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ROLE OF PUBLIC LAW IN SHAPING GLOBAL GOVERNANCE FRAMEWORKS: NAVIGATING SOVEREIGNTY AND INTERDEPENDENCE

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ABSTRACT

In the modern world order, the isolated existence of the state is unthinkable. The states across the globe are entwined socially, economically and culturally. The law has been the facilitator of society, and in a similar role, it is employed at the global level to facilitate the interaction of states. In the current era, interdependence and reliance of states have increased. Though calls for world government and global governance have persisted, its reality has always been questioned. The role of public laws of states has consistently been vital in the adaptability and acceptability of the global governance framework. Additionally, it exerts a persuasive influence on establishing the global governance framework. The study seeks to ascertain the credibility of the global governance framework. Further, the paper delves into decoding the interaction of public laws with the global governance framework. The paper also includes a section on the present circumstances and events to examine the practicality of the notion.

KEYWORDS: Global Governance Framework, Public Law, International Law, Municipal Law, International Relations.

“World government must be understood in the sense that it governs mankind on the basis of what all have in common and that by a common law, it leads all toward peace.” (Alighieri, 2009)

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INTRODUCTION

The concept of global governance can be traced back to Alexander and the Romans when they expanded their empire across the globe. Even the British were in search of a mechanism to govern the entire empire and colonies throughout the world. The idea of a framework to govern the world was evident in the principles of *jus gentium*, *jus civile* and *jus naturale*. Advocates of the world governance framework provide distinct justifications for why it is an essential or optimal form of political organisation. Some ideas are negatively motivated and perceive world governance framework as the functionally definitive solution to both old and new human issues, including international conflict and the development of weapons of mass destruction, global poverty and inequality, global financial instability, infectious diseases and pandemics, and environmental degradation and climate change (Stanford Encyclopedia of Philosophy, 2023). In a more optimistic vein, some have argued that world government is a fitting representation of the unity of the cosmos, as it is the teleological conclusion of the pursuit of recognition, moral freedom, or the perfection of humanity under the guidance of reason or God (Paust, 2011). However, critics have raised three primary objections: the feasibility, desirability, and necessity of establishing a global political authority for enforcement. The sovereign state plays a decisive role in making the global governance framework a reality and effective. The global governance framework aims to regulate relations between the states, the states and the international institutions. In its wider admit, it attempts to connect international institutions to every individual and further every individual to each other. This may be understood by the universalisation of rights. In general, the global governance framework pertains to states, while public laws pertain to individuals (McCorquodale, 2004). This leads us to the state's public laws, which exercise a twofold influence on the global governance framework. Initially, they serve as the cornerstone for its adoption, and any discord with the global governance structure will hinder its acceptability. Secondly, the public laws of states establish the foundation for the concepts of global governance, which are incorporated within it.

MAPPING GLOBAL GOVERNANCE FRAMEWORKS: KEY STRUCTURES AND INSTITUTIONS

We may identify circumstances that have necessitated global governance more than before and further can relate the role of public laws as: Firstly, globalisation is resulting in a more interconnected globe. The acts of citizens within one nation are likely to impact the welfare of individuals in other nations. The global governance framework provides the opportunity to

establish a coordination mechanism. In the 21st century, humanity faces various severe dangers and challenges that necessitate effective global action.

Politically motivated violence, climate change, weapons of mass destruction, and other significant issues Environmental damage on a large scale poses a threat to all individuals in all countries on Earth. It surpasses the ability of any state to safeguard its citizens effectively (Global Challenges Foundation, 2017). Kofi Annan, the former Secretary-General of the United Nations, recognised that "no State, regardless of its size, can safeguard itself independently" and that "the threats we encounter are interconnected" (Palgrave Communications, 2015).

As a result of the two extremely bloody world conflicts that occurred in the first half of the 20th century, the concept of global governance took the spotlight. Many influential politicians and prominent intellectuals began to consider a world federation as the sole safeguard against a new war that could potentially destroy the world after the use of atomic weapons against the Japanese cities of Hiroshima and Nagasaki. The constitutional proposal commences with a declaration of human rights and responsibilities, which encompasses classic negative freedoms, including the right to education and the right to avoid poverty, as well as the prohibition of slavery and torture, and the freedom of assembly and opinion. The United Nations Member States acknowledged the importance of international cooperation in the resolution of international issues of an economic, social, cultural, or humanitarian nature, as well as in the promotion and encouragement of respect for the protection of human rights and the guarantee of fundamental freedoms for all individuals, regardless of their race, gender, language, or religion (United Nations, 1945, Art. III).

Secondly, the concept of universal norms exerts a stronger influence than ever on human thought, since Western liberalism spreads globally and all populations are perpetually visible through technology. Though there have been multiple approaches to global governance since the early 1990s, predominantly continental scholars have devised overarching principles of a world order based on the rule of law under the label of "constitutionalisation" (Zürn, 2007). Some authors employ the constitutionalist approach to construct a global framework in a general sense, while others employ it to establish a legal framework that regulates the governance activities of international organisations (Cass, 2005). Further, under the notion of constitutionalism, the significance of the rule of law, as well as principles such as individual freedom and collective self-determination, are forward (Koskenniemi, 2007). The public law of nations plays a prominent role in applying this approach. The rule of law is a prominent part of every modern constitution. The

concurrent 'constitutionalisation' of international law and the so-called 'internationalisation' of constitutional law are, in fact, plainly discernible trends that have the potential to result in increased uniformity and global governance (Rajagopal, 2005).

The domestic recognition and preservation of human rights, particularly in constitutional bills of rights, have become increasingly significant. A historic document, the Universal Declaration of Human Rights, delineates the rights and freedoms that are universally guaranteed. It was the initial international agreement to establish the fundamental human rights principles. It may be referred to explore this approach. The adoption of principles laid down in UDHR is evident across the globe in states' constitutions, establishing a global governance framework for rights. Further, it has served as the source of inspiration for over 80 international conventions and treaties, as well as numerous regional conventions and domestic laws (Equality and Human Rights Commission, n.d.). As a consequence, this has allowed the reorganisation of rights, making it a prominent part of global governance (Delbrück, 1997).

Although global governance does not consist of a single law or system, it is possible to identify multiple pieces that comprise the global governance framework.

- The United Nations (UN) system comprises a variety of specialised agencies, programs, and funds that address various issues, including health, education, climate change, and peace and security (United Nations, n.d.).
- The World Trade Organisation (WTO) is responsible for establishing international trade regulations and resolving disputes between member countries.
- International Monetary Fund (IMF): Fosters international monetary cooperation and provides financial assistance to countries experiencing economic crises (International Monetary Fund, n.d.).
- The Paris Agreement on climate change Provides a framework for countries to collaborate in order to reduce greenhouse gas emissions and mitigate the effects of climate change (United Nations Framework Convention on Climate Change, n.d.).
- The Universal Declaration of Human Rights: Establishes fundamental human rights acknowledged and safeguarded by nations worldwide (United Nations, n.d.).
- International tribunals, including the International Court of Justice, which is dedicated to the peaceful resolution of legal disputes between states (International Court of Justice,

n.d.), and the International Criminal Court, which is responsible for the trial of individuals for war crimes and crimes against humanity (International Criminal Court, n.d.).

THE DYNAMICS OF GLOBAL GOVERNANCE AND PUBLIC LAW

The term "governance" has been employed by scholars to describe the regulation of interdependent relations in the absence of overarching political authority, as demonstrated in the international system. It incorporates the institutions, policies, norms, procedures, and initiatives that govern the interactions between states and their citizens. Although the significance of global governance has been recognised, the necessity of a more effective framework for global issues in the context of increased interdependence is becoming increasingly apparent (Department of Economic and Social Affairs, United Nations, 2014).

The following characteristics may be referred to characterise the current state of global governance: (1) The emergence of new types of agency and actors in addition to national governments; (2) the emergence of new mechanisms and institutions of global governance that transcend traditional forms of state-led, treaty-based regimes; and (3) the continued segmentation and fragmentation of the overall governance system across levels and functional spheres (Biermann & Pattberg, 2008). The current structure of global governance is defined and influenced by a multiplicity of actors. States, international organisations, non-governmental organisations (NGOs), multinational corporations, scientific experts, civil society groups, networks, partnerships, private military and security companies, and transnational criminal and drug-trafficking networks all contribute to developing the political system and offer multi-actor perspectives on world politics (Palgrave Communications, 2015). To further elucidate, International Governmental Organisations (IGOs), Public-Private Partnerships (PPPs), Private governance, and tripartite governance mechanisms are four general structures that can be identified even though the modes of global governance vary considerably ("World Government Through the Lens of Universal Human Rights," 2015).

The initial step from a public law perspective is to determine whether the aforementioned activities constitute an exercise of unilateral or public authority. In a liberal and democratic tradition, public law serves a dual purpose: Initially, it ensures that no one is harmed. First, public authority may be exercised in a manner that is not consistent with public law (constitutive function); second, public authority is regulated and restricted by the substantive and procedural standards established by

public law (limiting function). This necessitates a viable notion of public authority. The concept of global governance is inadequate for this objective. Although the concept of global governance is undeniably beneficial, it does not facilitate the identification of critical actions due to the fact that they are a unilateral exercise of authority. This is due to the fact that global governance blurs the distinction between formal and informal phenomena, as well as between public and private phenomena. Moreover, global governance is perceived as a continuous structure or process, as opposed to a collection of actions by identifiable actors that result in identifiable outcomes. These factors render it challenging, if not impossible, to differentiate between authoritative and non-authoritative actions from a global governance perspective and to attribute the former to responsible actors (d'Aspremont, 2006). The conceptual foundation of a public law framework for authoritative acts on the international plane must be provided by something other than global governance.

The law on global governance that emerged after World War II was founded on the unwavering trust in international organisations and the belief that their submission to legal discipline and judicial review would be superfluous and, in fact, detrimental to their success. The legislation that the evolution of international organisations has systematically shielded them from internal and external scrutiny and absolved them of any inherent legal obligations (Purvis, 2022). This process has continued to some extent. It was not until the conclusion of the Cold War that a growing sense of scepticism regarding global governance began to permeate the legal community. With time, the realisation that international organisations must be subject to the disciplinary authority of the law began to emerge (Benvenisti, 2018). The absence of disciplinary power and the challenges in establishing such a system undermine state sovereignty, necessitating the implementation of global governance solely via the state's public laws.

Those who have maintained the dualism of the two systems and the predominance of municipal law have found some theological support in the purported inadequacy of the global governance framework. This perspective is further bolstered by the purported readiness with which the regulations have been disregarded during periods of conflict. The failure to allow for the interjection of politics and the undue demands made on the framework as a supposed preserver of peace further disturbs the balanced judgement. The Austinians have contributed their fair share by claiming that international law was not law at all, as it did not meet their strict criteria for a rule established by a political superior to an inferior.

They also asserted that international law was not established by legislatures, and that, in their opinion, it merely constituted moral precepts. The function of public law in nations is underscored by the unfounded allegation that global governance is solely maintained by public opinion. The framework will be rendered ineffective if it is rejected by public law due to any conflict between the global framework and the public laws. Therefore, the global governance framework will be required to ascertain the interests of states and their alignment with public laws.

Nevertheless, although numerous individuals recognise that the global governance framework constitutes positive law, and that its source, nature, and scope diverge from those of public law, they persist in asserting that it does not govern public law due to its functioning in a separate domain; conversely, public laws of nations significantly impact the global framework. It is contended that a global governance framework operates between states and public law between individuals, with sovereign control. The argument is philosophically supported by the belief that global governance framework is the result of national will, is consensual in nature, and cannot be subordinated to its creators. The notion that consent may be revoked is substantiated by the theory of consent. If these were valid premises, the conclusion would be that the global governance framework is not law at all, and it is only by the public law of the nations that it becomes operative. Even the consent of the sovereign state derives its authority from the public laws. Public law is subject to minimal or no regulation by national law. Professor Oppenheim maintained, without any support in theory or practice, that "international law and municipal law are in fact two totally and essentially different bodies of law that have nothing in common, except that they are both branches-but separate branches-of the tree of law" (Picciotto, 1915, p. 10).

Further, we draw the relationship between public laws and the global governance framework by understanding the relationship between international and municipal laws. Those who advocate for the primacy of international law have frequently been compelled to exaggerate the assertion, particularly by the Vienna school of Kelsen. They believe that municipal law is derived from international law and that it regulates individual behaviour. Consequently, there is a singular system of law from which all types of law are merely branches. From the acknowledged or evident fact that international law exerts a significant influence on municipal law and, to a certain extent, determines its content, such as in the case of diphthongs, immunity from local jurisdiction, and territoriality. The monists of the municipal law school are unnecessarily offended by the regrettable legal conclusion that all law is derived from international law. The monistic theory is not entirely tenable despite its architectural appeal. Municipal law was established before the emergence of

international law and continues to exist. In a legal state, international law regulates only a tiny portion of internal and external state activity. Consequently, asserting that municipal law is derived from international law is somewhat tenuous. The reality is that both of these schools are partially correct and partially incorrect. When it is asserted that international law cannot "per se" establish or invalidate municipal law, nor can municipal law per se establish or nullify international law. In theory, municipal law cannot authorise actions that are prohibited by international law; however, it frequently does, and individuals are obligated to comply with municipal law. The reason for the inconsistency is that municipal laws are binding on individuals regardless of their compliance with international law.

THE FUNCTIONALITY OF GLOBAL GOVERNANCE IN CRISIS MANAGEMENT

The study would be incomplete without referencing the current world situation and looking at the concept of the global governance framework in that aspect. We must consider the growing influence of regional units of nations that are becoming more robust in safeguarding shared interests. This once more raises concerns regarding the notion of a global framework for governance. The intergovernmental organisation of Brazil, Russia, India, China, and South Africa (BRICS) has introduced an alternative approach to global cooperation through its expansion and growth. This new ideological paradigm aims to challenge the global, unipolar system by emphasising, acknowledging, and capitalising on the contributions of emergent economies and countries from the Global South to economic cooperation, trade, infrastructure development, and peace and security (Mathebula, 2024). The bloc's foundation is primarily based on the criticism they have directed at the Bretton Wood institutions and the unipolar dominance system of the Western states. Despite the intergovernmental organization's assertion that it adheres to the principles of international law, particularly in the areas of international peace and security, the group's actions demonstrate how their interests dictate their responses to global challenges (Almakky, 2009). This indicates that the increasing prevalence of international organisations is indicative of the incremental transition from a "law of co-existence" to a "law of cooperation" in public international law, as per Klabbers (Klabbers, 2002, p. 18). This implies that global governance frameworks are transitioning to mechanisms that promote cooperation among states rather than governance (Almakky, 2009). The realm of international norms and laws has not been exempt from these reconfigurations. The significance of a multilateral approach to addressing global challenges through international law and its institutions has been underscored by the significant influence of regional units like BRICS on the global governance framework (Mathebula,

2024). Even though we find that international institution that advocates for a global governance framework are coloured by the interest of a few nations, the same is asserted by the rise of regional units. On 20 February 2025, Sen. Mike Lee, a Republican, introduced a bill for the complete U.S. Withdrawal from the United Nations. The bill would result in the termination of U.S. membership in the United Nations and its affiliated bodies and a reduction in funding to these organisations (NV, 2024). The grounds for such a bill were that the interests of the US were not aligned with those of the United Nations. It is amusing how a nation expects an international body that claims to be a promotor of the global governance framework to be cut with funding for not working in the colour of the interest of a particular nation. This illustrates the deficiencies in the development of a global governance framework. Even if it is attained, its inclination to serve the interest of a few will always be an impediment to its acceptability across the globe.

We may also examine the conflict between Russia and Ukraine to make our arguments. The conflict between Russia and Ukraine may also be regarded as the most significant ground war in Europe since the conclusion of World War II. The United Nations was established to prevent such war. Such actions violate the United Nations Charter's prohibition on using force, as Article 2(4) outlines (Justia, 2024). However, the prohibition on force had been so undermined that it had become a mere fiction even before the commencement of the war in Ukraine by Russia. There is certainly some evidence to support this assertion, including the United States' unlawful invasion of Iraq in 2003 and its use of force under the controversial unable and unwilling theory of self-defence (Hathaway, 2022).

The U.N. Security Council attempted to pass a resolution condemning the Russian invasion and requesting the withdrawal of Russian forces from Ukraine as the invasion commenced; however, Russia vetoed the resolution. Russia possessed one of the five permanent seats on the United Nations Security Council, which granted it the authority to veto any enforcement actions that the U.N. might take. The Uniting for Peace Resolution was invoked to refer the matter to the General Assembly when Russia vetoed the Security Council action. The General Assembly voted overwhelmingly to demand that Russia immediately, ultimately, and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognised borders. Furthermore, Ukraine initiated proceedings against Russia by submitting an application to the International Court of Justice on February 26, just two days after the invasion commenced. The same individual directed Russia to promptly cease the war (Lamm, 2024). Russia has consented to the ICJ as the forum for resolving disputed allegations of genocide as a signatory to the Genocide

Convention. However, none of these had any significance or even the slightest impact (Cao, 2024). A system of unprecedented economic sanctions was the sole notable action that Russia faced since the war, which was a form of outcasting. Nevertheless, we discovered that many countries, such as India, China, and Turkey, had increased their trade with Russia, although Western Europe and several allied states have substantially restricted their trade with Russia. In the most recent developments, it has been discovered that the sole potential solution to the conflict is diplomacy and settlement between these countries. This accurately illustrates any global governance framework's inability to produce results.

CONCLUSION

The humans themselves have challenged the future existence of humans. The current state of war, climate degradation and poor division of resources between nations have caused serious international friction. Though it has been popularly claimed that these can only be cured by advancements towards global governance, its practicality remains seriously questioned. The development of the global governance framework is significantly influenced by international organisations, particularly intergovernmental organisations such as the United Nations. They are indispensable in the development and advancement of international treaties and conventions, the establishment of global norms and standards, and the resolution of global issues. The increasing recognition of the necessity of a global framework is evident in the substantial growth of international organisations. These organisations, whether global entities like the United Nations or regional organisations like NATO, provide crucial platforms for addressing emergent challenges to peace, security, and socioeconomic development.

The research identified that the theories claiming the sovereignty of states as a prominent and crucial factor in international relations are practical. The current conflict between nations, whether Russia and Ukraine or Israel and Hamas, showed us the practicality of global governance. The sole fulcrum of global governance is the states' willingness to comply with it. Here, the role of public laws becomes imperative. They define the acceptance and adaptability of global governance in light of individual state interests. Even though principles of public laws influence the formation of a global governance framework, the apparent difference between them challenges the working of those principles on a global platform. The author closes by emphasising that the philosophy of global governance is confronted by the desire of states to preserve their sovereignty and individual interests. The reality of the global governance framework is cooperation and diplomacy.

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