



## The Rule of Law in an Age of Power Politics: Superpower Strategies and International Legal Order

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### ABSTRACT

This article looks at the complex intersection of international law and power politics during the 21st century, with particular focus on how global superpowers tread around, shape, and sometimes dismantle the international legal framework for strategic reasons. While the rule of law is central to international management, it is continuously challenged by the unilateralism, selective compliance, and judicial activism of great powers such as the United States, China, and Russia. Through an analysis of seminal case studies, interventions, withdrawal from agreements, and geopolitical rivalry, the paper looks at how legal norms are being weaponized or driven to the periphery in the quest for power. The article argues that the international law system is not unraveling, but reorganizing under coercion, depicting a dynamic between legal order and geopolitical design.

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## **INTRODUCTION**

The rule of law has been widely praised as the pillar of the international order, providing stability, accountability, and peaceful resolution of conflicts between states. Universality and objectivity of international legal principles are strained with the resurgence of great power competition. Superpowers increasingly invoke international law to legitimize their activities while resisting restraints on sovereignty and strategic flexibility. From America's withdrawal from multilateral agreements such as the Paris Climate Accord and the Iran Nuclear Deal, to China's assertive maritime claims in the South China Sea and Russia's actions in Ukraine and Georgia, power politics and legal commitments are constantly at odds with each other. Such actions raise fundamental questions: Is the international legal order collapsing under the weight of strategic competition? Or is it merely adapting to a more multipolar and interest-driven world? This article seeks to unravel such dynamics, examining how legal orders are interpreted, challenged, or evaded by superpowers as they seek their influence. It then asks whether or not the rule of law can survive or even thrive under an era dominated by strategic competition and realpolitik.

## **LITERATURE REVIEW**

The concept of the rule of law in international law is a key pillar of global stability and interstate conflict resolution. However, the literature shows that this principle continues to be under pressure from the power politics of superpowers such as the United States, China and Russia. Previous research confirms that large states often adhere to the law selectively, use the law as an instrument of lawfare, and even withdraw from multilateral agreements for their strategic interests.

Historical studies reject the “liberal West versus illiberal Rest” view because the international legal order was formed through the interaction of Western and non-Western actors, including decolonization movements and non-aligned countries. Recent developments show a decline in international legal compliance (2010-2024) and the rise of competitive legalism, where law becomes an arena for competition rather than cooperation.

The literature also highlights that multipolarity has the potential to create a new equilibrium, but also increases the risk of fragmentation of the international legal order. Therefore, strengthening multilateralism, small state participation, and norm consistency are key to maintaining the rule of law in an era of strategic competition.

## **METHODOLOGY**

This research uses a qualitative approach with a descriptive-normative method to analyze the relationship between international law and global power politics. Data was obtained through desk research, including international legal documents, reports of international institutions (WJP, SIPRI, Harvard Belfer Center), and related academic literature. The analysis is done thematically and comparatively by examining trends in international legal compliance and key

cases such as Russia's invasion of Ukraine, China's maritime claims in the South China Sea, and the US withdrawal from multilateral agreements.

## **RESULT AND DISCUSSION**

### **The United States (US), the West, and International Law in an Era of Strategic Competition**

This study aims to address the following question: What does the future hold for the global legal order now that the West, despite its power and influence, appears to be losing its hegemony? In other words, as we enter a new period of strategic competition, should we be concerned about the "rules-based order"? If so, what should our specific concern be? Finding other answers is critical because if you travel in international circles or read the major English-language newspapers and magazines, you will notice that one particular scenario is quickly gaining traction.

It maintains that the future of international law is determined by the shifting balance of power between Western liberals and their foes, both within and outside of the West. Domestic illiberal forces, autocratic Russia, authoritarian China, and a plethora of non-aligned emerging countries that appear to lack strong moral commitments and aim to gain in the current circumstances by hedging their bets rather than partnering with rising autocrats or the West are among the adversaries. The narrative is currently prevalent. Consider how the West dealt with Russia's violation of international law during its invasion of Ukraine. Much of the commentary has centered on China's support for Russia and its implications for international law, as well as the refusal of developing nations to impose significant sanctions on Russia beyond ceremonial denunciations in the United Nations General Assembly. Suppose the post-colonial world is hesitant to condone such clear transgressions of the principle of non-intervention, the argument goes. In that case, it must be because these countries do not care about standards, despite the West, or support Russian President Vladimir Putin. The same is true for Western leaders and movements that argue for ending current levels of support for Ukraine.

Consider the conflict in Gaza. Following Hamas' horrific atrocities in October, Western observers have struggled to make sense of the situation. First, it has been difficult to make sense of the South African complaint before the International Court of Justice accusing Israel of genocide against the Palestinian people, as well as the widespread support that followed from countries as disparate as Ireland and Pakistan. It has also been difficult to understand why so many postcolonial countries refuse to recognize Hamas as a terrorist organization. Then there's the issue of substantial demographic divides in Western countries over support for Israeli policies. There are numerous explanations, but all point to the reality that developments are taking place that may influence the global legal order as we know it. It's easy to understand why the traditional "liberal West versus the illiberal rest" mantra has stayed so popular. The idea of a law-abiding Western community against foes determined to destroy the established legal order is appealing in its simplicity.

However, today I'd like to argue that this style of thinking is empirically inaccurate and politically damaging.

### **Making International Law**

I would want to start by outlining how the existing legal system came to be. "Modern legal order" refers to the established institutions, conventions, and practices that have evolved to regulate relations between states. With an emphasis on advancing international peace by boosting global wealth through free economic exchange, restricting the use of force through the rule of law, and eventually encouraging the end of empire, fostering self-determination and sovereignty rights, and defending individual rights, this order started to incorporate elements of the liberal tradition in the nineteenth century. Europe had a big part in the narrative's turbulent evolution of the legal international order and its liberal components, but it wasn't by itself. In the European order of the seventeenth and eighteenth centuries, the colonial system determined who could trade, who had legal standing, where migrants would flow, and whose culture would provide legitimate paths to advancement.

However, European supremacy in the international legal system was coming under significant scrutiny by the late eighteenth and early nineteenth centuries. The United States and Japan, India and China, Haiti in the Caribbean, and much of recently independent Latin America were at the forefront of the uprising. Their legal challenge to the empire paved the way for significant freedom movements that would continue well into the twentieth century, including the fight for decolonization, sovereignty, economic justice, cultural liberty, and racial equality. The victorious powers at Paris undoubtedly established the foundations for the League of Nations Covenant following World War I, but as recent histories have demonstrated, one of the most significant consequences was the unanticipated expansion of the self-determination norm, which developed in ways that neither European nor American diplomats could have predicted or controlled. Other recent historical works also clarify the complex network of laws and regulations that made up the U.S.-led system that was put in place in about 1945. Rather than being a gift from the West to the postwar world, the United Nations was the product of a bitter conflict over principles and the separation of powers between the Security Council and the General Assembly.

The American and British ideas for the Bretton Woods institutions had to be developed through arduous negotiations with the Latin American nations that would be their first customers. Instead of American officials employing rewards and penalties to sway lesser governments to their cause, the history of the transatlantic and transpacific alliance system is one of interactions with far weaker polities that had a significant impact on the structure of the Cold War order. Through the Treaty on the Non-Proliferation of Nuclear Weapons, two superpowers collaborated to advance non-proliferation, but only after agreeing to compromises they were first hesitant to make.

Simply put, Western fiat did not establish what we now call the "rules-based order". The framework for countries to legally challenge the colonial rights of their former superpowers was established by the 1956 Suez Crisis and

the 1955 Non-Aligned Conference in Bandung. Opposition to Western dominance paved the way for many of the existing rules restricting the use of force in countries like Afghanistan, Vietnam, Algeria, and Angola. Modern trade law was greatly influenced by postcolonial alliances against Western protectionism and by former colonies asserting permanent sovereignty over their natural resources. Understanding post-colonial civil society organizations' efforts to limit Western powers' capacity to back violent dictators in the Third World is essential to comprehending the human rights movement of the 1970s and 1980s. During this process, non-Western actors established and benefited from transnational ties with intellectuals, civil society organizations and movements, U.S. Congressmen, opposition leaders, and Western government officials. Or think about the revolution in neoliberalism. The 1980s and 1990s saw the West reclaim its supremacy on a number of fronts, promoting selective democracy, market reform, and deregulation globally. By extending the practice of the extraterritorial application of American domestic law – sometimes by imposing sanctions, and other times by establishing certification procedures – the United States, in particular, sought to circumvent the limitations of international law. The traditional model of a thin contractual system of rules negotiated by state representatives was rapidly giving way to a much denser network of principles and procedures, including international panels, courts, and arbitration techniques, as was the case during this time.

Think about the revolution in neoliberalism. The West consolidated its power in the 1980s and 1990s by promoting deregulation, global market reform, and the advancement of selective democracy. By extending the practice of applying American domestic law extraterritorially, sometimes by enforcing sanctions and other times by creating certification procedures, the United States, in particular, aimed to get beyond the limitations of international law. The prior model of a restricted contractual system of norms established by state representatives was rapidly being replaced by a far stricter network of principles and procedures, such as international panels, courts, and arbitration techniques, as was clear at the time. These developments made it possible for transnational coalitions of central bankers, policy experts, legal scholars, social activists, and representatives of numerous religious groups to engage in political action alongside weaker countries in a way never possible before. The idea that the laws that currently govern our world were developed in a Western society before others were allowed entry is mostly a creation of fiction. This exposes the grave flaws in the "West versus the rest" paradigm. It implies that, in addition to a law-abiding West facing a law-breaking Rest, an educated, liberal compact faced a backward, illiberal enemy. It presents the entire legal system as the creation of an all-powerful master who effectively governed over helpless, helpless subjects. Furthermore, the transnational currents that have historically connected Western and non-Western cultures have proven impossible to control, even under the most powerful regimes. But before we can set aside the "liberal West versus the illiberal rest" debate, we need to confront two important issues it raises.

### Law and the Changing Balance of Power

First, the notion of "liberal West versus the illiberal rest" implies that the rules-based system, and especially its liberal components, will suffer greatly from the end of Western hegemony. The fundamental thesis holds that the nature of the judicial system and the global balance of power are profoundly related. The common thinking that is currently being forcefully revived holds that the global rule of law, and liberal law at that, has been contingent upon Western hegemony. But is this the case? The table below Comparative table showing major world powers' adherence to international law and treaty participation:

Table 1. Legal Norms and Treaty Participation

Country/Bloc	Treaty Participation Index (0-10)	ICC Membership	Unga Resolutions Compliance Rate (%)	Support For Rules-Based Order
United States	4.0	no	42%	Selective
European Union	9.0	yes	85%	Strong
United Kingdom	8.0	yes	76%	Moderate
China	5.0	no	51%	Strategic
Russia	4.0	no	47%	Selective

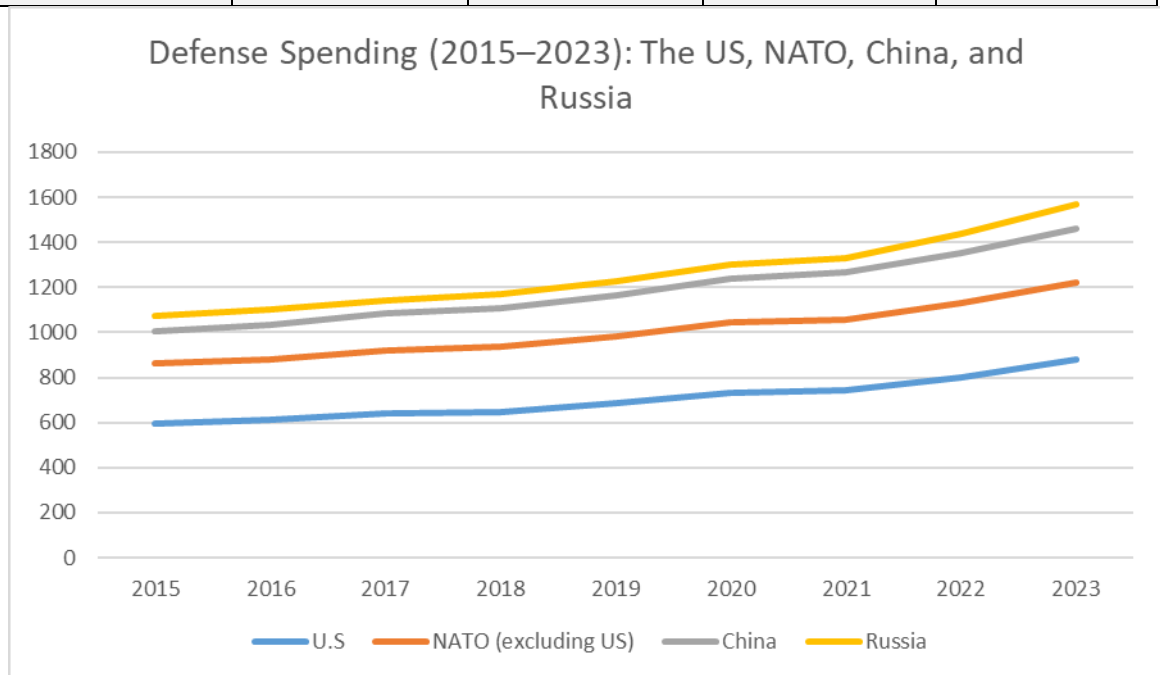


Figure 1. Annual Defense/Military Budgets of Four Key Players

Talk about unipolarity, which, at least in our generation, best embodies the pinnacle of Western hegemony. During this unique historical moment when America was the only superpower in the world, the international legal system was ready for liberal change. But the 9/11 "war on terror" made us painfully aware that liberal superpowers may act in a variety of illiberal ways, particularly when their authority is unbridled. The policy moves that followed

9/11 severely interrupted the decades-long building of the rules-based system. Strong limitations on the use of force were repealed by the Obama administration in Libya and the second Bush administration in Iraq. Liberal America talked about the conditions under which torture might be allowed and how to best avoid accountability for targeted killings in other nations. The "responsibility to protect" doctrine revived arguments for humanitarian intervention that, in reality, ignored accepted ideas of state sovereignty. Ideas that had been dormant for a century also came back into focus, such as the importance of protectorates and ideas of graduated sovereignty. As a result, two pillars of the international legal system, human rights and self-determination, were severely harmed.

The impact of the unipolar moment on international economic governance rules is no different. The drive for deregulation and the rejection of the "embedded liberalism" that had dominated the Western order for much of the Cold War were economic causes that fueled appeals for protectionism and mercantilist thought inside the West. By the 2010s, the primary threat to the rules-based system was not non-Western states but rather Western advances. Therefore, a significant section of the globe, including fervent liberals outside of the West, should welcome the end of Western supremacy. The premise is that if you are weak and concerned about freedom and liberty, the balance of power is essential. The powerful can reject caution and enact arbitrary policies when they hold hegemonic power. This school of thought holds that multipolarity can be useful in defending liberal elements of a global system. In truth, there is a long-standing tradition in Western liberal thought that the balance of power is what allows freedom to be preserved. Could the end of Western hegemony and the emergence of more balanced power brighten the future of liberal values represented in the international legal order? Does such an assumption even make sense at a time when liberal superpowers are balancing Western hegemony, not despotic China and Russia? I cannot answer these questions now, but it is important to bring up an issue that is sometimes ignored in the current international legal system debate. Many countries now can see that Russia and China are both willing and increasingly able to modify the regulations that they find unacceptable. However, it is equally evident that Beijing and Moscow have no intention of overthrowing the "rules-based order". In recent years, they have made substantial use of international law to support their rise, and they have employed legal argumentation techniques and terminology to support their increasing sway over global affairs. According to this perspective, neither Russia nor China can be categorized as radically revisionist, even if both nations have committed egregious breaches of maritime law. This perspective holds that China and Russia, like other superpowers like the US, will ignore laws they don't like, do all in their power to advance laws they like, and use a great deal of hypocrisy to justify their decisions. From the standpoint of the majority of countries today, the option is therefore not so much between a world safe for democracy and one safe for autocracy, but rather between a world with some balance and one where the mighty are uncontrolled.

### **Civilization Versus Truth: Pick Your Standard**

The second issue that the "liberal West versus the illiberal rest" paradigm exposes and that we must actively address is the relationship between culture and the existing legal system. Instead of sovereign states discussing laws with one another, there is a long-standing school of thought that links international law to a community of shared values, whether those values are rooted in Christianity or the greater goals of civilization. During the periods of European supremacy and American ascent, Western conceptions of the rule of law were predicated on the so-called "standard of civilization." It was used to justify territorial conquest and colonization, unequal treaties, and the application of international law, all of which regularly endangered the cultural traditions and sovereignty of non-Western civilizations. The "standard of civilization" remained, nevertheless. The notion that the norms and regulations that sustain the world order can either endure or disintegrate along civilizational lines is still supported. Global political dynamics are determined by civilizational cycles, according to Oswald Spengler's hypothesis in "The Decline of the West" (1922). Arnold Toynbee argued in a 1930s "Study of History" that the main objective of social elites is to protect civilization from external forces that may otherwise destroy it. Samuel Huntington reignited this debate in the 1990s with his book "Clash of Civilizations," which made the case that cultural differences would be the primary source of war once the Cold War ended. In his 2010 analysis of global order, Henry Kissinger focused on "the character of nations," arguing that a stable international order depends on national cultural traits. The "West versus the rest" framework reflects these ideas. There are several methods to critique such an essentialist perspective on how culture influences global norms. It is discriminatory, it legitimizes the enslavement of non-Western peoples, it imposes a homogenizing paradigm of statehood that ignores the diversity of political life, it is emblematic of the historical injustices associated with colonialism and imperialism, etc. However, I also want to draw attention to another point: one of the main issues with these viewpoints is that they fail to acknowledge the significant influence liberalism has had on politics and culture outside of the West. Every society, North and South, East and West, has heard liberal viewpoints. When discussing the rules-based system, this variety of liberal viewpoints is usually overlooked, but this shouldn't be the case. As self-regarding liberals, should we not strive for a universal "standard of truth" rather than making up the distinctions between a backward and an Enlightened West based on a "standard of civilization"? In order to accomplish this, we would have to overcome our narrow national backgrounds and deeply rooted cultural bonds and develop the ability to see the world from other people's viewpoints. If we succeed, we might conclude that if we condemn our enemies' indiscriminate use of violence against civilians, we should be able to hold ourselves, our allies, and our partners to the same standard.

#### **Directions for the Future**

In this article, I have attempted to argue that the now-pervasive "liberal West versus illiberal rest" idea is so simplistic that it restricts our ability to consider how we can defend the international legal order in a time of great power struggle. I have previously argued that the development of the

international legal system cannot be characterized as a Western creation that subsequently turned to weaker countries for support. I have argued that the unbridled power of liberals threatens the rules-based order, in addition to illiberal actors at home and abroad. Additionally, I have attempted to argue that liberalism is a rich tradition with many non-Western manifestations. I'll close by giving you four suggestions for how we might respond to the current circumstance. We must first give up on the idea that countries that are having difficulty with the evolution of the international legal system will unite around a moral agreement. In a world where there are several centers of international power and authority, we can only anticipate heated debate, a lot of contestations, and, if we're lucky, uncoerced persuasion. The struggle between divergent conceptions of international law is a good thing since it provides an alternative to battling through war, using legal arguments. The simplistic "Us versus Them" dichotomy did no good in the unipolar age and is unlikely to help in the multipolar one that is currently taking place.

Secondly, the West has long struggled with the issue of hypocrisy allegations. Hypocrisy arises when a country's professed values, which convey a feeling of moral superiority, are divorced from its international policies. For a long time, Western countries could afford to dismiss these charges, justifying their conduct by claiming that decision-makers are always faced with difficult choices between words and deeds. But in a multi-superpower world, the cost of being seen as a hypocrite is greater. People who are victims of hypocrisy feel more empowered to refuse to work with the hypocrite, which is why this happens. Therefore, rather than dismissing the charge of hypocrisy outright, the West would be better served by describing the measures that would enable it to begin upholding the ideals that its actions violate in a more competitive world.

Third, to compete with China and Russia, U.S. leaders on both the right and the left have shown in recent years that they are prepared to renounce many of the postwar system's rules. Mercantilistic economic policies, leaving the World Trade Organization, supporting friendly dictators, aiding in the overthrow of unfriendly regimes, letting go of arms control, and threatening to use force are a few examples of this. This is not exactly a compelling offer for most nations in the world.

Lastly, the designers of the Western system realized quite well after World War II that active social participation across the Atlantic was necessary for their political goal. They therefore made a concerted effort to establish the transatlantic ties necessary to uphold liberal views among the nations of the extended West, which included not just the US and Europe but also Japan. No such attempt to close the divide between the West and the rest has been made. Indeed, a diverse range of human rights activists, legal experts, and democratic leaders have been brought together by the American government, academic institutions, and think tanks. To ensure that the language and content of Western policy promote participation rather than incite opposition, however, no real attempt has been made to map and engage liberal sentiment in the non-Western world. Illiberal social forces in general have made an effort to forge international connections. What should the liberals do? I think this would be a

useful strategy to better integrate the West and the rest, which would be of interest to people who are worried about the survival of the international legal system in an era of strategic rivalry.

**Power Politics and the Rule of Law**

The neoclassical, marginalist, and welfarist schools of competition law and economics have all seen an increase in reform efforts in recent years (Fennell and McAdams, 2013; Cappelen and Tungodden, 2019). Since its beginning, the neoclassical school's fundamental presumptions about its overt reliance on efficiency and reason have been heavily criticized [Flynn (December 1988, pp. 713–43) and Dworkin (1980), pp. 191–226]. However, research and real-world advancements have given the criticism new life in recent decades. The most prevalent area where the impact of neoclassical and marginalist economic approaches, which are further emphasized by Legal Realism and Legal Positivist approaches, is most apparent is in laws governing economic activity, especially antitrust law and policy. The famous "Antitrust Revolution" of the late 1970s, led by individuals like Richard Posner (2014) and Robert Bork (1978), continues to influence global competition law [Stiglitz (2017)] and mainstream economics and law in the US and Europe [Bartalevich (2016), pp. 267–83].

Table 2. Rule of Law Rankings vs. Political Power Index (Top 10 Global Powers)

Country	Rule of Law Index (2023)	Global Power Index (GPI 2024)	UN Security Council Veto Power	Military Expenditure (Billion USD, 2023)
United States	0.73	0.923	Yes	\$877
China	0.48	0.888	Yes	\$292
Russia	0.44	0.832	Yes	\$109
India	0.50	0.785	No	\$81.4
France	0.74	0.719	Yes	\$56.6
UK	0.77	0.710	Yes	\$68.5
Germany	0.81	0.692	No	\$55.8
Japan	0.82	0.681	No	\$50.2
Brazil	0.57	0.620	No	\$20.1
Turkey	0.52	0.606	No	\$15.5

The aforementioned theoretical and philosophical approaches are further emphasized by the insights we currently observe in constrained rationality [Piron and Fernandez (1995)]. These come after decades (some would argue centuries) of approaches to economics and law that are centered on fairness [Watkins (1922)], which will be referred to as Kantian in this article, even though the fundamental ideas precede Kant by a very long way.

Table 3. Bar Chart (Top 5 Military Spenders 2023)

Country	Military Expenditure (USD)	Rule of Law Score
USA	\$877 billion	0.73
China	\$292 billion	0.48
Russia	\$109 billion	0.44
India	\$81.4 billion	0.50
Saudi Arabia	\$75 billion	0.52

This paper uses Kantian ethics and Kantian legal philosophy to demonstrate the inadequacy of the so-called mainstream Law and Economics approaches to the problem of "fairness in law and economics" in comparison to the neoclassical and marginalist approaches to this field of political economy. Article 102a of the Treaty on the Functioning of the European Union, for instance, prohibits unfair pricing imposed by a dominant undertaking capable of affecting trade between member states or in a substantial portion of the Union; see also Kianzad & Minssen (2018), pp. 133-48.]

Table 4. Decline in International Law Compliance by Global Powers (2010-2024)

Year	USA Compliance Score	China Compliance	Russia Compliance
2010	85%	70%	68%
2015	79%	66%	62%
2020	73%	58%	50%
2024	69%	52%	45%

It accomplishes this by using the legal prohibition against "Unfair Pricing" as an ideal stand-in. A balanced approach between the fields of economics and law is offered, particularly about laws governing economic activity, about Kantian legal philosophy [White (2019), pp. 53-76]. It is suggested that substantively positive legal and economic analysis will always be influenced by one's stance on utilitarianism or Kant in the normative. This reality has nothing to do with the assertions of "Rationality," "Objectivity," "Humanity," and "Divinity" made by either method. The second half presents the Posnerian critique of Kant, read alongside Wealth Maximization as the ideal goal of law and economics, after the introduction lays out the "Paradox" surrounding the return of Kantian, fairness-based approaches to these fields. The final section explains the purported distinction between efficiency and welfare, or fairness, as the best possible outcome of economics and law. The Kantian comeback is then constructed in the fourth segment.

#### **The World Trade Organization, the United States, and China**

In July 2018, Mr. Dennis Shea, the US Ambassador to the WTO, gave the WTO General Council a harsh assessment of China's trade policies. In December of the same year, he elaborated on these comments at the United States' 14th Trade Policy Review, which was delivered to a group of WTO representatives. According to this analysis, China is one of the most protectionist economies in the world, despite its frequent claims to be a fervent advocate of free trade and the international trading system. In his prepared remarks, he made it plain that China's refusal to fully embrace the open, market-oriented policies that the WTO was built on and continues to be dedicated to is one of the most significant challenges facing WTO membership. China has not been adopting market-based policies and practices more thoroughly since it became a full member, contrary to what members had expected. Participant in the WTO in 2001 after being rejected for years (a controversial issue that we will address later). In reality, China's economy has been more influenced by the state.

If China's economy were smaller and its mercantilist approach to trade and investment less harsh, it would have less of an impact on its trading

partners and the WTO itself. Inbound trade is subject to stringent regulations in 195 nations worldwide. But China's economy is enormous. Over the past seventeen years, China's economy and position in the global trading system have grown considerably. Regarding purchasing power parity, or "PPP," China has surpassed the US in terms of yearly Gross Domestic Product ("GDP") output; it is the world's largest country in terms of sheer volume, with an annualized goods trade of over US\$4 trillion, surpassing both Germany and the US. Its magnitude exacerbates the irreparable harm caused by China's mercantilist, state-led approach to investment and trade, which is getting worse every day no longer approved. The authors agree with the United States that if the BWS is to be respected, China needs to reverse course. Ambassador Shea also noted in his July 2018 review that the Chinese government and the Chinese Communist Party ("CCP," or the country's administration) are required by the Chinese constitution to develop a "socialist market economy," which is mirrored in the country's broader legal system.

To do this, the government continues to have both direct and indirect authority over the allocation of resources through the use of instruments such as government ownership and government directives to individuals with agency in a range of enterprises throughout the economy, as well as control over significant economic sectors. While the operations of state-owned enterprises ("SOE") demonstrate this control, it is more subtly implemented in other businesses through the role of the often invisible "shugi" or CCP hierarchy assigned to work alongside the nominal leadership; nothing important happens at these businesses without the approval of this invisible hand, that is, the Party, and often the Party is the one that directs major initiatives by seemingly independent economic incumbents, especially when they relate to labor force issues. The means of production are neither equitably distributed nor priced by market principles as a result of these interventions. Rather, the CCP and the government still have authority over or influence on the cost of the main production inputs, such as capital, labor, energy, and land. China's economy still heavily relies on state-owned enterprises (SOEs), much as it did before its 2001 WTO accession. Furthermore, the Chinese Communist Party and the government have dominated these companies for decades by choosing key executives and providing special access to important inputs. Recently, the Party has also taken steps to improve its standing in all Chinese industry associations. According to well-informed rumors, for example, the state orchestrated Uber's sudden 2016 withdrawal from China and subsequent merger with local incumbent Didi Chuxing because it saw the US-based company as an excessively powerful competitor in a rapidly growing industry that employed tens of thousands of people. It should be noted that these non-market impacts went beyond discrimination against American businesses operating in China. In November 2017, the Delegation of German Industry and Commerce reportedly publicly denounced efforts by the Communist Party "to strengthen their influence in wholly foreign-owned German companies in China," demonstrating the extent of the activities. All of these measures contradict the predictions of US political leaders in the 1990s about the results of their

adherence to China's repeated demands for membership in the World Trade Organization (first made in 1986). At the time, President Bill Clinton started to endorse the notion that the ongoing demands for internal reforms to Chinese policy in areas such as democracy and human rights (including religious freedom), and economic decision-making would be more open if the US retracted its previous opposition to Chinese entry. He reasoned that entry would instead spur economic expansion and the rise of a new middle class, which would then demand significant reforms from its government. At any rate, such was the hope. But the reality has been quite different, as we have seen. Since President Xi Jinping took office in 2012 and has a seemingly permanent position, the state and Party have greatly expanded their control over almost every aspect of Chinese society, including personal freedoms, business dealings, and institutions of law, society, and culture. In retrospect, President Clinton's goals were, at best, unrealistic and, at worst, completely wrong. The rule of law, as it is understood in the West and most definitely in the context of the BWS, has simply not materialized in the eighteen years since China joined the WTO.

Rather, China's form of government views the law as a tool of the state, one that is employed to support the government's industrial policy objectives and ensure specific economic results that might not otherwise surface as a result of transactions driven only by the market. When one examines local court rulings, it becomes evident that the courts are set up to follow the Party's instructions virtually every day. The arrest of Canadians working in China, for instance, is a trade-off for Canada's detention and potential extradition to the US of a CEO of Huawei, one of China's leading multinational companies, and a significant manufacturer of telecom equipment with headquarters in Shenzhen. Instead of adhering to well-defined and core ideas, Chinese law seems to be flexible and frequently adjusts to the demands of the moment as seen and understood by the CCP.

China is currently striving for both global leadership and domestic market domination in several cutting-edge technologies, such as artificial intelligence, communications, optics, and a host of other areas related to defense. 64 China has recently worked hard to accomplish this overall objective, as seen by the controversial "Made in China 2025" industrial policy that was unveiled in 2015. This ambitious strategic initiative, led by Chinese Premier Li Keqiang, sought to transform the country from a supplier of cheap, low-skilled labor to one that designs and manufactures high-value goods and services using cutting-edge technologies that are expected to dominate the global economy in the future. It is an ongoing initiative that was and is run by the government; it is sponsored and directed by the government, and disregards market signals created by government agents.

Increasing the local content of goods made or assembled in China to 40% by 2020 and 70% by 2025 is one of the primary objectives of the Made in China 2025 campaign. Products in high-tech industries like communications, electric cars, aerospace, pharmaceuticals, IT in general (including robotics and artificial intelligence ("AI")), green energy processes (like solar power), and other crucial

sectors that are currently dominated in China by foreign suppliers with a technological advantage over domestic incumbents will fall under this category. More than US\$300 billion in public funding has reportedly been provided by the government to the project, which aims to replace the United States as the world's leading producer of technology by 2025. Much of this is meant to support research and development ("R&D") expenditures, which are typically only financed by risk capital provided by profit-seeking private interests in market economies and are frequently necessary to enable major technological improvements. The Made in China 2025 strategy, which builds on its previous "Indigenous Innovation" policy, basically seeks to establish a new Silicon Valley, but only under the strict state's path for its political objectives, as well as with the risks and rewards that the state would encounter. This seems to be the primary factor behind the Trump Administration's demand that this project be put on hold to secure tariff relief in its current "trade war" with China. Some contend that China's reform pledge is unconvincing and that it has no plans to abandon such a significant undertaking.

Table 5. China vs. United States Key Strategic & Legal Indicators (2023–2024)

Indicator	United States	China	Source
Rule of Law Index Score (2023)	0.73	0.48	World Justice Project (2023)
Global Power Index Score (2024)	0.923 (Rank 1)	0.888 (Rank 3)	Global Firepower (2024)
Military Expenditure (USD, 2023)	\$877 billion	\$292 billion	SIPRI (2024)
Democracy Index Score (2023)	7.85 (Flawed Democracy)	1.94 (Authoritarian Regime)	Economist Intelligence Unit (2023)
ICJ/UN Compliance Trend (2024)	69%	52%	Harvard Belfer Center (2023)
UNGA Legal Norm Voting Alignment	78%	66%	Stockholm Peace Research Institute (2023)
South China Sea Arbitration (2016)	Supported ruling (vs. China)	Rejected UNCLOS-based ruling	PCA/The Hague Tribunal
Treaty Ratification (Rome Statute)	Signed but not ratified	Not a signatory	International Criminal Court (ICC) Database

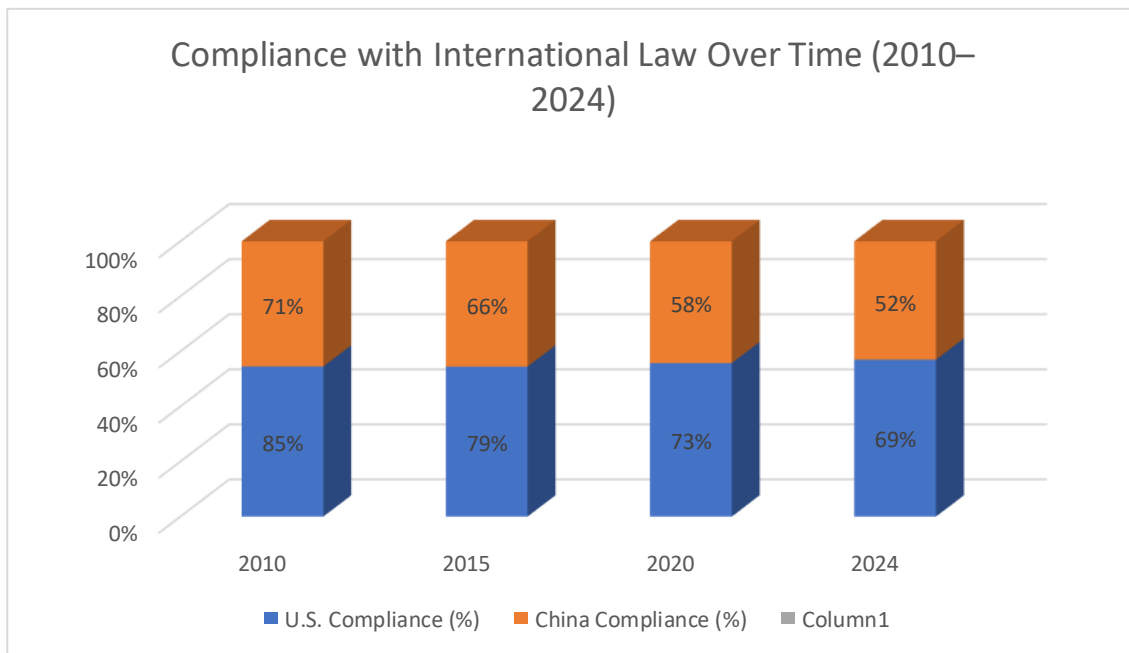


Figure 2. Harvard Belfer Center - Strategic Legal Behavior Reports (2023)

China's industrial policies will therefore implement significant market-distorting subsidies and offer various types of financial support to specific indigenous companies. However, as has already been noted, such actions could lead to the occurrence of severe and enduring excess of the capacity to produce. Because the supply glut lowers global prices, it can be difficult for even the most efficient rival enterprises to thrive. This can have a significant negative impact on the global economy, in addition to the direct exports from China by the subsidized industries. The global steel, aluminum, and solar panel industries have lately experienced this, and it is indisputable that management and labor have taken the lead in the affected sectors. Companies that fiercely support the patriotic "America First" economic policies of the Trump Administration, which are presently endangering the Bretton Woods System. It shouldn't take much historical hindsight to realize that similar "beggar thy neighbor" economic instincts were what led nations to war and disaster throughout the Great Power era.

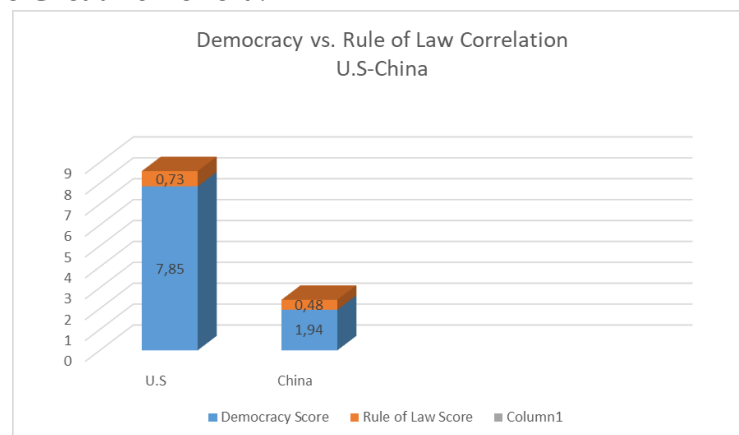


Figure 3. Democracy vs Rule of Law Correlation U. S China

Interpretation: Democratic institutions in the U.S. reinforce legal structures, while authoritarian governance in China undermines legal universality.

## **CONCLUSIONS AND RECOMMENDATIONS**

At a time marked by intensified strategic competition and the return of the great power rivalry, the global rule of law is faced with uncharted threats. This research has ensured to indicated that even though international legal norms and institutions historically were established to regulate state behavior and secure collective safety, they are increasingly being manipulated or transgressed by superpowers in order to achieve geopolitical objectives. The United States, China, and Russia each, in their own way, have selectively engaged in the global legal order, using law as a tool of power rather than a system of restraint. The findings suggest a nascent tension between normative universalism and *realpolitik*, where power asymmetries undermine normative coherence and erode faith in global governance institutions such as the United Nations, International Criminal Court, and World Trade Organization. Moreover, the weaponization of legal norms, including the strategic use of "lawfare," suggests a trend away from compliance toward competitive legalism, where law becomes a site of competition rather than cooperation. Even as these unwholesome trends evolve, the rule of law is still an essential underpinning of world order. Its maintenance depends on reinforcing international institutions, strengthening enforcement, and reaffirming multilateralism. The smaller states, civil society, and transnational networks of lawyers need to take a more active role in ensuring that powerful actors are held to account and advancing a rules-based system. Absent a shared reaffirmation of rule of law principles, the international order threatens to collapse into a regime of pervasive coercion and selective legitimacy, with lasting effects on peace, justice, and stability.

## **FURTHER STUDY**

This research still has limitations, so it is still necessary to conduct further research on the topic.

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