International institutions: rupturing or reconfiguring?

Instituciones internacionales: ¿ruptura o reconfiguración?

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Resumen
Los principios en que se ha sustentado el orden internacional liberal a partir de la segunda posguerra fueron apoyados por la gran potencia estadounidense, con lo cual ésta garantizaba su ejercicio del poder. Sin embargo, están siendo retados por la administración de Donald Trump, en especial en lo concerniente al multilateralismo, que está conduciendo a un distanciamiento abrupto con las instituciones internacionales. Los retos planteados por el presidente estadounidense parecen delinear una reconfiguración del sistema internacional. Cuatro posibilidades o escenarios parecen perfilarse a partir de sus acciones. Sin embargo, se reconoce la dificultad de elaborar un análisis conclusivo de un escenario que cambia en tiempo real. Son muchos los cuestionamientos que se presentan para la disciplina y la realidad de relaciones internacionales y que aquí se dejan abiertos.

Palabras clave: instituciones internacionales, orden liberal internacional, multilateralismo, Donald Trump, relaciones internacionales.

Abstract
The principles on which the liberal international order has been sustained since the end of World War II have rested on American hegemonic power; in exchange, the United States (US) agreed to pay the greater share of the costs of maintaining that order. However, those principles are being challenged by Donald Trump’s administration especially with regard to multilateralism and support for international law and organization. The challenges posed by the United States’ president may lead to a reconfiguration of the international system. Four possibilities are explored from this rupturing of multilateralism and the weakening of the liberal international order.

Keywords: international institutions, liberal international order, multilateralism, Donald Trump, international relations.

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Introduction

The pillars of the post-World War II international order have rested on four fundamental principles: principle of multilateralism achieved through international institutions, international organizations and law; support for economic liberalism based on free and open trade; a universalization of human rights; global leadership by the United States (US). Making those principles more likely is the grand hegemonic bargain: that it would support and pay the greater share of the costs of maintaining that liberal international order in the interests of preserving the public good. In turn, the expectation by the US was that international order would, in fact, reflect US national interests. Operating in such a system of rules and institutions would make it easier to exercise its sovereign authority. The US largely accepted any constraints on its autonomy and freedom of action in order to preserve that so-called liberal international order.

Since the election of Donald Trump to the American presidency in 2016, each of the principles underlying that international order is being challenged, even directly undermined. I want to discuss one of those principles—multilateralism—as manifested through international institutions, namely international law and organization. Some of these attacks are not new—the US despite its rhetoric has always had a “troubled”, sometimes “estranged”, and “hostile” relationship to international law and international institutions. But Trump has expressed that dissatisfaction louder, with greater forcefulness, and with greater consistency.

First, I discuss how the Trump administration has broken, disavowed, and threatened international institutions. I label this a potential rupturing of the relations between international institutions and the US. Then I suggest what this rupture might imply for reconfiguration of International Relations more generally. Finally, I will give personal comments about problems of writing textbooks about these changes as they are occurring in real time.

Multilateralism and international institutions: a rupturing

In the past, American presidents have all had some reservations about the US role in international institutions. For example, President Reagan in the early 1980s was estranged, even hostile, to International Organizations (IOs), particularly those that criticized Israel or imposed regulations. Those views were reinforced by a strong anti-

United Nations (UN) lobby, namely the influential Heritage Foundation. Before 9/11, the George H.W. Bush administration took dead aim at UN initiatives and reversed US policy, rejecting the agreements on the International Criminal Court (ICC), global warming, germ weapons convention, land mines, and a unilateral withdrawal from the ABM Treaty. He rejected the UN Conference on the Illicit Trade in Small Arms and Light Weapons because of the gun ownership lobby (National Rifle Association) and limited funding to the UN Population Fund because of the anti-abortion lobby. Many of these positions were opposed by the closest allies of the US while under President Obama the tone may have been different, some of what he said was familiar. He warned: “Those who chastise America for acting alone in the world cannot now stand by and wait for America to solve the world’s problems”. Now US actions and its tone suggest the rupturing of ties with international institutions.

Adherence to international law

Supporting international law is one of the pillars of the order essential to the principles of multilateralism. Yet the rhetoric aside, the US has never been a strong believer that international law plays a major part in International Relations (IR). We see that in university curriculum, where it is hardly taught.

What explains US reticence to embrace international law? Several explanations are relevant:

1) belief that international law, particularly international court decision, usurps US sovereignty. International law should not tell domestic decision makers what to do. US judges should never refer to the legal opinion of other countries; it would be an usurpation of sovereignty;
2) the US follows international law most of the time. Others do not, so others are hypocritical in signing agreements that they will not enforce;
3) the structure of federal system makes compliance with international law problematic;
4) the fact is as Ian Hurd in How to Do Things with International Law argues international law really does not act as restraint but more a resource that States and government use to authorize and legitimize what they want to do,
5) and then there is the notion of exemptionalism the belief held by some that US has an exceptional place in the world, with special responsibilities; that means it is exempt from the rules imposed by the rest.

Given that historical context, what position has the Trump administration taken or seemed to have advocated? Four approaches are being taken which directly impinge on international law.¹

**Approach no. 1: US should disengage from international courts**

The US already moved in that direction with 1986 International Court of Justice decision *Nicaragua v. US*. The US is not a party to the ICC, despite being an early supporter and working very hard to get provisions inserted that would be compatible with US law. Despite not joining the ICC, the Obama and late Bush administrations did support its prosecutions and assisted the ICC prosecutor. National security advisor John Bolton has always been a major critic of the ICC, writing just before his appointment, he would welcome opportunity “to strangle the ICC in its cradle”. Or at least to say, “you are dead to US. Sincerely, the US”.⁵ And in September 2018 address to the Federalist Society, he reiterated those views: the ICC is “ineffective”, “unaccountable”, “deeply flawed”, and “outright dangerous”. It threatens American sovereignty and US national security interests. The US will no longer cooperate with the ICC, provide no assistance, sanction ICC personnel, and link cooperation with ICC to US foreign aid.⁶

**Approach no. 2: the US should terminate participation in several international agreements or threaten to do so**

The US has withdrawn from the Paris Agreement on climate change, arguing that adhering to the agreement would require America to impose costly regulatory requirements on industry, making the US less competitive. But the key provision on emission reduction is legally non-binding and US could walk away and cut funding for climate change related activities. However, the agreement has a waiting period for withdrawal, so the soonest would be 2020. This is symbolically very important and controversial. But what is happening is that sub-national authorities are continuing commitments, many in the business community support staying in, and new kinds of alliances are being forged to address the problem.

The Trump administration has withdrawn from the Iran-US Joint Comprehensive Plan of Action because Iran is violating the “spirit of the agreement” and the agreement does not go far enough in addressing other issues of Iran’s nefarious

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³ Quoted in John Bellinger, “The Trump Administration throws down the gauntlet to the ICC. The Court should decline the challenge” in *Lawfare*, United States, September 10, 2018.
behavior in the region. With that agreement never voted by the US Congress, the president can legally withdraw. But the cost has been to US allies like Great Britain, France, and Germany who tried to convince Trump to do otherwise and have vowed to uphold the agreement. How much that withdrawal will damage the US alliance and credibility as well as companies trading with Iran is unknown.

And despite strong civil society backing, the Trump administration has singled out two human rights treaties for special scrutiny: the Convention of the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), even though the Senate has not recommended ratification of these treaties in the decades since they were opened. Conservative elements in the US argue that CEDAW would dictate the roles women play in society and CRC would usurp the rights of families to make decisions about children. Attacking those treaties which the US has not signed really is providing “red meat” to a base, having little real effect.

The current review, however, being carried out by executive order tasks the Treaty Review Committee to “review all treaties that have been ratified and are currently in effect and commend to the president whether the United States should continue to be a party to such treaties.” Speculation is that three treaties which the US has ratified are in serious jeopardy the International Covenant on Civil and Political Rights, the Convention against Torture, and the Convention for the Elimination of Racial Discrimination three major areas of human rights protection.

Approach no. 3: the Trump administration is calling for renegotiation of agreements already in place

Renegotiation is always an option, conditions things change. But very few new administrations have pushed for so many important renegotiations in such a short time. Neither have we seen the threats that if renegotiation does not occur, the whole agreement would be abrogated. That is unprecedented.

Renegotiation for North America Free Trade Agreement (NAFTA), which candidate and President Trump has continually called the “worst trade deal ever”, renegotiations began in the fall of 2017 on a number of key issues: rules of origin, the dispute settlement process and on eliminating barriers to American exports put up by Mexico and Canada. These are issues which I know you have all followed closely. And some weeks ago, an agreement has been reached, with changes.

What is disruptive in this process is that the US continued bilateral negotiations with Mexico, leading to an agreement, leaving out Canada. This is consistent with Trump’s position that bilateral negotiations will yield more favorable results to the stronger US. But this counter to the principle of multilateralism which NAFTA was based.
Approach no. 4: the Trump administration has called for a halt in negotiating any new agreements

On the third day of his presidency, the administration pulled out of Trans-Pacific Partnership (TPP) negotiations. And the administration drafted the Draft Executive Order, Moratorium on New Multilateral Treaties. It called for adding another layer for treaty review and assessment, complicating an already complicated process.

The fact is that the US has always had a low rate of treaty ratification compared to other countries. Do not expect action on other treaties which in the past have been controversial, including the Law of the Sea Convention and the Convention on Biological Diversity. The administration prefers bilateral treaties/negotiations over multilateral alternatives; it is easier to exercise power over a weaken opponent. And the mantra seems to be is that major renegotiations are needed in order to “Make America great again”.

Supporting international organizations

US support for and participation in international organizations was a key component of the post 1945 international order. In the case of the UN, the US was a key supporter during the organization’s birth. The goals of the UN Charter were consistent with US interests. In its most abstract form, the UN was to be the centerpiece of American policy. Another centerpiece of the post-war security system was North Atlantic Treaty Organization (NATO) – with its critical Article 5: an attack on one member is an attack on all.

The bargain that was struck at the time – and continued over the years – was that the US would pay the greater share of its costs of maintaining the organizations and relationships in the interests of preserving the public good.

Approach No. 1: the Trump administration has continued the call to reduce US funding for international organizations

This is not new. Other American administrations have made the same argument, especially as the US role as hegemon has declined.

With respect to NATO, the argument about the need for burden sharing has been on-going. Trump took the argument, both as Republican candidate and at times as president, one step further, by declaring at some points that NATO was obsolete and that other members are not paying their fair share. That argument resonated with the American electorate: that only five of the 29 countries are paying their fair share for defense. Although NATO countries did promise in 2014 to spend two per cent of Gross Domestic Product on defense by 2024, progress has been slow.
The implied threat has been that if NATO members did not meet their targets, they may not be protected under Article 5. Then when Trump in his overseas trip failed to confirm NATO members shared values of democracy, he was strongly criticized for betraying the foundation of the agreement. Several months later, he did support Article 5—reflecting an ambiguous position to be sure. Subsequent individual letters sent by Trump to NATO allies reinforce the threat.

Funding for the UN and related agencies continues to be controversial, as it has always been. Trump’s draft executive order “Auditing and Reducing US Funding of International Organizations” calls for reduction of funding and disengagement from international organizations. Calls for such US reductions in funding in the 1980s and 1990s hobbled the organization and almost brought the organization to a standstill. These crises were partially resolved by an agreement to reduce the US assessments for the regular budget to 22 per cent and peacekeeping budget to 28 per cent and in return the US would pay its arrears. What we have as a result is increasing reliance on voluntary contributions, where earmarked for specific purposes and where money cannot be used for other purposes. Population control programs are but one target, ostracizing the US from its allies.

The US budget has been reduced in response to Trump’s warnings. The UN General Assembly approved a 2018/2019 $7 billion budget for peacekeeping, a seven per cent cut from the previous peacekeeping budget. US Ambassador Nikki Haley has celebrated this reduction—calling for a number of changes in the way peacekeeping is conducted. The administration wants a reduction of the US share to 25 per cent. The US pays 22 per cent of the regular budget of $5.4 billion—that percentage has been in a steady decline ever since the UN’s founding. US contributions represent less than .1 percent of the US budget.

The reduction of US funding is also occurring in humanitarian activities. In September 2018, the Trump administration has decided to end American funding to UNRWA (UN Relief and Works Agency)—funds used to support education, health, and refugees in Gaza. This was seen as part of a broader plan to compel Palestinians to drop demands for refugees’ right to return to their homeland. The US has been provided about 25 per cent of UNRWA’s budget of between $233 million and $400 million. That aid supports roughly half the population in Gaza.8

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Approach no. 2: the Trump administration has withdrawn and continually threatens to withdraw from international organizations

Under the Trump administration, the US has withdrawn from United Nations Educational, Scientific and Cultural Organization once again; it has withdrawn from the UN’s Human Rights Council, for its emphasis on Israeli violations. And the administration has announced its intention to withdraw from the Universal Post Union in 2019 unless the rules are changed. Those rules have the developed countries paying more for delivery of international mail than the developing countries pay.

Most concerning is the threaten to withdraw from the World Trade Organization. Four more general reasons are provided. First, World Trade Organization’s (WTO) classification of China as a developing country in trade negotiations makes that country able to charge higher tariffs for imported products and thus disadvantage American imports into China. Second, the US believes that China is illegally forcing US companies to turn over intellectual property if they get access into Chinese markets, contrary to the protection of intellectual property outlined in the WTO. Getting China to adhere to protection of intellectual property rights was, indeed a major goal behind the WTO. While progress has been made, as China has committed to higher value technological advancement, the problem has become more severe and the WTO has not adequately addressed it. Third, the US is also not happy with the dispute settlement procedure, yet it would have to be through that procedure that the problems above could be addressed. Thus, the US is holding up the process of filling vacancies on the dispute settlement boards, making it unable to take on the backlog of cases—a way of holding the WTO hostage.

Short of actually withdrawing, Trump’s imposition of tariffs and quotas in steel and aluminum, as well as solar panels and washing machines are contrary to all the principles of the WTO and a deviation from the organization’s rules.

While exceptions are legal from the viewpoint of national security, it would be hard to justify in this case, and opens the possibility that other States may invoke similarly broad interpretations of national security to justify protectionist policies.9

The WTO is already weak and the proliferation of regional and bilateral trade agreements have made it already less relevant. If the US continues to undermine WTO principles that will signal the death knell of that organization in its current form. And in the leaked draft of the “United States Fair and Reciprocal Tariff Act”, Trump would be granted unilateral power to ignore two of the WTO’s most important principles and negotiate with any country bilaterally. That would signal the further demise of that organization.

Approach no. 3: the Trump administration expresses continual dissatisfaction with United Nations

US dissatisfaction with peacekeeping and hence the desire to cut funds is nothing new. By 1995, the early post-Cold War optimism in the United States regarding the UN had waned, and compliance operations in Iraq, Somalia, Haiti, Rwanda and Bosnia overshadowed successes elsewhere. This dissatisfaction with the peace and security role of the UN spilled over to the UN/US relationship more generally, and the US turning to regional organizations and coalitions of the willing to undertake peacekeeping responsibilities. Now there is a major review of all peacekeeping operations with the expectation that several will be terminated.

None of these positions is surprising considering Trump’s comments about the UN. The UN was “time and money” (...) people get together and talk, and have a good time—sad”. He talked of “the utter weakness”, “incompetence of the UN”. But later he stated that the UN is an “under-performer but has tremendous potential”, but without offering elaboration. Which Trump will show up?

As political scientist Bruce Jentleson asks, “How can we trump the Trump challenge and achieve at least some significant progress on making the UN more effective?”¹⁰ John Bolton’s views are particularly salient, because since the 1990s he had been an ardent opponent of the organization and of internationalism.¹¹ Bolton proved a lightning rod for the US at the UN. His 16 months at the UN united the G-77 developing countries, Global South, more than anything against US policy. Bolton has consistently advocated American exceptionalism and exemptionalism, in defense of sovereignty. In his new powerful role under a president sympathetic to his views, he may now be in a position to implement his agenda. As Politico headlined shortly after Bolton’s appointment, “The UN battens down the hatches for Hurricane Bolton”.¹²

A reconfiguration of International Relations in the 21st century?

Weakening of the principle of multilateralism and undermining of international law and organizations may have the effect of actually reconfiguring international relations. If Robert Kagan is correct, “The US is, for now, out of the world order business”.¹³

¹³ Jeff D. Colgan and Robert O. Keohane, “The Liberal Order is rigged. Fix it now or watch it wither” in Foreign Affairs, United States, May/June 2017, pp. 36-44, quote p. 37.
What will the international system look like? There is no consensus on what that reconfiguration would look like.

**Possibility no. 1: there would be recognition that urgent reforms are needed**

Has Trump just given the international community a wake-up call? Political scientists Colgan and Keohane think so in their article provocatively titled, “The Liberal Order is rigged. Fix it now or watch it wither”. As these two scholars admitted, “We did not pay enough attention as capitalism hijacked globalization. Economic elites designed international institutions to serve their own interests and to create firmer links between themselves and governments. Ordinary people were left out. The time has come to acknowledge this reality and push for policies that can save the liberal order before it is too late.”

Reformists like Colgan and Keohane and others like Carla Norrlof admit that there has been a broken social contract—that economic globalization and multilateralism did not benefit everyone. Elites prospered beyond all expectation while the workers fell further and further behind without adequate social safety nets. In the US, the rewards have gone to the owners of capital and not labor. That accelerating maldistribution of wealth, coupled with the financial collapse of 2008, illustrates how the disadvantaged have not seen the benefits of the international order that had been promised to them. This has led to the unraveling of the US liberal identity.

As Ikenberry acknowledges, “The appeal and legitimacy of liberal internationalism will depend on the ability of the United States and other states like it to re-establish their ability to function and to find solutions to twenty-first-century problem.”

But the urgent reforms have not begun and there is no indication that the Trump administration has real ideas about what reforms should be undertaken. The new NAFTA (United States-Mexico-Canada Agreement or USMCA) provides a hint of what may come as far as actual reforms, but this represents very incremental changes.

**Possibility no. 2: the rupturing of the US from international institutions may open the door for leadership by others**

US disavowal of the Iran agreement and the Paris climate change agreement illustrates the possibility. With respect to the Iran Deal, withdrawal means isolating the US and


reneging on a commitment hammered out among American allies as well as Russia and China. This plays squarely into the hands of Russia; Russia is on the inside, while the US is outside. This strengthens Russia’s position which had already been strengthened by Brexit and the disintegrative treads within the European Union. Russia is poised to capitalize on the divisions within the western alliance, exercising greater leverage over individual countries, and becoming a stronger voice in Europe and Middle East affairs.

Likewise the Trump’s administration withdrawal from the Paris climate change agreement and its disavowal of the science of climate change leads the way for China to become the de facto world leader on global environmental politics. Already Europe is turning to China for partnerships on climate issues. China’s leadership is clearly congruent with President Xi Jinping’s broader ambitions expressed at the 2017 Davos World Forum: China should “guide economic globalization”. A month later, he described China’s role to “guide international society” towards a “more just and rational new world order”. The One Belt, One Road $1 trillion initiative investment in 60 countries and its support for the Asian Infrastructure Investment Bank are tangible evidence of China’s committed leadership.17 Yet as Xi attempts to position himself as “globalizer in chief” and actively participates in making the rules, his actions suggest otherwise: a mercantilist China policy in the long run and the export of China’s authoritarian model.18 As Evan Osnos titles his piece, “Making China great again: how Beijing learned to use Trump to its advantage”.19 Or as Fareed Zakaria argued following the June 2018 summit between Trump and Kim, “Now the rules of the road are being written in Asia, and they are being written in Mandarin.”20

But there are reliable indications that Trump’s pulling back from the United Nations is allowing China to fill the gap. Diplomats are reporting how China, once cautious and quiet in the body, are now asserting an agenda in a business-like manner: proposing ideas, forging alliances, and committing economic resources. China’s re-positioning has been gradual, providing a boost to the multilateral system.21 As Yadong

18 Evan Osnos, “Making China great again. How Beijing learned to use Trump to its advantage” in The New Yorker, United States, January 8, 2018, pp. 36-45.
19 Fareed Zakaria, “This should have been the real headline of the Trump-Kim summit” in The Washington Post, United States, June 14, 2018.
20 Richard Gowan, “China fills a Trump-sized vacuum at the UN: as Washington pulls back from Turtle Bay, Beijing is gaining power and influence” in Politics, United States, September 24, 2018.
21 Yadong Liu, “How Trump’s policies are helping China: Beijing still can’t believe its luck” in Foreign Affairs, United States, September 28, 2018.
Liu asserts in a title of his article: “How Trump’s policies are helping China: Beijing still can’t believe its luck”.  

These developments can be very positive, all consistent with the decline of US hegemony; other countries are stepping up to the plate and taking a leadership position. And other countries are moving on, forging new relationships with different countries.

**Possibility no. 3: a best, this is merely a return to the realist world or at worse, this may lead to greater fractionalization**

President Trump’s speech at the UN General Assembly on September 25, 2018 provides a hint of his vision: a return to “America first”, support for policies consistent with narrow self-interest, a plea for patriotism, a preference for unilateral over multilateral approaches, a warning to “stay out of our business”, a rejection of external constraints on US actions, and strong actions to protect “our sovereignty and our cherished independence above all”. In one view, this is an expression of 19th century of balance of power, which some commentators have suggested, has always been prevalent.

But others see Trump’s language and policies as more troubling – one calling it “sovereignty on steroids”. Worse yet, the possibility is a return to a Hobbesian vision of a brutal, zero-sum world, a state of nature or a jungle. Robert Kagan’s thesis that without US involvement, the world order could rapidly fall apart. That is reflected in his book title *The Jungle Grows Back: America and Our Imperiled World.*

Those words have implications for Fareed Zakaria. In the long run, this will result in “greater disorder, the erosion of global rules and norms, and a more unpredictable, unstable world (...).”

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22 See, for example, Charles A. Kupchan, “Trump’s nineteenth-century grand strategy” in *Foreign Affairs,* United States, September 27, 2018; and Graham Allison, “The myth of the Liberal Order. From historical accident to conventional wisdom” in *Foreign Affairs,* United States, July/August 2018, pp. 124-133.


Possibility no. 4: there will be no real changes: the *status quo* will continue

International Relations scholar John Ikenberry has spoken out forcefully and consistently, arguing that, even if America’s position in that global system has changed and diminished, the liberal order will survive: openness, the rules, and multilateralism are deeply rooted. He made that argument in 2011 well before Donald Trump was elected. The liberal order is “live and well”. “China and other emerging great powers do not want to contest the basic rules and principles of the liberal international order; they wish to gain more authority and leadership within it.”

Not dependent on a hegemon, that international order is “complex: multilayered, multifaceted.” For rising States, such a system offers “a buffet options and choices. They can embrace some rules and institutions and not others.” That system offers unparalleled benefits: integrative tendencies; opportunities for shared leadership; accrued economic gains; and accommodating to different strategies.

And as the Brexit negotiations suggest, “Severing these institutional ties sounds simple, but in practice, it is devilishly complicated.”

Other States will continue to act multilaterally, even if the US steps away. When the US withdraw from TPP talks, the eleven other States stepped up and negotiated an agreement. Japan negotiated a free trade agreement with the European Union. A global agenda will continue to be set, just without strong US participation. And regional cooperation and coalitions of the willing will continue to operate.

Trump himself is constrained by other actors in domestic politics and by the checks and balances in American democracy. In terms of policy, Trump’s rhetoric may be stronger and louder than the actual policies. Yet as Jake Sullivan warns, “A temporary American absence is survivable, sustained American absence is not.”

Disruptions to the established occur have occurred in the past. When one is in the midst of such upheavals, they seem not just unsettling, but shattering. The verdict is still out whether this is such a time.

The challenge of writing during tumultuous times

I have been involved in writing textbooks since the mid-1990s. During that time there have been a number of key events which have changed major thinking about

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International Relations. The several events which stand out include the disintegration of the Soviet Union; the blossoming of democracy on continents which had previously been authoritarian; the rise of terrorism against the west, namely 9/11; US wars in Afghanistan and Iraq; the 2008 international financial crisis; the Arab spring. And there have been technological changes which more slowly has had an impact—the internet and cyber. At each juncture, a writer struggles to relate change to students and deduce real trends.

But the latest edition of my textbook posed in my view the most challenges—because there were so many changes occurring simultaneously: the rise of nationalism; the sputtering of democracy; Brexit and the crisis of the European Union; the election of Donald Trump and with that the assault on international institutions and the free trade system; the increasing power of China, among others. Do these events represent real change? Or are they blips in an otherwise steady world? How much can be attributed to individual actors like Trump? And how much can be explained by domestic politics? What do these changes mean for theories of International Relations? I admit that I may have got these changes wrong. I leave it to you, the next generation to assess these questions.

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