International Law of Equals

Social Equality as a Realistic Alternative to Oligarchy and Great Power Politics

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03.03.2026 doi: 10.59704/6d1cd90bb91bd0ed

The old, cherished post-war international legal order no longer exists. The stakes were clear even before the recent, blatantly illegal attack on Iran led by the United States and Israel. After attacking Venezuela in January, Donald Trump freely admitted that he was only interested in his own morality, not international law. Interestingly, he added that it depended on how one defined international law. He revealed his understanding shortly afterwards at the World Economic Forum in Davos, where he founded the Trump Board of Peace: an undisguised rival event to the United Nations, led by Trump in a personal capacity in the style of a golf club. Although the statutes pay lip service to international law, what this means is, as Trump said, a matter of definition. Meanwhile, Secretary of State Marco Rubio has doubled down by framing the US approach as part of a civilizational struggle at the Munich Security Conference.

Mark Carney and – for sure – Emmanuel Macron articulated the antithesis to Trump in Davos. Both professed their commitment to a multilateral, rules-based order, placing predictability above high-handedness. Carney provided the more honest assessment: alluding to Vaclav Havel, he admitted that international law to date had been based on a collective lie – international law had never applied equally to everyone, but everyone had covered up the bluff because they had also benefited from it. This could not continue.

Trump/Rubio and Carney/Macron represent opposing visions: an international law based on the great powers versus an international law based on – more or less – equal states and citizens. Each vision has a history that can provide insight into the conditions for their success.

International law of empires

Trump's approach to international law has its precursors in the international law of the great powers and colonialism. It served empires to stake out their spheres of influence. Whether it was the Portuguese and Spanish in the 15th century, the Monroe Doctrine, or the European states at the Berlin Conference in 1884: this international law was built on inequality. the Europeans refused to recognize the Native Americans, African and Pacific peoples as sovereigns of equal right. Their political communities were ignored, their territories declared no man's land that could be appropriated under any pretext.

However, the international law of empires could only flourish because it rested on, and entrenched, social inequality. Only few segments of society benefited from colonial expansion: rulers, colonial companies, plantation owners. In contrast, indentured labourers, who had migrated from Europe, often lived under conditions akin to those of slaves. Colonial expansion often stalled internal development. It had the advantage of cementing inequality in the mother country and thereby also the existing social order. At the same time, it provided a valve for social inequality, whether through the armed forces, emigration, or the supply of colonial consumer goods like sugar.

With rising living standards and declining inequality, this international law lost traction. At the end of the "long" 19th century, colonial wars came under the critical scrutiny of an increasingly democratic public. This is also evident in the literature on international law. Authors from the comparatively democratic France were more prepared to recognize the sovereign rights of colonized peoples. In the US civil war, industrial workers pushed for the abolition of

slavery, as this form of production undermined the value of labour as a whole.

International law of equals

This equalization and democratization gradually gave rise to the vision of a universal, egalitarian international legal order in the first half of the 20th century. It was characterized by a move to international institutions. These institutions were the antithesis of the nationalism of the previous period and the catastrophe of the Holocaust. They were intended to curb international conflicts via cooperation. The new temples of bureaucratic rationality should bring prosperity to broad segments of the population. One of the driving forces behind these institutions was US President Franklin D. Roosevelt, who had rendered outstanding services to social equality in the United States – whether through the New Deal or through his proclamation of the Four Freedoms, including Freedom from Want. The expansion of the welfare state after the Second World War dealt the death blow to 19th-century colonialism. Scarce funds were needed for purposes other than the oppression of the colonized.

However, post-war international law was never entirely egalitarian, as Mark Carney is absolutely right to point out. While political power was redistributed in the wake of decolonization, the leading industrialized nations did not relinquish their economic and military control. The Cold War complicated change; even the Soviet Union only sided with the decolonized states to the extent that it served its interests. In many respects, the international law of equals remained illusory. The stark factual differences between the centre and the periphery could not be overcome.

International law of authoritarian oligarchs

This imbalance has now worsened to such an extent that the US is openly abandoning the international law of equals in favour of an international legal order based on great powers and spheres of influence. Trump is not at the beginning of this development. Rather, this goes back several decades and is deeply entangled with social inequalities. Roughly speaking, the international law of equality came under pressure to the same extent that social inequality rose in the US – which, according to recent research, is a decisive factor in the rise of authoritarian forces worldwide. The rise in inequality can be attributed to the shift towards neoliberalism since Reagan. Although Western corporations benefited from global supply chains, the industrialized countries paid for this with the decline of industrial society. Tax cuts for high incomes under Bush Junior exacerbated the situation. This development created a reservoir of people from the socially stagnating middle classes who could meet the army's needs for multiple wars. Growing inequality also reshaped the political system: an increasingly Republican-leaning Supreme Court removed barriers to oligarchy such as restrictions for campaign donations. The emergence of social media was able to provide a temporary counterbalance and propel a newcomer like Barak Obama to power. But even social media is now in the hands of a few super-rich individuals who have a symbiotic relationship with Trump and use political power for their own economic gain – and vice versa.

This oligarchy is now aligning global politics with its own interests. This includes control of natural resources, be they rare earths or fossil fuels, which remain crucial for the US energy supply and geoeconomic power – after all, the development and production of non-fossil energy technology have been left to China. Even if oil production in Venezuela may not be economically viable today, the oligarchy cannot allow the world's largest oil reserves to remain outside its control; or Russia with its considerable resources to disappear into the Chinese sphere of influence; or Iran to destabilize an oil region.

Anything that weakens Europe or Canada and keeps them dependent on America is also good, because Europe, so far, with its regulated market, adherence to a vision of a middle-class society of equals, and trust in international institutions, represents the antithesis of the authoritarian oligarchy. Hence, the Greenland issue is not just about security or resources; Trump's ambitions can also be read as a rejection of the European way of life, of the model of social and global equality. For the US government, Europeans no longer have a seat at the negotiating

table, as they did at the Berlin Conference in 1884. At best, they find themselves on the map on the wall that others are slicing up. European leaders seem to accept their fate: reactions to the recent Iran attack by the United Kingdom, France, and Germany no longer invoke the UN Charter, but lay the blame on Iran. Mark Carney ridiculed his Davos statement by endorsing the attack.

A new international law of equals?

Is there an alternative to the new great politics of the USA? After all the disappointments, is there a future for an international law of equals that consists in more than channelling moral outrage? If at all, then only if the conceptual focus is placed on social equality, both domestically and globally. The answer to the oligarchies' power politics must be an international law that serves to create middle-class societies with a high degree of social equality, which will then be able to cooperate peacefully. Social equality often correlates with a democratic form of government and can protect it sustainably against authoritarian temptations. However, calling for an international law of democracies is likely to be met with scepticism in the Global South, as democracy has all too often served as a pretext for hegemonic interventions. This would dilute the message of global equality. The "rules-based order", on the other hand, lacks any sensorium for substantive equality.

However, to be effective, the international law of equals would need a power basis. Although China is more restrained than the US in political, military and legal terms, it has articulated its preference for a world of hegemonic spheres of influence, and social inequality is on the rise. What options remain for a bloc of states beyond these two spheres that does not want to end up as powerless as the non-aligned states during the Cold War?

First of all, there are quite a few countries that could be standard-bearers of a new international law of equals. In addition to Europe and the remnants of the North Atlantic hemisphere, if they are willing to free themselves from American control, important Latin American countries such as Mexico, Colombia and Brazil come to mind; East and South Asian countries including Japan, South Korea, Indonesia and India; and African states including South Africa, Nigeria, or Ghana. Taken together, these states have vastly more economic, political, and military power than the non-aligned states during the Cold War. Even the great powers are too economically interconnected to ignore such an alliance of states under the banner of an international law of equals.

Political unity is likely to be difficult to achieve in such a constellation in many cases, but under external pressure, even the impossible might materialize. The EU's development over the last crisis decade may serve as an illustration. The envisaged constellation would also be more homogeneous than previous North-South alliances. After all, despite persisting imbalances, global inequality has decreased as inequality within (industrial) societies has increased. This also increases the chances of overcoming previous North-South asymmetries. For international law based on equality can only succeed if this equality is realized – formally and materially – among states and among people. This will require Europe to make some tough concessions. However, it is likely to be far more attractive than creeping colonization by autocrats and oligarchs.

A new international law of equals therefore depends largely on our willingness to act and cooperate for global prosperity. Decades of sovereign debt crises at the expense of the poorest must become a thing of the past, as must economic dependencies or export surpluses at the expense of others and nature. However, this does not necessarily mean a decline in living standards for the population in developed countries. On the contrary, Germany's export surplus was facilitated by wage restraint. Reparations for past actions will also have to be discussed, whether they concern climate damage or the consequences of colonialism. Compensation does not have to be limited to payments but can also take the form of international agreements that take international law for equals seriously.

Finally, the international law of equals is likely to wield considerable soft power. To quote Gramsci, it may become a hegemonic idea enjoying widespread

support. The autocratic regimes that make up Trump's Board of Peace benefit from the fear of decline that inequality triggers. They lure their followers with the promise of protecting their material and cultural privileges. This is unlikely to last long if autocratic regimes simultaneously drive the erosion of social equality to extremes. At some point, even the last Trumpists will realize that they are not among the privileged few and that one cannot eat culture wars. Then the prospect of a society of equals could shake autocratic governments to their core. Zohran Mamdani has shown in New York how a message of equality can succeed. The international law of equals extends this promise into the supranational sphere: social equality requires and promotes global equality, and vice versa. Equality thus becomes an effective means not only against authoritarianism, but also against great power politics. Europe has the potential to participate in an international law of equal people and equal states – or to give standing ovations to Rubio.

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SUGGESTED CITATION

Goldmann, Matthias: International Law of Equals: Social Equality as a Realistic Alternative to Oligarchy and Great Power Politics, Verfassungsblog, 03.03.2026, doi: 10.59704/6d1cd90bb91bd0ed.

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Langzeitarchiviert bei IntRechtDok unter: doi.org/10.17176/20260304-145519-0.