HOW TO CONSTRUCT A NEW GLOBAL ORDER[*]

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INTRODUCTION

The global political-economic order is in flux. On the political side, the relative decline of U.S. power and concomitant rise of China has upended a global system previously dominated by the United States and its allies. On the economic side, repeated financial crises, increases in domestic inequality and economic insecurity, creeping protectionism, concerns about the loss of sovereignty to trade agreements or regional integration arrangements, and tensions with China over both trade and investment have discredited the post-1990 model of hyper-globalization. New technologies—most notably in the digital realm—are creating new possibilities and pitfalls in a loosely-regulated economic and political space and the sluggish response to climate change raises serious doubts about the ability of current political arrangements to address it. Although Donald Trump's rejection of multilateralism, disinterest in democratic values, disregard for most international organizations, and confrontational approach toward China accelerated these trends, he was as much a symptom of the forces destabilizing present arrangements as an independent cause.

These developments have inspired a recent wave of commentary on the nature of international order, much of it seeking to identify the features that a future order should possess. As one would expect, these works offer a variety of predictions and prescriptions for what a future world order will or should be. Some authors defend (and hope to restore) a U.S.-led "liberal" world order, suitably adapted to current circumstances.[1] Others challenge this account of the past, question its

[1] See, among others: G. John Ikenberry, *A World Safe for Democracy: Liberal Internationalims and the Crises of Global Order* (New Haven: Yale University Press); Robin Niblett and Leslie Vinjamuri, "The Liberal Order Begins at Home," in Charles A. Kupchan and Leslie Vinjamuri, eds., *Anchoring the World: International Order in the Twenty-First Century* (New York: Council on Foreign Relations/Royal Institute of International Affairs, 2021), and Robert Blackwill and Thomas Wright, *The End of World Order and American Foreign Policy* (New York: Council on Foreign Relations, 2020)

feasibility, or propose alternatives to it.[2] Still others suggest we need new institutions or forums to manage global politics, in the hope that new norms of cooperation will eventually emerge from them.[3]

These efforts notwithstanding, the order(s) that will shape relations around the world for the remainder of this century are hard to predict with confidence. Although current structural and institutional features will constrain near-term possibilities, whatever order eventually emerges will reflect the evolving interests and relative power of the most important actors, the bargaining that occurs between them, and the impact of exogenous shocks and unintended consequences. The scope for human agency is vast and the range of plausible alternatives is considerable.

In the near term, it is easy to imagine a future world order of rigid bipolarity, where the United States and China compete intensely, decouple their national economies, and lead coalitions of like-minded states in overlapping military, political, and economic partnerships.[4] But one can just as easily imagine a more benign version of bipolarity, where the United States and China compete on a number of fronts, continue to trade with and invest in each other's economies, do not challenge the legitimacy of each other's domestic systems, cooperate on major issues where their interests aligned, and observe "rules of the road" designed to make a clash of arms less likely. Over the longer term, one can imagine a world where more authoritative global institutions address the destructiveness of modern weaponry or the risks of catastrophic climate change.[5] Nor can we rule out more malign outcomes, such as a sharp contraction in global trade, an increased number of failed states, or even a great-power war. And none of us can say with much confidence which of these visions will eventually emerge.

Those who offer blueprints for a future world order implicitly assume that one set of norms or rules must eventually prevail over rival conceptions, either because the strongest power(s) impose them on weaker states or because most global actors eventually embrace them voluntarily. Apart from the basic idea of a state-centric order, one may question whether a single global order has ever existed, and a "winner-take-all" approach to order-building is likely to exacerbate existing ideological divisions instead of mitigating them.[6] Assuming that there must

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[2] See Patrick Porter, *The False Promise of Liberal Order: Nostaliga, Delusion, and the Rise of Trump* (New York: Polity, 2020); Wang Dong, "The Case for a New Engagement Consensus: A Chinese Vision of Global Order," and Alexander Cooley and Daniel Nexon, "The Illiberal Tide: Why the International Order is Tilting Toward Autocracy," in Kupchan and Vinjamuri, eds., *Anchoring the World;* and Xi Jinping, "Let the Torch of Multilateralism Light up Humanity's Way Forward," World Economic Forum Virtual Event of the Davos Agenda, January 25, 2021, at https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1848323.shtml   y

[3] See Charles Kupchan and Richard Haass, "The New Concert of Powers," in Kupchan and Vinjamuri, eds., *Anchoring the World.*

[4] This vision of the future is sketched by John J. Mearsheimer in "Bound to Fail: The Rise and Fall of the Liberal International Order," *International Security* 43, no. 4 (Spring 2019).

[5] See Alexander Wendt, "Why a World State is Inevitable," *European Journal of International Relations* 9, no. 4 (2003).

[6] See U.S. Secretary of State Antony J. Blinken's opening remarks at his initial meeting with top Chinese officials, March 18, 2021, at https://www.state.gov/secretary-antony-j-blinken-national-security-advisor-jake-sullivan-chinese-director-of-the-office-of-the-central-commission-for-foreign-affairs-yang-jiechi-and-chinese-state-

be a single, overarching conception of order ignores the possibility that different norms or principles might prevail in different issue areas or regions, or that relations among states and other actors are more likely to be regulated by a complex, partial, sometimes inconsistent, and ever-changing set of rules, norms, and procedures.

Given these obstacles, this article takes a different approach. Instead of trying to predict what the future world order will be or defend a specific design, we propose a process by which more desirable or benign orders might be created. We recognize that if the interests of states and other key actors are sharply at odds, the resulting order is likely to be highly competitive and cooperation will be harder to achieve or sustain. But we believe the establishment of a more stable and broadly beneficial world order requires significantly less commonality in interests and values than is typically presumed. In our view, it is possible to envisage a global order that is largely peaceful and broadly beneficial yet leaves significant room for individual states to pursue their own interests and attend to their own needs.

To achieve this, we propose a "meta-regime" that presumes only minimal initial agreement among the major powers. This meta-regime is essentially a device for structuring a conversation around the relevant issues, and facilitating either agreement or accommodation, as the case may be. It is agnostic and open-ended about the specific rules to be applied in particular issue-areas. Where agreement proves impossible, as will often be the case, the objective of the meta-regime is twofold: to enhance communication among the parties and clarify the reasons for the disagreement, and to incentivize states to avoid inflicting unnecessary harm on others as they act autonomously to protect their interests. By itself, participating in this meta-regime would impose few constraints on states that want to maintain their freedom of action. Yet in favorable circumstances, our approach could facilitate significant cooperation. Equally important, it can encourage increased cooperation over time even among adversaries, as participation in the meta-regime builds trust between them.

The remainder of this paper is organized as follows. Part I defines what we mean by "world order" and describes how workable orders are established. Part II identifies the structural constraints within which any new global order will have to be created and the most important objectives it should try to achieve. Part III describes our "meta-regime" in detail and offers illustrations from contemporary economic and security affairs. Part IV demonstrates its potential value by applying it to two hard cases: 1) whether to ban or regulate the use of Huawei 5G technology in foreign countries' digital architecture, and 2) the current impasse between the United States and Iran. We also offer briefer accounts of how the "meta-regime" might deal with the issue of human mobility in a world of territorial states and the contentious question of human rights. If our approach could help address difficult issues such as these, we can be more confident that it would be useful in constructing rules and understandings when interests are more closely aligned and the level of trust is higher.

In the concluding section, we briefly consider possible objections to our approach and offer suggestions on how state and non-state actors could employ our meta-regime and transform it into a broader diplomatic initiative.

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I. WHAT IS "WORLD ORDER"?

There is no canonical definition of "world order," but common to most conceptions is the idea that relations among some set of global actors should be conducted through a set of rules or institutions that define who the key actors are and help them manage their interactions with each other.[7] Thus, Hedley Bull defines international order as "a pattern of activity that sustains the elementary or primary goal of international society." For Bull, an international society consists of "a group of states. . . that conceive themselves to be bound *by a set of common rules* in their relations with one another and share in the working of common institutions."[8] For John Mearsheimer, an order is "an organized group of international institutions that help govern the interactions among the member states," and he notes further that "*institutions . . . are effectively rules that the great powers devise* and agree to follow because they believe that obeying those rules is in their interests."[9] Henry Kissinger defines world order as "the concept held by a region or civilization about the nature of just arrangements and the distribution of power thought to be applicable to the entire world" and argues that such orders rest on "*a set of commonly accepted rules* that define the limits of permissible action and a balance of power that enforces restraint where rules break down, preventing one political unit from subjugating all others."[10] Following Kissinger, Robert Blackwill and Thomas Wright define world order "a shared understanding among the major powers to limit the potential for serious confrontation," and they claim that true "world orders" are historically rare.[11]

Scholarly discussions of the so-called liberal international order also stress the central place of rules. The theory of liberal institutionalism developed by Robert Keohane and others defines institutions as "*persistent and connected sets of rules* (formal or informal)" and John Ikenberry's many works on the subject—which build on Keohane's work—also emphasize the rules-based, multilateral nature of the Western order.[12] Beth A. Simmons and Hein E. Goemans argue that

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[7] "World order" is not even a consensus term, insofar as scholars tend to use "international order," international society" or "global order" interchangeably and inconsistently.

[8] See Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977), p. 8, 13 (emphasis added)

[9] Mearsheimer, "Bound to Fail." p. 9 (emphasis added).

[10] Kissinger dds "A consensus on the legitimacy of existing arrangements does not. . . foreclose competitions or confrontations, but it helps ensure that they will occur as adjustments within the existing order rather than as fundamental challenges to it." See his *World Order* (New York: Penguin, 2014), p. 9. In his earlier work on this topic, Kissinger saw order arising from a "generally accepted legitimacy" based on "international agreements about the nature of workable arrangements and about the permissible aims of foreign policy." A "legitimate order" was one in which no major power was so dissatisfied that it decided to pursue a "revolutionary" policy aimed at overturning the existing arrangements. The idea that order requires adherence to some set of formal or informal rules is implicit but clearly present in this conception. See *A World Restored: Metternich, Castlereagh, and the Problem of Peace 1812-1822* (New York: Houghton Mifflin, 1957), pp. 2-3.

[11] Blackwill and Wright, *End of World Order and American Foreign Policy*, p. 5.

[12] See Robert O. Keohane, "International Institutions: Two Approaches," *International Studies Quarterly* 32, no. 3 (1988); also idem, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton

"[a]ny intergroup order must be defined by *rules of group membership* and *rules of political authority*" and even critics of the standard accounts of the "liberal" order see it as defined by rules, norms, and institutions imposed by the strongest state(s).[13]

We conceive of world order in similar fashion. Any system of interdependent groups requires a basic "operating system"—a set of rules to manage trade, investment, communication, the moment of people, the conduct of diplomacy, the use of force, and a vast array of other issues. At the most general level, orders begin with "constitutive norms" that establish who the key actors are and define what they are collectively empowered to do. In today's world, for example, states recognize each other as the ultimate sources of authority over particular geographic areas. Despite vast differences in power, size and wealth, the norm of sovereign equality gives all states equal status for many purposes and grants all of them privileges that other political and economic actors are denied.[14] Having acknowledged each other's legitimate authority, states jointly create specific "regulative norms" to manage their interactions more effectively.[15]

Orders vary along several dimensions. *International* or *global* orders include all the major powers and typically cover the entire world; *bounded* orders apply to only a subset of states. A *thin* order will cover relatively few issues and place few constraints on what members may do; *thick* orders typically cover a wider range of economic or military activities and contain more extensive and specific rules. *Ideological* orders contain members who share similar governing principles; *agnostic* orders contain states with different domestic regimes or core values.[16] Orders may be organized *multilaterally* (i.e., according to rules that are equally binding on all its members), or *bilaterally* (i.e., where different rules apply to each dyadic relationship).[17]

University Press, 1984); and G. John Ikenberry, *After Victory: Institutions, Strategic Restraint, and the Building of Order after Major Wars* (Princeton: Princeton University Press, 2000).

[13] See Beth A. Simmons and Hein E. Goemans, "Built on Borders: Tensions with the Institution Liberalism (Thought It) Left Behind," *International Organization* (2021) emphasis added. In his critique of the postwar liberal order, Patrick Porter emphasizes how the United States used its power to pressure other states into complying with the rules it preferred, even if it also violated them when it wished. See his *False Promise of Liberal Order;* also Lloyd Gruber, *Ruling the World: Power Politics and the Rise of Supranational Institutions* (Princeton: Princeton University Press, 2000).

[14] The annual revenues of Apple or Google vastly exceed the GDPs of Kenya or Ethiopia, but it is permissible for the latter to declare war on a rival—for purposes of self-defense--and to kill members of the opponent's armed forces in that context. It would be a criminal act—and nearly unthinkable—for Apple or Google to defend its market share in the same way.

[15] On the two types of norms, see Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 50, no. 4 (Autumn 1998)

[16] On these distinctions, see Mearsheimer, "Bound to Fail," pp. 9-16.

[17] See John G. Ruggie, "Multilateralism: Anatomy of an Institution," *International Organization* 46, no. 3 (Summer 1992). China's tributary system in East Asia (1300-1800 A.D.) and Nazi Germany's economic relations with Eastern European states in the 1930s consisted of overlapping sets of bilateral ties, whereas the postwar capitalist order was multilateral. Similarly, NATO is a multilateral institution that commits all members to defend the others, but America's "hub-and spoke" system of Asian alliances consists of separate bilateral treaties linking each partner to the United States but not to each other. On the Chinese and Nazi examples, see Kang, *East Asia before the West;*

Orders invariably reflect the underlying balance of power, because major powers will prefer rules that will preserve or improve their positions and oppose arrangements that might leave them poorer or more vulnerable over time.[18] Because states also recognize that the rules of an order will favor some actors more than others and are likely to endure for some time, creating new institutions often requires long and contentious negotiations.[19]

To succeed, the arrangements that make up an order must form a "semi-stable equilibrium" in the sense that none of the major actors has sufficient incentive to abandon them unilaterally, even if some or all participants violate some of the rules on occasion.[20] We refer to them as "semi-stable" to acknowledge that the central features of any order are not permanent. Balances of power will change over time, unforeseen problems will arise and require new solutions, and states (and other actors) will adapt or reframe existing norms and rules to promote their evolving interests.[21] Even basic constitutive norms—such as the principle of sovereignty itself—are not immutable.[22] Changing conceptions of the state have placed new limits on what states are legitimately able to do and conferred obligations upon them that did not previously exist.[23]

and Larry Neal, "The Economics and Finance of Bilateral Clearing Agreements: Germany 1934-38," *Economic History Review* 32, no. 3 (August 1979)

[18] They may also reserve formal or informal privileges for themselves. The position of Supreme Allied Commander (SACEUR) in NATO has always been occupied by an American officer and the managing director of the International Monetary Fund has always been European while its first deputy director has always been American.

[19] It is no accident that the order-building efforts that followed the Napoleonic Wars, World War I, World War II, and the Cold War involved lengthy negotiations in which the interested parties tried to secure their long-term interests.

[20] U.S. efforts to create a global liberal order after the Cold War failed because no such equilibrium emerged: China and Russia and other authoritarian states successfully resisted U.S. pressure to join a U.S.-led liberal order and countries such as India, Brazil, Turkey, Hungary, Poland, Israel, and others eventually deviated from core liberal principles. See Tanja A. Borzel and Michael Zurn, "Contestations of the Liberal International Order: From Liberal Multilateralism to Postnational Liberalism," *International Organization* (2021); Mearsheimer, "Bound to Fail," and Stephen M. Walt, *The Hell of Good Intentions: America's Foreign Policy Elite and the Decline of U.S. Primacy* (New York: Farrar Straus & Giroux, 2018), chap. 2.

[21] As Ian Hurd points out, international law is not a set of fixed, neutral rules that states either comply with or not; it is better understood as a set of tools and/or norms that states invoke to justify their own conduct, persuade others that what they are doing is legitimate, and realize other particular objectives. In his words, "international law is often much more successful at constituting and legitimating government policies than at positively distinguishing between compliance and noncompliance. The international rule of law is thus a permissive regime as much as a constraining one, and its relations to power is more complicated than standard assumptions acknowledge." See his *How to Do Things with International Law* (Princeton, NJ: Princeton University Press, 2017), p. 3.

[22] Sovereign states were once regarded as the ruler's personal possession ("*L'etat, c'est moi*") but after the Congress of Vienna, "the state itself had now become the subject of sovereignty, a kind of moral person, and its prince had become essentially the executive organ of that sovereignty." Paul W. Schroeder, *The Transformation of European Politics* 1763-1848 (London: Oxford University/Clarendon Press, 1994), pp. 578-79.

[23] For example, states are now expected to provide for citizens' health and education in ways that monarchs of the *ancien regime* were not. Similarly, debates over the doctrine of the Responsibility to Protect (R2P), the invocation of "universal jurisdiction" to prosecute crimes against humanity, or the evolving right of individuals to sue foreign

Sometimes this process of adaptation is gradual and fairly smooth; at other times—as in the aftermath of major wars or revolutions—it will be violent, discontinuous, and more consequential.[24]

II. STRUCTURAL CONSTRAINTS AND NORMATIVE OBJECTIVES

Constraints

What are the enduring features or structural constratins in which a new global order must be created? In other words, what aspects of global politics and economics are unlikely to change in the short-to-medium term, even as more malleable elements are negotiated or refined?

1. *States.* We assume the territorial state will remain the basic "building block" of global politics. To be sure, a future global order will need to acknowledge and accommodate the role of many different actors, not only states but also multinational corporations, transnational social movements, international NGOs, and possibly others. The presence of these actors complicates the landscape of international relations, creates a multitude of interests that do not align neatly with existing borders, sometimes renders state action less effective, and creates ways to reach desirable social and economic objectives without relying on governments.

Even so, territorial states will remain paramount. The number of independent states has increased steadily since 1945, which suggests that different national or ethnic groups continue to crave the security and autonomy that self-government can provide. Moreover, corporations, banks, and NGOs are ultimately backstopped by rules enacted and enforced by governments. Put crudely, if corporations have privileges such as limited liability or legal personhood, it is because states have given these to them. International organizations such as the United Nations, World Bank, or World Trade Organization may possess a certain amount of independent agency, but they owe their existence to commitments by states and depend upon them for their budgets, legitimacy, and other resources. When emergencies occur, citizens look to governments for assistance and protection, even if private actors also play important roles. Individuals may feel a powerful sense of attachment toward their employer, religion, ethnic group, tribe, etc., but nationalism is the most powerful form of political identity today and its hold on most of the world's population is unlikely to erode any time soon.

2. *Polarity.* Although there is no consensus on whether the United States or China will be stronger in the decades ahead, there is broad agreement that these two countries will be significantly stronger than any other states in the system. Accordingly, the structure of material power for the next several decades will be either *bipolarity* (with the United States and China as the two poles) or highly uneven *multipolarity,* with Russia, Japan, India, Germany and possibly some other states occupying significantly weaker positions among the major powers.

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governments in domestic courts illustrate how a principle as fundamental as sovereignty continues to evolve. See Leslie Johns, "The Diverging Theory and Practice of International Law," in William R. Thompson, ed., *Encyclopedia of Empirical International Relations Theory* (London: Oxford University Press, 2018), and more broadly, Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton: Princeton University Press, 1999).

[24] See especially Robert Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University Press, 1981).

Two implications follow. First, no single power will be able to write and enforce all the rules of a future order by itself. The United States was easily the most powerful state after World War II and again at the end of the Cold War, but it could not get everything it wanted in either period. Because successful orders require consensus and willing compliance, reaching a semi-stable equilibrium requires all significant actors to get at least some of what they want, so that they are not trying to evade or overturn an agreement as soon as it is reached.

Second, the character of a future global order will depend to a considerable extent on the state of relations between the United States and China. Any order that does not adequately address this particular axis has no chance of being a "global" order. If the U.S. and China are able to reach a modus vivendi in several important areas, however, prospects for a more benign global future increase significantly.

This is not to say that other states will be unimportant. Indeed, as discussed below, there are important realms where cooperation must include most, if not all, of the states in the system. Moreover, countries such as Russia or India and actors such as the EU are bound to play important independent roles in some important policy areas. Even in a world order that is heavily shaped by relations between the two most powerful states, what other countries choose to do will matter.

3. *Interdependence.* Even if some states curtail interactions with certain countries or attempt to become self-sufficient in some domains, we assume most states will continue to seek mutual gains from international trade and investment. As discussed below, preserving this feature in a future world order is highly desirable. States will be interdependent in other ways as well: pollution and pathogens will not respect national borders, climate change affects the entire planet, and political events and natural disasters will sometimes spill across national boundaries. No country—not even North Korea or Myanmar—will be able to cut itself off completely from the rest of the planet.

4. *Ideological Diversity.* Finally, we assume that the construction of a future world order will occur in a world where different states (and non-state actors) hold substantially different visions for how human societies should be organized and governed. Democracies and autocracies will co-exist despite disagreements on core political principles, but there will also be significant variation among capitalist democracies or among different autocracies over the proper balance between governments and markets, the status of women or minorities, the role of religion, etc. Constructing a stable world order cannot depend on the assumption that all states (or even all the major powers) will adopt similar political-economic models.[25]

Objectives

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[25] A degree of ideological diversity may be desirable in itself, insofar as it insures that different societies are free to experiment with different solutions to common problems. As Roberto Unger puts it: "humanity develops its powers only be developing them in different directions. Each form of national life, embodied in distinct practices and institutions, represent an experiment in how to be human." See Roberto Mangabeira Unger, "Governing the World without World Government" (unpublished ms., 2021).

Given these basic assumptions, what objectives must a future world order try to achieve? We believe the following goals would be shared by most if not all countries in the world.

1. *Preserving Conditions for Sustained Human Existence.* A *sine qua non* for any desirable world order is that it help preserve the conditions necessary to sustain human life on Earth. Climate change is the most obvious near-term challenge to this objective, but it may also include other aspects of sustainability, such as adequate access to water or protection against future pandemics. No world order can guarantee that these goals will be reached, but it should at a minimum facilitate efforts to ensure that nearly all the areas of the planet that are currently inhabited by humans remain habitable for the foreseeable future.[26]

2. *Minimizing the Risk of Major War.* It should be equally uncontroversial to prefer a future global order that reduced the danger of war, and especially conflicts involving weapons of mass destruction. The economic and political rise of China has called into question some features of the existing status quo, and rapid shifts in the distribution of power have fueled major conflicts in the past.[27] Efforts to construct a future world order will likely require the U.S. and its allies to recognize and accept both the increased power and influence of China in certain domains and the fundamentally different nature of its political-economic regime, even as they seek to protect their own interests and limit Chinese influence in other ways. At the same time, China will have to recognize that using its power to undermine other countries' core national and economic interests will inevitably trigger greater global opposition and increase the risk of violent conflict. The question, therefore, is how strategic competition between the United States and China is to be managed?[28]

3. *Managing the Movement of Goods, Capital, Information, and People.* Societies that cut themselves off from international intercourse tend to be poorer than countries that are open to trade, investment and other forms of exchange. A return to extensive protectionism would leave all countries worse off, as would a deliberate effort to completely decouple the U.S. and Chinese economies. Limiting dense economic ties to regional trading blocs or other bounded orders would also sacrifice some of the gains that more open orders produce.

Ideally, a future world order should preserve a considerable degree of international openness, while remaining sensitive to different national preferences and minimizing the disruptive effects

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[26] This goal may be ambitious. Scientists at MIT recently warned that increased heat and humidity could render the North China Plain, currently home to some 400 million people, uninhabitable by the end of this century. Similar problems could arise in the Persian Gulf and portions of South Asia. See Suchul Kang and Elfatih A. B. Eltahir, "North China Plain Threatened by Deadly Heatwaves due to Climate Change and Irrigation," *Nature Communications* 9, no. 2894 (2018).

[27] See Stephen M. Walt, "Rising Powers and the Risks of War," in Asle Toje, ed. *Will China's Rise Be Peaceful?: The Rise of a Great Power in Theory, History, Politics, and the Future* (New York: Oxford University Press, 2018).

[28] For a proposal that is largely consistent with our approach, see Kevin Rudd "Short of War: How to Keep U.S. China Confrontation from Ending in Catastrophe," *Foreign Affairs* 100, no. 2 (March/April 2021).

produced by "hyper-globalization."[29] In particular, human welfare will be improved if the international economic order facilitates cross-border trade and investment through arrangements that allow individual nations some latitude to control the pace of change and to preserve their own political values or "ways of life."

A new global order must also address the economic, political, and social effects of the digital revolution. There is at present no global consensus or agreement regulating communications flows across borders, individual privacy, the malign exploitation of cyberspace or digital infrastructure by governments, corporations, criminals, or political extremists, or the negative side-effects of more benign online activities. National and regional efforts to address these issues are already diverging, raising the possibility that the digital world will soon divide along geographic or ideological lines.[30]

Lastly, a future global order must also regulate movements of people.[31] In addition to accommodating tourism or business travel, states also face the more challenging problems raised by legal and illegal immigration, refugee flows, and requests for asylum or extradition. Large-scale movements of people can be beneficial in many circumstances. Cross-border mobility of workers can produce significant economic benefits, if managed well. But these can also be a source of serious disruption. Tourists can spread disease, criminal organizations profit daily from human trafficking, and extremist organizations have sometimes recruited followers from many countries. Immigrants and refugees can trigger xenophobia in destination countries and generate increased support for repressive nationalist movements.

To date, states have jealously guarded the power to determine the conditions under which foreigners can enter or remain in their territory, but developing more effective rules to preserve the benefits of allowing people to move while minimizing the negative consequences is clearly an imperative, especially as climate change, labor shortages, demographic pressure, and civil conflicts encourages more people to move. We discuss these issues at greater length in Part IV.

4. Respect for human rights. A stable global order in which nations are able to reap mutual gains from economic exchange, limit the risk of war, and address issues of the global commons need not be indifferent to human rights, despite the lack of consensus on how such rights should be defined and defended.[32] Given that some conceptions of rights may threaten certain states' core values or domestic stability and make them less willing to cooperate in other areas, there is

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[29] See Dani Rodrik, *Straight Talk on Trade: Ideas for a Sane World Economy* (Princeton: Princeton University Press, 2017).

[30] See Shira Ovide, "The Internet is Splintering, *New York Times,* February 17, 2021, at https://www.nytimes.com/2021/02/17/technology/the-internet-is-splintering.html?

[31] For a good discussion of present arrangements, see Rey Koslowski, ed., *Global Mobility Regimes* (New York: Palgrave, 2011).

[32] For example, China rejects the liberal norms of individual freedom and democracy, and especially the claim that such rights are universal and should therefore be enjoyed by all human beings. Instead, China emphasizes the right to economic security and the right of different peoples to adopt political systems that best reflect their cultural and historical experiences.

an inescapable tension here that will need to be addressed. In particular, states committed to particular political values must find ways to distance themselves from or even oppose actions that violates these principles, but without provoking unwanted levels of conflict, signaling the desire or intent to impose its preferred set of values on other legitimate states, or making human rights conditions as they define them worse.

III. A "META-REGIME" FOR CONSTRUCTING WORLD ORDER

We turn now to describing our proposed "meta-regime." It is essentially a framework intended to help states achieve the goals just discussed, given the set of near-to-medium-term constraints described earlier. We take prevailing "constitutive norms"—such as state sovereignty—as given but remain agnostic about the specific constellation of rules that states ultimately agree to observe.

The threshold condition for participation in our meta-regime is that states agree on the desirability of a four-fold classification of policies, but without having to agree in advance on which actions or issues belong in each category. We first provide quick descriptions of the four categories, followed by a more detailed discussion of each one.[33]

Category 1 refers to actions that all parties agree are illegitimate or wrong or that contravene principles that all are willing to accept. These actions entail harms imposed on other states that cannot plausibly be justified by economic or national security considerations of the state that causes them. Such policies and actions would be prohibited.

Category 2 contains policies that do not fit in the previous category—because of insufficient agreement on whether the action in question is clearly illegitimate—but for which positive-sum solutions may still be possible. If State A adopts a policy that is harmful to State B, the two parties may be able to negotiate a mutually beneficial bargain that leaves both better off. Such a bargain might involve State B offering a concession in another domain in return for State A revoking the harmful policy. We call this the "cooperative negotiations" category.

Category 3 refers to policy domains where mutual adjustment proves impossible and each state resorts to its own independent policy action. When two or more states are unable to reach a mutually beneficial bargain, each is understood to be free to adopt "well-calibrated" national actions to further national goals or reduce the harm to its own interests. When these actions are responses to other states' behavior, such responses should be clearly linked to the damage being done by the other side's policies, and intended solely to mitigate its negative effects. In

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[33] This framework is based on *U.S.-China Trade Relations: A Way Forward* (2019), available at https://www.inet.econ.cam.ac.uk/files/us-china_trade_joint_statement_2019.pdf, an initiative of legal scholars and economists led by Jeffrey S. Lehman, Dani Rodrik, and Yang Yao. Like our current project, that report sought to define a middle ground between the view that China should be forced to undertake major domestic reforms in the areas of intellectual property, state intervention in the economy, etc., and become more like the rest of the OECD, and the view that the United States and China should "decouple" their intertwined economies almost entirely in order to preserve their preferred domestic orders. The report laid out a third option, one intended to preserve many of joint benefits of trade while allowing each side "considerable latitude at home to design a wide variety of industrial policies, technological systems, and social standards."

particular, countervailing policy responses should not be undertaken for the express purpose of punishing the other side or weakening it in the long run. Nor should failure to reach an acceptable compromise in one area be used as a pretext to retaliate in a different and unrelated domain. We call this the "independent response" or "autonomous action" category.

Lastly, *Category 4* ("multilateral governance") deals with situations where A's policies toward B have significant spillover effects on C, D, or others. Under these circumstances, an effective response will require involvement and buy-in by most if not all of the states affected, perhaps under the aegis of a formal multilateral institution. We anticipate a similar process as outlined under Categories 1-3 to apply, but multilaterally.

Instead of viewing relations between states as one of either "rivalry" or "cooperation," this framework also encourages us to distinguish among 1) issue areas where there may already be considerable agreement, 2) areas where differences now exist but are at least potentially resolvable through negotiation and adjustments, and 3) areas where independent national responses can protect particular national interests without escalating the level of conflict unnecessarily. Moreover, the process of determining which issues belong where can serve a useful function insofar as it encourages rivals to explain their actions, clarify their motives, and justify their decisions. If doing so prevents conflicts both sides would like to avoid, it also serves their longer-term interests. In this way, the meta-regime can help "bootstrap" a level of cooperation that might not have occurred otherwise.

The categories in which a particular policy or issue is handled will be influenced by the overall state of relations between the interested parties, their relative power, and their particular interests. Between major power rivals, for instance, one would expect relatively few issues to land in Category 1 and most to end up in Category 3. Among allies with similar values, by contrast, Categories 1 and 2 will be fairly full and Category 3 will contain fewer issues.

Of course, even under this scheme there will undoubtedly be issues that remain irreconcilable and that continue to poison inter-state relations. We also recognize that states will sometimes adopt policies with the express purpose of weakening a rival or gaining an enduring advantage over it. This feature of international politics does not disappear under our approach, either for the major powers or for many others. Nonetheless, our framework offers a path for guiding as many contentious issues as possible toward one of our categories, thereby rendering them less malign for the international order.

Viewing relations in this way should facilitate preserving those areas where cooperation remains necessary and mutually beneficial, even in an era characterized by rising competition. The United States and China could use this framework to set their bilateral diplomatic agenda, for example ,and it could also guide relations between the United States and the countries with which it is likely to be more closely aligned. Moreover, the framework allows for a dynamic evolution of the degree of cooperation between adversaries. A conversation structured along the lines we propose enables parties to establish reputations, develop a degree of trust, and better understand the preferences and motives of each other. Ideally, Categories 1 and 2 would become more densely populated as a result.

This approach has the additional advantage of being applicable to both economic and security issues. To illustrate this feature, we now discuss each category in more detail.

Category 1: (The "prohibited" category)

This category would contain policies that are understood by all parties to be illegitimate or wrong. At a minimum, prohibited actions might include commitments made under the United Nations Charter, such as the ban on the acquisition of territory by conquest in Chapter II and the various restrictions regarding the legitimate use of armed force in Chapter VII. The Decalogue to the 1975 Helsinki Final Act or the Geneva Conventions and Additional Protocols offer other illustrations of this type of injunction.[34] Although states violate these norms with some frequency, they typically do so either by denying or concealing the violation or by claiming that special circumstances justify an exception. Such rhetorical maneuvers confirm that violators themselves recognize that these norms have prescriptive and evaluative force.

Other examples within the "prohibited" category might include direct violations of the principle of diplomatic immunity (e.g., attacks on embassies, consulates or the unlawful detention of diplomatic personnel) or an attack on another country's ships or aircraft on the high seas or in international airspace. A less formal prohibition (akin to the informal restraint that the United States and Soviet Union showed toward each other during the Cold War) would be a norm that major powers should avoid direct military engagements with military personnel of other major powers.[35] The actual use of a weapon of mass destruction (and especially a nuclear weapon) belongs in this category as well, despite the lack of formal international convention against it.[36]

Most importantly, there is little or no disagreement between the United States, China, and other major powers on these principles. To say that certain actions are proscribed by formal agreements or informal norms does not mean that violations never occur; it simply means that the major powers understand where lines have been drawn and recognize that crossing them is a non-trivial act. There will inevitably be gray areas where major powers disagree on whether an agreed-upon norm applied: for example, China regards Taiwan as an invisible part of its national territory and would view military action against Taiwan as permissible under international law, but the United States (and many other countries) would interpret an attack as an illegal act of aggression. Furthermore, a consensus that certain actions are illegitimate and formally prohibited does not preclude the use of salami tactics, hybrid warfare, or other measures designed to evade

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[34] Among other things, the signatories of the Helsinki Final Act agreed to respect each State's sovereign equality, to refrain from a) the threat or use of force, b) any attempt to alter existing borders by force, and c) any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State." See "Helsinki Decalogue/Final Act of the Helskinki Conference," August 1, 1975, at https://www.cvce.eu/content/publication/2005/7/12/1bccd494-0f57-4816-ad18-6aaba4d73d56/publishable_en.pdf

[35] More recently, Russian and U.S. forces operating in or near the Syrian civil war have tried to avoid direct engagement or accidental exchanges with each other.

[36] See Nina Tannenwald, *The Nuclear Taboo: The United States and the Non-Use of Nuclear Weapons since 1945* (Cambridge: Cambridge University Press, 2008).

or "design around" an existing norm. To repeat, such evasions are themselves a tacit acknowledgement that the "lines matter."

In economic relations, there are good reasons for states to prohibit what economists call "beggar-thy-neighbor policies."[37] These are defined as "policies that seek to increase domestic economic welfare at the expense of other countries' welfare."[38] The key notion here is that the benefit at home comes "at the expense of other countries." Unlike other domestic policies that may also entail negative repercussions for others, "beggar-thy-neighbor" policies create domestic gains only to the extent that other nations lose.

An example can clarify what is at issue. Consider two different policies, a production subsidy and an export tax. Both policies can hurt a trade partner: in the first case, because the partner's own firms may experience a competitive disadvantage, and in the second case because the partner's firms using the taxed product as an input now face higher input costs. However, under many realistic conditions the production subsidy cannot be considered a beggar-thy-neighbor policy because the benefits that the home country expects to obtain does not depend on harm being done to its trade partners (and can be reaped even if there is no harm). For example, the objective for the subsidy may be to internalize technological learning externalities, which can be achieved regardless of the impact on other countries. The export tax, by contrast, is a beggar-thy-neighbor policy when the home country has global market power in the product in question. The benefits that accrue to the home economy in this instance arise directly from the (terms-of-trade) losses suffered by other countries. There would be no gains at home without the costs imposed abroad.

The latter possibility is far from hypothetical. Starting in the 2000s, China implemented a range of export restrictions on rare earth minerals, for which the country is a globally dominant supplier. The restrictions sharply raised prices in other markets.[39] Other examples of beggar-thy-neighbor policies include global tax havens (i.e., where corporate tax rates are set artificially low in order to attract shell companies, at the expense of tax revenue in those corporations' home countries) and mercantilist currency policies (i.e., the deliberate undervaluation of the currency in order to expand employment at home at the expense of unemployment abroad).

A second critical feature of beggar-thy-neighbor policies is that they are negative sum for the world as a whole. In the export restrictions case, for example, non-competitive conduct creates a

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[37] The term "beggar-thy-neighbor" is sometimes used to describe *all* policies that have adverse effects on other nations. We use it in a narrower sense, to apply to actions where the intended doemstic benefits are the direct result of the harms imposed on others – where those benefits would not accrue in the absence of the cross-border harms generated. Many domestic policies create negative cross-border spillovers without being "beggar-thy-neighbor" in our sense. Making this distinction is necessary, because otherwise the remit of "beggar-thy-neighbor" policies would be impossibly broad, as we discuss further under Category 3.

[38] Kenneth A. Reinert, Ramkishen S. Rajan, Amy Jocelyn Glass, and Lewis S. Davis, eds., *Princeton Encyclopedia of the World Economy* (Princeton: Princeton University Press, 2009).

[39] Chinese restrictions were eventually revoked after the World Trade Organization ruled that they were inconsistent with trade rules. See Congressional Research Service, "Trade Dispute with China and Rare Earth Elements," June 28, 2019, at https://crsreports.congress.gov/product/pdf/IF/IF11259

market inefficiency. Except for a few special cases, all countries would hurt if they were all free to engage in those policies.[40] For example, the U.S. might respond to China's export restrictions on rare earths by imposing an export tax on agricultural products on which China relies, leaving both countries worse off. The general prohibition of such policies can be motivated on the basis of self-interest of the parties themselves, without having to rely on global norms.

In the real world, of course, states may legitimately or opportunistically disagree over whether a particular economic policy neatly fits into the beggar-thy-neighbor category. For example, a country maintaining very low corporate taxes can argue that the objective is not to act as a tax haven but to stimulate domestic investment, regardless of source. The U.S. might brand certain Chinese industrial policies as beggar-thy-neighbor efforts to seize market share from overseas companies that are more efficient, whereas China may describe those same policies as developmental policies intended to stimulate domestic economic growth. China may brand U.S. restrictions on inward investment by Chinese companies as a beggar-thy-neighbor effort to prevent access to advanced technologies, while the U.S. may view those same policies as critical for protect national security. Such disagreements will surely arise. But the framework proposed here provides a conceptual vocabulary for discussing whether such policies are per se problematic (i.e., beggar-thy-neighbor). In the case of blatant beggar-thy-neighbor policies, refusal to accept them as such and leaving them in place would come at some reputational cost, undermining a state's negotiating capital and drawing opprobrium from third parties (other states, private entities such as corporations, and professional legal and economics communities).

Category 2: (The "cooperative negotiations" category)

This category contains areas where the United States, China, and some other countries have conflicting polices and/or interests, but where each has reason to believe it could get the others to alter their behavior in exchange for other concessions or adjustments.

In economics, there are many policies that fit in this category. A classic example is import restrictions that are maintained not to exercise market power on world markets—i.e., are not beggar-thy-neighbor—but rather for domestic political reasons such as protecting profits or employment in a particular domestic industry. A trade partner might offer to remove its own tariffs in industries of interest to the first state's export industries in exchange for the elimination of these restrictions. When both states expect to be better off in the absence of the relevant import barriers, they can strike a bargain. Or take the case of the subsidy discussed earlier. The adversely affected trade partner may offer the subsidizing state the following deal: I will relax some of the foreign investment regulations to enable greater market access for your companies if you remove the subsidies you are providing to domestic firms. Such exchanges are the basis for most trade agreements, and the reasoning continues to apply even when states are adversaries in military or geopolitical realms, unless one of the parties gains significant advantages from maintaining the trade barriers in question.

Within the security realm, arms control negotiations are a perfect illustration of mutual policy adjustment. Through negotiations, rivals may be able to reach agreements that eliminate specific

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[40] There are exceptions. For example, when countries are very asymmetric in size, it is possible for the larger country to be better off in a retaliation equilibrium than in the free trade equilibrium.

areas of vulnerability (thereby making both more secure) and that allow them to devote resources that might have been spent on armaments to other needs. It is easy to think of other examples: the United States and Soviet Union jointly sponsored the 1967 Non-Proliferation Treaty, based on their shared interest in limiting the size of the nuclear "club," and the two superpowers subsequently negotiated the 1972 Incidents at Sea agreement, which reduced the risk of mid-ocean collisions between U.S. and Soviet naval vessels. More recently, Russia and the United States worked together to improve nuclear weapons safeguards and make it more difficult for terrorists or other unauthorized personnel to obtain a nuclear weapon or fissionable material. In theory, one could also imagine the United States, China, or other major powers jointly agreeing to limit certain military deployments or activities—such as reconnaissance operations near each other's territory—in exchange for adjustments by the other side.

Category 3: (The "independent response/autonomous action" category)

If two or more states cannot reach a mutually beneficial agreement, then each will try to protect its interests through its own actions (possibly subject to some of the prohibitions contained in Category 1). For this reason, international politics is sometimes described as a "self-help" system.[41]

In economics, self-help will naturally apply in a large number of policy domains where nations have different preferences and mutually acceptable bargains may not be available. Such outcomes are already the default option in a wide range of areas that have not been internationalized even though cross-border spillovers do exist.

Consider what may appear to be trivial examples of domestic policy: highway speed limits and education policies.[42] Both sets of policies can create adverse effects on some trade partners: a speed limit that is set relatively low reduces that country's demand for oil on world markets and harms the interests of oil exporting nations; a country that accumulates more human capital by spending more on education reduces the gains from trade of other countries with which it competes in skill-intensive products. Yet states consider themselves entitled to full autonomy in both domains: no country has ever threatened to retaliate against another because the latter reduced its speed limit or started devoting more resources to educating its population.

The same principle applies to many areas of consumer and product safety, regardless of implications for trade partners. For example, most states have detailed regulations that producers have to meet in order to be allowed to sell in their market. A foreign automaker or toy producer has to abide by the relevant regulations in each country in order to offer its goods for sale in that market. It is also widely accepted that a country with strict carbon control measures at home could apply a border tax adjustment (i.e., an import tariff) on carbon-intensive imports from countries without such controls.

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[41] The conception is elaborated most fully in Kenneth N. Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979), pp. 91, 105-107, 118-19.

[42] These and other examples are discussed in Dani Rodrik, "Putting Global Governance in its Place," <u>World Bank Research Observer</u> 35, no. 1 (February 2020).

In each of these areas states have reserved the right to keep non-abiding foreign producers out of its national market in order to uphold the regulations it sees fit for its own national circumstances. They also retain the right to block international arbitrage through trade and investment flows from undermining national standards. This principle could be justifiably extended to prevent international arbitrage of corporate taxation, labor standards, financial regulations, environmental regulations, etc., that leads to an undesirable "race to the bottom."

Although protecting domestic standards and regulations is a permissible and legitimate objective, using domestic economic policies in a punitive fashion or to force other nations to alter their own national policies is much less so. Hence Category 3 legitimizes policy autonomy only to the extent that is targeted at domestic objectives and is "well-calibrated." In our scheme, it is permissible for a state to ban imports of toys above a certain lead content to protect domestic children, in line with its own cost-benefit calculus. But it is not permissible to use the import ban to force other other countries' to alter their own lead-content regulations or to use them to escalate a trade war and extract other concessions from the target country. Although it may be difficult to distinguish the two cases in practice, there is an important difference in principle. The Trump administration's trade war with China clearly violated this principle, for example, as statements by Trump and other U.S. officials made it clear that the intent behind their trade restrictions was essentially coercive.

Major powers typically rely on their own national efforts in matters of national security, although they may cooperate with and fight alongside allies when necessary.[43] If arms control efforts fail, rival states will strive to enhance their own defense capabilities and conduct R&D designed to gain or preserve a technological edge. Rivals will engage in espionage to steal military secrets, or to gain other advantages. Rivals will also try to increase their influence with other key countries, form alliances with some of them, or undermine the cohesion of an opposing coalition. As long as there is no central authority to protect states from each other, great power competition is not going to stop.

In theory, competitive activities such as these could be addressed in the Category 2 ("cooperative negotiations") but meaningful agreements on many of these issues will be difficult to achieve or sustain.[44] Arms control agreements between the United States and Soviet Union eventually reduced both sides' arsenals significantly, but the process was long and contentious and did not eliminate the ability of each side to completely destroy the other or curtail efforts to achieve nuclear superiority.[45] Moreover, some of these agreements (such as the 1972 Anti-Ballistic Missile Treaty) were subsequently abandoned.

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[43] See Joseph Parent and Sebastian Rosato, "Balancing in Neorealism," *International Security* 40, no. 2 (Fall 2015).

[44] The early 19th century Concert of Europe is often invoked as an example of a cooperative regime that sought to minimize great power competition, but key elements of the Concert broke down in less than a decade.

[45] As former Secretary of Defense Harold Brown observed in 1983, "the achievements of arms negotiations to date have been modest indeed, as are their immediate prospects. . . . In all, not much to show for thirty-five years of negotiations and twenty years of treaties." Harold Brown, *Thinking about National Security: Defense and Foreign Policy in a Dangerous World* (Boulder, CO: Westview Press, 1983), p. 185.

As in the economic domain, our meta-regime calls for national responses to a foreign security challenge to be "well-calibrated." In particular, the chosen remedies should be proportional to the harm inflicted by another state's potentially threatening actions (including its own efforts to increase its military power, recruit new allies, etc.). This recommendation is intended to guard against the danger of a tit-for-tat spiral of escalatory steps that goes beyond whatever measures are necessary to guarantee a particular state's independence and autonomy.[46]

However desirable this principle might be in the abstract, operationalizing it in the area of national security is challenging. What one country judges to be a prudent and well-calibrated response may appear to an opponent to be a dangerous and unnecessary provocation. Moreover, rivals are likely to prefer a margin of superiority in their favor to an even balance of power and each will be tempted to overreact when faced with some new and worrisome action by the other. Weapons manufacturers, the military, hawkish pundits, and rival politicians are likely to exaggerate foreign dangers, making "well-calibrated" responses even harder to implement.

Despite these obstacles, rival states might voluntarily prefer to limit their responses in certain ways. Even without a formal or informal agreement that placed certain acts into the "prohibited" category, contemporary great power rivals may still recognize that threatening an opponent's political stability, territorial integrity, or national survival will provoke worst-case fears on the other side, shrink the number of areas or issues on which it would be willing to compromise or cooperate, and raise the risk of war.

In the case of the United States and China, fundamental differences in basic political values may make each more likely to react in a "well-calibrated" fashion. Alternative political systems can threaten others merely by existing, because their presence provides an alternative model that may call into question the legitimacy of other systems or inspire reformers or rebels inside the rival society. This problem will be especially challenging for states founded on universalist principles (such as the claim that all human beings possess certain inalienable rights), as such claims by their nature transcend political borders. Even if the U.S. government never lifted a finger to promote those ideals abroad, America's presence as an embodiment of these ideals (however imperfectly realized) may be seen as threatening to governments based on different values. Similarly, Chinese claims that its version of state-directed capitalism is better suited to twenty-first century challenges than Western-style liberal democracy will magnify concerns in the West.

Furthermore, it is hard to imagine that political communities in either the United States or China (or many other countries) could consistently stay "on message" and refrain from actions or statements that suggest an active desire to alter the other's domestic political arrangements. No matter what a president does or says, at least a few U.S. politicians are bound to condemn China's domestic economic practices or human rights record and to demand that it alter its basic

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[46] Robert Jervis argues the Concert of Europe possessed this quality: "In this era the great powers behaved in ways that sharply diverged from normal 'power politics.' They did not seek to maximize their individual power positions, they did not always take advantage of others' temporary weaknesses and vulnerabilities, they made more concessions than they needed to, and they did not prepare for war or quickly threaten to use force when others were recalcitrant. In short, they moderated their demands and behavior as they took each other's interests into account in setting their own policies." He also notes that such behavior was historically unusual. See his "Security Regimes," in Stephen D. Krasner, ed., *International Regimes* (Ithaca: Cornell University Press, 1983), pp. 178-79.

political character.[47] Even if top officials in a particular administration take great care to avoid provocative statements (and there is no guarantee that they will), there are bound to be prominent voices on both left and right advocating continued efforts to shape China's internal politics.

Similarly, Chinese debates on foreign policy are not monolithic, and anyone looking for declarations of China's desire for global supremacy or harsh criticisms of the U.S. system do not have to search very long.[48] A "live and let live" approach to each other's domestic systems may highly desirable, but maintaining it over time is likely to be difficult.

Fortunately, several other factors may keep Sino-American rivalry within bounds. First, the existence of nuclear weapons give rivals ample incentive to tread carefully when crises erupt. A second factor is a combination of geography and size: the United States and China are vast countries with large populations and neither can have any realistic hope of conquering the other. Distance poses a further barrier: although America's ability to attack the Chinese homeland is currently much greater than China's ability to threaten the continental United States, neither country could project sufficient military power across the Pacific to threaten the other's independence. Apart from nuclear weapons, neither state can pose an existential threat to the other. As a result, cooperation is less risky and "security regimes" addressing potential points of friction are more feasible.[49] These features do not make a clash of arms impossible—especially especially at sea or over Taiwan—and proxy wars, competition for allies, and other forms of geopolitical hardball remain all-too-likely. But under present conditions, neither the United States nor China can hope to eliminate the other and some degree of mutual co-existence is the only feasible alternative.[50]

Very importantly, our meta-regime is not predicated on the two sides trusting each other at the outset. It leaves open the possibility—and indeed increases the likelihood—that successfully addressing disagreement within its confines could help both sides trust the other more.

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[47] Then-Secretary of State Mike Pompeo told an audience in July 2020 that "Richard Nixon was right when he wrote in 1967 that the world cannot be safe until China changes, and called for the United States to engage and empower the Chinese people, a dynamic, freedom-loving people who are completely distinct from the Chinese Communist Party." See "Communist China and the Free World's Future," Speech at the Richard Nixon Presidential Library, July 23, 2020.

[48] See, for example, State Information Office, People's Republic of China, "The Record of Human Rights Violations in the United States in 2019" (March 2020), available at https://www.globaltimes.cn/content/1182529.shtml

[49] See Robert Jervis, "Cooperation under the Security Dilemma," *World Politics* 30, no. 2 (January 1978); idem, "Security Regimes," in Krasner, *International Regimes,* and also see Stephen Van Evera, "Offense, Defense, and the Causes of War," *International Security* 22, no. 4 (Spring 1998).

[50] Thus Richard Hanania argues that "China is not a threat in the way traditionally understood. . . .China's true menace is neither military nor geopolitical, but rather ideological. Its continued success, even if it in no way harms the prosperity or security of most Americans, poses a major threat to the American political establishment, how it justifies its own power, and its understanding of the U.S. role in the world." See "China's Real Threat is to America's Ruling Ideology," *Palladium,* December 14, 2020, at https://palladiummag.com/2020/12/14/chinas-real-threat-is-to-americas-ruling-ideology/

Category 4 (the "multilateral governance" category)

This category contains policies or issues where one state's actions affect all others, or when relations between two states have important implications for third parties. In either situation, there are clear incentives for a multilateral solution and states participating in our meta-regime would be expected to pursue them when necessary.

Global public goods are the most obvious case that fits this category, and climate change is the archetypal illustration. A country's carbon control policies provide benefits to all other nations, and none can be excluded from those benefits. Conversely, a country's emissions harm all other nations (though not necessarily equally). In the absence of multilateral measures, the incentive for each state is to free ride on the control carbon policies of the others and the result is excessive emissions and rapid climate change. A second example might be global public health, as COVID19 has demonstrated. The rapid sharing of information about potential pandemic and the development of therapeutic medicines or vaccines are global public goods.

In economics, there are few domains that might be strictly considered global public goods, even though journalistic narratives often suggest otherwise. We are told: "sound prudential regulation in financial centers is a global public good," or "an open world economy is a global public good," but such nostrums often misuse the term. When the U.S. manages its macroeconomy and financial system well, or it keeps its markets open, economic logic suggests that U.S. citizens will be the primary beneficiaries. Other countries may benefit too, but this does not reduce the incentive of U.S. policy makers to pursue those sound policies. By the same token, when those policies are mismanaged, as they were prior to the global financial crisis or under President Trump, it was the U.S. economy that incurred some of the highest costs.

Policy errors such as these are bound to occur, but the claim that international cooperation or multilateral rules can reliably prevent them is not very convincing.[51] Of course, well-designed international norms can make it harder (though not impossible) for states to engage in inappropriate actions that harm themselves (along with others); what is not clear is how states can be expected to develop "well-designed" norms internationally when they are prone to make mistakes in those same areas domestically.[52]

In the areas of national security and foreign policy, one can imagine several types of multilateral arrangements. At the global level, multilateral institutions would necessarily include the United States and China, as well as other major powers such as Russia, India, Japan and the European Union (or some of its member-states). These institutions could facilitate cooperation in areas where state interests substantially overlap, such as climate change, global public health (e.g., responses to COVID19 and other future pathogens), measures to enhance secure control over nuclear weapons and materials, or counterterrorism. Efforts to strengthen the Law of the Sea

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[51] Rodrik (2020), op. cit.

[52] One generic exception to this skepticism is provided by dynamic inconsistency, which arises when actors understand they will be tempted to make mistakes in the future and have the incentive to take an action at present to reduce that likelihood. Signing on to international agreements may then allow states to make (sort of) binding commitments that effectively prevent their current selves from harming their future selves.

regime or to develop norms to regulate activities in cyberspace might fit here as well. One can also imagine regional security forums designed to address specific problems within a particular geographic area, as ASEAN and the Gulf Cooperation Council have sought to do in the past.

A second type of multilateral arrangement consists of institutions created, led, or supported by the United States or China from which the other was excluded. Such arrangements would typically be intended to help the members deal with problems created by the policies of states that are not part of the agreement. Formal military alliances are an obvious example of this type of institution, but both the United States and China could try to create like-minded coalitions of countries that coordinated some aspects of their economic and security policies, adopted similar norms regarding digital privacy, surveillance, and technical standards. The abortive Trans-Pacific Partnership would have been one such arrangement, and its strategic goal (i.e., to cement closer ties between the United States and a number of Asian countries) may have been more important than any of its economic provisions or impact. As discussed above, the possibility that the digital world will divide into Sino-centric and Western-centric realms could be another instance in which multilateral cooperation expanded on a partial rather than global basis.[53]

IV. APPLICATIONS

To illustrate how our approach could help address concrete, real-world situations, we offer here brief discussions of two contemporary cases, followed by two additional illustrations. The first is the dispute over the use of Huawei 5G digital technology: can our framework suggest how to deal with concerns in the West that Huawei poses a national security threat and the measures that the U.S., in particular, has taken in response? The second case is the contentious and potentially dangerous relationship between the United States and Iran: could our meta-regime guide efforts to alter relations in ways that would leave both states better off?

1. The Huawei Case

Huawei is a company that is nominally owned by its workers, but Western analysts have long believed it to have close ties to the Chinese security establishment. Starting from humble beginnings and complete reliance on reverse-engineered Western technology, the company has become one of the world's largest telecom vendors and a key player in the development and installation of next generation (5G) networks. The U.S. has sought to cripple the company's international activities since the early 2000s, when Huawei first tried to enter the U.S. market. It prevented Huawei from acquiring American companies through the Committee on Foreign Investments in the United States (CFIUS) national-security review process. It pressured American telecom operators not to work with Huawei. The U.S. Congress undertook an investigation of the firm. Sanctions were imposed on the firm in several rounds, and the daughter of Huawei's founder and the company's chief financial officer was eventually placed under house arrest in Canada stemming from legal charges against Huawei in the U.S.[54]

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[53] "The 'Splinternet of Things' Threatens 5G's Potential," *The Economist,* December 25, 2019, at https://www.economist.com/the-world-in/2019/12/25/the-splinternet-of-things-threatens-5gs-potential

[54] "U.S-China: Is Huawei 'Too Big To Fail?'," Financial Times, August 21, 2020.

For our purposes, it is useful to distinguish between two kinds of U.S. actions in particular: first, the restrictions the U.S. has placed on Huawei's entry and operations in the U.S.; and second, the restrictions the U.S. has imposed on American companies to prevent them from supplying chips and other components that feed directly or indirectly into Huawei's supply chain. We do not aim to provide a definitive solutions to these issues, but merely to show how our framework could help manage what might otherwise seem like an irresolvable and easy-to-escalate conflict.

Category 1: Prohibited Actions

Consider first the ban on Huawei's American operations. In our framework, the justifiability of this policy rests on the plausibility of the national-security argument. If the argument is plausible on the face of it, the type of restraints normally found in Category 1 ("prohibited actions") would not apply and it would be permissible for the U.S. to ban Huawei 5G technology in the United States. Our reading of the evidence is that the national-security argument is quite strong in this case: although there is no evidence that Huawei has engaged in spying or cyber-security violations, there is enough uncertainty around its technical capabilities (given the opacity of the software) and the company's links to the Chinese government to justify the U.S. government taking a precautionary stance.

Category 2 Cooperative Negotiations

Having decided that Category 1 does not apply, we might then ask if the case fits under Category 2 ("cooperative negotiations"). The Trump administration decided it did not: China was too big a threat and too unreliable a partner to engage in give-and-take over sensitive issues of U.S. national security. But future administrations and other nations might answer differently. Here the United Kingdom's approach illustrates how Category 2 might work in practice. The British government made an arrangement with Huawei under which the company's products in the U.K. telecoms market undergo an annual security evaluation. The evaluations are undertaken by the Huawei Cyber Security Evaluation Centre (HCSEC), a facility that opened in 2010 and is governed by a board that includes a Huawei representative along with senior officials from the British government and the UK telecom sector. HCSEC's reports are public. The most recent report concluded that there was enough cause for concern: Huawei's "approach to software development" raises risks to UK operators and "requires ongoing management and mitigation." It noted further that: "The Oversight Board advises that it will be difficult to appropriately risk-manage future products in the context of UK deployments, until the underlying defects in Huawei's software engineering and cyber security processes are remediated."[55] In July 2020, Britain decided to ban Huawei from its 5G network—though its decision seems to have been a response to pressure from the Trump administration and not the direct result of HCSEC's work.

Beyond the cooperative element—at least in principle—the British approach is also noteworthy for the degree of transparency built into it. Since HCSEC's reports are public, the technical

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[55] HCSEC Annual Report, March 2020,
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790270/HCSEC_OversightBoardReport-2019.pdf.

reasoning on which a national-security determination has been made can be seen and evaluated by all parties. This includes domestic firms who may have a commercial stake in Huawei's investments as well as the Chinese government and Huawei itself. This feature alone can help build mutual trust as the parties develop a fuller understanding of others' motives and actions. The Chinese side may come to appreciate the legitimate concerns that the home government has. Conversely, it becomes more difficult for the home government to feign national security concerns when the grounds are weak and are simply a cover for purely protectionist commercial considerations.

By way of comparison, the CFIUS process in the United States, which is the principal mechanism for assessing the national security implications of foreign investment is far more opaque. CFIUS has a much wider remit than HCSEC yet publishes only a single annual report. The report contains general statistical information about the cases it has investigated, but it does not provide any of the evidence or reasoning behind its judgments. Neither U.S. citizens, foreign governments, or foreign investment bodies have any clear and authoritative way to determine whether CFIUS is acting on legitimate national security grounds or solely to protect specific U.S. firms.

This discussion suggests that some sort of adjustment between Huawei and the UK government was theoretically possible, and a full exchange along Category 2 principles might have led to a settlement or a quid pro quo between the two governments. Even in the British case, however, this possibility never quite seemed in the cards. Therefore, the most likely scenario seems to be that the U.S. and other Western governments will continue to make unilateral (and less transparent) decisions regarding Huawei.

Category 3: Independent Responses

This result moves us into Category 3, the realm of unilateral but "well-calibrated" responses. At first glance, the Trump administration appeared to have chosen this route, but a closer look suggests otherwise. While governments are fully entitled to take protective measures under Category 3, their responses are supposed to be proportionate to the real or potential harms suffered and not intended to escalate the conflict or gain a unilateral advantage. The U.S. government violated these strictures by imposing ever-increasing sanctions and barriers on Huawei's *international* operations. Most critically, it has banned American corporations from selling chips and other components to Huawei and its suppliers, regardless of where they operate. The clear intention seems to be to deliver a fatal blow to the company by starving it of essential inputs.

The export ban on U.S. companies is harder to justify on national security grounds than the ban on Huawei's U.S.-based operations. While we do not dismiss outright the possibility that such a justification exists, it is far from clear what it would be. If there is a legitimate national-security justification, it should be made explicit. Huawei's operations in third countries may pose a security risk to those countries; but it is the governments of those countries that are in the best position to evaluate the risks and consequences of shutting off Huawei's operations. It could be that there are spillover risks to the United States from Huawei's presence in countries that are close U.S. allies, such as the possibility that China might use Huawei's presence to acquire

classified information that the United States had shared with its partners. But in that case, the appropriate response would have been to convince these allies to engage in coordinated action to address these concerns, instead of undertaking unilateral action against Huawei itself. U.S. efforts to cripple Huawei in third markets appear to be a classic beggar-thy-neighbor action, which our framework explicitly bars. We conclude, provisionally, that the U.S. export ban over-reached and moved outside the boundaries of Category 3.

Category 4: Multilateral Governance

The U.S. campaign against Huawei also has serious economic repercussions for other countries. If Huawei were to fold, the effects would be crippling for national telecoms companies like BT, Deutsche Telekom and Swisscom and others in no fewer than 170 countries that currently rely on the Chinese company's kits and hardware.[56] Lock-in effects aside, poorer nations are overwhelmingly dependent on Huawei's cheaper equipment. According to Liberia's former minister of public works, "in a world where Africa's choices are limited to European and American telecommunications providers, it is inconceivable that the connectivity and cell phone penetration we observe today would be possible."[57]

These implications suggest that the U.S. export ban also violates the tenets of Category 4, which pertains to spillovers for third parties. Even if the ban were justified on U.S. national security grounds, the U.S. should have engaged in a multilateral process that recognized the economic costs to other nations of cracking down on Huawei in third markets. By proceeding unilaterally in a domain with clear global implications, it acted outside the principles of Category 4 as well.

In short, our framework would still give the U.S. considerable leeway in applying restrictions on Huawei (or other foreign firms) where operations in the U.S. are concerned. Indeed, the ban on the domestic operations of Huawei might even be broadened to other foreign firms, to the extent that those firms were integrated with Huawei's supply chains and might therefore pose similar security risks. However, the framework is less permissive with respect to the export ban on U.S. corporations and internationalizing the ban unilaterally (i.e., outside a multilateral framework).

Could the framework we have proposed would make a difference in the real world? The ultimate test is whether it would help legitimize justified actions while restraining unwarranted actions that are harmful to others. Powerful nations have considerable latitude to act as they wish, and any U.S. (or Chinese) administration that is willing to go it alone will do so. The most we can hope for is the development of shared norms that reinforce what is seen as legitimate and what is not, and that can therefore act as informal restraints over time. Smaller states, non-governmental actors, or academics like us cannot encourage good behavior and discourage bad behavior without first knowing how to define each one. We have to start, therefore, by sketching what the

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[56] Financial Times, op. cit.

[57] W. Gyude Moore, "African countries should stay loyal to China's troubled Huawei—regardless of Trump," *Quartz Africa,* May 27, 2019, at https://qz.com/africa/1629078/africa-will-stay-loyal-to-chinas-huawei-regardless-of-trump/.

relevant norms should be. Doing so gives us a yardstick for evaluating states' behavior and identifies what more desirable actions would have been.

Furthermore, if those norms clarify how states can pursue critical national security and economic objectives without harming other nations' core interests, they could eventually be perceived by other political leaders as well as public audiences as broadly appealing. Then there might be clearer benefits for acting in accordance with the norms and greater costs for violating them, in turn creating additional incentives for norm-reinforcing behavior even by great powers.

2. U.S.-Iranian Relations

The United States and Iran have not had formal diplomatic relations for four decades and direct government-to-government contact has been rare, limited in scope, and usually controversial.[58] The gulf between these two countries might seem impossible to bridge, but both states would almost certainly be better off if the relationship were less acrimonious. For the United States, better relations with Iran could reduce the risk of war in the oil-rich Persian Gulf, limit opportunities for China or others to expand their influence there, provide economic opportunities for U.S. firms, make Iran less likely to seek nuclear weapons, and reduce Iranian support for extremist groups. For Iran, improved relations with Washington would mitigate a potential existential threat and allow it to develop its economy. How might our meta-regime guide efforts to improve the current situation?

Category 1: *Prohibited actions*

As a first step, the two governments could agree not to attempt to overthrow the other and to refrain from acts of sabotage on the other's territory (whether by physical or digital means). Such a commitment would seem to the bare minimum for any constructive relationship. Such an understanding might sound like a radical step given where things stand today, but such pledges are implicit in the U.N. Charter's insistence that members resolve disputes "by peaceful means" and that they refrain from "the threat or use of force against the territorial integrity or political independence of any state."[59] In practical terms, the U.S. government would cease support for groups seeking to overthrow the Iranian government, stop targeting Iranian officials with drones or other lethal means, and refrain from threatening the use of force except in response to an imminent Iranian attack or when authorized by the Security Council. For its part, Iran would have to refrain from similar actions toward the United States or any other country, including Israel and Saudi Arabia.

An agreement along these lines would require the United States to move farther than Iran. America is far more powerful and has done much more to damage or destabilize Iran than Iran has done to the United States. George W. Bush included Iran in the "Axis of Evil" in 2002 and

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[58] See John Ghazvinian, *America and Iran: A History-1720 to the Present* (New York: Knopf, 2021) and David Crist, *The Twilight War: The Secret History of America's Thirty-Year Conflict with Iran* (New York: Penguin, 2013).

[59] *Charter of the United Nations,* Chapter 1, article 2.

his administration's hopes of "transforming" the Middle East—beginning with the invasion of Iraq in 2003—clearly included Iran.[60] United States maintains punishing economic sanctions on Iran and has threatened third parties with secondary sanctions if they violate these restrictions. The two states have come close to war on several occasions and U.S. officials have repeatedly stated that "all options are on the table" should Iran attempt to build a nuclear weapon. Top U.S. officials have also called for regime change in Iran, the U.S. Congress has passed resolutions endorsing this goal, and some former U.S. officials have been even more outspoken.[61]

For its part, Iran has supported anti-American proxies and extremist groups, including Iraqi militias opposing the U.S. occupation of Iraq, and its proxies have sometimes attacked U.S. forces or allies directly. Iranian officials—including Supreme Leader Ali Khameini—routinely denounce the United States in uncompromising terms. Iran has imprisoned foreigners and dual citizens on questionable grounds, violently repressed peaceful demonstrations at home, and its past record of compliance with agreements such as the Non-Proliferation Treaty is mixed. Looking ahead, actions such as these would presumably have to fall under the "prohibited" category as well.[62]

Although regional allies, domestic and foreign lobbies, and some Iranian exiles would regard giving up the goal of regime change as a major concession, to do so would be more a symbolic gesture than the abandonment of a genuine option. Contrary to repeated claims that the Islamic Republic was near-collapse and that a bit more pressure would do the trick, the clerical regime has proven to be surprisingly resilient in the face of U.S. pressure. To acknowledge that the United States cannot overthrow the Islamic Republic and therefore is going to stop trying would be less a concession than an acceptance of reality.

Category 2: Cooperative Negotiations and Mutual Adjustments

The United States and Iran could also pursue mutually beneficial adjustments through negotiation. The Joint and Comprehensive Plan of Action (JCPOA) signed in 2015 and subsequently abandoned by the Trump administration is a perfect illustration of this kind of

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[60] See David Hastings Dunn, "'Real Men Want to Go to Teheran': Bush, Preemption, and the Iranian Nuclear Challenge," *International Affairs,* 83, no. 1 (January 2007).

[61] See Kenneth Katzman, *Iran: Internal Politics and U.S. Policy and Options* (Washington, DC: Congressional Research Service, 2020), pp. 32-33; "The Iran Democracy Support Act," S. 1082 (2003) at https://www.congress.gov/bill/108th-congress/senate-bill/1082/text?r=97&s=1; and Eric Edelman and Ray Takeyh, "The Next Iranian Revolution: Why the United States Should Seek Regime Change in Iran," *Foreign Affairs* 99, no. 3 (May/June 2020).

[62] Missile attacks by Iranian-backed militias killed two American contractors in March 2020, and Iranian gunboats have harassed U.S. naval forces and merchant ships on a number of occasions. See Katie Bo Williams, Iranian proxies killed Americans, Pentagon sources say" *Defense One,* March 20, 2020, at https://www.defenseone.com/threats/2020/03/iranian-proxies-killed-americans-iraq-pentagon-leaders-say/163727/. As former CIA analyst Paul Pillar notes, however, most Iranian sponsorship of terrorism—and especially attacks on the United States—occurred many years ago and are far less significant than the activities of groups such as Al Qaeda or ISIS. See "Iran Policy and Misusing the Fear of Terrorism," *LobeLog,* September 25, 2018, at https://lobelog.com/iran-policy-and-misusing-the-fear-of-terrorism/

agreement: the signatories agreed to alter their own conduct in exchange for concessions by the other side. In particular, the United States, Russia, China, France, Germany, United Kingdom, and European Union agreed to lift economic sanctions linked to Iran's nuclear program and Iran agreed to substantially reduce its stockpile of enriched uranium, dismantle thousands of its nuclear centrifuges, and allow especially stringent inspections by the International Atomic Energy Agency.[63]

When the JCPOA was signed, supporters hoped it would lead to broader discussion of other areas of disagreement. That possibility was foreclosed when the United States abandoned the agreement in 2018. In theory, however, the United States could have tried to negotiate limits to Iran's ballistic missile program or its support for various regional proxies, possibly in exchange for further reductions in U.S. sanctions, the establishment of formal diplomatic relations, or U.S. support for Iranian participation in diplomatic processes in which it has an obvious interest, such as peace negotiations in Afghanistan, Yemen, or Syria.

A process of cooperative negotiations has two additional benefits. First, if undertaken sincerely, it encourages participants to decide which interests or policies are sacrosanct and which ones might be abandoned or modified as part of a mutually beneficial deal. For example, Iran might find it easier to reduce its support for the Houthis in Yemen or for certain Iraqi militias than for Hezbollah in Lebanon, just as the United States might be more willing to reduce certain sanctions more readily than others or reduce its support for Saudi Arabia before it reduced aid to Israel. Second, the process of negotiating forces participants to explain and justify their positions, which in turn gives each side a better understanding of the other's interests, red lines, and sensitive points. There is no guarantee such efforts will succeed, of course, but progress can establish a greater degree of trust between the parties and create the possibility for additional adjustments later.

A skeptic might claim that the fate of the JCPOA reveals the limits of this approach. Had the agreement been in both sides' interests, they might argue, neither country would have had sufficient reason to leave the deal and it would still be in effect today. In our view, however, the Trump administration's decision to abandon the agreement even though Iran was in full compliance demonstrates its intrinsic merits, because leaving the deal left the United States worse off than it had been. Trump and his advisors claimed that abandoning the JCPOA and imposing "maximum pressure" would either bring down the regime or force Iran to make additional concessions. Neither of these outcomes occurred; on the contrary, Iran is now closer to getting the bomb today than it was while the JCPOA was in force and the risk of war is arguably higher. A mutually benefical agreement is a self-enforcing equilibrium only if the parties to it understand its merits.

Category 3: Independent Responses

Given the current state of U.S.-Iranian relations, the two states are unlikely to reach agreement on every contested issue and they will continue to act independently to protect their interests.

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[63] See *The Iran Nuclear Deal: The Definitive Guide* (Cambridge: Belfer Center/Harvard Kennedy School, November 2017) at https://www.belfercenter.org/sites/default/files/files/publication/IranDealGuide2017.pdf

Both states will maintain military capabilities to counter what they fear the other might do and each will support allies or proxies for the same reason. Iran will probably continue its efforts to strengthen relations with China, Russia, and possibly some other states, and Washington and Tehran will no doubt continue to spy on each other and to contend in international forums.

Even so, one can imagine both states acting in the manner we have called "well-calibrated"; that is, with a noteworthy degree of restraint. Indeed, with a few exceptions, each side's independent responses have been "well-calibrated" in the past.

When the United States left the JCPOA in March 2018, for example, Iran did not respond by immediately restarting its full nuclear program. On the contrary, it acted with what one expert called "uncharacteristic prudence," continuing to abide by the agreement for months in hopes that the United States would reconsider or that the other signatories would fulfill its terms anyway.[64] Even when these hopes were disappointed, Iran did not make a sudden dash for the bomb. Instead, it departed from the agreement in a slow, incremental, and visibly reversible fashion, signaling its willingness to return to full compliance if the United States were willing to do so as well.

Iran's reaction to the "maximum pressure" campaign and the assassination of IRGC commander Qassem Soleimani in January 2020 was also measured. It attacked several oil tankers in the Persian Gulf and appears to have backed a proxy missile attack against a Saudi oil processing facility. Both measures were limited in scope and impact, however, and intended to signal that Iran could impose costs on others if the United States persisted in trying to strangle its economy.[65] Nor did Soleimani's assassination lead Iran to escalate; on the contrary, its response to the deliberate killing of a prominent senior official was limited to low-level missile attacks on bases housing U.S. forces in Iraq, accompanied by statements that indicated a desire to contain the conflict.[66] The United States has shown restraint on a few occasions as well, as it did when President Donald Trump decided not to retaliate to Iran's downing of a U.S. reconnaissance drone in June 2019.[67]

Although relations between the two states remain wary, both sides appear to recognize the risks of escalation and the need to calibrate their independent actions carefully. Were relations to improve, one could also imagine each country beginning to limit its independent responses even more. The United States might gradually limit weapons sales to some of its regional clients, and

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[64] See Suzanne Maloney, "There is an Off-Ramp in the U.S.-Iran Crisis," June 19, 2019, at https://www.brookings.edu/opinions/there-is-an-off-ramp-in-the-u-s-iran-crisis/

[65] See Uri Friedman, "The Blueprint that Iran Could Follow after Soleimani's Death," *The Atlantic,* January 4, 2020, at https://www.theatlantic.com/politics/archive/2020/01/what-iranian-way-war-looks-like/604438/

[66] See Julian E. Barnes, David, E. Sanger, Ronen Bergman, and Lara Jakes, "As U.S. Increases Pressure, Iran Adheres to Toned-Down Approach," *New York Times,* September 20, 2020, at https://www.nytimes.com/2020/09/19/us/politics/us-iran-election.html?referringSource=articleShare

[67] See Michael D. Shear, Eric Schmitt, Michael Crowley, and Maggie Haberman, "Strikes on Iran Approved by Trump, then Abruptly Pulled Back," *New York Times*, June 20, 2020, at https://www.nytimes.com/2019/06/20/world/middleeast/iran-us-drone.html

Iranian could reduce support for some or all of its regional proxies.[68] Competition is likely to continue, but it need not be "all-out," especially if both sides have other interests to pursue and good reasons to avoid a clash that would leave both worse off.

Category 4: Multilateral Governance

Our meta-regime recognizes that a multilateral approach may be necessary (or at least highly desirable) when relations between two states have important implications for third parties. Because a significant change in U.S.-Iranian relations would also affect Israel, Saudi Arabia, Turkey, the Gulf States, Syria, Lebanon, and others, establishing a more benign regional order depends on whether countries within the region can create regional security institutions that reduce their perceived need for U.S. protection.[69]

At present, states such as Israel, Egypt, Saudi Arabia, and the UAE oppose a rapprochement or a significant reduction in the U.S. role in the region. They prefer that the United States remain at odds with Iran, so that they can rely on Washington to balance and contain it. Unconditional U.S. support gives them little incentive to reduce tensions with Iran or to build more inclusive regional institutions. In some cases, it may even encourage them to act recklessly, confident that the United States will come to their aid if they get into trouble.[70]

When U.S. support is less certain, however, incentives to reduce tensions within the region increase. When the Trump administration declined to retaliate militarily following the cruise missile attack on a Saudi oil facility, for example, doubts about the U.S. commitment eventually led Saudi Arabia to end its boycott of Qatar, reach out to Iran via intermediaries, and intensify talks with the Houthi rebels in Yemen.[71] The United Arab Emirates reacted similarly.[72] Iran has also offered its own proposal for a regional security dialogue—the "Hormuz Peace Endeavor"— and a key advisor to Supreme Leader Khamenei has endorsed talks with Saudi Arabia "without preconditions."[73] Moreover, the Biden administration's more measured support for traditional

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[68] It is worth noting that the United States has refused to provide Israel with the capacity to deliver large, earth-penetrating ordnance (i.e., "bunker-busters") that could be used to attack Iran's most well-protected underground nuclear facilities.

[69] See Trita Parsi, "Toward an Inclusive Security Arrangement in the Persian Gulf," Quincy Brief No. 7 (Washington, D.C.: Quincy Institute for Responsible Statecraft, January 2021).

[70] Uncritical support from the Trump administration may have encouraged Egypt to crack down harder on dissidents, Saudi Arabia to expand its war in Yemen, boycott Qatar, and assassinate dissident journalist Jamal Khashoggi, and Israel to threaten to annex portions of the West Bank.

[71] See Farnaz Fassihi and Ben Hubbard, "Saudi Arabia and Iran Make Quiet Openings to Head off War," *New York Times,* October 4, 2019; and Declan Walsh and Ben Hubbard, "With U.S. Help No Longer Assured, Saudis Try a New Strategy: Talks," *New York Times,* December 26, 2019.

[72] See Samuel Ramani, "Is the UAE's Engagement with Iran a Cold Peace or a Genuine Rapprochement?" August 12, 2020; at https://responsiblestatecraft.org/2020/08/12/uae-engagement-iran-cold-peace-genuine-rapprochement/

[73] See Nicole Grajewski, "The Hormuz Peace Endeavor and the Future of Persian Gulf Security," *European Leadership Network,* July 7, 2020, at https://www.europeanleadershipnetwork.org/commentary/irans-hormuz-peace-

U.S. allies and its efforts to resurrect the JCPOA appear to have led Saudi Arabia and Iran to begin direct talks, with Saudi Crown Prince Mohammed bin Salman declaring in April 2021 that "we are working with our partners to try to overcome our differences with Iran."[74]

These initiatives suggest that a U.S.-Iranian rapprochement might pave the way for the creation of more inclusive security institutions within the region.[75] As many observers have noted, the Middle East suffers from a lack of effective regional institutions and the absence of strong norms against interference in one another's internal affairs.[76] Interference in each other's internal affairs has been widespread for decades, conflicts within the region frequently overlap, and no outside power is capable of imposing order and maintaining peace on its own. The United States may have aspired to such a role at one time, but its recent attempts to manage the region have shown that it lacks the capacity to do so. Efforts to build a "security architecture" for the region might begin by addressing functional problems such as maritime security, disaster relief, pandemic responses, etc., before proceeding to more fundamental issues of territorial integrity, non-interference, ethnic and sectarian divisions, arms control, or the proper role of foreign powers. The United States cannot direct this effort—if only because it would not be seen as an honest broker by all the other parties—but its support for such a multilateral initiative would probably be essential to success.

The feasibility of such an initiative and the precise form(s) it might take is uncertain, but there are no shortage of proposals for how such an effort could proceed.[77] Suffice it to say that the development of more robust and inclusive regional security institutions would make war in the Middle East less likely, reduce the security burdens borne by outside powers, allow regional

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endeavor-and-the-future-of-persian-gulf-security/; and Ramani, "Is The UAE's Engagement with Iran a Cold Peace?"

[74] See Trita Parsi, "Why Mohammed bin Salman Suddenly Wants to Talk with Iran," *Foreign Policy,* April 29, 2021, at https://foreignpolicy.com/2021/04/29/saudi-arabia-iran-uae-mohammed-bin-salman-secret-talks-biden-withdrawal-pivot-middle-east/; and Paul Pillar, "The Wisdom of Détente in the Persian Gulf, May 7, 2021, at https://responsiblestatecraft.org/2021/04/22/the-wisdom-of-detente-in-the-persian-gulf/

[75] Intriguingly, Biden national security advisor Jake Sullivan and former State Department official Daniel Benaim have called for such an approach, writing last year that the United States "should also push for the establishment of a structured regional dialogue—with support from other members of the United Nations Security Council—that explores ways to reduce tensions, create pathways to de-escalation, and manage mistrust." See "America's Opportunity in the Middle East," *Foreign Affairs,* May 22, 2020, at https://www.foreignaffairs.com/node/1126062.

[76] The institutions that do exist—such as the Arab League and the Gulf Cooperation Council—are weak, divided, and largely ineffective.

[77] See, for example: Frederick Wehrey and Richard Sokolsky, "Imagining a New Security Order in the Persian Gulf," (Washington, DC: Carnegie Endowment for International Peace, 2015); Kristian Coates Ulrichsen, "Rebalancing Regional Security in the Persian Gulf," (Rice University, Baker Institute for Public Policy, January 2020); Silvia Colombo and Andrea Dessì, eds., *Fostering a New Security Architecture in the Middle East* (Brussels/Rome: Foundation for European Progressive Studies/Institute for International Affairs, 2020); and International Crisis Group, "The Middle East Between Collective Security and Collective Breakdown," *Middle East Report No. 212* (April 2020).

powers to address common problems such as the environment, and enhance human well-being in most if not all of these countries.

Extensions

The preceding discussion suggests that our meta-regime is a useful way to categorize and think about the steps that even hostile states could take to reap mutual benefits and foster a more benign world order. Here we briefly extend the demonstration by considering two additional areas: 1) managing movements of people, and 2) human rights.

Managing Movements of People

Current levels of global prosperity depend in part on extensive and generally effective arrangements to manage the movement of goods, services, and capital across borders. Trade and monetary regimes are never perfect and require frequent revision, but human beings all over the world would lead less secure and bountiful lives without them.

There is no equally effective set of arrangements to manage movements of people or "World Migration Organization" with regulatory powers akin to the WTO. This gap is unsurprising, because people cross borders for many reasons, large-scale movements can have more lasting and problematic effects than trade or investment flows, and the right to determine who can enter or reside in a state's territory is central to the idea of sovereignty. Instead of a unified "mobility regime," what exists today is a patchwork of norms, agreements, and independent national policies that leave important areas uncovered. For example, the current refugee regime does not cover people displaced by environmental degradation.[78] From our perspective, perhaps the most interesting feature of these various arrangements is how well they correspond to the categories of our meta-regime.

When dealing with movements of people, for example, some actions are explicitly prohibited (Category 1). 148 countries have signed the 1951 Refugee Convention, which stipulates how states must treat refugees entering their territory and explicitly prohibits forcing them to return home if their life or freedom would be threatened. There are also important global agreements on human trafficking, ethnic cleansing, and other forms of forced displacement.

States also address the movement of people in Category 2: "mutual negotiation and adjustment." Such arrangements include bilateral agreements governing guest workers, visa requirements, and treaties of extradition and repatriation. Negotiations on these issues often involve considerable give-and-take, as when the Trump administration pressured Mexico to do more to control the flow of refugees from Central America crossing Mexican territory to reach the United States. European efforts to limit migrant and refugee flows from Africa by providing additional aid to countries of origin illustrate another type of mutual adjustment. On a smaller scale, states sometimes agree to repatriate foreign citizens who have been imprisoned in exchange for the

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[78] See Susan Martin, "International Cooperation on Migration and the U.N. System," in Koslowski, ed., *Global Mobility Regimes,* p. 38.

release of their own citizens or for other concessions. All of these arrangements are ways for states pursue joint gains involving the movement of people through mutual adjustment.

The ability to determine who can enter or remain on one's territory is a critical issue for all countries, and states typically act autonomously to protect their interests in this domain (Category 3). States monitor their own borders and entry points, set their own refugee and/or immigration quotas, and determine the conditions for permanent residency and pathways (if any) to full citizenship. Not surprisingly, these regulations vary enormously from country to country and change in response to events. The United States imposed stricter entry requirements after the September 11 attacks, for example, and members of the EU's Schengen Area have re-imposed temporary border controls in response to refugee flows or other perceived threats.[79]

In our meta-regime, independent national policies should be intended to protect the country from a potential harm but not to inflict harm upon others (i.e., they should be "well-calibrated"). From this perspective, it is legitimate for a state to encourage immigration from other countries in order to alleviate a labor shortage or to bar visitors from a country that was experiencing an outbreak of contagious disease. But it would not be legitimate to encourage a "brain drain" of talented foreigners in order to weaken a potential rival. Denying student visas from certain countries in order to prevent them from spying would be permissible if the fear of espionage were well-founded, but a ban imposed solely to limit another state's level of human capital would not be.

Finally, despite the absence of a comprehensive global regime in this area, many multilateral governance efforts are already underway at the global and regional level (Category 4). The movement of some 1.4 billion tourists in pre-pandemic 2018 is facilitated by the global passport regime (created after World War I) and by organizations such as the International Civil Air Organization. The International Migration Organization (which operates outside the U.N. system) sponsors "Regional Consultative Processes" to help manage movements of people within particular regions and deal with the externalities such movements inevitably create.

Human Rights

At present, efforts to improve human rights are impaired by differences over how such rights should be defined and the inevitable tradeoffs between normative principles and other goals. Can our meta-regime also suggest constructive ways to approach this divisive issue?

In fact, nearly all countries accept certain basic human rights norms and have agreed to ban certain policies (Category 1). The Universal Declaration on Human Rights (1948) contains a bedrock set of standards and is echoed in similar statements such as the European Convention on Human Rights (1953). 152 states have ratified or acceded to the 1948 Convention on the Prevention of Genocide, making it an established crime under international law, and the

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[79] The original Schengen Agreement (1985) eliminated internal borders between five EU countries, allowing unrestricted movement among them, and there are currently twenty-six countries in the Schengen area. On recent border controls, see "Migrant Crisis: EU Seeks More Controls for Schengen Borders, *BBC News,* January 25, 2016, at https://www.bbc.com/news/world-europe-35400495

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) defines the proscribed actions and declares that "no exceptional circumstances whatsoever . . may be invoked as a justification." Similarly, the Rome Statute establishing the International Criminal Court establishes its jurisdiction over "genocide, crimes against humanity, war crimes, and aggression." Although observance of these principles still leaves much to be desired, the overwhelming majority of states agree that certain actions violate certain basic rights and should never take place.

Human rights issues are also the object of "cooperative negotiations and mutual adjustments" (Category 2). The United States has sometimes pressured close allies to do more to respect such rights, or reduced its support for certain governments in response to perceived violations. Rights issues are sometimes negotiated between adversaries as well: Israel and Hamas have negotiated prisoner swaps on a number of occasions and Iran has released foreigners detained (often on dubious grounds) in exchange for the release of its own citizens held abroad. The Jackson-Vanik amendment prohibited granting Most Favored Nation trade status to any country that denied its citizens the right to emigrate, but this restriction was waived for China when it joined the WTO and later removed for Russia and replaced by the Magnitsky Act (see below). Efforts to "name and shame" human rights violators can fall within Category 2 as well: for example, states identified as lax in dealing with human trafficking can earn more favorable rankings in the State Department's annual Trafficking in Persons Report by taking concrete steps to address the problem.

States also respond to perceived human rights violations by taking independent action (Category 3), typically in the form of economic or individual sanctions. The United States has recently sanctioned Syria, Venezuela, Cuba, Russia, China, Myanmar, and several other states for human rights violations, and the European Union has taken similar actions toward China, North Korea, Libya, Russia, S. Sudan, and Eritrea.[80]

According to our meta-regime, human rights sanctions should still be applied in a "well-calibrated" fashion—i.e., to address the specific violations itself—and not used to weaken a rival or compel it to change some unrelated policy. Recent efforts to limit or condition U.S. military aid to Saudi Arabia are consistent with this principle, as this policy was designed to distance the United States from the indiscriminate Saudi bombing campaign in Yemen and to express displeasure over the brutal murder of Saudi dissident Jamal Khashoggi. Similarly, the 2016 Global Magnitsky Human Rights Accountability Act authorizes the U.S. government to sanction individuals implicated in human rights violations anywhere in the world, and has been invoked to sanction more than 100 individuals from over a dozen countries. This approach can also be seen as "well-calibrated," insofar as it targets only officials identified as having been directly involved in a specific rights violation. It is also noteworthy that the United States has invoked the Act to sanction individuals from a broad set of countries, including some U.S. allies, rather than using solely as a tool to sanction rivals. Although the targets of these sanctions have sometimes retaliated by imposing similar restrictions on U.S. officials, efforts such as these show that it is

[80] See "EU Imposes Further Sanctions over Serious Violations of Human Rights Around the World," Press Release, Council of the European Union, March 22, 2021, at https://www.consilium.europa.eu/en/press-releases/2021/03/22/eu-imposes-further-sanctions-over-serious-violations-of-human-rights-around-the-world/

possible to maintain a principled commitment to human rights without having it become "power politics by other means."

By contrast, the human rights actions included in the Trump administration's "maximum pressure" campaign against Iran fail the test of being "well-calibrated," insofar as they were part of a broader program to compel additional Iranian concessions, cause the regime to collapse, or make it harder for a future administration to return to the JCPOA. Iran's human rights conduct deserves censure, but these overly broad sanctions worsened humanitarian conditions inside the country, which in turn suggests that protecting ordinary Iranians was not their true purpose.

Finally, conceptions of and approaches to addressing human rights continue to be debated and promoted in a variety of multilateral forums (Category 4), often involving private firms, multinational corporations and organizations and civil society groups. The U.N. Human Rights Council's adoption of a set of Guiding Principles on Business and Human Rights, developed in collaboration with business associations, individual corporations, and civil society organizations, is an recent example that has had significant impact on real-world behavior.[81]

Whenever a particular country, organization, or firm is signaled out and sanctioned by others for violating human rights, it reinforces the relevant norms. In so doing, it indirectly affects the standing of other states or organizations who may be acting in a similar fashion. In this way, sanctions directed at one state can have spillover effects on others, and especially if the sanctions campaign attract broad support. For this reason, Category 4 is likely remain an arena where states and other groups debate alternative conceptions of rights and the proper responses to them, either to protect their own interests or to advance rights claims to which they are already committed.

CONCLUDING REMARKS

Academics are sometimes accused of offering utopian solutions to recurring problems, prescriptions that might work in theory but are infeasible in practice. To avoid that pitfall, we have not tried to spell out detailed plans for addressing issues such as climate change, the competing territorial claims in the South China Sea, WTO reform, or the best way to regulate the Internet. It would be impossible to do justice to any of those issues in a single article; more importantly, whatever solutions eventually do emerge will be determined not by any plan we might offer but through hard bargaining between the many interested parties.

Instead, our purpose has been to lay out a way for these actors—and especially those with the greatest power to influence outcomes—to structure their communications with each other and to achieve the best possible results within the constraints of a fragmented and competitive system where states are still dominant and differences in power and status loom large.

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[81] On this effort, see John Gerard Ruggie, *Just Business: Multinational Corporations and Human Rights* (New York: W. W. Norton, 2013).

That said, we believe our meta-regime could be of considerable practical value. As noted earlier, it could provide a template for discussions between the United States and China, to help the two increasingly contentious rivals find points of agreement, mutually beneficial compromises, and to help keep their independent actions within safer limits. Proceeding in this fashion seems more promising than simply exchanging criticisms, issuing warnings, and rattling sabers in order to signal "toughness" or resolve, as seems to have occurred during recent meetings between top U.S. and Chinese officials.[82] The meta-regime could also be used to set the agenda for G7 meetings or the Summit of Democracies that the Biden administration has said it wishes to convene. U.N. Secretary General Antonio Guterres could employ this approach to organize broader global conversations on any number of thorny issues as well.

A key virtue of the metaregime we have proposed is that it poses low entry costs. It does not require states to commit in advance to any particular substantive outcome. Nor does it require states to agree to use it across the full range of their relations with other states; it can be deployed in a piecemeal and sequential fashion in different domains. Nevertheless, and in part because the requirements are so minimal, the meta-regime can help reveal whether rival powers are serious about attempting to create a more benign order or not. A state that rejected the meta-regime from the start, or whose actions within it gradually revealed that its expressed commitment was bogus, would incur reputational costs and risk provoking greater international opposition over time. By contrast, states that embraced this framework and implemented its principles in good faith would be regarded by others more favorably and would be likely to retain greater international support. In this way, popularizing this approach might incentivize good behavior all by itself.

Lastly, our meta-regime also invites participation by non-state actors, civil society organizations, academics, thought leaders, and anyone else with a stake in a particular issue-area. It encourages members of the global community to go beyond the stark antinomy of conflict versus cooperation and ask: 1) what actions should be prohibited outright?; 2) what compromises or adjustments seem feasible and mutually beneficial, and why?; 3) when is independent action to be expected and legitimate, and how can we distinguish between "well-calibrated" actions and those that are excessive?; and 4) when will preferred outcomes require multilateral agreement, to ensure that third parties are not adversely affected by agreements or actions undertaken by others? We do not expect such conversations to produce immediate or total consensus, but more structured exchanges on these questions could clarify trade-offs, elicit clearer explanations or justifications for competing positions, and increase the odds of reaching mutually beneficial outcomes.

Here a skeptic might point out that our proposal contains little that is new, and that states are already using the meta-regime without necessarily being consciously aware of it. Our discussions of US-China tensions over 5G networks, U.S.-Iranian relations, the movement of peoples, and human rights suggest that this is often – but not always – the case. The willingness of states to tacitly employ the meta-regime as a reassuring feature and not a bug. If states are frequently already dividing issues into our four categories in their bilateral relations, or when dealing with important issues such as migration or human rights, it suggests that our scheme is far from utopian.

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[82] See Steven Lee Meyers, "Testy Exchange in Alaska Signals a More Confrontational China," *New York Times,* March 19, 2019.

Moreover, we believe laying out the meta-regime explicitly and asking relevant parties to commit to it in public would strengthen the process. Publicly committing to the meta-regime—but without having to commit in advance to any particular disposition or resolution of particular issues—would signal to others a desire preserve as many benign or positive aspects of cooperation as possible, while at the same time acknowledging that some issues will remain unresolved and divisive. Similarly, a public commitment to limit independent actions to "well-calibrated" responses may force states to think twice about the actions they undertake and to justify them to others. Finally, an explicit acknowledgement of the rules of the game clarifies the boundaries of permitted actions to all actors – the distinction between autonomous actions that are within the rules and those that aren't – thereby reducing the scope for misunderstandings and misperceptions, and enlarging the scope for building trust.

Our framework is no guarantee of success, of course, and it is possible (some would say likely) that mutual suspicion, incompetent leadership, ignorance, or sheer bad luck will combine to produce a future that is both poorer and more dangerous than might otherwise have been made. Nonetheless, we believe our approach would increase prospects for a more prosperous and secure world, if political leaders (and the nations they represent) have the desire and wisdom to create one.