Anne-Marie Slaughter: A New World Order

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Introduction

> What is possible is not independent of what we believe to be possible. The possibility of such developments in the practical world depends upon their being grasped imaginatively by the people who make the practical world work.
> —Neil MacCormick[1]

Terrorists, arms dealers, money launderers, drug dealers, traffickers in women and children, and the modern pirates of intellectual property all operate through global networks.[2] So, increasingly, do governments. Networks of government officials—police investigators, financial regulators, even judges and legislators—increasingly exchange information and coordinate activity to combat global crime and address common problems on a global scale. These government networks are a key feature of world order in the twenty-first century, but they are underappreciated, undersupported, and underused to address the central problems of global governance.

Consider the examples just in the wake of September 11. The Bush administration immediately set about assembling an ad hoc coalition of states to aid in the war on terrorism. Public attention focused on mili-

tary cooperation, but the networks of financial regulators working to identify and freeze terrorist assets, of law enforcement officials sharing vital information on terrorist suspects, and of intelligence operatives working to preempt the next attack have been equally important. Indeed, the leading expert in the "new security" of borders and container bombs insists that the domestic agencies responsible for customs, food safety, and regulation of all kinds must extend their reach abroad, through reorganization and much closer cooperation with their foreign counterparts.[3] And after the United States concluded that it did not have authority under international law to interdict a shipment of missiles from North Korea to Yemen, it turned to national law enforcement authorities to coordinate the extraterritorial enforcement of their national criminal laws.[4] Networked threats require a networked response.

Turning to the global economy, networks of finance ministers and central bankers have been critical players in responding to national and regional financial crises. The G-8 is as much a network of finance ministers as of heads of state; it is the finance ministers who make key decisions on how to respond to calls for debt relief for the most highly indebted countries. The finance ministers and central bankers hold separate news conferences to announce policy responses to crises such as the East Asian financial crisis in 1997 and the Russian crisis in 1998.[5] The G-20, a network specifically created to help prevent future crises, is led by the Indian finance minister and is composed of the finance ministers of twenty developed and developing countries. More broadly, the International Organization of Securities Commissioners (IOSCO) emerged in 1984. It was followed in the 1990s by the creation of the International Association of Insurance Supervisors and a network of all three of these organizations and other national and international officials responsible for financial stability around the world called the Financial Stability Forum.[6]

Beyond national security and the global economy, networks of national officials are working to improve environmental policy across borders. Within the North American Free Trade Agreement (NAFTA), U.S., Mexican, and Canadian environmental agencies have created an environmental enforcement network, which has enhanced the effectiveness of environmental regulation in all three states, particularly in

Mexico. Globally, the Environmental Protection Agency (EPA) and its Dutch equivalent have founded the International Network for Environmental Compliance and Enforcement (INECE), which offers technical assistance to environmental agencies around the world, holds global conferences at which environmental regulators learn and exchange information, and sponsors a website with training videos and other information.

Nor are regulators the only ones networking. National judges are exchanging decisions with one another through conferences, judicial organizations, and the Internet. Constitutional judges increasingly cite one another's decisions on issues from free speech to privacy rights. Indeed, Justice Anthony Kennedy of the U.S. Supreme Court cited a decision by the European Court of Justice (ECJ) in an important 2003 opinion overturning a Texas antisodomy law. Bankruptcy judges in different countries negotiate minitreaties to resolve complicated international cases; judges in transnational commercial disputes have begun to see themselves as part of a global judicial system. National judges are also interacting directly with their supranational counterparts on trade and human rights issues.

Finally, even legislators, the most naturally parochial government officials due to their direct ties to territorially rooted constituents, are reaching across borders. International parliamentary organizations have been traditionally well meaning though ineffective, but today national parliamentarians are meeting to adopt and publicize common positions on the death penalty, human rights, and environmental issues. They support one another in legislative initiatives and offer training programs and technical assistance.[7]

Each of these networks has specific aims and activities, depending on its subject area, membership, and history, but taken together, they also perform certain common functions. They expand regulatory reach, allowing national government officials to keep up with corporations, civic organizations, and criminals. They build trust and establish relationships among their participants that then create incentives to establish a good reputation and avoid a bad one. These are the conditions essential for long-term cooperation. They exchange regular information about their own activities and develop databases of best practices,

or, in the judicial case, different approaches to common legal issues. They offer technical assistance and professional socialization to members from less developed nations, whether regulators, judges, or legislators.

In a world of global markets, global travel, and global information networks, of weapons of mass destruction and looming environmental disasters of global magnitude, governments must have global reach. In a world in which their ability to use their hard power is often limited, governments must be able to exploit the uses of soft power: the power of persuasion and information.[8] Similarly, in a world in which a major set of obstacles to effective global regulation is a simple inability on the part of many developing countries to translate paper rules into changes in actual behavior, governments must be able not only to negotiate treaties but also to create the capacity to comply with them.

Understood as a form of global governance, government networks meet these needs. As commercial and civic organizations have already discovered, their networked form is ideal for providing the speed and flexibility necessary to function effectively in an information age. But unlike amorphous "global policy networks" championed by UN Secretary General Kofi Annan, in which it is never clear who is exercising power on behalf of whom, these are networks composed of national government officials, either appointed by elected officials or directly elected themselves. Best of all, they can perform many of the functions of a world government—legislation, administration, and adjudication—without the form.

Understood as a foreign policy option, a world of government networks, working alongside and even within traditional international organizations, should be particularly attractive to the United States. The United States has taken the lead in insisting that many international problems have domestic roots and that they be addressed at that level—within nations rather than simply between them—but it is also coming to understand the vital need to address those problems multilaterally rather than unilaterally, for reasons of legitimacy, burden sharing, and effectiveness. As will be further discussed below, government networks could provide multilateral support for domestic government institutions in failed, weak, or transitional states. They could play an instrumental role in rebuilding a country like Iraq and in supporting

and reforming government institutions in other countries that seek to avoid dictatorship and self-destruction.

Further, government networks cast a different light on U.S. power, one that is likely to engender less resentment worldwide. They engage U.S. officials of all kinds with their foreign counterparts in settings in which they have much to teach but also to learn and in which other countries can often provide powerful alternative models. In many regulatory areas, such as competition policy, environmental policy, and corporate governance, the European Union attracts as many imitators as the United States. In constitutional rights, many judges around the world have long followed U.S. Supreme Court decisions but are now looking to the South African or the Canadian constitutional courts instead.

Where a U.S. regulatory, judicial, or legislative approach is dominant, it is likely to be powerful through attraction rather than coercion—exactly the kind of soft power that Joseph Nye has been exhorting the United States to use.[9] This attraction flows from expertise, integrity, competence, creativity, and generosity with time and ideas—all characteristics that U.S. regulators, judges, and legislators have exhibited with their foreign counterparts. And where the United States is not dominant, its officials can show that they are in fact willing to listen to and learn from others, something that the rest of the world seems increasingly to doubt.

Yet to see these networks as they exist, much less to imagine what they could become, requires a deeper conceptual shift. Stop imagining the international system as a system of states—unitary entities like billiard balls or black boxes—subject to rules created by international institutions that are apart from, "above" these states. Start thinking about a world of governments, with all the different institutions that perform the basic functions of governments—legislation, adjudication, implementation—interacting both with each other domestically and also with their foreign and supranational counterparts. States still exist in this world; indeed, they are crucial actors. But they are "disaggregated." They relate to each other not only through the Foreign Office, but also through regulatory, judicial, and legislative channels.

This conceptual shift lies at the heart of this book. Seeing the world

through the lenses of disaggregated rather than unitary states allows leaders, policymakers, analysts, or simply concerned citizens to see features of the global political system that were previously hidden. Government networks suddenly pop up everywhere, from the Financial Action Task Force (FATF), a network of finance ministers and other financial regulators taking charge of pursuing money launderers and financers of terrorism, to the Free Trade Commission, a network of trade ministers charged with interpreting NAFTA, to a network of ministers in charge of border controls working to create a new regime of safe borders in the wake of September 11. At the same time, it is possible to disaggregate international organizations as well, to see "vertical networks" between national regulators and judges and their supranational counterparts. Examples include relations between national European courts and the ECJ or between national U.S., Mexican, and Canadian courts and NAFTA arbitral tribunals.

Equally important, these different lenses make it possible to imagine a genuinely new set of possibilities for a future world order. The building blocks of this order would not be states but parts of states: courts, regulatory agencies, ministries, legislatures. The government officials within these various institutions would participate in many different types of networks, creating links across national borders and between national and supranational institutions. The result could be a world that looks like the globe hoisted by Atlas at Rockefeller Center, crisscrossed by an increasingly dense web of networks.

This world would still include traditional international organizations, such as the United Nations and the World Trade Organization (WTO), although many of these organizations would be likely to become hosts for and sources of government networks. It would still feature states interacting as unitary states on important issues, particularly in security matters. And it would certainly still be a world in which military and economic power mattered; government networks are not likely to substitute for either armies or treasuries.

At the same time, however, a world of government networks would be a more effective and potentially more just world order than either what we have today or a world government in which a set of global in-

Atlas, by Lee Lawrie in Rockefeller Center, New York. © Ric Ergenbright/ CORBIS

stitutions perched above nation-states enforced global rules. In a networked world order, primary political authority would remain at the national level except in those cases in which national governments had explicitly delegated their authority to supranational institutions. National government officials would be increasingly enmeshed in networks of personal and institutional relations. They would each be operating both in the domestic and the international arenas, exercising their national authority to implement their transgovernmental and international obligations and representing the interests of their country while working with their foreign and supranational counterparts to disseminate and distill information, cooperate in enforcing national and international laws, harmonizing national laws and regulations, and addressing common problems.

1. THE GLOBALIZATION PARADOX: NEEDING MORE GOVERNMENT AND FEARING IT

Peoples and their governments around the world need global institutions to solve collective problems that can only be addressed on a global scale. They must be able to make and enforce global rules on a variety of subjects and through a variety of means. Further, it has become commonplace to claim that the international institutions created in the late 1940s, after a very different war and facing a host of different threats from those we face today, are outdated and inadequate to meet contemporary challenges. They must be reformed or even reinvented; new ones must be created.

Yet world government is both infeasible and undesirable. The size and scope of such a government presents an unavoidable and dangerous threat to individual liberty. Further, the diversity of the peoples to be governed makes it almost impossible to conceive of a global demos. No form of democracy within the current global repertoire seems capable of overcoming these obstacles.

This is the globalization paradox. We need more government on a global and a regional scale, but we don't want the centralization of decision-making power and coercive authority so far from the people actually to be governed. It is the paradox identified in the European Union by Renaud Dehousse and by Robert Keohane in his millennial presidential address to the American Political Science Association. The European Union has pioneered "regulation by networks," which Dehousse describes as the response to a basic dilemma in EU governance: "On the one hand, increased uniformity is certainly needed; on the other hand, greater centralization is politically inconceivable, and probably undesirable."[10] The EU alternative is the "transnational option"—the use of an organized network of national officials to ensure "that the actors in charge of the implementation of Community policies behave in a similar manner."[11]

Worldwide, Keohane argues that globalization "creates potential gains from cooperation" if institutions can be created to harness those gains;[12] however, institutions themselves are potentially oppressive.[13] The result is "the Governance Dilemma: although institutions are es-

sential for human life, they are also dangerous."[14] The challenge facing political scientists and policymakers at the dawn of the twenty-first century is discovering how well-structured institutions could enable the world to have "a rebirth of freedom."[15]

Addressing the paradox at the global level is further complicated by the additional concern of accountability. In the 1990s the conventional reaction to the problem of "world government" was instead to champion "global governance," a much looser and less threatening concept of collective organization and regulation without coercion. A major element of global governance, in turn, has been the rise of global policy networks, celebrated for their ability to bring together all public and private actors on issues critical to the global public interest.[16]

Global policy networks, in turn, grow out of various "reinventing government" projects, both academic and practical. These projects focus on the many ways in which private actors now can and do perform government functions, from providing expertise to monitoring compliance with regulations to negotiating the substance of those regulations, both domestically and internationally. The problem, however, is ensuring that these private actors uphold the public trust.

Conservative critics have been most sensitive to this problem. Assistant Secretary of State John Bolton, while still in the private sector, argued that "it is precisely the detachment from governments that makes international civil society so troubling, at least for democracies." "Indeed," he continues, "the civil society idea actually suggests a 'corporativist' approach to international decision-making that is dramatically troubling for democratic theory because it posits 'interests' (whether NGOs or businesses) as legitimate actors along with popularly elected governments." Corporatism, in turn, at least in Mussolini's view, was the core of fascism. Hence Bolton's bottom line: "Mussolini would smile on the Forum of Civil Society. Americanists do not."[17]

Somewhat more calmly, Martin Shapiro argues that the shift from government to governance marks "a significant erosion of the boundaries separating what lies inside a government and its administration and what lies outside them."[18] The result is to advantage "experts and enthusiasts," the two groups outside government that have the greatest

incentive and desire to participate in governance processes;[19] however, "while the ticket to participation in governance is knowledge and/or passion, both knowledge and passion generate perspectives that are not those of the rest of us. Few of us would actually enjoy living in a Frank Lloyd Wright house."[20] The network form, with its loose, informal, and nonhierarchical structure, only exacerbates this problem.

The governance dilemma thus becomes a tri-lemma: we need global rules without centralized power but with government actors who can be held to account through a variety of political mechanisms. These government actors can and should interact with a wide range of nongovernmental organizations (NGOs), but their role in governance bears distinct and different responsibilities. They must represent all their different constituencies, at least in a democracy; corporate and civic actors may be driven by profits and passions, respectively. "Governance" must not become a cover for the blurring of these lines, even if it is both possible and necessary for these various actors to work together on common problems.

In this context, a world order based on government networks, working alongside and even in place of more traditional international institutions, holds great potential. The existence of networks of national officials is not itself new. In 1972 Francis Bator testified before Congress: "it is a central fact of foreign relations that business is carried on by the separate departments with their counterpart bureaucracies abroad, through a variety of informal as well as formal connections."[21] Two years later, in an important article that informed their later study of complex interdependence, Robert Keohane and Joseph Nye distinguished "transgovernmental" activity from the broader category of transnational activity. They defined transgovernmental relations as "sets of direct interactions among sub-units of different governments that are not controlled or closely guided by the policies of the cabinets or chief executives of those governments."[22] Moreover, government networks established for limited purposes such as postal and telecommunications have existed for almost a century.

What is new is the scale, scope, and type of transgovernmental ties. Links between government officials from two, four, or even a dozen countries have become sufficiently dense as to warrant their own or-

ganization—witness IOSCO or INECE. Government networks have developed their own identity and autonomy in specific issue areas, such as the G-7 or the G-20. They perform a wider array of functions than in the past, from collecting and distilling information on global or regional best practices to actively offering technical assistance to poorer and less experienced members. And they have spread far beyond regulators to judges and legislators.

More broadly, government networks have become recognized and semiformalized ways of doing business within loose international groupings like the Commonwealth and the Asian-Pacific Economic Cooperation (APEC). At the same time, they have become the signature form of governance for the European Union, which is itself pioneering a new form of regional collective governance that is likely to prove far more relevant to global governance than the experience of traditional federal states. Most important, they are driven by many of the multiple factors that drive the hydra-headed phenomenon of globalization itself, leading to the simple need for national officials of all kinds to communicate and negotiate across borders to do business they could once accomplish solely at home.

The point of this book is not to "discover" government networks. It is to point out their proliferation in every place we have eyes to see, if only we use the right lenses. And it is to explore their potential, highlighting their advantages and warning of their disadvantages, in constructing a world order that is better fitted to meet the challenges of the world we share.

Government networks can help address the governance tri-lemma, offering a flexible and relatively fast way to conduct the business of global governance, coordinating and even harmonizing national government action while initiating and monitoring different solutions to global problems. Yet they are decentralized and dispersed, incapable of exercising centralized coercive authority. Further, they are government actors. They can interact with a wide range of NGOs, civic and corporate, but their responsibilities and constituencies are far broader. These constituencies should be able to devise ways to hold them accountable, at least to the same extent that they are accountable for their purely domestic activity.

2. THE DISAGGREGATED STATE

Participants in the decade-long public and academic discussion of globalization have routinely focused on two major shifts: from national to global and from government to governance. They have paid far less attention to the third shift, from the unitary state to the disaggregated state.

The disaggregated state sounds vaguely Frankenstinian—a shambling, headless bureaucratic monster. In fact, it is nothing so sinister. It is simply the rising need for and capacity of different domestic government institutions to engage in activities beyond their borders, often with their foreign counterparts. It is regulators pursuing the subjects of their regulations across borders; judges negotiating minitreaties with their foreign brethren to resolve complex transnational cases; and legislators consulting on the best ways to frame and pass legislation affecting human rights or the environment.

The significance of the concept of the disaggregated state only becomes fully apparent in contrast to the unitary state, a concept that has long dominated international legal and political analysis. International lawyers and international relations theorists have always known that the entities they describe and analyze as "states" interacting with one another are in fact much more complex entities, but the fiction of a unitary will and capacity for action has worked well enough for purposes of description and prediction of outcomes in the international system. In U.S. constitutional law, for instance, the Supreme Court and the president have often had recourse to James Madison's famous pronouncement in the Federalist papers: "If we are to be one nation in any respect, it clearly ought to be in respect to other nations."[23] And in international law, the foundational premise of state sovereignty traditionally assumed that members of the international system have no right to pierce the veil of statehood.

In an international legal system premised on unitary states, the paradigmatic form of international cooperation is the multilateral international convention, negotiated over many years in various international watering holes, signed and ratified with attendant flourish and

formality, and given continuing life through the efforts of an international secretariat whose members prod and assist ongoing rounds of negotiation aimed at securing compliance with obligations already undertaken and at expanding the scope and precision of existing rules.[24] The "states" participating in these negotiations are presumed to speak with one voice—a voice represented by either the head of state or the foreign minister. Any differences between the different parts of a particular government are to be worked out domestically; the analytical lens of the unitary state obscures the very existence of these different government institutions.

The result is the willful adoption of analytical blinders, allowing us to see the "international system" only in the terms that we ourselves have imposed. Compare our approach to domestic government: we know it to be an aggregate of different institutions. We call it "the government," but we can simultaneously distinguish the activities of the courts, Congress, regulatory agencies, and the White House itself. We do not choose to screen out everything except what the president does or says, or what Congress does or says, or what the Supreme Court does or says. But effectively, in the international system, we do.

Looking at the international system through the lens of unitary states leads us to focus on traditional international organizations and institutions created by and composed of formal state delegations. Conversely, however, thinking about states the way we think about domestic governments—as aggregations of distinct institutions with separate roles and capacities—provides a lens that allows us to see a new international landscape. Government networks pop up everywhere.

Horizontal government networks—links between counterpart national officials across borders—are easiest to spot. Far less frequent, but potentially very important, are vertical government networks, those between national government officials and their supranational counterparts. The prerequisite for a vertical government network is the relatively rare decision by states to delegate their sovereignty to an institution above them with real power—a court or a regulatory commission. That institution can then be the genuine counterpart existence of a national government institution. Where these vertical networks ex-

ist, as in the relations between national courts and the ECJ in the European Union, they enable the supranational institution to be maximally effective.

The first three chapters of the book describe the world as it is when viewed through the lens of disaggregated rather than unitary states. They spotlight many different types of government networks, horizontal and vertical, among government officials of every stripe. The concept of a "network" has many different definitions; I use a very broad one. The point is to capture all the different ways that individual government institutions are interacting with their counterparts either abroad or above them, alongside more traditional state-to-state interactions. For present purposes, then, a network is a pattern of regular and purposive relations among like government units working across the borders that divide countries from one another and that demarcate the "domestic" from the "international" sphere.[25]

Chapter 1 presents regulators—from central bankers to utilities commissioners—as the new diplomats. Embassies around the world have become regular hosts to regulators coming to meet with other regulators. Regulatory networks span a wide range from informal bilateral and multilateral networks to more institutionalized transgovernmental regulatory organizations such as the Basel Committee and IOSCO. The chapter distinguishes among regulatory networks that are located within traditional international organizations, those created as a result of executive agreements, and those generated spontaneously through increasingly regular contacts between specific regulators. It also identifies three broad types of networks: information networks, enforcement networks, and harmonization networks.

Chapter 2 turns to courts. Judges are perhaps the most surprising networkers, but they too are increasingly engaged with their counterparts abroad. Some of this interaction is more passive, consisting principally in learning about and citing one another's decisions. In other circumstances, judges are forming their own organizations and are actively developing principles that allow them to cooperate better in transnational litigation. They can thus be said to participate in both information and enforcement networks. Running through all these activities is a growing awareness, among both national and supranational

judges, of their participation in the common enterprise of judging. The result is not a formal international legal system, but more a global community of courts.

Chapter 3 describes a parallel, although less-developed, world of legislative networks. Legislators come together within the framework of numerous international treaties and organizations and have begun to link up with one another more spontaneously to share information and coordinate activity regarding issues of common interest, such as human rights, environmental protection, and opposition to the death penalty. Legislators must inevitably respond principally to domestic constituencies, and thus benefit less from, and may even pay a price for, foreign networking. On the other hand, legislators have quite different perspectives to share with one another than those shared by regulators and judges, respectively, and are able to exercise a more direct transgovernmental influence on specific policy issues.

3. A NEW WORLD ORDER

Appreciating the extent and nature of existing government networks, both horizontal and vertical, makes it possible to envision a genuinely new world order. "World order," for these purposes, describes a system of global governance that institutionalizes cooperation and sufficiently contains conflict such that all nations and their peoples may achieve greater peace and prosperity, improve their stewardship of the earth, and reach minimum standards of human dignity. The concept of a "new world order" has been used and overused to refer to everything from George H. W. Bush's vision of a post–Cold War world to the post-9/11 geopolitical landscape. Nevertheless, I use it to describe a different conceptual framework for the actual infrastructure of world order—an order based on an intricate three-dimensional web of links between disaggregated state institutions.

Recall Atlas and his globe at Rockefeller Center. A disaggregated world order would be a world latticed by countless government networks. These would include horizontal networks and vertical networks; networks for collecting and sharing information of all kinds, for policy

coordination, for enforcement cooperation, for technical assistance and training, perhaps ultimately for rule making. They would be bilateral, plurilateral, regional, or global. Taken together, they would provide the skeleton or infrastructure for global governance.

To appreciate the full implications of this vision, consider again our implicit mental maps of "the international system" or even "world order." It's a flat map, pre-Columbian, with states at the level of the land and the international system floating above them somewhere. International organizations also inhabit this floating realm—they are apart from and somehow above the states that are their members. To the extent that they are actually seen as governing the international system or establishing global order, they must constitute an international bureaucracy equivalent in form and function to the multiple domestic bureaucracies of the states "underneath" them.

In a world of government networks, by contrast, the same officials who are judging, regulating, and legislating domestically are also reaching out to their foreign counterparts to help address the governance problems that arise when national actors and issues spill beyond their borders. Global governance, from this perspective, is not a matter of regulating states the way states regulate their citizens, but rather of addressing the issues and resolving the problems that result from citizens going global—from crime to commerce to civic engagement. Even where genuinely supranational officials participate in vertical government networks—meaning judges or regulators who exercise actual sovereign authority delegated to them by a group of states—they must work very closely with their national counterparts and must harness national coercive power to be effective.

Scholars and commentators in different issue areas have begun to identify various pieces of this infrastructure. Financial regulators, for instance, are becoming accustomed to describing the new international financial architecture as a combination of networks—G-7, G-8, and G-20, the Basel Committee, and IOSCO among them—with traditional international institutions, such as the International Monetary Fund (IMF) and the World Bank. Scholars of the European Union, as noted above, are increasingly familiar with the concept of "regulation by network." Environmental activists would readily recognize some

of the institutions associated with the North American Free Trade Agreement (NAFTA) as "environmental enforcement networks" composed of the environmental protection agencies of the United States, Canada, and Mexico.[26] And constitutional law scholars, human rights activists, and transnational litigators would not balk at the idea of transnational judicial networks to describe the various ways in which courts around the world are increasingly interacting with one another.

Further, different regional and political organizations around the world have already consciously adopted this form of organization. Beyond the European Union, both APEC and the Nordic System are essentially "networks of networks," organizations composed of networks of national ministers and parliamentarians. The Commonwealth has also long been structured this way, although its myriad networks of regulators, judges, and legislators have evolved more gradually over time. And the OECD is an international institution that has as its chief function the convening of different networks of national regulators to address common problems and propose model solutions.

Chapter 4 outlines a conception of a disaggregated world order based on government networks. It begins by describing the networked organizations and associations just mentioned. It then turns to the vertical dimension of a disaggregated world order, describing the more limited but critical role that could be played by networks between supranational officials and their national counterparts. The final section of the chapter turns to the relations between government networks and traditional international organizations, exploring the possibility for international organizations themselves to disaggregate into judicial, regulatory, and legislative components. The description and analysis in this chapter are equal parts fact and imagination. I outline what is, in part, and what could be. I also assume, from a normative standpoint, that a world order based on a combination of horizontal and vertical government networks, operating within and alongside future versions of our current international organizations, could be both a feasible and a desirable response to the globalization paradox.

Such a project may well be laying itself open to charges of hubris, or, at best, foolhardiness. If I attempt it, it is because I believe that politicians and policymakers wrestling daily with problems on a global scale

need a structured, enduring theoretical vision toward which to strive, even if never to entirely achieve. As Neil MacCormick writes in the epigraph to this chapter, "What is possible is not independent of what we believe to be possible." To achieve a better world order, we must believe that one can exist and be willing to describe it in sufficient detail that it could actually be built.

Premises

There can, of course, be no one blueprint for world order. The proposal advanced here is part of an active and ongoing debate. In the spirit of such debate, it is important to acknowledge that the model of world order I put forward rests on a combination of descriptive and predictive empirical claims, which can be summarized in basic terms:

- The state is not the only actor in the international system, but it is still the most important actor.
- The state is not disappearing, but it is disaggregating into its component institutions, which are increasingly interacting principally with their foreign counterparts across borders.
- These institutions still represent distinct national or state interests, even as they also recognize common professional identities and substantive experience as judges, regulators, ministers, and legislators.
- Different states have evolved and will continue to evolve mechanisms for reaggregating the interests of their distinct institutions when necessary. In many circumstances, therefore, states will still interact with one another as unitary actors in more traditional ways.
- Government networks exist alongside and sometimes within more traditional international organizations.

These premises are distilled from the empirical material presented principally in the first three chapters. They specify the components and the context for the operation of both horizontal and vertical government networks. But they also specify what I am not saying. I am not ar-

guing that a new world order of government networks will replace the existing infrastructure of international institutions, but rather complement and strengthen it. States can be disaggregated for many purposes and in many contexts and still be completely unitary actors when necessary, such as in decisions to go to war. And even their component parts still represent national interests in various ways.

Horizontal Networks

The structural core of a disaggregated world order is a set of horizontal networks among national government officials in their respective issue areas, ranging from central banking through antitrust regulation and environmental protection to law enforcement and human rights protection. These networks operate both between high-level officials directly responsive to the national political process—the ministerial level—as well as between lower level national regulators. They may be surprisingly spontaneous—informal, flexible, and of varying membership—or institutionalized within official international organizations. For instance, national finance ministers meet regularly under the auspices of the G-7 and the G-20, but also as members of the IMF Board of Governors. The extent and the kind of power they may exercise within these two forums differ in significant ways, but the basic structure of governance and the identity of the governors remains the same.

Horizontal information networks, as the name suggests, bring together regulators, judges, or legislators to exchange information and to collect and distill best practices. This information exchange can also take place through technical assistance and training programs provided by one country's officials to another. The direction of such training is not always developed country to developing country, either; it can also be from developed country to developed country, as when U.S. antitrust officials spent six months training their New Zealand counterparts.

Enforcement networks typically spring up due to the inability of government officials in one country to enforce that country's laws, either by means of a regulatory agency or through a court. But enforcement cooperation must also inevitably involve a great deal of information exchange and can also involve assistance programs of various

types. Legislators can also collaborate on how to draft complementary legislation so as to avoid enforcement loopholes.

Finally, harmonization networks, which are typically authorized by treaty or executive agreement, bring regulators together to ensure that their rules in a particular substantive area conform to a common regulatory standard. Judges can also engage in the equivalent activity, but in a much more ad hoc manner. Harmonization is often politically very controversial, with critics charging that the "technical" process of achieving convergence ignores the many winners and losers in domestic publics, most of whom do not have any input into the process.

Vertical Networks

In a disaggregated world order, horizontal government networks would be more numerous than vertical networks, but vertical networks would have a crucial role to play. Although a core principle of such an order is the importance of keeping global governance functions primarily in the hands of domestic government officials, in some circumstances states do come together the way citizens might and choose to delegate their individual governing authority to a "higher" organization—a "supranational" organization that does exist, at least conceptually, above the state. The officials of these organizations do in fact replicate the governing functions that states exercise regarding their citizens. Thus, for instance, states can truly decide that the only way to reduce tariffs or subsidies is to adopt a body of rules prohibiting them and allow an independent court or tribunal to enforce those rules. Alternatively, states can come together and give an international court the power to try war criminals—the same function that national courts perform—in circumstances in which national courts are unwilling or unable to do so.

These supranational organizations can be far more effective in performing the functions states charge them to perform if they can link up directly with national government institutions. Absent a world government, it is impossible to grant supranational officials genuine coercive power: judges on supranational tribunals cannot call in the global equivalent of federal marshals if their judgments are not obeyed; global regulators cannot impose fines and enforce them through global courts.

Their only hope of being able to marshal such authority is to harness the cooperation of their domestic counterparts—to effectively "borrow" the coercive power of domestic government officials to implement supranational rules and decisions. As discussed in chapter 2, this harnessing has been the secret of the ECJ's success in creating and enforcing a genuine European legal system within the European Union. At the global level, it can make supranational organizations more powerful and effective than many of their creators ever dreamed.

Close ties between supranational officials—judges, regulators, legislators—and their domestic government counterparts are vertical government networks. They depend on the disaggregation of the state no less than do horizontal government networks. Whereas the traditional model of international law and international courts assumed that a tribunal such as the International Court of Justice in the Hague—traditionally known as the World Court—would hand down a judgment applicable to "states," and thus up to "states" to enforce or ignore, the EU legal system devolves primary responsibility for enforcing ECJ judgments not onto EU "member-states," per se, but on to the national judges of those states. Another version of a vertical judicial network, operating on a global scale, is the jurisdictional provisions of the Rome Statute establishing an International Criminal Court (ICC).[27] Under this system, national courts are to exercise primary jurisdiction over cases involving genocide, war crimes, and crimes against humanity, but will be required to cede power to the ICC if they prove unable or unwilling to carry out a particular prosecution. Beyond judges, the European Union is also pioneering a vertical administrative network between the antitrust authority of the European Commission and national antitrust regulators that will allow the commission to charge national authorities with implementing EU rules in accordance with their particular national traditions.[28]

These vertical networks are enforcement networks. But they can also operate as harmonization networks, in the sense that they will bring national rules and supranational rules closer together. Still other vertical networks are principally information networks. The environmental ministers of NAFTA countries, for instance, benefit by working with the Commission on Environmental Cooperation (CEC), a

NAFTA supranational institution charged with gathering information on environmental enforcement policies and compiling a record of complaints of nonenforcement by private actors. This is an attempt to enhance enforcement through the provision of information. Similarly, the European Union is beginning to create Europe-level "information agencies," designed to collect and disseminate information needed by networks of national regulators.[29] Such agencies can also provide benchmarks of progress for their national counterparts against accepted global or regional standards.

Disaggregated International Organizations

Thinking about world order in terms of both horizontal and vertical government networks challenges our current concept of an "international organization." Many international organizations are primarily convening structures for horizontal networks of national officials. Others are genuinely "supranational," in the sense that they constitute an entity distinct from national governments that has a separate identity and loyalty and which exercises some measure of genuine autonomous power. For example, the Ministerial Conference of the WTO is a gathering of national trade ministers, who can only exercise power by consensus. Dispute-resolution panels of the WTO, by contrast, are composed of three independent experts charged with interpreting and enforcing the rules of the WTO against national governments.

Both of these types of international/supranational organization differ from traditional international organizations—most notably the United Nations itself—that are composed of formal delegations from each of the member states, typically headed by an ambassador serving in the capacity of permanent representative. The Organization of American States (OAS), the Organization of African Unity (OAU), and the Organization for Security and Cooperation in Europe (OSCE) all fit this model. More specialized international organizations, on the other hand, such as the International Postal Union, the World Health Organization (WHO), and the Food and Agriculture Organization, address less overtly "political" subject areas than international and regional security and have long been a forum for meetings of the relevant national ministers. Organizations such as the IMF and the World Bank

are hybrid in this regard—national finance ministers and central bankers effectively run them, but they have weighted voting arrangements (like the five permanent members of the United Nations who are able to exercise a veto) that make them far more than convening structures for networks.

In a world of disaggregated states that nevertheless still act as unitary actors under some circumstances, it is important to be able to distinguish between different types of international organizations in terms both of the relevant government officials who represent their states within them and the degree and type of autonomous power they can exercise. Where international organizations have become sufficiently specialized to develop the equivalent of an executive, judicial, and even legislative branch, vertical government networks become possible. Where they are specialized in a specific issue area but exercise little or no autonomous power, they can be hosts for horizontal government networks. But when they are regional or global organizations charged with assuring peace and security, or similar very general functions, they represent an older and much more formal model of international cooperation, conducted by diplomats more than domestic government officials.

Here, then, is the structural blueprint of a new world order of government networks, complete with a set of assumptions about the nature of states and the types of international organizations those states have and will continue to create. But order must be backed by power. How can these various networks actually influence political, economic, and social outcomes to achieve substantive results? Any conception of world order must assume some set of such results. It takes structures, power, and norms to achieve them.

Global Impact

A critical piece of the puzzle is still missing. Government networks can provide the structure of a new world order, but how do we know that they actually have, or will have, any impact on addressing the problems that the world needs to solve? How do they, or will they, contribute to

increasing peace and prosperity, protecting the planet and the individuals who inhabit it?

Chapter 5 takes on these questions. The first half of the chapter sets forth three ways in which government networks currently contribute to world order: (1) by creating convergence and informed divergence; (2) by improving compliance with international rules; and (3) by increasing the scope, nature, and quality of international cooperation. Kal Raustiala, a young legal scholar and political scientist, has demonstrated ways in which government networks lead to "regulatory export" of rules and practices from one country to another. The result can be sufficient policy convergence to make it possible over the longer term to conclude a more formal international agreement setting forth a common regulatory regime.[30] Soft law codes of conduct issued by transgovernmental regulatory organizations, as well as the simple dissemination of credible and authoritative information, also promote convergence. Promoting convergence, on the other hand, can also give rise to informed divergence, where a national governmental institution or the government as a whole acknowledges a prevailing standard or trend and deliberately chooses to diverge from it for reasons of national history, culture, or politics.

Government networks also improve compliance with international treaties and customary law. Vertical enforcement networks do this explicitly and directly by providing a supranational court or regulatory authority with a direct link to a national government institution that can exercise actual coercive authority on its behalf. Equally important, however, are the ways in which technical assistance flowing through horizontal networks can build regulatory or judicial capacity in states where there may be a willingness to enforce international legal obligations but the infrastructure is weak.

Finally, government networks enhance existing international cooperation by providing the mechanisms for transferring regulatory approaches that are proving increasingly successful domestically to the international arena. Most important is regulation by information, which allows regulators to move away from traditional command-and-control methods and instead provide individuals and corporations with the information and ideas they need to figure out how to improve their

own performance against benchmarked standards. This approach is gaining popularity in the United States, is increasingly prevalent in the European Union, and is being tried at the United Nations. Government networks create regional and even global transmission belts for information that can readily expand to include as many nations as can usefully participate. In addition, government networks are the ideal mechanism of international cooperation on international problems that have domestic roots, as they directly engage the participation and the credibility of the individuals who must ultimately be responsible for addressing those problems.

The second half of chapter 5 turns from what is to what could be if policymakers and opinion leaders around the world began looking through the lens of the disaggregated state and decided to recognize government networks as prime mechanisms of global governance, using existing networks and creating new ones to address specific problems. First, they could harness the capacity of government networks for self-regulation, drawing on the examples of private commercial networks that succeed in enforcing "network norms" against cheating or other undesirable behavior. If government networks exist not only to address specific regulatory, judicial, and legislative problems, but also as self-consciously constituted professional associations of regulators, judges, and legislators, they should be able develop and enforce global standards of honesty, integrity, competence, and independence in performing the various functions that constitute a government.

They could socialize their members in a variety of ways that would create a perceived cost in deviating from these standards. But they could also bolster their members by enhancing the prestige of membership in a particular government network enough to give government officials who want to adhere to high professional standards ammunition against countervailing domestic forces. Just as international organizations from the European Union to the Community of Democracies have done, government networks could condition admission on meeting specified criteria designed to reinforce network norms.[31] A particular advantage of selective strengthening of individual government institutions this way is that it avoids the pernicious problem of labeling an entire state as bad or good, liberal or illiberal, tyrannical or demo-

cratic. It focuses instead on performance at a much lower level, recognizing that in any country and in any government different forces will be contending for power and privilege. It is critical to support those who are willing to practice what they preach in both their own laws and their obligations under international law.

At the same time, these networks could be empowered to provide much more technical assistance of the kind needed to build governance capacity in many countries around the world. They could be tasked with everything from developing codes of conduct to tackling specific policy problems. They could be designated interlocutors for the multitudes of nongovernmental actors, who must be engaged in global governance as they are in domestic governance. Vertical government networks could similarly be designed to implement international rules and strengthen domestic institutions in any number of ways. How well will they do? We cannot know until we try.

To take a concrete example, consider how government networks could help in the rebuilding of Iraq. A global or regional network of judges could be charged with helping to rebuild the Iraqi legal system, both through training and technical assistance and through ongoing monitoring of new Iraqi judges' compliance with the network's norms, which would incorporate standards from the UN's Basic Principles on the Independence of the Judiciary. A global or regional network of legislators could be similarly charged with helping to establish and assist a genuinely representative legislature in Iraq. And regulators and other executive officials of every stripe could help to rebuild basic government services, from policing to banking regulation. In all these cases the experts and targeted technical assistance would be readily available; the rebuilding efforts would be multilateral and sustainable; and the new Iraqi officials would have a continuing source of technical, political, and moral support.

Vertical networks can also strengthen, encourage, backstop, and trigger the better functioning of their counterpart domestic institutions. Consider again the jurisdictional scheme of the ICC. It reflects a conception of a global criminal justice system that functions above all to try to ensure that nations try their own war criminals or perpetrators of genocide or crimes against humanity. The purpose of a supranational global criminal court is to create an entire range of incentives that

maximize the likelihood of those domestic trials taking place, from strengthening the hand of domestic groups who would favor such a course to reminding the domestic courts in question that the international community is monitoring their performance. In part, the aim here, as would be true of a wide variety of horizontal government networks, would be to strengthen domestic government officials as a preventive measure to head off a crisis.

Government networks that were consciously constituted as mechanisms of global governance could also acknowledge the power of discussion and argument in helping generate high-quality solutions to complex problems. For certain types of problems, vigorous discussion and debate is likely to produce the most creative and legitimate alternatives. In addition, government networks constituted in this way could harness the positive power of conflict as the foundation of lasting political and social relationships. This understanding of conflict is familiar within democratic societies; it is only within the world of diplomacy, where conflict can escalate to fatal dimensions, that conflict per se is a danger, if not an evil. Among disaggregated government institutions, national and supranational, conflict should be resolved, but not necessarily avoided. It is likely to be the long-term engine of trust.

Note that government networks, both as they exist now and as they could exist, exercise different types of power to accomplish results. They have access to traditional "hard," or coercive, power. The central role of national government officials in government networks means that when the participants make a decision that requires implementation, the power to implement already exists at the national level. The power to induce behavior through selective admission requirements is also a form of hard power. At the same time, much of the work of many horizontal government networks depends on "soft" power—the power of information, socialization, persuasion, and discussion. An effective world order needs to harness every kind of power available.

4. A JUST NEW WORLD ORDER

"World order" is not value-neutral; any actual world order will reflect the values of its architects and members. Most of these values will not

be specific to particular structures or institutions operating in different issue areas. Sustainable development, for instance, is a goal or a value that may drive global environmental policy. Whether it is pursued through traditional international organizations or through a combination of horizontal and vertical government networks should not affect the goal itself.

In other circumstances, however, the choice of form may implicate substance. Some observers see government networks as promoting global technocracy—secret governance by unelected regulators and judges. Others fear that the informality and flexibility of networks is a deliberate device to make an end run around the formal constraints—representation rules, voting rules, and elaborate negotiating procedures—imposed on global governance by traditional international organizations. Absent these constraints, critics charge, powerful nations run roughshod over weaker ones. Still others, however, worry more that weak nations will be excluded from powerful government networks altogether. At the domestic level, critics charge harmonization networks with distorting domestic political processes and judicial networks through the introduction of polluting or diluting national legal traditions. Still others picture government networks as vehicles for special interests—shadowy decision-making forums to which those who are "connected" or "in the know" have access.

In response to these criticisms, I propose a set of potential solutions:

- A conceptual move to recognize all government officials as performing both a domestic and an international function. Such recognition would mean that national constituents would automatically hold them accountable for their activities both within and across borders.
- An effort to make government networks as visible as possible. Creating a common website and linking the individual websites of participants in a government network will have the paradoxical effect of making a government network real by making it virtual.
- Increasing the number and activities of legislative networks, both to monitor the activity of regulatory networks and to launch initiatives of their own.
- Using government networks as the spine of broader policy networks, including international organizations, NGOs, corporations, and

other interested actors, thereby guaranteeing wider participation in government network activities but also retaining an accountable core of government officials.

- A grab-bag of domestic political measures designed to enhance the accountability of government networks, depending on the extent to which a particular polity perceives a problem and what it decides to do about it.

None of these measures addresses the question of how members of government networks should treat each other, however, as fellow participants in, and constituents of, a world order. National and supranational officials participating in a full-fledged disaggregated world order would be accountable not only to specific national constituencies, but also to a hypothetical global polity. They would be responsible for defining and implementing "global public policy."[32] It is impossible to define the substance of that policy in the abstract. But the officials responsible should be guided by general "constitutional" norms in their relations with one another. In this context, I propose five basic principles designed to ensure an inclusive, tolerant, respectful, and decentralized world order. They include the horizontal norms of global deliberative equality, legitimate difference, and positive comity, and the vertical norms of checks and balances and subsidiarity.

Global Deliberative Equality. A global order of networks among government officials and institutions cannot work without efforts to maximize the possibilities of participation both by individuals and groups at the level of national and transnational society and by nations of all kinds at the level of the state. Absent such a principle, networks become a euphemism for clubs and a symbol of elitism and exclusion. Global deliberative equality, building on ideas developed by Michael Ignatieff, is a principle of maximum inclusion, to the extent feasible, by all relevant and affected parties in processes of transgovernmental deliberation.

Legitimate Difference. The principle of "legitimate difference" is a principle of pluralism. In contrast to the imagined uniformity that would be imposed by a central authority under an imagined and feared world government, a disaggregated world order begins from the premise of multiple

ways of organizing societies and polities at the national level. Ministers, heads of state, courts, legislators, even bureaucrats all reflect national differences, flowing from distinct histories, cultural traditions, demographic and geographic necessities, and the contingencies of national fortune. Each must be prepared to recognize the validity of each other's approach, as long as all accept a core of common fundamental principles.

Positive Comity. In contrast to the traditional principle of comity as a negative principle of deference to the interests of other nations, positive comity is a principle of affirmative cooperation. As a principle of governance for transnational regulatory cooperation, it requires regulatory agencies, courts, and even legislators to substitute consultation and active assistance for unilateral action and noninterference.

Checks and Balances. All participating government institutions, national and supranational, must interact with each other in accordance with a global concept of checks and balances, whereby the distribution of power is always fluid on both the horizontal and particularly the vertical axes. The clearest example is the way in which the national courts of the European Union maintain a shifting balance of power with the ECJ, within the framework of a "cooperative relationship."

Subsidiarity. Just as the principle of checks and balances borrows from the U.S. Constitution, as translated originally from Montesquieu, the principle of subsidiarity borrows from the ideals and experiences of the European Union. It is a principle of locating governance at the lowest possible level—that closest to the individuals and groups affected by the rules and decisions adopted and enforced. Whether this level is local, regional, national, or supranational is an empirical question, dictated by considerations of practicability rather than a preordained distribution of power.

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THE CHOICE AND FORMULATION OF ANY SUCH PRINCIPLES IS INEVITABLY personal and partial. The point here is that some set of constitutional

principles must operate at a metalevel across all types of government networks, specifying basic ground rules for how the members of these networks treat each other and what the basic division of labor is between them. The principles I put forward reflect values of equality, tolerance, autonomy, interdependence, liberty, and self-government. These values underlie my personal conception of a just world order based on government networks, even though some of the advantages of networked governance, such as flexibility and speed, are likely to be weakened if my principles were adopted. Ultimately, however, the process both of identifying specific values and translating them into principles must be a collective one. I thus hope that the principles offered here and any competing versions will become a matter for debate among scholars, policymakers, and ultimately voters.

The disaggregation of the state is a phenomenon. Government networks are a technology of governance that are probably both cause and effect of this phenomenon. The types of power they exercise are both old and new, but are critical to their ultimate impact, as is a better understanding of the conditions most favorable to their operation. But the norms and principles that would guide their operation in a deliberately constructed disaggregated world order would be a matter of conscious public choice. They will ultimately determine whether a disaggregated world order is a world order worth having.

5. CONCLUSION: PUSHING THE PARADIGM

The mantra of this book is that the state is not disappearing; it is disaggregating. Its component institutions—regulators, judges, and even legislators—are all reaching out beyond national borders in various ways, finding that their once "domestic" jobs have a growing international dimension. As they venture into foreign territory, they encounter their foreign counterparts—regulators, judges, and legislators—and create horizontal networks, concluding memoranda of understanding to govern their relations, instituting regular meetings, and even creating their own transgovernmental organizations. They are also, although much less frequently, encountering their supranational coun-

terparts, judge to judge, regulator to regulator, or legislator to legislator, and establishing vertical networks.

The official observers of the international scene—scholars, pundits, policymakers—cannot fully see and appreciate this phenomenon because they are handicapped by the conceptual lenses of the unitary state. Although they are accustomed to thinking of "governments" domestically—as complex conglomerates of different institutions responsible for different governance functions—they think of "states" internationally. These are purportedly unitary actors represented by the head of state and the foreign minister, represented in other countries and international organizations by professional diplomats. These representatives, in turn, purportedly articulate and pursue a single national interest.

The conception of the unitary state is a fiction, but it has been a useful fiction, allowing analysts to reduce the complexities of the international system to a relatively simple map of political, economic, and military powers interacting with one another both directly and through international organizations. But today it is a fiction that is no longer good enough for government work. It still holds for some critical activity such as decisions to go to war, to engage in a new round of trade negotiations, or to establish new international institutions to tackle specific global problems. But it hides as much as it helps.

Abandoning that fiction and making it possible to see and appreciate these networks is particularly important in a world confronting both the globalization paradox—needing more government but fearing it at the global level—and the rising importance of nonstate actors in the corporate, civic, and criminal sectors. Global governance through government networks would mean harnessing national government officials to address international problems. It would be global governance through national governments, except in circumstances in which those governments concluded that a genuine supranational institution was necessary to exercise genuine global authority. In those circumstances, which would be the exception rather than the rule, the supranational institutions would be more effective than ever before through the operation of vertical government networks.

At the same time, government networks can significantly expand

the capacity of national governments to engage the host of nonstate actors who are themselves operating through networks. Networks of specific national government officials—from environmental regulators to constitutional judges—can anchor broader networks of nonstate actors pursuing global agendas of various types while still retaining a distinct governmental character and specific government responsibilities to their constituents. They can expand regulatory reach far beyond the capacity of any one national government. They can bolster and support their members in adhering to norms of good governance at home and abroad by building trust, cohesion, and common purpose among their members. They can enhance compliance with existing international agreements and deepen and broaden cooperation to create new ones.

But this is only the beginning. Push the paradigm a few steps further and imagine the possibilities. A key identifying feature of current government networks is that they are necessarily informal. Their informality flows not only from the fluidity of networks as an organizational structure, but also, and much more importantly, from the conceptual blind spot that this book seeks to repair: separate government institutions have no independent or formally recognized status in international law and politics. They exist only as part of the abstract and unitary state, aggregated together with all their fellow government institutions. Even those networks that have formalized their interactions, in the sense of establishing an organization such as the Basel Committee or the IOSCO, have no actual formal status in international law. They operate in the political equivalent of the informal economy, alongside formal international institutions.

Under existing international law, the only way to formalize networks is to negotiate an intergovernmental international organization, by treaty, and reconstitute an existing network as a committee of the organization. Thus, as explained in chapter 1, the governing committee of the IMF is the board of governors, composed mostly of members' finance ministers or central banks' governors. Alternatively, the extensive relations between the ECJ and national courts in Europe was originally structured by the Treaty of Rome, providing for national courts to refer cases involving questions of EEC law to the ECJ. Even there, however, the national courts of the individual members of the Euro-

pean Union have no status at international law, thus the relations that have evolved between the ECJ and the national courts and the principles governing them are still informal. So too are the many codes of best practices that are developed and disseminated by networks ranging from the G-20 to IOSCO.

In practical terms, what this informality means is, crucially, that individual government institutions cannot be subjected to specific obligations or duties under international law. Nor can they exercise specific rights. Sovereignty is possessed by the state as a whole, not by its component parts. For example, the courts that are attempting to develop a specific conception of judicial comity, as described in chapter 2, are adapting a doctrine that has traditionally applied to states as a whole to the specific needs of transjudicial relations. Overall, however, the entire world of transgovernmental relations remains largely hidden from the formal rules and foundational principles of traditional international law.

Yet suppose individual national government institutions could become bearers of the rights and responsibilities of sovereignty in the global arena. Suppose sovereignty itself could be disaggregated, that it attached to specific government institutions such as courts, regulatory agencies, and legislators or legislative committees. But as exercised by these institutions, the core characteristic of sovereignty would shift from autonomy from outside interference to the capacity to participate in transgovernmental networks of all types.[33] This concept of sovereignty as participation, or status, means that disaggregated sovereignty would empower government institutions around the world to engage with each other in networks that would strengthen them and improve their ability to perform their designated government tasks individually and collectively.

In the process, they could help rebuild states ravaged by conflict, weakened by poverty, disease, and privatization, or stalled in a transition from dictatorship to democracy. If transgovernmental organizations of judges, regulators, or legislators had formal status at the level of international law, they could adopt formal membership criteria and standards of conduct that would create many more pressure points for the global community to act upon a wayward state, but also many more

incentives and sources of support for national government officials aspiring to be full members of the global community yet so often lacking capacity or political and material reinforcement in the domestic struggle against corruption or the arbitrary and often concentrated use of power. Aid, pressure, socialization, and education would no longer flow state to state, but would penetrate the state to the level of specific individuals who constitute a government and must make and implement decisions on the ground.

All these officials would also be directly subject to the obligations of treaties and other international agreements. It would not be up to "the state" to uphold human rights or protect the environment or abjure child labor or seek a peaceful resolution to conflicts. It would be up to the members of the executive branch, the judiciary, and the legislature. And in a world in which violations of international law increasingly carry individual penalties, such obligations could make themselves felt.

I explore these ideas further in the conclusion. This book is intended to help readers see and appreciate an actual world order that is emerging and to imagine what could be achieved in a world latticed by countless horizontal and vertical government networks. It would be a world of disaggregated state institutions interacting with one another alongside unitary states and unitary state organizations. The next step could be to disaggregate sovereignty itself. Only by pushing the envelope of what we assume to be natural or inherent can we hope to envision and create a genuinely new world order.