption and global greenhouse gas emissions) do not mean it when they insist that they will never agree to reduce their own emissions. You will believe that the inspirational force of international agreements and international authority will eventually bring them around. (That is, where poor countries do not even pretend to cooperate, you will pretend even harder that you haven't heard or don't believe their disclaimers.)

But surely, at some point, you will find that the effort to believe all this—to keep up your suspension of disbelief—just requires too much effort. At that point, you might find more solace in older religious beliefs where the promised transformation in the human condition is supposed to be further down the road.

## Fear of Competition

There is one kind of international agreement that is generally thought to work rather effectively. I mean trade agreements—most notably the General Agreement on Tariffs and Trade (GATT), which has been lowering barriers to international trade since 1947. It started with two dozen trading nations in the developed West and now has almost 150 signatories from all parts of the world. Along the way, it has moved from reducing tariffs to lowering other sorts of barriers to trade and achieved, since 1995, a more formalized structure in the World Trade Organization.

Whatever the creaks in the institutional machinery of the WTO (and they are not, in fact, trivial), no one disputes that international trade has grown by leaps and bounds in recent decades and trade agreements presumably deserve at least part of the credit for facilitating this trend. But this very success has inspired many people to think that what could be done for trade can now be done for everything. That is, in itself, an important factor contributing to contemporary delusions about global governance: if we can have treaties to foster the globalization of trade, why not treaty structures to advance other global aims?

But that is only half the point—and probably the lesser half. More importantly, the growth of international trade has persuaded many people that the world now needs to organize itself to

slow down or halt this trend. The growth of international trade has put pressure on business to compete with foreign rivals, which in turn generates pressure on governments to limit burdens that make home industries less competitive. Those who favour more controlled economies therefore seek to limit free trade. Or they seek to balance international trade agreements with international regulatory agreements—which may be just another way of saying that they seek to limit free trade.

So President Clinton has repeatedly called for a 'New Deal for the global economy' (invoking the resonant slogan that President Roosevelt coined for his domestic regulatory programme in the 1930s). European leaders have eagerly seconded this call. Indeed, there is much more support for the idea in Europe than in the United States. So we hear calls to integrate standards of the International Labour Organisation or the terms of international environmental agreements into the trade system. The idea is that all countries should honour minimum standards for labour protection and environmental protection, so that countries which already have high standards in these areas do not experience 'unfair' competition from countries with much lower standards.

It is true that something like this bargain does occur in the European Union. Less affluent and less environmentally conscious member states have been forced to adopt labour and environmental standards favoured by the richer and greener states—above all by Germany—as the price for access to lucrative markets. Europeans decided that they could not remove all barriers to cross-border trade without 'harmonizing' regulatory standards, which meant, among other things, promulgating European-wide environmental and labour standards. In some ways, the European Union now imposes more standardization of regulatory policy on its member states than the federal government of the United States imposes on its fifty component states—which is perhaps less remarkable than it may sound, since the European Union (as an entity, in itself) is less of a democracy than the American federal government.

But to do this sort of thing effectively on a global scale requires strong global institutions. Europe has strong institutions. Among other

things, regulations issued by the European Commission take direct effect in national law. Private firms or private individuals can drag their own governments before the European Court of Justice (and the European Commission can sue national governments, on its own) to enforce European policies on delinquent or recalcitrant national governments.

The world has no institutions of this kind and is not at all likely to develop them. So, for example, the International Court of Justice (the so-called ‘World Court’) only hears disputes between sovereign states—and then only when both parties agree to submit their dispute to the Court’s judgment. For reasons I will get to a bit later, our experience with trade agreements is no indication that we can develop strong global institutions to enforce wider regulatory agendas.

Yet there is one other factor that promotes the fantasy of global governance and it is closely related to the fear of economic competition. Governments have their own fears of competition. Certainly, politicians do. They like to tell voters that their hands are tied, that they have no choice, that they are doing what any other politician would have to do in the circumstances because, indeed, all others are doing it. In other words, politicians often find it convenient to hide behind international norms and international agreements and the supposed expectations of other countries.

These claims are not always hollow. In a few areas, there really are international norms that almost all countries accept and if you violate them, you risk being treated as a pariah. And, yes, there are times when an ally or trade partner will lean hard on another government to make some particular concession or join in some controversial initiative.

But I think it is the other side of the coin that comes into play more often, and that accounts for the proliferation of new international agreements—and particularly agreements of a sentimental or dreamy kind—in recent decades. Politicians often find it convenient to have outside allies. And international institutions are particularly convenient allies because they are the sort of partners that don’t hold you strictly to account. So, around the world, governments cheerfully sign agreements that they don’t quite mean.

Should we eradicate sexual stereotyping in school textbooks and ensure that women workers are paid what they are ‘worth’ compared with men? Absolutely, said Australian and European and Canadian politicians when they signed on to the Convention for the Elimination of All Forms of Discrimination Against Women in the 1980s. And the ensuing national legislation was then presented as something these countries were ‘obligated’ to put through—so no need for a lot of domestic debate. And if Libya signs, too (as it has) or Romania (as it has) or Guatemala (as it has) and they don’t quite live up to these standards? There is no way to force them to change and there is hardly any disposition to do so. But, never mind. It’s the thought that counts.

If voters in democratic countries are sceptical, there are middle men to help close the deal—so-called ‘non-governmental organizations’. That is, advocacy groups. NGOs attend international conferences and draw media attention to what would otherwise be rather tedious events. NGOs publicize international agreements. NGOs try to give a sense of reality—and weight—to talk of what ‘world opinion demands’. They like to speak of themselves now as representing ‘global civil society’. They claim to express what ‘people’ around the world want, rather than what mere governments want. And the corollary, of course, is that these unelected, self-directed advocacy groups are better reflections of what ‘people’ want than mere governments, even if those governments are freely elected.

These groups can be a nuisance at times for governments, but they are also partners in the game of facing down voters. So, when homosexual advocacy groups complained to the UN’s Committee on Human Rights about a traditional sexual morality statute in Tasmania, the Australian federal government announced that it simply had to respect the Committee’s ruling and enact federal legislation, overriding Tasmania’s constitutional authority to determine its own criminal law in this area. Was the ALP government at the time ‘forced’ to act by the clamour of human rights advocacy groups, insistently invoking Australia’s obligations under ‘international law’? To talk of ‘force’ in this context would—to say the least—be engaging in some exaggeration.

This sort of team-tag between international authorities, NGO advocacy groups and obliging governments, is a rather new phenomenon. It may seem to be gaining momentum. Quite a few scholars and analysts and advocates believe that 'global civil society' is already a major force to be reckoned with and, in particular, a force that is eclipsing national sovereignty. Now I want to explain why I think this is all wildly exaggerated.

## What Sovereignty Has Going for It

Sovereignty began, in the sixteenth and seventeenth centuries, as a doctrine about the authority of princes. But it became most irresistible when the power of governments was conceived as something conveyed by the people—when, that is, sovereignty was associated with notions of popular sovereignty. This was already the argument of Locke in defence of England's Glorious Revolution and explicitly the argument of the American Declaration of Independence: if government rests on consent, then the government which receives the people's consent must be independent of any outside control.

By the nineteenth century, doctrines of popular sovereignty had become so powerful that few monarchies could survive without casting themselves as somehow an expression of popular will—and the multi-ethnic empires that could not plausibly present themselves in these terms did not survive the strains of the First World War. New dictatorships still sought to wrap themselves in populist trappings and described themselves as 'people's democracies'. When the last of them in Europe finally collapsed, at the end of the Cold War, they broke into national pieces.

People want more control over government. Sharing policy decisions with 150 other governments is not a good way to get more control. Within countries, people are demanding (and often getting) more devolution of policy-making power to regions, states and localities. Thirty years ago, when government planning had a much higher reputation than it does today, many people predicted that the United States

would see a trend toward metropolitan governments, embracing cities and suburbs in the same planning structure. It has not happened. Indeed, the reverse has happened: developers have organized new condominium developments as private communities, subject to the direct control of the home owners.

Around the world—in democracies as well as more repressive systems—people have grown more distrustful of government. Is it plausible that, in this climate, people will ultimately put more trust in far-away international institutions?

The counter-argument, which mesmerizes many people (at least at universities and in the fevered world of NGOs), is that people demand effective solutions and national governments are no longer big enough to deliver these solutions. By pooling their resources, we are told, national governments can achieve 'effective sovereignty' which, they tell us, is the real point of sovereignty—the power to achieve results.

This may sound like common sense to many people but, at bottom, it is silly. The truth is that no government in the history of the world has had 'effective sovereignty' in this sense. It is a totalitarian fantasy—or perhaps just a socialist delusion—that political power gives government the capacity to achieve any objective. Sovereignty is a political status, not a magical property. King Canute was not less sovereign for his inability to command the waves and Australia's government is not less sovereign for its inability to get rain to fall in the Great Sandy Desert.

To remind you of this is not to engage in definitional quibbles. One of the key arguments for abandoning or sharing sovereignty is that national governments can no longer control their economies by themselves, so we need global institutions to control a global economy. Yet this is not a problem of scale but of expectations. Little Singapore has done very well for itself by giving free rein to private commerce. National governments that seek to manage their economies more closely find that this is very hard to do, not because their countries are too small but because a modern economy is a hard thing to control—at least it is if you want to assure continued growth and then try to assure that everyone keeps the same job and the same markets for as long as they like. What socialist or social democratic governments cannot do well

in a smaller territory, no world organization can do more effectively on a larger scale. It is no doubt possible to choke off trade and choke off growth. But there is no reason to think that scale alone will magically provide international institutions with powers of insight and control that are denied to national governments. On the contrary, understanding and control are bound to weaken as the scale of governmental undertakings expands.

Nor does the growth of 'global civil society' make much difference. What this phrase means, if it means anything, is that advocacy groups find it easier to form networks across national boundaries in the age of the fax machine and the Internet. That is some help to human rights advocates and environmental activists and champions of social justice, with whatever cause they champion. But by themselves, these groups have no power to coerce anyone. Their power is parasitical—even when they cloak themselves in international agreements or claim to speak for international organizations. These international agreements and authorities are, in themselves, parasitical. When it comes to applying actual coercion—collecting taxes, putting people in jail, deploying troops—you must deal with a real government.

It is true that advocacy groups can sometimes rally public opinion in their own country and in other countries and, in this way, can sometimes force governments to change. But rallying public opinion is not quite so easy: if it were, governments would always be popular. I do not mean to denigrate the success of human rights groups in building resistance to repressive governments. But I do not think such success can be readily or routinely repeated in democracies. The Catholic Church was quite effective in rallying resistance to the Communist government in Poland; that did not make it a decisive force for resistance when a democratic Poland decided to liberalize its abortion laws. Even the Polish labour movement, Solidarity, so effective in its struggle against Communism, was ultimately rejected by voters under the new democracy in Poland.

Sovereignty is finally about force: it is an answer to the question, who is authorized to use force? A government that can't exercise force will not be around for very long. A government that

can't prevent others from imposing their will on it by force—or by lawful compulsion, acknowledged as such—is not sovereign. The point is not that the world is ruled by force. Perhaps it is ruled by opinion or fashion or poetry or beauty. Perhaps it is not sensible to say that the world is ruled by any one thing, unless it be by Divine Providence. But what makes a government legitimate is that its right to use force is accepted. No international organization is a legitimate government in this sense and there is not much disposition in the world to give international authorities this status.

Talk of global governance is essentially a strategy for confusing people. It tells them that their own government must change if it comes under condemnation from international authority or from advocacy groups claiming to speak for 'global civil society': global governance implies that authority is shared between their own government and these amorphous, free-floating global monitors. International institutions, which can't defend or protect you, are supposed to have the moral authority to direct you in your own internal policy because we have somehow transcended a world of well-defined governing powers and escaped into a world of presiding spirits. (The US Supreme Court Justice Oliver Wendell Holmes once put the point quite succinctly when he protested against appeals to natural law constructions as if they were a 'brooding omnipresence in the sky'.)

So the Australian government has to answer to international inspectors if it authorizes a mine at Jabiluka, because the World Heritage Convention supposedly gives UNESCO the authority to protect 'World Heritage' sites like Jabiluka Park. So the Australian government has to answer to human rights officials in Geneva if too many Aboriginal people are punished under criminal sentencing laws in Western Australia. I don't have any definite opinion about whether there should be mining near Jabiluka or whether the criminal sentencing laws in Western Australia should be retained. My point is that the rest of the world does not, either. If you put up with this sort of thing, you are playing a game with yourselves.

And it is finally a rather pointless game. After we get done with all the bluster and fantasy, it

really does matter where sovereignty resides. In the end, most people will want it to stay that way, especially when they have some trust in their own government or in their own constitutional system for holding their government to account. As soon as a UN body starts to make demands that are genuinely unpopular, any Australian government will resist—or find itself replaced by another that will.

But you would have more honest and more genuinely accountable government if you acknowledged this from the outset. If a government wants to give in to the clamour of advocacy groups or international admonitions, that is the government's own choice and it should be held accountable for that choice—as for any other. The 'international community' does not sustain a 'mystic overlaw' (to borrow another apt phrase from Justice Holmes) which forces your government to do what its own people reject. That will be clarified in the crunch, but it is inviting trouble and confusion to wait for the crunch before making this clear.

## So, What's Left for International Co-operation?

Nothing I have said implies that there is no scope for co-operation among states. Very serious and learned people have been writing treatises about international law for more than three centuries—not just visionaries, but lawyers, who are rarely visionaries. There is obvious potential for codifying or at any rate, stabilizing, certain customary courtesies in dealings between states, which is what international law was basically about for most of its history. The rule that you don't seize ambassadors from another country is very ancient and was even observed by Hitler and Stalin toward each other's ambassadors on 23 June 1941. The Islamic Republic of Iran really did find itself universally condemned when it allowed the staff of the American embassy in Tehran to be held hostage by student radicals for over a year in 1979–80. There is no doubt that the condemnations were sincere: they were made, after all, by other diplomats.

Regional understandings on air and water pollution have had some success and this is not

surprising when countries have a common interest in a relatively focused problem. But seemingly serious people (including the immediate predecessor to the current Secretary-General of the WTO) say we now need a central authority to supervise global environmental policy. I doubt that we can expect a Global Environment Organization to impose regulatory standards for the world—any more than we can expect the existing International Labour Organisation to be much more than what it has been, a cheerleader from the sidelines.

Success with relatively undemanding ventures in international co-ordination does not show that the world can sustain systematic, global regulation. To believe such a thing, one must think that government success in co-ordinating traffic flow on city streets indicates that government can manage investment flows in a modern economy. The difference isn't just in scale but in character. People will co-operate with rules of the road to get to their separate destinations with a minimum of conflict; that doesn't mean that they agree to go wherever a government wants to send them. And sovereign states have much greater ability to resist and evade global regulation than private individuals have to resist or evade national controls.

How can there be successful international trade agreements, then? The short answer is that the WTO succeeds, to the extent that it does, because it is not, in fact, a global regulatory agency or anything like it. The WTO does not enforce trade agreements. It does not enforce anything. What it does is simply to provide arbitration panels for trade disputes. When State A complains that State B has imposed barriers to A—in ways that are contrary to the latest agreement—the dispute can be referred to a panel of trade experts. But in the end, the only sanction (if the dispute cannot be settled voluntarily) is for A to impose retaliatory tariffs on imports from B—something it could have done at any time, if there never had been trade agreements.

The truth is that countries can manage exchanges by treaty, because both sides have something of value that they can withhold. For that reason, countries have been making trade agreements for centuries and they often have endured through other disputes. The world has

no real experience with regulatory standards that impose costs on behalf of the world at large. Certainly countries can impose trade sanctions on each other to try to change domestic practices. But such sanctions rarely work well, among other reasons because they are rarely sustained long enough by enough countries to make a difference. Unlike an actual government, neither the World Trade Organization nor any other international institution has the power to force countries to keep up trade sanctions.

The experience of Iraq suggests this is very hard to do, even when the stakes are very high. Australia's own Richard Butler, in charge of UN inspections in Iraq, has warned that Saddam Hussein is building weapons of mass destruction in defiance of his promise not to do so. From its seat on the Security Council, France yawns. The UN inspection system was supposed to be enforced by trade sanctions on Iraq but the inspection system has broken down and the trade sanctions are widely ignored. The world has too much thirst for Iraqi oil. Is it at all plausible that a world which can't keep sanctions in place on a proven aggressor like Saddam Hussein—even when the prevention of nuclear or biological war is at stake—is a world that can, nonetheless, organize itself to enforce sanctions for infractions of a labour code in some wretched developing country?

I think the world will be worse off if it overburdens and thereby undermines the existing trade rules. I trust economists when they tell us that free trade generally benefits all participants. But I don't mean to insist that any country is obliged to go further toward free trade than it wants to go. Perhaps the WTO is already too ambitious. That may be. But we shouldn't fool ourselves into thinking that the relative success of the WTO implies a transformation of world affairs.

## How to Protect Sovereignty —Without Losing Your Wits

I think we should recognize that efforts to erect supranational authorities on top of sovereign states are hopeless. They are, in effect, attempts to return to the era that preceded nation states—that is, to a medieval world where princes and

barons held conditional or partial authority of uncertain extent and all were supposedly united in Christendom or in the Holy Roman Empire. The point of sovereignty, at the outset, was to insist that no human authority—not the Pope, not some German emperor—stands above a sovereign state.

Some ceremonial remnants of the medieval Germanic Empire actually lasted into the early nineteenth century. And as late as the nineteenth century, Protestant states still made much of their opposition to papal authority. But it has been a long time since papal authority represented any threat to civil government. At some point, people who continue to obsess over ceremonial forms are rightly suspected of mental imbalance.

Personally, I think it is silly when Americans get so worried about governmental 'establishment of religion' that they bring lawsuits to challenge Christmas displays which are (they say) placed too near to government buildings. For the same reason, I have never understood why so many people in Australia want to place an exclamation point over Australian independence by repudiating the monarchy and establishing a republic. I cannot see that Queen Elizabeth is any more of a threat to Australian independence than Christmas displays are to American liberty.

And I have basically the same view of international institutions. I don't think sovereign states need to withdraw from the United Nations or repudiate UN human rights conventions, just to prove to themselves or their people that they remain sovereign states. The important thing is not what ceremonial institutions you have, but what political understandings you have behind them. It may be rather harmless for your diplomats to attend international functions and clink glasses with other diplomats—or for your NGO activists to exchange e-mail addresses and fax numbers with their counterparts. But you need to remain clear that your government cannot be forced. And that you have no great obligation to go along, just for the sake of building international solidarity. Your leaders can promote this understanding by voicing it out loud—not, perhaps with rude bluntness, but with enough candour to make the point.

Instead, I hear conservative politicians in Australia say that they want to reform the UN and its human rights machinery. I suppose they say this in order to sound constructive. But I doubt that they will make much difference to the way the UN operates. I doubt very much the UN is capable of being reformed. It is a club which cannot exclude anyone and must treat every member equally, so it is not a club that will ever be very congenial for countries that hold themselves to high standards.

Your government's primary job—any government's primary job—is to look after its own people. That is probably enough to satisfy most voters. Governments which set themselves global aims should be suspected of regarding

their own countries—or their own electorates—as otherwise unmanageable.

'Advance, Australia!' I don't see that this old motto has become anachronistic. America's motto, the one we still put on our money, is, 'In God we trust.' It was adopted in Lincoln's time, but it is only another way of saying that we insist on what Jefferson called our 'separate and equal station among the powers of *the earth*.' That is, we seek no international authorities to serve as intermediaries between our own sovereignty and God's. Australia may be a smaller country than the United States, but it has as much right—and probably as good prospects—of preserving its 'separate and equal station' among the sovereign states of the world. Good luck to you.

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## Endnote

### The Case of the European Union

Why has Europe gone so far down this path? Various explanations have been offered and no one factor may be enough to account for such a remarkable development. But whichever way one looks at it, there remain strong reasons to doubt that the European experience could be readily duplicated in other parts of the world.

It is often said, for example, that European states have been drawn together by a shared determination to diffuse the national conflicts that unleashed such devastating results in two world wars. If peace could be assured, however, just by submitting to regional authority, we would expect to see strong regional structures emerging in many other parts of the world. All states in the Balkans should be trying to resurrect a greater Yugoslavia, for example, while Israel and its Arab neighbours should be negotiating common institutions of a Middle East Community. But in most of the world, people expect to diffuse tensions precisely by separating hostile communities into entirely separate states.

What caused such terrible wars in Europe was not the existence of independent states, per se, but the existence of one overly large and overly aggressive state—Germany. European integration has been a way of 'integrating' Germany into a larger structure, following its catastrophic defeat in 1945. Until 1990, Germany's European partners were only dealing with a truncated West Germany, now about the same size as France. There was always a great deal of ambiguity about whether 'regional integration' was fundamentally a device for other states

to restrain Germany—or a politically acceptable mechanism for a reviving Germany to guide its anxious neighbours. No such ambiguity could be maintained in a Union of the Americas, with the United States at its core nor in an East Asian Union with Japan at its core. It remains to be seen how well the EU will now do with an enlarged and invigorated Germany at its core.

Other accounts stress the economic motivations driving European states toward regional governance. But if dismantling trade barriers were the sole concern, the General Agreement on Tariffs and Trade (which predates even the initial agreements on European economic co-operation) was always available for this purpose. The special appeal of the European process was that it allowed for a fuller reduction of trade barriers in some areas—while retaining special protective subsidies in other areas, as, notably, for agricultural products, where France insisted on special subsidies within Europe and resisted all efforts to incorporate agriculture into international trade agreements. To sustain this two-track approach, the European scheme had to be large enough to reap substantial internal efficiency gains from regional cooperation and cohesive enough for the associated states to act as a disciplined bargaining unit resisting more general liberalization schemes in the wider world. Elsewhere in the world, regional trade agreements, like the Mercusor pact in South America or the ASEAN pact in Southeast Asia, are too small to attain great bargaining strength in global trade negotiations. Or else, like

the APEC agreement of Pacific rim states, they are large enough but don't have the internal cohesion to bargain as a block in global forums.

It is true that the wealth and scale of the European scheme has brought neighbouring states into its orbit, so the original six states eventually increased to fifteen—with a further doubling in the number of states now under discussion. Less developed countries (particularly Ireland, Portugal, Spain and Greece) received extremely generous subsidies for accepting EU regulatory standards, in a period when the core members were wealthy enough—and these less affluent new members were small enough—to make such subsidies affordable. In over a decade since the collapse of communism, however, when a helping hand might have seemed most urgent for the new democracies of Eastern Europe, the EU has been extremely hesitant and sluggish about moving to embrace new members. EU expansion to the borders of Russia will likely be a quite protracted process, because the core states can't afford to subsidize so many newcomers—but still want to require new-comers to accept costly EU regulatory standards as the price for admission. The whole process of 'regional integration,' then, was much easier when half of the 'region' was frozen out by the Iron Curtain. Other parts of the world do not offer such ready-made, digestible 'regions' where policy consensus can be bought off by a core of affluent states of just the right size and scale in relation to other participants.

In the meanwhile, it is true, the emergence of a fifteen-state European Union means, in some respects, the emergence of a new superpower, with an aggregate GNP greater than that of any single

nation, including the US. Of course, that has some appeal to European officials, who, in speaking for the combined European Union, can expect to wield more influence than in speaking for any one of the member states. But on many strategic issues, the European states do not agree among themselves. During the long decades of the Cold War, European states depended on NATO—that is, on the United States—for their ultimate security, so they did not need to worry about tensions between European policy and competing national security concerns. Europe itself may no longer have this luxury as it comes to grips with the implications of current plans for a separate European military force. It is doubtful that any other region can contemplate major moves toward regional integration without worrying about differing strategic priorities of members or potential members.

Beyond such analyses, the underlying facts speak rather impressively. There are regional trade agreements and regional cooperation agreements of other kinds around the world. A number of them, like the Organization of American States, were launched before the European Economic Community that was the nucleus of today's European Union. But nowhere, apart from Western Europe, have regional organizations developed a court with the power to overrule and direct national courts; nowhere else is there a regional parliament, a regional currency, a regional flag or regional financing on the scale of the EU budget. Nowhere else have countries been ready to emulate the European experience, after several decades now of witnessing Europe's remarkable example of regional governance.

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## Further Reading

For a skeptical view of European governance as an alternative to nation-states, by a generally sympathetic historian, see Tony Judt, *A Grand Illusion?*, Penguin, 1996.

For the official manifesto of the globalist vision, see Report of the UN Commission on Global Governance, *Our Global Neighborhood*, Oxford University Press, 1995.

For a succinct statement of 'realist' skepticism toward globalization theories, see Kenneth Waltz, 'Globalization and American Power' in *The National Interest*, No. 59, Spring 2000.

For a very instructive survey of problems in implementing trade liberalization agreements through the WTO, from a scholar quite sympathetic to free trade but skeptical of WTO's institutional capacities, see Claude E. Barfield, 'More than you can chew? The New Dispute

Settlement System in the World Trade Organization', American Enterprise Institute, Washington, DC, 2001.

For a recent survey of programs and proposals for international environmental cooperation—which reflects notable caution about the prospects, despite its official sponsorship—see Pamela Chasek, ed., *The Global Environment in the Twenty-First Century: Prospects for International Cooperation*, United Nations University Press, Tokyo and New York, 2000.

For a more skeptical view of international environmental efforts, from authors with a general free market perspective, see Terry L. Anderson and Henry I. Miller, *The Greening of Foreign Policy*, Hoover Institution Press, Stanford, California, 2000.

## About the Author

**Jeremy Rabkin** is a professor in the Department of Government at Cornell University (Ithaca, NY), where he specializes in American constitutional history and contemporary international law. He received his PhD in political science from Harvard University. He serves on the Board of Directors of the Center for Individual Rights (a public interest law firm which has won several landmark cases before the US Supreme Court). He is also an adjunct scholar at the American Enterprise Institute of Washington and serves on the advisory board of the *Harvard Journal of Law and Public Policy*. His



articles have appeared in various academic journals as well as in American political forums like the *The National Interest* and *The Weekly Standard*. His opinion pieces have appeared in a variety of international newspapers, including the *Asian Wall Street Journal*, *The National Post* (Canada) and the *Australian Financial Review*. He has testified before the Senate Foreign Relations Committee in Washington and delivered an Australian Senate Lecture in Canberra, as well as lecturing at the Institute of Economic Affairs in London and the Center for the New Europe in Brussels. His most recent book is *Why Sovereignty Matters*.

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## About the Lecture

This lecture is named after the founder and Chairman of the Clough Engineering group. Hal Clough has been a leading figure in the Western Australian business community for many years and during that time has been a strong supporter of economic freedom and the Institute. As John Hyde, a former Executive Director of the Institute of Public Affairs, once remarked of Hal Clough:

he has always clearly understood that a liberal social order, including its market economy, is dependent on an ethos, an idea, without which it will not function or survive.

The Institute is proud to host an annual Perth-based lecture in Hal Clough's honour.

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Level 2, 410 Collins Street, Melbourne, Victoria 3000  
Phone (03) 9600 4744 Fax (03) 9602 4989  
E-mail ipa@ipa.org.au Website www.ipa.org.au

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