



Twenty Years of Institutional Liberalism

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Abstract

The world has now experienced what could be regarded as 20 years of Institutional Liberalism: the dominance of the view that cooperation in world politics can be enhanced through the construction and support of multilateral institutions based on liberal principles. E. H. Carr was famously skeptical of liberalism as he understood that tradition. This essay, prepared originally as the E. H. Carr Lecture at Aberystwyth University, interrogates Institutional Liberalism through a lens provided by Carr's most famous book on international relations, *The Twenty Years' Crisis*. It points out three trends since the 1990s that may be associated with Institutional Liberalism: increasing legalization; trends toward more legalism and moralism; and a decline in the coherence of some international regimes. Reviewing these trends in light of Realist critiques of liberalism, the essay rejects Realism as a good moral or practical guide to world politics, but reaffirms the value of the Realist view that institutions depend on structures of power and interests. Increases in legalization, legalism and moralism reflect a fusion of the social purpose of liberal democracies with their unprecedented geopolitical power since 1991. But declines in the coherence of international regimes reflect a greater divergence of interests, weighted by power. All international institutions are flawed and in some ways precarious, but strengthening them in ways that reflect legitimate social purposes remains a major challenge for our time.

Keywords

institutions, legalism, liberalism, moralism, power, Realism

This essay, based on the E. H. Carr Lecture that I gave at Aberystwyth University on 27 October 2011, is about Institutional Liberalism during the past 20 years – a period of liberal dominance. Broadly speaking, I view Institutional Liberalism through a conception of international political authority provided by John Ruggie 30 years ago. That is, Institutional Liberalism provides one basis for political authority, conceived as a ‘fusion of power and legitimate social purpose’.¹ It holds that institutions and rules can facilitate

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mutually beneficial cooperation – within and among states. The social purpose of Institutional Liberalism is to promote beneficial effects on human security, human welfare and human liberty as a result of a more peaceful, prosperous and free world. Institutional Liberalism justifies the use of power in constructing institutions on the basis of this conception of social purpose.

Institutional Liberalism is very different from what E. H. Carr, in *The Twenty Years' Crisis*, described as 'liberalism'. Carr had in mind nineteenth-century liberalism, which was based on abstract rational principles taken out of context and therefore believed, in Carr's words, that 'public opinion can be relied on to judge rightly on any question rationally presented to it'. This form of liberalism, according to Carr, believed in a harmony of interests based on a 'synthesis of morality and reason'. And it separated power from economics. Carr's critique of this harmony-of-interest form of liberalism was convincing. Contemporary Institutional Liberals, such as myself, have learned from Carr and appropriated his insights.²

In his famous article, Ruggie described what he called the 'embedded liberalism compromise' that emerged as a result of the Depression and World War II. Like nineteenth-century liberalism, embedded liberalism seeks to foster pluralism in economics and politics and promotes international cooperation. But for Ruggie embedded liberalism is 'multilateral in character ... and predicated upon domestic interventionism'.³ Like Institutional Liberalism it recognizes the dependence of economics on politics and does not believe in a harmony of interests.

Embedded liberalism has taken some hard blows in the last 30 years. Ruggie wrote just as Ronald Reagan and Margaret Thatcher were beginning to implement their very different visions of a smaller role in capitalism for state power, and views on the compatibility of flourishing private capitalism and domestic interventionism have changed over the last 30 years. The 'Washington Consensus' and the TRIPS agreements constitute a move away from embedding liberal multilateral arrangements deeply in domestic intervention. But the specific economic arrangements of contemporary liberalism are not my subject here. Institutional Liberalism does not depend on the international economic arrangements being embedded in domestic interventionism. It is a more general doctrine that provides a justification not for the welfare state but for international institutions as foundations of social progress.

The roots of Institutional Liberalism lay less in specific views of capitalism and the state than in pluralist conceptions of power and interests that are well expressed in the works of James Madison. Madison was a republican: the people should govern. He did not believe that people are good and easily ruled, but rather that power needs to be checked for fear of the consequences of unchecked power. So domestically, the people should govern, but they need to establish institutions to control themselves, guarding against bad leaders and moments of passion. My views on democracy represent an ethnically, racially and gender-egalitarian adaptation of Madison's arguments. The people, broadly conceived, should rule, but they have to rule through institutions. At some moments, when publics are attuned to political events and leadership is responsive, government 'by the people' is very progressive and effective. An American naturally thinks in this respect of the first years of the Civil War in the North, when attitudes toward both slavery and racism changed dramatically along with policy; and the New Deal. But when the people are not engaged, or when they

are misled by demagoguery, democracy may merely be, as Churchill is said to have commented, the worst form of government except for all the others.

One of the most important contemporary liberal theorists of international relations, Michael W. Doyle, sees liberalism as resembling 'a family portrait of principles and institutions', focused on the essential principle of freedom of the individual and associated with negative freedom (freedom from arbitrary authority), positive freedom (social rights essential for promoting the capacity for freedom), and democratic participation or representation. Institutions are essential for exercising these rights.⁴

Internationally, Institutional Liberals believe that power should be used in the interests of liberal values but with caution and restraint. Institutions serve a crucial social purpose because they are essential for sustained cooperation that enhances the interests of most, if not of all, people. In world politics, a sophisticated liberalism is, as I have written, 'an antidote to fatalism and a source of hope'.⁵ Unlike Realism, it strives for, and believes in, improvement of the human condition and provides a rationale for building cooperative institutions that can facilitate better lives for human beings.

Questioning Institutional Liberalism

But I write not to celebrate Institutional Liberalism but to question it. Invoking the ideas and spirit of E. H. Carr, but focusing on a different form of liberalism, I seek to evaluate the last 20 years of liberal dominance in world politics. Only since the collapse of the Soviet Union has it been possible to evaluate the impact of liberal institutionalism on world politics.

Before 1991, institution-building by the United States and its allies had a significant security justification: to create economic prosperity and patterns of cooperation that would reinforce the position of the West in the struggle with the Soviet Union. Furthermore, American hegemony was crucial: the international institutions created after World War II 'were constructed on the basis of principles espoused by the United States, and American power was essential for their construction and maintenance'.⁶ Cooperation persisted longer than most Realists would have expected, but as long as the Soviet Union remained a rival and a threat, a Realist emphasis on relative gains was consistent with continued cooperation between the United States and other advanced industrialized countries. The relative gains that mattered were between the West and the Soviet bloc. In other words, an interpretation that explains institutions on the basis of the functions that they serve and a Realist one could both explain the patterns of cooperation that emerged and persisted.

The international institutions that operated during this period facilitated mutually beneficial cooperation on issues ranging from security to monetary cooperation to trade. Most of these institutions were not highly legalized. Sovereignty was not taken away from states, but became a *bargaining resource* that states could negotiate away, to some extent, in order to obtain other benefits, such as influence over other states' regulatory policies.⁷ Cooperation occurred on the basis of mutual self-interest and reciprocity, without much legalization.

Yet these patterns of cooperation led to remarkably robust international regimes: sets of principles, norms and rules governing the relations among well-defined sets of actors.

Under the international monetary regime that prevailed between 1958 and 1971, for instance, membership in fixed exchange rate regimes was well defined and the rules were followed, with some relatively minor exceptions. Until the early 1970s the international oil regime was also quite clear, although the rules were largely set by major international oil companies, not by states. Finally, the trade regime built around the General Agreements on Tariffs and Trade (GATT) became progressively stronger as well, at least until the mid-1980s. In the early 1980s both Ruggie and I, despite our different perspectives, anticipated a continuation and gradual strengthening of international institutions grounded in domestic politics and achieving substantial cooperation on the basis largely of specific reciprocity, as in the GATT trade system.⁸

Since the early 1990s we can observe three developments of note: an increase in legalization; increasing legalism and moralism expressed by people leading civil society efforts to create and modify international institutions; and a decline in the coherence of some international regimes along with a failure to increase the coherence of others. Increasing legalism and moralism might have been expected 20 years ago by those of us who studied liberalism; but in different ways the increases in legalization and the recent apparent decline in the coherence of international regimes seem anomalous.

In what follows I reassess Institutional Liberalism in the light of the experience of the last 20 years. Does Institutional Liberalism contain a formerly hidden logic linking legalization, the upsurge of legalism and moralism, and decreased regime coherence? That is, do these apparently contradictory developments all represent manifestations of liberalism, which only became fully evident when it became dominant in world politics? Or do some or all of these tendencies not reflect liberalism as such, but the impact of changes in power structures in tension with liberalism, or of domestic politics? In this latter view, the changes that we see are not direct effects of liberalism but only of the inability of liberal values to be realized in a world of fragmented power and pluralist domestic politics.

Before developing my argument, it is essential that I define what I mean by 'legalization', 'international regimes', 'legalism' and 'moralism'.

Legalization is a property of *institutions*. The rules of legalized institutions are precise and obligatory, and they provide arrangements for third-party adjudication.⁹ In some domains, notably human rights and criminal responsibility, there has been a remarkable increase in legalization over the past two decades. In a legalized system, third-party adjudication provides a focal point for agreement, reducing the likelihood of protracted bargaining-induced conflict over relatively minor issues, and reducing uncertainty about both the rules and their enforcement. Substantively, legalization has facilitated the progressive extension of rights, and legal protection, to oppressed persons and peoples. Even in situations when formal legalization is not feasible, an orientation toward legalization can promote the rise of 'soft law', which helps reduce uncertainty and facilitate rule-implementation.

Coherence is also a property of institutions, but refers more to the relationship among institutions than to the properties of any single institution. Coherent institutions or clusters of institutions have clear lines of authority linking them, so that for any given situation it is clear which rules apply, or at least which adjudicatory institutions are authorized to determine which rules apply. To denote an institution or set of institutions as an 'international regime' is to indicate a fairly high degree of coherence, as was the case with

international monetary institutions in the years of pegged exchange rates (1958–71) and with the World Trade Organization in its first years. As I suggested, I see signs that the coherence of international regimes is declining. In several domains regimes or attempted regimes are becoming ‘regime complexes’: loosely coupled arrangements of rules, norms and institutions marked both by connections between several specific functionally related institutions and by the absence of an overall architecture or hierarchy that structures the whole set.¹⁰

Finally, there seems to have been a rise in legalism and moralism in the discourse of international relations. Legalism and moralism are not properties of institutions but rather of the *human mind*. Legalism is the belief that moral and political progress can be made through the extension of law. Moralism is the belief that moral principles provide valuable, if not necessarily sufficient, guides to how political actors should behave, and that actions by those in power can properly be judged on the basis of their conformity to general moral principles developed chiefly to govern the actions of individuals.

Although many authors, particularly international legal scholars, have celebrated both legalism and legalization without distinguishing them, I wish to distinguish them from one another in this essay, since I am particularly ambivalent about legalism. I believe with E. H. Carr that law, and its efficacy, always rests on structures of power. So legalism, when taken as the description of a causal process, seems misleading to me in an ideological sense: that is, it can serve as a veil, hiding the exercise of power. In practice, the application of law can become quite uneven under situations of unequal power, leading to a form of what Stephen Krasner calls ‘organized hypocrisy’.¹¹

E. H. Carr was critical of utopian thinking, which is often moralistic; and he was also critical of legalism. As he said, ‘Law is a function of political society, is dependent for its development on the development of that society, and is conditioned by the political pre-suppositions which that society shares in common.’¹² So an appropriate entry-point into our inquiry is to start with Carr’s own thinking about morality in world politics and the role of law. What would Carr, observing the revival of legalism and moralism in world politics, make of their revival? We cannot really answer this question, but in this essay I take up some of E. H. Carr’s themes to see what insights, and cautions, they may raise about contemporary international liberalism, and the moralistic and legalistic tone that it seems increasingly to be taking.

I begin with the revival of moralism, since it is fundamental – often providing a justification for legalization and legalism – and it seems to me relatively easy to explain. I will then turn to legalization and legalism, seeking to account for their growth as well. Finally, I reflect on what appears to be a counter-trend: the growing incoherence of major international regimes and the failure of coherent regimes to emerge in other areas, where functional arguments might expect them to develop.

Idealism and interests: the revival of moralism in world politics

The collapse of the Soviet Union in 1991 made the US and liberal democratic states elsewhere believe that they could construct ‘a new world order’ more consistent with the values and practices of liberal domestic politics. The language of moralism, which had

previously been used in conjunction with efforts to stop the spread of Communism during the Cold War, was now detached from great power struggles. Four examples of morally justified activities are as follows:

- The conclusion of a number of major human rights treaties in the decades of the 1960s, 1970s and 1980s, and the continual push for their implementation by non-governmental organizations committed to human rights and by some governments. These efforts included efforts to protect the rights of women and children in societies with well-entrenched practices adverse to the protection of these rights.¹³
- Efforts by democratic governments and civil society to promote democracy in Eastern Europe after the Cold War and around the world. These efforts were institutionalized in what Sarah Bush has called 'The Democracy Establishment' – a network of individuals in governments and NGOs working to institute democratic practices in countries that were not stable democracies.¹⁴ The institution of extensive international election monitoring provides one notable aspect of the work of the Democracy Establishment.
- The Responsibility to Protect Doctrine, agreed by the Millennium Summit of the United Nations in 2005, which calls on states to protect their populations and provides for UN Security Council action to protect populations if the state with formal jurisdiction fails to do so. R2P, as it is called, has become a strong norm affecting UN action, although it is not a legal rule. R2P is a good example of moralism as I have defined it: the belief that moral principles provide a valuable guide to political action.¹⁵
- NATO's use of military force to prevent the domination of neighboring peoples by Serbia, and last year to overthrow the Qaddafi regime in Libya. UN Security Council Resolution 1973 of 17 March 2011, authorizing the use of force against the government of Libya, referred to the Libyan government's responsibility to protect its citizens, and expressed the Council's determination to protect civilians, without explicitly invoking the R2P doctrine. In defending his support for military intervention, Barack Obama, on 28 March 2011, declared: 'Some nations may be able to turn a blind eye to atrocities in other countries. The United States of America is different. And as President, I refused to wait for the images of slaughter and mass graves before taking action.'¹⁶

These themes reflect the 'moralism' decried in *Politics Among Nations* by Hans J. Morgenthau and in *American Diplomacy* by George F. Kennan, but not, in *The Twenty Years' Crisis*, by E. H. Carr.¹⁷ Carr criticizes both the utopian equation of individual and state morality and the Realist denial that 'ethical standards are applicable to relations between states'. Carr argues that 'there is a world community for the reason (and for no other) that people talk, and within certain limits behave, as if there were a world community'. But this world community is thin because people do not accept the principle of individual equality on a global scale and therefore do not put the interests of the global community above those of their own nations. Hence 'in the international order, the role of power is greater and that of morality less', and 'any international moral order must rest

on some hegemony of power'. However, this does not mean that morality is irrelevant: on the contrary, the hegemonic power needs to engage in a 'give-and-take', even involving some 'self-sacrifice', in order to make its hegemony 'tolerable to the other members of the world community'.¹⁸

Moralism is endemic to liberalism and reflects one of its strengths: its creation of an environment in which social movements built around values rather than material interests can thrive. Carr's profound analysis shows us that moralism is, up to a point, also consistent with power politics, since moralism performs an essential function for dominant states: to make hegemony legitimate.

In my view, and consistent with my interpretation of E. H. Carr, the Realist view of moralism as misleading and pernicious only holds in a particular context: when moralism leads publics and governments to act in ways that threaten more fundamental values, such as the preservation of their democratic institutions or even physical security itself. If moralism inhibited Britain and France from aligning with the Soviet Union against Nazi Germany in the late 1930s, it played a negative role, just as it would have been an inappropriate application of moralism for the United States to have refused to defend South Korea against North Korean aggression in 1950 because South Korea's ruling regime was deficient by democratic standards. But when threats recede, moralism should in my view re-emerge. It is good for democracies to try to implement their values by appropriate means where it is feasible to do so at low cost. And since there is little material self-interest incentive for democratic politicians to do so, that incentive needs to be provided by social movements, whose members are not motivated by self-interest – since a public good is at stake – but by moral principle and moral passion. Without moral guidance, the exercise of power, even by democracies, is likely to become pernicious and illegitimate.

However, Realists have another arrow in their quiver: that even if moralism could in principle be valuable as an impetus to action, the ideals on which it rests are inevitably corrupted, in practice, by power. This theme – one actually borrowed from classical liberalism – is that power corrupts in at least three ways. It generates arrogance, it leads actors to distort analysis to fit the demands of the powerful, and it can serve as a rationale for actions with other motivations. Senator J. W. Fulbright in 1967 called it the 'Arrogance of Power', which Americans saw in full measure in the Vietnam War and in the George W. Bush administration. Distortion of analysis often follows. For instance, a Bush administration aide told a reporter in 2002: 'We're an empire now, and when we act, we create our own reality.'¹⁹ Obviously, the United States failed to create its own reality in Iraq: as soon as American forces left, in December 2011, the Shiite-dominant government sought the arrest of the Sunni Vice-President.²⁰ The United States, in my view, is clearly failing to create the reality it prefers in Afghanistan, as it failed in Vietnam a generation ago.

A concern for morality is therefore both essential and dangerous. It is essential to establish criteria other than those of power and material interests to guide leaders of states and by which to hold them accountable. Democratic forms of governance are based on and justified by moral principles, and the relevance of these principles hardly diminishes when democratic states project power outside their borders. But a concern for morality is dangerous because in the hands of fools or demagogues it can become a pernicious form of moralism, serving not to check power but to justify its use in ways that are false and typically damaging.

So we should give *two cheers for moralism* in an era lacking vital threats to the security of our societies and our democratic institutions. First, moralism provides an impetus to social movements that provide incentives for democratic politicians to promote liberal democratic values abroad. Second, as Carr pointed out, moralism, if enunciated in moderation and practiced more or less consistently, can enhance the legitimacy of hegemonic states and the orders they seek to maintain. But we withhold the third cheer: the Realists are right to point out that power corrupts, so we need to beware that moralism can also generate arrogance, facilitate the distortion of reality, and even conceal nefarious purposes.

The revival of legalism and its penumbra

Since 1991, as I have noted, Institutional Liberalism has increasingly been legalized. The social movements of democratic liberalism have tried to institute what Ruti Teitel calls 'humanity law': the 'law of persons and peoples' rather than the law of states.²¹

Liberals naturally turn to law as a constraint on power. For Institutional Liberals, this emphasis on law reflects neither a naïve belief in human goodness nor the automatic power of rules, but the view that human beings require institutional constraints to ensure that they behave well. Since 1991 there has been a remarkable increase in the number and significance of international legal institutions. Four prominent examples include the following:

- The International Criminal Tribunal for the Former Yugoslavia (ICTFY) was founded in May 1993 and is expected to operate for two or three more years.
- World trade law was legalized in the World Trade Organization, which came into force on 1 January 1995.
- The European Court of Human Rights (ECHR) was established on a permanent basis in 1998, with jurisdiction over 800 million people in the 47 member countries of the Council.
- The International Criminal Court (ICC) came into being on 1 July 2002, and now has over 115 member states.

I have defined legalization earlier as a property of institutions, as in these examples. One can see such legalization purely in functional terms; legalization further reduces uncertainty and other transaction costs, yielding more effective and efficient institutions. The World Trade Organization is the most important and, so far, enduring institutional result of the contemporary movement toward liberalization. But legalization can also stem not from such instrumental concerns but from deep belief in the rightness, or appropriateness, of legal institutions as a way to solve problems and resolve conflict: that is, from a conception of social purpose.

Normatively, therefore, movements for legalization may rest not simply on functional logic but on legalism: the belief that progress takes place through law. For Ruti Teitel, for instance, humanity law provides a deliberative, law-based way to protect persons and peoples: a universal and 'open-ended and forward-looking form of legal ordering' that can respond to emerging and future threats.²² Here we see a form of contemporary

legalism – the view that moral as well as legal progress can be made through the extension of law – in a coherent and in many ways attractive form.

After being discredited by Realists in the wake of World War II and during the Cold War, legalism has also, along with moralism, made a striking comeback during the last 20 years. In the broadest sense, this effort represents an attempt to domesticate world politics: to make it more like liberal domestic politics. And it is celebrated by those like Teitel who see legalism and law as offering a pathway toward a better world order. This movement therefore runs directly athwart a key principle of Realism as enunciated by Kenneth N Waltz: the dramatic difference between the ‘anarchy’ of world politics and the order of domestic politics.²³ Indeed, it seeks to refute the anarchy–order dichotomy by bringing legal order to world politics.

But legalism as a doctrine generates as many problems as it solves. First, it typically misattributes causality, forgetting that law always rests on power and interests. Legalists imagine that order derives from law, not recognizing that power and interest alignments that are consistent with order are themselves necessary for law. E. H. Carr pointed out, by contrast, that ‘the law is not an abstraction. It cannot be understood independently of the political foundation on which it rests and of the political interests which it serves.’²⁴ It would be too simplistic to say that law depends on order rather than vice versa, because there is a symbiotic relationship between them: given a sufficiently favorable structure of power and interests for order, law can indeed reinforce and extend order. But it cannot create order on its own, and when power structures conducive to legal orders collapse, law collapses.

Legalism can also, as Carr emphasized, create a straitjacket for policy-makers, preventing them from pursuing prudent courses of action in the face of great danger. Legalization therefore creates the danger of blocking the sort of adaptation to change that is essential for the successful pursuit of diplomacy in dangerous times.

So I also give two cheers for legalism. It can provide a rationale for smoothing the edges of rough order, motivating people to create more consistent legal arrangements that do, under the right conditions, have a positive impact. And it can provide a model of consistent, normatively justifiable action, even if these arrangements are not formalized in law. But legalism that ignores power and interests misattributes causality and limits adaptation to change. Because of this misattribution of causality, it may generate excessive attention to legal issues when more basic political and interest-based problems may need more urgent attention; and its constraints on adaptation may inhibit creative and flexible diplomacy. When structures of interests and power are coherent and stable and favor democracy, legalism may be quite benign; but when interests and power are changing rapidly, an excessive focus on law can divert attention from more basic problems.

Changes in structure and the decreasing coherence of international economic and environmental regimes

Realists look for cycles and therefore have a tendency to expect observed changes to reverse themselves, because, as Robert G. Gilpin said 30 years ago, ‘the fundamental nature of international relations has not changed over the millennia. International relations continue to be a recurring struggle for wealth and power among independent actors in a state of anarchy.’²⁵

Pursuing this line of thought, John J. Mearsheimer famously, and wrongly, predicted in 1990 that the collapse of the Soviet Union would take the world 'back to the future' – to a world of power politics in Europe. The liberal 'prediction of peace in a multipolar Europe is flawed'.²⁶ Waltz's theory of balancing would have led us to believe that the dominance of the United States would generate a blocking coalition against it. Neither of these scenarios occurred. But the broader claim of Realism is embedded in balance of power theory: that power generates attempts to counter it. And in this light 9/11 can be seen as supportive of the Realist worldview, which is profoundly cyclical and anti-progressive. Concentrated power does motivate efforts to oppose it. American dominance has been challenged by al-Qaeda, by North Korea and from Iran, and in a less radical but more enduring and fundamental sense there will be a continuing challenge over the next few decades from China. The point is that there is a counter-narrative to the progressive and pacific narrative of Institutional Liberalism.

The most striking change in fundamental global power structures during the last 20 years is the transformation of the economies of poor countries toward sustained and rapid growth. During the Cold War, a few countries, such as South Korea, Taiwan and Singapore, managed such a transition, but they were exceptions. Stagnation, or boom-and-bust cycles, were more common in poorer countries. However, it is now undeniable that China, India, Brazil and other formerly very poor countries have passed through Walt W. Rostow's 'take-off' into economic growth.²⁷ With growth at 6–8 percent compared to the 2 percent at best managed by rich countries, shifts in political power are easy to anticipate. And in politics anticipation often brings policy forward, since political actors are forward-looking.

Countries such as Brazil, China, and India have different interests from those of the established industrialized democracies – with respect to trade, foreign investment, monetary arrangements and governing arrangements for limiting climate change. It is therefore not surprising that the Doha Round trade talks seem permanently stalled, that China and other exporting countries keep their exchange rate undervalued and build up enormous foreign currency reserves, that rivalry rather than cooperation characterizes oil politics, or that the non-Annex I countries under the Kyoto Protocol, exempted from rules for emissions controls when they were weak and small, refused until the Durban meetings in December 2011 to agree to be governed by common emissions rules despite being the major sources of increases in emissions.

As a generalization, it seems to me that what could have been seen in the mid-1990s as a progressive extension of international regimes, with stronger rules and larger jurisdictions, has been halted if not reversed. The hopes of observers such as John Ikenberry for a revival of liberal regimes under a more capacious form of American hegemony are not, so far, being realized. And here again Realism remains relevant: to understand institutions and international law, we need to peer through the veil of rhetoric and law, to discern the power and interest structures that lie below. Those power and interest structures moved strongly toward greater coherence and uniformity with the collapse of the Soviet Union: when the WTO was formed, the West was at a historic high point of dominance. With the rise of China, India and other emerging economies, structures of power and interest have become more diverse; and as Structural Realism would have anticipated, the institutions that link major powers have been weakened, with more contention

over their proper arrangements. Liberal regimes with United States leadership may be easy to join, as Ikenberry asserts; but they can also be rejected by states with sufficient independent power.²⁸ As institutional theorists anticipated, many of these institutions persist despite changes in patterns of power and interests; but as Realists claimed, it has become increasingly difficult to construct strong new institutions.

We need to be careful, as E. H. Carr was, about the ways in which Realism remains relevant. It is not a good guide to the future: Gilpin was wrong to see just endless cycles, within a fundamentally unchanging reality, and Mearsheimer was wrong to forecast 'back to the future' in Europe. Progressive change, driven in part by new ideas both of ethics and feasibility, does occur. Whatever conflicts occur in the twenty-first century, it is very difficult to believe that the associated destruction would be accepted with the equanimity with which human beings confronted organized violence for centuries.²⁹

Realism is also in my view not a good moral guide: it dodges many issues of ethical choice by unduly discounting how much choice leaders of great powers have. 'Necessity' is not a convincing justification for the very powerful. But a core lesson of Realism needs to be learned and relearned: *Institutions rest on power and changes in power generate changes in institutions*. Furthermore, dominance over institutions by one set of actors generates opposition by those who do not have it. They may fear its impact on them or they may just envy those with power and seek to replace them. In either case, they are motivated to resist the extension of alien institutions even when they cannot replace them with their own creations.

Yet the Realist story is not sufficient, since it leaves out domestic politics and learning. Domestic politics in democracies helps to explain legalization, since it protects leaders in democracies from protectionist and nationalist movements. Multilateral institutions are hard to change and 'lock in' policies, along with cementing coalitions of support. Domestic politics also helps to explain the difficulty that established powers have in trying to induce rising powers to contribute to global public goods. Doing so is costly in the short term, although it may be rewarding in the long term; and it runs against nationalist prejudices. So although experts in the United States of the 1920s or Germany or China today may favor policy changes that are conducive to global prosperity and peace, they may be blocked by protectionists, self-righteous savers, or nationalists and other vested interests. Learning is also possible, but by no means guaranteed, as the poisonous and anti-intellectual contemporary politics of climate change in the United States illustrates. A scientific view that human beings are generating global climate change, supported by overwhelming evidence, is disbelieved by millions of Americans to the point that climate change denial has become a tenet of faith among today's Republican primary electorate. Aided by the continuing economic distress, climate deniers may gain the upper hand politically, making the United States the largest single obstacle to a coherent climate regime.³⁰

It is hard to adapt to change. Adaptive policies are often costly in the short run and their success may depend on reciprocity from others. Domestic publics are often poorly equipped to understand these relationships and unwilling to pay short-term costs for long-term gains that to them seem highly uncertain. As Martin Wolf of the *Financial Times* has commented, 'confronted with painful choices, human beings choose denial'.³¹ A realistic liberalism needs to recognize the realities of human psychology and the frequently problematic nature of democracies.³²

Conclusion

With respect to moralism, legalization and legalism, Hegel's Owl of Minerva indeed flies at dusk. Moralism, legalization and legalism reflect the fusion of power and social purpose represented by the dominance of liberalism since 1991; but we only see them in their fullest extent as one of the conditions for their expansion – the fusion of social purpose with overwhelming Western power – is beginning to slip away. They are inherent in liberalism and are most evident when we see Institutional Liberalism in its purest form. But my third phenomenon – the decreasing coherence of international regimes – seems to me to reflect the anticipated rise in power of the newly strong countries, as well as the obstacles that domestic politics places in the way of farsighted adaptation. In other words, the decline in regime coherence stems from a divergence of interests, a diffusion of power, and the difficulties of persuading domestic democratic publics to bear the costs of adjustment.

At the beginning of this essay I asked whether moralism and legalism, legalization, and declines in the coherence of international regimes reflected intrinsic qualities of liberalism or the impact of changes in structures of power. My answer is mixed. I attribute increased legalization, moralism and legalism to intrinsic features of liberalism and to the dominance since 1991 of liberal states. But I attribute declines in the coherence of international regimes to the anticipated as well as actual diversification of power and interests in world politics as well as the inhibitions on learning built into domestic politics in most countries in an era of slow economic growth and increasing economic inequality. Collapse is avoided because, as Joseph Nye and I wrote in *Power and Interdependence*, 'a set of networks, norms and institutions, once established, will be difficult either to eradicate or drastically rearrange'.³³ But progress toward more coherent and comprehensive regimes has also come to a halt.

So we see the persistence and in some areas the expansion of legalization, coupled with legalism and moralism, at the same time as urgent problems no longer generate the creation of multilateral regimes. Contradictory patterns continue to appear.

My own liberalism has little in common with either laissez-faire economics or with the notion that liberals are optimists about human nature. It has much more in common with Judith N. Sklar's concept of the 'liberalism of fear'.³⁴ As I implied at the beginning of this article, I share much of James Madison's political philosophy. I am a liberal not because I think people are good and easily ruled, but because I think that unchecked power is dangerous and that power-holders therefore need to be held in check. Institutional Liberalism offers not the promise of continuous progress but a source of hope for improvement coupled with institutional checks against retrogression.

Power continues to be important but institutions can help to tame it, and states whose leaders seek both to maintain and use power must be attentive, as E. H. Carr recognized, to issues of legitimacy. At the moment, legalism and moralism thrive, but the comprehensiveness and coherence of multilateral institutions are suffering. We need at this time less to profess and preach legalism and moralism than to figure out how to form coalitions that will build and maintain coherent multilateral institutions to address the major challenges of our time. The fact that these institutions are not foolproof is less a counsel of despair than a motivation to build them on as firm foundations as we can.

Notes

- 1 John Gerard Ruggie, 'International Regimes, Transactions, and Change: Embedded Liberalism in the Postwar Economic Order', *International Organization*, 36(2), 1982, pp. 379–415, quotation on p. 382.
- 2 E. H. Carr, *The Twenty Years' Crisis: 1919–1939*, 2nd edn (London: Macmillan, 1962). The quotations are from pp. 24 and 62.
- 3 Ruggie, 'International Regimes', p. 393.
- 4 Michael W. Doyle, *Liberal Peace: Selected Essays* (London: Routledge, 2012), p. 4. See also Doyle, *Ways of War and Peace* (New York: Norton, 1997).
- 5 Robert O. Keohane, *Power and Governance in a Partially Globalized World* (London: Routledge, 2002), p. 59.
- 6 Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984), pp. 8–9.
- 7 Keohane, *Power and Governance*, p. 74.
- 8 For my views at that time see Keohane, *After Hegemony*, especially chs 8–9.
- 9 Kenneth Abbott et al., 'The Concept of Legalization', *International Organization*, 54(3), 2000, pp. 17–35.
- 10 Robert O. Keohane and David G. Victor, 'The Regime Complex for Climate Change', *Perspectives on Politics*, 9(1), 2011, pp. 7–23.
- 11 Stephen D. Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999).
- 12 Carr, *Twenty Years' Crisis*, p. 199.
- 13 For the best and most comprehensive work of political science on international human rights treaties and their effects, see Beth A. Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (Cambridge: Cambridge University Press, 2009).
- 14 Sarah Sunn Bush, 'The Democracy Establishment' (PhD dissertation, Princeton University, 2011).
- 15 For the original 'Responsibility to Protect' proposal, see International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Center, 2001). For a recent comprehensive analysis of Security Council action on issues of war and peace, see Vaughan Lowe et al., *The United Nations Security Council and War: The Evolution of Thought and Practice Since 1945* (Oxford: Oxford University Press, 2008). For recent commentary see recent issues of *Ethics and International Affairs*, including Allen Buchanan and Robert O. Keohane, 'Precommitment Regimes for Intervention: Supplementing the Security Council', 25(1), 2011, pp. 41–64; and Alex J. Bellamy et al., 'Libya, RtoP and Humanitarian Intervention', 25(3), 2011, pp. 251–92.
- 16 Quoted in Rudi G. Teitel, *Humanity's Law* (Oxford: Oxford University Press, 2011), p. 3.
- 17 Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace* (New York: Alfred P. Knopf, 1948, and subsequent editions); George F. Kennan, *American Diplomacy*, expanded edition (Chicago: University of Chicago Press, 1985; originally published 1951).
- 18 Carr, *Twenty Years' Crisis*, quotations on pp. 153, 162 and 168.
- 19 Ron Susskind, 'Faith, Certainty and the Presidency of George W. Bush', *New York Times Magazine*, 17 October 2004.
- 20 *New York Times*, 20 December 2011, p. 1.
- 21 Teitel, *Humanity's Law*.
- 22 Teitel, *Humanity's Law*, pp. 211–12.
- 23 Kenneth N. Waltz, *Theory of International Politics* (Reading, MA: Addison-Wesley, 1979).
- 24 Carr, *The Twenty Years' Crisis*, p. 179.
- 25 Robert G. Gilpin, *War and Change in World Politics* (Cambridge: Cambridge University Press, 1981), p. 7.

- 26 John J. Mearsheimer, 'Back to the Future: Instability in Europe after the Cold War', *International Security*, 15(1), 1990, pp. 5056; the quotation is on p. 8.
- 27 Walt W. Rostow, *The Stages of Economic Growth: A Non-Communist Manifesto* (Cambridge: Cambridge University Press, 1960).
- 28 G. John Ikenberry, *Liberal Leviathan: The Origins, Crisis, and Transformation of the American World Order* (Princeton: Princeton University Press, 2011), p. 345.
- 29 Steven Pinker, *The Better Angels of our Nature: Why Violence has Declined* (New York: Viking, 2011).
- 30 For a careful, sober and authoritative overview of climate science and the issues it generates for public policy, see National Academy of Sciences, *America's Climate Choices*, 5 vols, including the overview volume (Washington: National Academies Press, 2011).
- 31 Martin Wolf, 'Sinking into the Great Stagnation', *Financial Times*, 21 December 2011, p. 11.
- 32 Although the quote may be apocryphal, Winston S. Churchill is said to have commented, 'Americans can always be counted on to do the right thing ... after they have exhausted all other possibilities.'
- 33 Robert O. Keohane and Joseph S. Nye, Jr., *Power and Interdependence*, 4th edn (Boston, MA: Longman, 2012), p. 46.
- 34 Judith N. Shklar, *Ordinary Vices* (Cambridge, MA: Belknap Press of Harvard University Press, 1984).

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