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The Politics of the Invisible College: International Governance and the Politics of Expertise

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In the final article of a series of three, on the politics of international governance and policy, the author explores how the perceptions and language developed by the professions, involved in international policy and humanitarian work, influence its outcomes. Emphasizing the need to move beyond debates about the desirability or otherwise of international governance and the flaws in international constitutional structures, the author suggests that humanitarian aims would be better achieved by an acceptance of the distributive role of international governance, and a focus on its outcomes, whether progressive or regressive. These outcomes are dictated in part by the language of the professions and by their understanding of the nature and objectives of their work. It is suggested that, although international policy professionals often perceive themselves to be intervening neutrally, their real role is one of government. An acknowledgement of this would lead to a better assessment of the gains and losses that result from their work.

Humanitarians and Progressives Evaluate Global Governance

Progressive and humanitarian lawyers, like many left-oriented intellectuals, have a hard time thinking pragmatically about the fact that international policy-making now affects almost every domain in which the contemporary welfare state is active. Our various enthusiasms and suspicions about international governance often reflect only loose prejudices and vague preferences about things local and things global. But global policy-making has become too important not to be evaluated more rigorously. Although there remain activities barely touched by international policy initiatives and the density of international regulation varies in different places and policy sectors, there is no question that we have come to live under a new form of "governance", at once more international and more technical. The globalisation of policy-making may be the most significant change in the structure, site and substance of political culture since

¹ I presented these thoughts at the British Institute for International and Comparative Law on April 26, 2001, and I am grateful for the helpful discussion which followed, and to Karen Engle, Jerry Frug and Janet Halley for their comments on earlier drafts. My thinking about the politics of professional consciousness has been shaped by more than two decades of conversation with Duncan Kennedy.

the consolidation of the nation state as an arena of popular political contestation a century or more ago.

We might begin an evaluation by working through a list of recent policy initiatives undertaken *outside, among and between governments, tallying those aimed to make the world a more humane and progressive place*. We would find an extremely wide range of initiatives and it would be easy to conclude that in one way or another almost every item holds out some humanitarian promise: agriculture, arms control, banking, commercial law, criminal law, economic development, energy policy, environmental protection, health and safety, human rights, immigration and refugee affairs, insurance, intellectual property, labour, monetary policy, tax policy, trade and commercial policy, transport policy. Many people who are progressive, humanist, liberal, compassionate, in all the best senses of these terms, have let it go at that—perhaps bolstered by a general commitment to internationalism, cosmopolitanism, to thinking about things holistically, solving problems together for our whole planet. And indeed, many international policy-making initiatives have sprung from humanitarian motives and had progressive results.

An international lawyer, thinking myself progressive, I am drawn to the humanist promises of international policy-making. But I would like to develop our ability to assess global governance more pragmatically. Unfortunately, the most common arguments in favour of international policy-making are the least helpful. Like the idea that internationalisation is technically or historically inevitable. Or the idea that some social and economic problems simply *are* global phenomena which therefore require international policy solutions. By many measures social and economic life today is no less global than a century ago. Modernisation is also a story of specialisation, fragmentation and the rise of local identities. “The” environment or “the” market can be equally well contemplated, and regulated, as local phenomenon. Even problems which seem global may sometimes be addressed locally. International finance might well be regulated most successfully in a few global cities, just as global warming might best be addressed by local initiatives to curtail the most aggressive polluters. Addressing such matters with international policy initiatives can be a way of disengaging them from policy oversight altogether. Moreover, local policies often have broad global effects, while many global initiatives concern only narrow localities. In short, debating whether things are “getting more international” will not much help us understand the pros and cons of international policy-making. However inevitable the internationalisation of policy-making seemed, if we concluded it was a bad idea, there might be much we could do as progressive and humanitarian people to slow its course.

In a sense, of course, international policy-making should simply be evaluated like policy-making anywhere, through careful assessment for particular policy initiatives of the costs and benefits, likely risks, outcomes, distributional consequences for various groups, and so forth. International policy-making is prone to the same difficulties as policy-making elsewhere—underestimating costs, overestimating benefits, over or under estimating the effects of rule changes, overlooking secondary costs, foreshortening time horizons, hyperbole in discussing the pros and cons of proposals, underestimating the plasticity of rules and institutions to appropriation and reinterpretation, and so forth. In this sense, there is not much that can or should be said about international policy-making *in general*. All too often, good hearted people substitute

general enthusiasm or resistance for difficult assessments of particular policy initiatives. Yet, the general conversation is also an important one. People often shape policy initiatives to advance or retard the globalisation of governance, and the level of international policy-making reflects the status of forces between friends and foes of internationalisation. More significantly, the international policy-making machinery may itself skew political outcomes at the wholesale level.

Progressive assessments of global governance run the gamut from enthusiasm to hostility. The enthusiasts focus on the most humanitarian elements of international policy—human rights, humanitarian law, environmental protection, arms control—and are swayed by a general sense that internationalisation is inevitable and probably for the better—offering, on the whole, a more modern, technically expert, rational and civilised way of organising the world than an irrational division into nation states. At the same time, those hostile to global governance, among them people who have mobilised on the streets in places like Seattle, Prague, Quebec, and Davos, as well as in Chiapas, Indonesia, India, or Brazil, criticise international policy-making as biased against progressive and humanitarian policy. They are often swayed by a general fear that internationalisation will roll back more politically promising local cultural, political and economic arrangements.

I come at this debate with ambivalence. I share with the progressive left a worry that we have overlooked or underestimated serious objections to international policy-making. At the same time, much progressive scepticism about global governance leaves me cold. Progressive critics of global governance seem preoccupied with the constitutional structure in which policy is made and with the possibility that international policy-makers and institutions are subject to capture by ideology, interest, or professional error. Although both are important, to me, constitutional inadequacies and capture seem far less significant parts of what ails the international policy process. Both misread the internal consciousness and vocabulary of the policy professions—overestimating their clarity or determinacy and underestimating their ubiquity and power.

Progressive critics share with international policy-makers the perplexing sense that overt political efforts to influence matters in faraway places are not normally legitimate—that international governance, if necessary, should be exceptional, temporary, should require a special justification, and, when undertaken, should seek to leave local conditions, culture and politics as undisturbed as possible. And that international policy-makers should therefore exercise power only as advisors, experts, knowledge professionals, representatives of a politics located somewhere else. This wildly underestimates the role of international governance—of rules, standards, institutions, collective decisions and expert management—in the allocations of power or wealth in the world “before” the interventions of international policy-making. By accepting the a-political posture of policy-making expertise, progressives forgo the opportunity to assert our agenda forcefully at the international level.

But progressive enthusiasts about global governance don't get it right either. They overestimate the ability of international policy-makers to affect outcomes as detached and exceptional interveners and underestimate the biases and blindnesses built into trying. They overlook the dark side of policy-making expertise, often carried away by the idea that one or another *form* of policy intervention will quasi-automatically turn out to be progressive—intervention to defend human rights, intervention by non-

governmental organisations from other places, intervention by experts who come only to share knowledge or technology, intervention in the form of "humanitarian assistance" and "aid", and so on. They forget that all too often saying "I'm from the United Nations and I've come to help you" will not sound promising at all.

Moreover, progressives—whether critics or enthusiasts—seem ambivalent about what they would have global governance accomplish. At times, of course, they advocate global policies which would distribute wealth, status, and power in ways they deem progressive—from those who profit by the generation of greenhouse gases to those injured by global warming. But when speaking of "globalisation" as a whole, progressives often seem to imagine that if the constitutional structure for global policy-making is satisfactory—transparent, even-handed, checked and balanced—and policy-makers are not captured by outside interests or ideologies, the outcomes will be in some sense neutral or benign. Good for everybody—as if the distributional effects of policy-making were aberrant. In this, progressives aspire to inoculation against the egg-breaking that accompanies all governance and rulership, for there simply is no policy—and no forbearance from policy—which does not distribute. In this, international governance *is* an exercise of power.

But it is also the work of experts and the product of expertise. Critics and enthusiasts underestimate the significance of the policy-making professions—international lawyers, economists, political scientists—in global governance. Global governance is largely their creation and their ongoing practice. The background ideas common to the professional vocabularies of these people affect everyone who becomes involved in the international policy-making process. In a real sense, we are all speaking policy prose—and yet we do not have intellectual tools or habits to grasp the politics or the centrality of what remains an expertise. And the political limits imposed by this vernacular affect even those who rail against globalisation and its policy professionals from the streets.

Too many progressive voices have judged global governance without understanding the vernacular in which it takes place. Focusing on constitutional deficiencies or institutional capture avoids getting inside the mind of the policy-maker—he is determined either by the structure within which he works or by external interests and ideas which have captured his allegiance. The odd thing is how many participants at the very centre of the policy process also leave their professional vocabulary unexamined, content to treat the politics of their expertise as somehow external to themselves.

My suspicion is that as progressives come to understand the hidden-in-plain-view politics of this shared vocabulary, we will shed some of our customary enthusiasm—and suspicion—about global governance. Progressives, whether deep inside the international policy machinery or protesting far outside, have been both insufficiently critical of international policy-making *and* insufficiently vigorous in asserting our political will on the international stage. By overestimating the political importance of constitutional structures and overlooking the biases of expertise, humanitarian and progressive intellectuals have reinforced policy-makers' own claims to be structurally exceptional and technically a-political. One result is an unwarranted hesitance by humanitarian and progressive intellectuals to assert our political agendas on the international stage. We need a deeper sense of what can go wrong when international policy-makers govern and a broader feeling of empowerment to pursue progressive

objectives internationally. My hope is that as progressives come to appreciate the structural limitations and biases of international policy-making expertise from the inside, perhaps we will shed our hesitance to see ourselves as participants in rulership.

In this essay, I first consider three common ways of evaluating global policy-making which locate the politics of global governance outside the policy vocabulary—in the constitutional structure of global governance, in the tools used to implement global policy, or in forces which have, in one or another way, captured the policy-making machinery. Although these can be helpful, they also contribute to our sense of distance from the decisions and responsibilities of political assertion. To counteract these tendencies, I propose that we replace constitutionalism with a focus on distribution, that we stop blaming the tools and focus on those who use them, and that we supplement our attention to capture with inquiry into the politics of our shared policy vocabulary itself. In the second half of the essay, I bring together five ideas about the politics of our policy-making vocabularies.

The Politics of Global Governance is Everywhere but in its Vernacular

Constitutional fetishism: blaming the structure

Debate about the desirability of global governance gets off the track when it worries too much about the constitutional structure of global governance. Progressives focus far too much on questions like: what is the right mix of centralisation and decentralisation in an ideal global governance system and how close do we come? How does the institutional apparatus for making international policy compare to the public law structures we are familiar with in industrial democracies, or about which we fantasise in fashionable theories about “justice” or “democracy”? Is there sufficient judicial review? Representation? Transparency? Notice and opportunity to be heard? A functioning separation of powers among three branches of government? Checks and balances? And above all, should we (internationalists, hegemons, leading powers) *intervene* or not?

These can be important questions, to be sure. For many people, constitutional structure will matter regardless of the policies which are made or the outcomes which result. But it seems odd to prefer one governmental level or structure over another without at least an intuitive sense for the specific policies and distributional outcomes which will result. Although policy outputs can differ when issues are addressed in different institutional structures, a focus on constitutional questions can lead us to misestimate the political outcomes of policy-making. It also encourages us to view international policy-making as *exceptional*, overlooking opportunities to contest the international rules, institutions, shared professional sensibilities and practices which structure the background situation onto which we imagine policy making its exceptional intervention.

People often have intuitions about distribution in mind when they say that some types of issues *can only* be handled internationally. What the speaker often means to suggest is that some *types* of solution, some *desirable* governmental interventions, some *worthy* distributions of power, resources or wealth, will, as a matter of fact, only be possible at the international level. Perhaps only the international community has the financial resources to bail out the central bank of a medium-sized nation—the

alternative to international policy-making is the policy of allowing bank failure. Perhaps only the international community has the collective will to impose sanctions on a particular regime in an effective way—the alternative to international policy-making is more freedom of action for “rogue” regimes, or for this particular regime. There is, in other words, behind the idea that “the environment” calls for international policy-making, an idea about *what policy* is called for, and behind that an idea about the distributional outcomes progressives should prefer. A policy of unrestrained local environmental exploitation, for example, could be pursued perfectly adequately without resort to overt international policy-making.

Or take the progressive insistence that we need an international labour policy. In a sense, of course, we already have one. The arrangement of rules, prohibitions, permissions, enforcements and so forth—about sovereignty, about trade, about contracting and ownership and labour association—effects a policy of differing levels of wage protection, raising some wages and lowering others. The historic use of the International Labour Organisation (ILO) to “regulate” international labour conditions reflects a policy of authorising local labour conditions and the political and legal arrangements which support them intact except as they can be affected by sporadic technical assistance and the enunciation of universal norms in widely ratified, if not always implemented, treaties. This policy arrangement makes relatively little use of “fair trade” laws and institutions to assess labour conditions. What proponents of the need for an *international* labour policy mean is a *particular kind* of policy—more aggressive top down regulation aimed at achieving different distributional results—forcing higher wages for some workers through stricter enforcement of at least formally universal norms, at some cost to other workers, consumers or investors.

When humanitarians and progressives consider whether to prefer locating international labour policy in the International Labour Organisation or the World Trade Organisation (WTO), it would be tempting to focus on the quite different constitutional structures these two institutions bring to the task—different memberships, powers, implementation authorities, and so forth. We might conclude that the WTO is constitutionally “stronger” and therefore more likely to be an “effective” enforcer of labour rights. This sort of analysis can be helpful—but the ILO and the WTO are not simply two different constitutional mechanisms for doing the same thing, different institutions for implementing public norms about the treatment of employees which we know as “international labour policy”. The policy made in each institution will be a function of distinct professional cultures which think about what labour policy *is* in different terms. For example, systematic and aggressive use of the national and international trade law regime to challenge low wage regimes as trade subsidies or dumping practices might raise some wages (perhaps lowering others) without public law regulation or standard setting of any overt type.

Constitutional questions can sometimes raise distribution issues, to be sure. We might ask whether it is progressive to pursue labour policy through an institution (like the WTO, but unlike the ILO) in which labour has no constitutionally guaranteed voice. Different memberships, powers, organs, all may have an across the board distributive impact. But these constitutional differences are likely to be swamped by different political climates, different disciplinary vocabularies, institutional histories, contexts of engagement for other purposes, and so forth. As progressives, we would have been better off starting with some sense for the particular outcomes we prefer—whose

wages increased or stabilised, whose working conditions transformed, at what costs to whom—and then focusing on the institutional mechanisms most likely to achieve this outcome. Although this sounds commonsensical enough, and is the practice of many sophisticated practitioners and strategists, it is surprising how often humanitarian and progressive voices focus instead on one or another institutional form or level as an unstated and largely unexamined proxy for their preferred outcomes.

Of course, placing distributional issues front and centre may also bring to light conflicts among progressive and humanitarian voices—exactly whose ox should we gore, exactly where should we concentrate our resources? But when distributional issues remain in the background it is easy to get carried away by belief in the consistency of constitutional form, and in the importance of constitutional factors in generating results. The most classic example is probably the “race to the bottom”—the assumption that globalisation of policy-making will lead, through regulatory competition among national units in the absence of a strong centralised policy-making capacity, to ever “lower” levels of environmental or health or labour or safety protection. Although this has an intuitive appeal, the empirical story is far more mixed. Sometimes there is a race to the top, sometimes other factors swamp the effects of “regulatory competition”, it is difficult to figure out what are “high” and “low” standards where regulatory objectives themselves compete, and so on. More significantly, the idea of what public policy-making “is” at the national and international level may well be different—a loss of public law regulatory capacity might well be made up, from a progressive standpoint, by other forms of political intervention and contestation in the international regime. And of course, in terms of outcomes, we might well prefer an ineffective international machinery to an effective national one where the policies implemented generate less progressive outcomes than the existing framework of background norms and practices.

Progressives should develop the habit of recasting our arguments in distributional terms—exactly what sorts of policies, benefiting whom, are “too hard” to implement nationally? When we say international policy-making will be more “rational” or less “political”, whose interests in what contexts are we thinking will be taken more and less into account? Which sorts of policy outcomes will be more or less likely if taken up by international policy-making machinery? What is the distribution wrought by the default policy now in place against which more “international” or “national” policy-making seems preferable? It may be easier to build coalitions around feel good constitutional generalisations—globalisation is terrible or international policy-making is inevitable or both—but doing so will retard, not advance, our understanding of the politics of global governance.

Blaming the hammer: the politics of institutional and doctrinal tools

Progressive evaluations of international governance go awry when they focus on the institutional and doctrinal tools used for policy-making, rather than on the professional expertise and routine practices through which international policy-making is undertaken. Of course, sometimes the available policy tools at the international, as opposed to the national level can affect the distributional outcomes of policy. To take a familiar example, it is easy to see that using international treaties to make rules will often have

different outcomes from using a series of national statutes. It is notoriously difficult to enforce a treaty rule against or within the jurisdiction of a signatory state which is not committed to the treaty's enforcement, just as it is difficult to formulate rules which cut sharply into the prerogatives of other governmental entities through the consensual machinery of treaty-making. Indeed, a strong national statute in a leading economy can have more international overspill than a treaty drawn in general terms. Treaties are often vague or embody loose compromises and may set back the regulatory agenda by licensing weak national regimes. Contemplating these facts as progressives, it is tempting to conclude that we should simply prefer the use of national regulatory machinery whenever practically possible, relying on treaty-making only where the problem escapes national jurisdiction for one reason or another.

So long as we can be confident that progressive policy-making means passing strong "progressive" rules for enforcement by public authorities in a context which would otherwise be less progressive, there is much to this conventional assessment of the treaty-making tool. But the situation is not nearly that clear-cut. National regimes can protect local interests at significant cost to a general regulatory objective. A weak or differentially effective public law rule may prove more progressive where public authorities are not themselves progressive or where background rules and institutions have more progressive potential. Vague treaties enforced by progressive judges may be much better than strong statutes passed by conservative legislatures. In the rush to generate the strongest possible public rules, opportunities to contest background norms and practices may be overlooked. Where public law norms license anti-progressive practices, this effect may be stronger for statutes than treaties.

Most importantly, the progressiveness of treaties will depend upon what is put in them and how their provisions are accepted by living people managing policy machinery. Much will depend upon the use made of policy tools by the professionals who wield them, and by what they have been trained to think plausible and proper. We are familiar with extremely weak treaties being very favourably received by local elites—and the reverse. Focusing on the tools themselves both turns our attention from their distributional consequences to their constitutional authority, and encourages us to act as if policy tools had a kind of inherent virility or potency, as well as a politics of their own. This idea obscures the effects of professional knowledge and practice about their uses, as well as the responsibility of real people for their consequences.

In a broader sense, focus on policy-making "tools" assumes too readily that we know what "international governance" is. But global governance is not simply the sum of public law analogs developed by international policy makers to replicate the functions of national governments. The international "system" is an activity of people—of lawyers, economists, political scientists, bureaucrats, civil servants, street protesters, entrepreneurs, media moguls and businessmen in thousands of locations who share a commitment to international policy-making. These people might work for the great international governmental bureaucracies, but they are equally likely to be found in national governments, in private enterprises, in non-governmental organisations, in the media, in universities or in the streets. Wherever they are located, these people propose, accept, expect, hope for, resist, yield to and interpret the internationalisation of social and economic policy, and their shared consciousness is more important in setting the terms and extent of global governance than the formal powers or presence

of the international policy-making machinery. Consequently, international policy-making is the collective practice and consciousness of a people. Not the people of a nation, but the people (from central bank presidents to street protesters) of the diffuse cosmopolitan and international space. Theirs is the "consciousness of an establishment", and the politics of global governance will be their collective politics.

Many, but by no means all, of these people are professionals who learned the policy-making vernacular in their training to become economists, lawyers, political scientists, journalists and so forth. Their professional vocabularies give us a window into this more general establishment consciousness, both because they are influential, and because they articulate overtly what is common sense in the broader society of cosmopolitan people who influence international policy-making. We might therefore begin our evaluation of the politics of international governance by evaluating the politics of these policy-making disciplines.

This may seem odd at first, and not only because we are used to thinking of these disciplines as domains of relatively neutral "expertise". At the national level, we think of policy-making as the servant to a political class implementing a political program, an ideological agenda, perhaps a democratic mandate. We think of policy-makers—and they think of themselves—as bound, in their acts and in their imagination, by the delegated powers of their institutions. But to the extent international governance is the act of a diffuse establishment *above* or *outside* national political contestation, it floats free of these familiar conceptual restraints. Although savvy policy professionals rarely present themselves as naive voices of a neutral science, they think of themselves as participants in something altogether less parochial or ideological than "politics". They often feel they have left the bad old (national) politics of rent seeking, subjectivity, corruption, national and ethnic parochialism behind to build a shiny new and objective politics of cosmopolitan expertise. The term "policy" suggests the tendency to think in terms of "best practices", practical necessity, efficiency, rather than political positions or distributional outcomes. People have this in mind when they complain that European Union officials seem less to be implementing the left, right or centre political program of a government than advancing their own authority in the name of the abstract ideological goal of "building Europe". International policy-makers speak far more about the "best" policy or practice than about winners and losers, and about the work of the "international community" than about the prerogatives of this or that institution.

Of course, the politics of the professions is not only a function of their expertise, and it would be useful to know a great deal more than we do, sociologically and historically, about this cosmopolitan policy class. The professions encompass a broad range of political commitments and people who pride themselves on the flexibility and eclecticism of their expertise. International policy-making elites pursue all sorts of projects using, stretching, ignoring, free-riding on their professional vocabularies, credentials, expertise and institutions. Sometimes these are projects of deep commitment or aversion, often, though not always, to the stated objectives of various policy initiatives—reduce global poverty, increase the efficiency of global capital markets—only some of which will, of course, be progressive or humanitarian. But also projects of affiliation and disaffiliation—associating themselves with those in power, with those out of power, with the hip, the helpful, the wise or the savvy. And, of course, projects

of power and submission, willing themselves to rulership, to service, to marginality or centrality. As they pursue these quotidian professional practices, working within or against the possibilities of their professional vernacular, policy initiatives of one sort or another emerge.

When progressives focus on the politics of policy professionals, they can be disarmed by the fact that most international policy-makers share a humanitarian and progressive sentiment. These are largely good people, humanist, rational, practical, cosmopolitan, liberal in sentiment. Theirs is an enlightenment project, a liberal project in the widest sense, embracing liberalism of the right, the centre, and the left, carrying with it all the problems and promises of the liberal philosophical tradition. It can be difficult to see much more of their politics than this. These are people who seek to govern, not in their own name, but as representatives of knowledge, necessity, reason. They imagine themselves governing from outside government, figuring themselves as knowledge, speaking to everyone else as power. These are people hesitant to act directly or openly on their progressive and humanitarian sentiment, people to whom the thought "personally I'd like nothing better, but unfortunately . . ." comes very easily.

They understand their entitlements to flow from their expertise, sharpened and certified by disciplinary training and validation, and their reference group is first and foremost collegial. They share the idea that the object of their expertise pre-exists their disciplinary formation—"the law" is out there, they study it, interpret it, reform it, apply it. "The economy" is out there—they study it, describe it, formulate its rules of action, manage it. Moreover, these professionals wear their expertise lightly. The best international policy-makers are eclectic—used to flexibility, interdisciplinarity, alive to the experience of scepticism, to the failures of knowledge. We might say the best economist knows how little is known about the economy, the best lawyer how fluid and undecided the corpus of law—know that the work of the professions is less the application of expertise than a modest practice of eclectic social or institutional management.

Although it may seem obvious that the terms of the policy discussion may limit the policies which are made, these are extremely subtle and ambivalent vocabularies. It is not at all clear that the policy-making vocabulary has a politics, except as practised or applied. Like anyone, policy professionals bring a range of professional deformations to the task, the limits of their training, their imagination, their understanding of the terrain upon which they work, their sense of the sorts of solutions which will and will not work. But these may, and sometimes are, compensated for by the presence of other professional disciplines and other voices.

It can be difficult to get a good grip on the politics of the cosmopolitan policy-making establishment, even by focusing on the vocabulary of the dominant policy-making professions. Progressives who have tried to isolate the politics of the international policy establishment have taken two paths. Some take the vague flexibility and apolitical posture of the professional vocabularies themselves at face value, and focus rather on the possibility that the entire discussion has in one way or another been hijacked. Others, more sceptical about the notion of political capture have tried to isolate elements in the policy-making vernacular itself, background understandings and shared assumptions, which might, in one context or another, turn out to skew the politics of global governance in an anti-progressive direction.

Body snatchers: the politics of capture

The institutions and professions of global governance have been politically captured

The most familiar claims about the distributional biases of international policy-making are made in the language of political capture. International policy-making will favour some policies and exclude others, and distribute resources from some groups to others, because the policy-making machinery has been captured by political forces committed to these results. Capture seems bad both when specific politics dear to the speaker are made less possible, and when policy-making departs from an abstractly desirable political range. There are three quite different ideas out there about how international policy-making could be politically captured.

In the first vision, the global policy-making machinery has (perhaps secretly) come under the influence of some group or set of economic interests. Whatever is said by international policy-makers, and whatever the actual structure of decision-making at the international level, the shots are really called by someone else—by capital, by industry, by the first world, by the United States, by the Trilateral Commission, and so forth. Those hostile to policy-making by the European Union speak this way when they suggest that when policies are made in Brussels, decisions are *really* taken in Paris or Berlin. It is also familiar in claims that the world trading system serves the interests of “global capital” or has been taken over by the agents of multinational corporations.

A second idea is that the actual participants in international policy-making are themselves ideologically or politically committed partisans of one faction or another rather than pragmatic and objective assessors of the costs and benefits of alternative policy options. International policy-makers might be more conservative or socialist or liberal than policy-makers elsewhere, or the range of political commitments among international policy-makers might be narrower than the abstract range of possible political positions. These political commitments will either lead policy-makers to distort their professional analyses or exploit opportunities left open for discretion within their professional analyses to promote their political agenda. We hear this idea in British debates about European policy-making which suggest that Eurocrats are less liberal and more socialist in sentiment than policy-makers in London. In the broader international context, the claim is more often the reverse: international policy-makers are liberals with a libertarian or mercantilist rather than a socialist bent.

A third vision of political capture stresses structural dimensions of the international policy-making machinery which lead some interests to be under or over represented—in comparison either with an imaginary “justly” representative order, or with actual policy-making machinery at the national or local level. To the extent we imagine policy-makers to be themselves representative, rather than the implementers of political objectives set by other representative groups, some groups or interests may be under-represented. If we think of policy-makers as more neutral experts, some interest groups may face structural impediments—through their own organisational structure or their distance from international machinery—in articulating their claims so as to be heard by international policy-makers. The key here is participation, voice, presence, and the transparency of the international policy machinery. Claims of this sort are common—from both the third world and the first, from states as well as non-state actors and

groups. Concerns of this type lie behind accusations that international policy-making suffers from a "democracy deficit", whether in the European Union, the United Nations or the International Monetary Fund. Or that the machinery for trade governance favours the dominant interests within large diverse economies, favours producers over consumers, or proliferates machinery for defending and compromising the claims of first world interest groups while offering nothing compatible to interest groups in Third World locations.

There is no question that political capture of policy-making in each of these three senses is possible, does happen, and should be a matter of concern to those whose interests or objectives are consequently not attended to. My own sense, however, is that political capture claims have been exaggerated when it comes to assessing international policy-making as a whole. The attention given these claims, moreover, has crowded out investigation of other sources of bias in international policy-making which may well turn out to be more significant.

International policy-making is simply too complex and multifaceted to be easily characterised as captured by one political tendency or another—it is no accident that people have charged international policy-making with prejudices in all sorts of directions. People associated with international policy-making themselves turn out to be diverse in their personal political affiliations. Far more are vaguely progressive than would be compatible with strong claims to conservative or neo-liberal capture—and far more are centrist liberals than would be compatible with claims of socialist or right-wing capture.

But my scepticism about political capture claims has another source. It is notoriously difficult to link particular policy alternatives with particular political interests in any determinative way—and far more difficult to do so for the array of policies implemented at the international level. What *is*, precisely, in the interests of capital or labour, of the first world or the third? The consequences of particular policy initiatives are extremely difficult to predict. These interests are themselves aggregates of various competing groups with divergent interests. Often their interests overlap. Once one begins to formulate an answer, one is in the slippery realm of international policy-making itself, attuned to perverse effects, reverse interpretations, unexpected costs and benefits. To make policy is, after all, to distribute—too often claims of "capture" are simply ways of disagreeing with the policies which have been made.

Claims about a lack of representation have, at first blush, more plausibility. And yet if we think of the international policy making apparatus as a broad cultural process rather than a narrow institutional structure, it is hard to identify interests or groups whose claims have not, one way or another, been articulated on the international plane. For more than a century, reformers have insisted on, and generally received, ever more open patterns of participation and transparency. The outsiders have been repeatedly let in, and the feeling that international policy-making is both biased and cut off from the possibilities of popular engagement remains. Of course, one could always conclude that as excluded voices are let into the room, the "real" decision-making has moved elsewhere, and this certainly does happen. But it may also be that the outcome bias did not spring primarily from a lack of participation in the first place, or that the modes of marginal expression are themselves biased or self-limiting. Although thinking of international policy-making as the activity of an establishment consciousness would seem to make claims of ideological capture easier to sustain, the consciousness of the

policy establishment is extremely fluid. It would be more accurate to describe it as post-ideological, post-political, eclectic or flexible, than as politically captured.

I am left suspecting that the problem is not primarily one of transparency or participation or ideological closure. What is needed is not openness or "transparency" as that term is understood by even the most aggressive proposals to render inter-governmental institutions transparent—documents published sooner, meetings broadcast on the web, non-governmental representatives allowed access as observers. If there is a problem of "participation" or voice in international governance, it seems a far more profound one—an almost complete absence of politics, in the sense of collective contestation among groups over the allocation of power, wealth, services, or status. Legal structures for governance abound and an extremely wide array of people now participate in global governance. But an overt and conscious global political process is altogether absent, replaced by conversations and struggles within a limited policy vernacular. To evaluate the politics of the international policy-making process, we need a far more nuanced conception of how professional expertise itself works, for assessing the biases of people who are eclectic in their commitments and committed to standing outside the terrain of commitment itself.

The policy-making professions are subject to doctrinal, policy or methodological capture

The claim here is that international policy-making will distribute resources from some groups to others because the expertise of policy-makers is itself biased to favour policies which in turn favour these groups. There are at least two common ideas about how this can happen. In the first, a policy-making discipline will become gripped by a fashionable policy, theory or doctrine, and advocate it more forcefully and more often than good sense would dictate. The over-investment in this particular policy, theory or doctrine will then have unfortunate distributional consequences.

Of course international policy-makers do succumb to fads. For years experts involved in development policy-making at the international level were bullish about import substitution policies, fifteen years later export led growth was all the rage, five years after that experts seemed unanimous that neo-liberal policies of privatisation and return to world prices were the only way to go. It would be entirely fair to say that the development policy profession was not able, in any of these periods, to embody the breadth of its own expertise. Broad public discussion about development largely ran parallel. Similarly, for years international policy-makers approached situations of ethnic conflict offering minority rights and assimilation—and then switched to self-determination and population transfer—and then reversed again. This is the sort of thing people in the United Kingdom have in mind when they complain that policy-making in Europe is captured by "corporatist" thinking, or when those in the third world charge the international financial institutions with a bias for neo-liberal free-market policies. International lawyers are constantly being accused of a professional over-investment in the doctrine of "sovereignty" or in "the State".

In my experience, however, claims about doctrinal or theoretical capture often seem exaggerated. The policy choices against which the discipline is said to have closed its eyes turn out to be present in mainstream thinking. Policy alternatives which seem stark turn out to be more nuanced. The fluidity of the doctrinal or policy options

themselves makes it notoriously difficult to tell exactly what the distributional consequences of different policy options will be. Routine professional practices of internecine conflict and criticism, although often sounding doctrinaire and sectarian, in fact leave the best professionals ambivalent and quite unlikely to lash themselves too long to any policy or doctrinal fad. It is no surprise that those accusing policy professionals of bias in this sense so rarely go on to articulate the outcome consequences they fear.

It is far too easy to conclude, for example, that since international policy-makers are all advocating neo-liberal free market policies, they and the policy-making system of which they are a part are biased in favour of, say, capital over labour, or the first world over the third. It turns out that within "free-market" ideas there lurks an exception for situations of "market failure" which can be interpreted in broad or narrow terms. Making out a case for bias would require saying quite a bit more about how policy-makers resolve the various choices internal to this broad policy choice (how broadly or narrowly do they interpret "market failures") as well as a clear sense about what policies will in fact favour a group as diverse and general as "capital", or "the first world". A "free market" policy could turn out, if properly structured, to be more friendly to "workers" than its "socialist" alternative.

This sort of debate is more often about the rhetoric of international policy than the outcomes. Repeatedly, the expertise of the policy-making professions returns to well-worn argumentative alternatives—between import substitution and export-led growth, between neo-classical and institutional economic ideas, between praise and condemnation of sovereignty. It is simply not true that experts in, say, the international financial institutions are committed to a neo-liberal policy panacea. There are those voices, to be sure, but they are not alone—in the institutions, or even in the expertise of individual professionals. As a result, efforts to locate professional bias in doctrinal or policy capture almost always seem to underestimate the range and flexibility of the professional expertise they seek to criticise.

A second vision of the biases in the expertise of international policy-makers focuses on "methodological" or "theoretical" capture. In this conception, debate among policy professionals about things such as "how much sovereignty is the right amount" or "what is the appropriate mix of import substitution protection and openness to free trade" assume, after a time, a predictable form. When this happens, schools of thought form within a discipline which tend to answer a range of similar questions the same way—always defaulting to more, rather than less, sovereignty, or more rather than less protectionism. It often comes to seem, at least to those involved, that the answers people in a school of thought give to specific policy questions are in some sense entailed by a "theory" about something quite general—what law is like, how economies work, what justice requires, and so forth. These theories (positivism, naturalism, neoclassicism, institutionalism, formalism, antiformalism) are then thought to have policy consequences.

Thus, if you "are" a formalist, we can reasonably predict that you will favour some doctrines over others, almost regardless of the policy context. You will favour rules over standards, doctrinal over institutional solutions, deference to sovereignty over the development of newfangled international authority structures. Moreover, once you "become" a formalist, you advocate some policies and not others because of what you believe *law* to be like. If disciplines are composed of people representing the full range

of theories or methods or schools of thought, debate between different schools should ensure an appropriate doctrinal selection. But this turns out not to be the case. Professional disciplines do get captured at times by theories or methods, and this may bias their choice of doctrinal or policy options. Even in disciplines with vigorous methodological debate, doctrinal choices more often reflect the status of forces among theoretical combatants—the strength of theoretical sects—than pragmatic assessments of the appropriate solution to specific practical problems.

So, for example, it was long argued that international lawyers during the first half of the twentieth century were almost exclusively “positivist” and “formalist”. As a result, so the story went, they tended to default to rules rather than standards, to treaties rather than custom, to sovereign and State-based solutions rather than more open-ended or flexible institutional arrangements. And this, it was said, favoured the first world over the third, and favoured entrenched interests over newly emerging powers. To reform international law to take the needs of the decolonising world into account, international lawyers would need to abandon their formalism in favour of more “process” or “policy” or “functional” approaches, would need to replace their attachment to sovereignty with something altogether more “transnational” and pragmatic. In similar fashion, it is often argued today that too many international policy-makers, particularly lawyers with North American educational backgrounds, are antiformalist, and hence advocate policies which highlight opportunities for discretion and flexibility—a flexibility which, in turn, favours the hegemon.

There is no question that policy-making professions in particular places can get mired in one or another theory and find themselves working with a dramatically reduced set of doctrinal and policy tools when confronting problems. I think American policy-makers have something like this in mind when they complain that the international policy-making machinery is too formalist, or too “European” in its attitudes about law, or what national policy-makers mean when they suggest that the European Central Bank has been captured by economists who overestimate the threat of inflation and underestimate the threats of recession, or what third world policy-makers mean when they charge that international financial institutions have been captured by neo-liberal supply-siders. Still, charges of methodological or theoretical capture, like claims of political, doctrinal or policy capture, underestimate ambivalences and exceptions within each contending school of thought which open the window for more diverse policy commitments. And if it is extremely difficult to trace the connection between a general theory or school of thought and a particular doctrine or, policy in determinate ways, it is even more difficult to link these theories to outcome biases.

The argumentative materials which constitute the school of thought are generally simply too thin and porous, the contest between formal and antiformal positions too vigorous, the aggregation of interests and their link to policy formulations too tenuous, to be confident that methodological or theoretical capture could bias something as broad as international policy making in an interesting way. Of course it could turn out that people who are “formalists” or “antiformalists” are *also* captured by a political commitment of one or another sort, and that surely also happens. But it would seem more appropriate to see this as a case of political, rather than methodological capture. Contemporary international policy disciplines are self-consciously agnostic about

political commitment and ideological alignment—agnostic about the doctrines, theories and schools of thought which divide their own disciplines. Sometimes it seems incontestable that normative flexibility will favour the hegemon, while formal rights will protect the weak, but sometimes the opposite will seem equally true. Figuring out which will be true when is what policy-making is all about. To suggest that antiformalism *a priori* expresses hegemony is less to uncover methodological capture than to be methodologically captured.

Capture by disciplinary specialisation and the false panacea of interdisciplinarity

There remains a suspicion that policy-making “experts” will nevertheless approach policy questions too narrowly. Unlike the common man, or, for that matter politicians, whose minds are expanded by campaigning about the polity, experts have had their thinking narrowed by professional specialisation. The claim here is not that they have been captured by a political enthusiasm, nor that they are failing to engage the full range of positions and schools of thought made available by their discipline, but that their discipline as a whole is simply too narrow in ways which bias outcomes. To the extent broader public debate about global policy-making occurs in these professional languages, it too will be too narrow. It is easy to think of examples—lawyers are too litigious and try to solve things with rules, economists only worry about what’s efficient, businessmen worry only about the short term bottom line, military officers always want more hardware and are too prone (or not prone enough) to use it. Nobody seems professionally responsible for ethics or values, everyone over-discounts the future or too sharply privileges the past. This sort of bias does affect international policy-making. Economists and political scientists and lawyers do focus on different sides of a problem and come up with different solutions. When violence breaks out, it makes a difference whether one sends lawyers, doctors, soldiers, priests, therapists or aid specialists to respond. In thinking about the pros and cons of international policy-making, it would be useful to have a better sense for the particular biases of the various professionals who are likely to be involved.

If we focus only on international lawyers, with whom I am more familiar, much will depend on the person’s speciality—human rights lawyers, public international lawyers, international economic lawyers, comparative lawyers all see different things, worry about different things, bring a different stock of solutions, reach out to different non-legal disciplines for assistance. International lawyers do seem to see a world of states, worry about how law can be possible among sovereigns, focus on avoiding the trauma of war, reach out to political science for inspiration, seek to strengthen global governance. International economic lawyers, by contrast, seem to see a world of would be buyers and sellers, worry about how the risks to trade can be contained, focus on avoiding economic depression, reach out to economics for inspiration, and seek to strengthen free trade. There is no doubt these disciplines think about an issue like international labour policy very differently. For an international lawyer, the problem will be a lack of governance capacity, a need for norms and institutions to ensure compliance with them. International labour policy will mean a network of international legal rules and standards and enforcement machinery. For an international economic lawyer, the problem will be the transformation of different national conceptions of normal labour practices into arguments for restricting trade. Producing against the

background of a different national legal regime can seem like an "unfair" trade advantage. International labour policy will mean a process for adjusting, diffusing, co-ordinating such claims in ways which will not unduly impede trade flows. The policies which result from thinking about labour in these different ways may well differ dramatically. It may well be that progressive scepticism about international policy-making might be grounded in the fact that too many economists or lawyers or political scientists, or whatever, are involved.

In my experience, however, many efforts to identify and address this sort of deformation run into trouble. As with political or methodological capture, it is terribly difficult to link disciplinary focal points to outcomes in any convincing way. Just because international economic lawyers focus on trade flows, even have a project of increasing trade, does not mean that they will, for example, be inhospitable to strengthening the international minimum wage, raising health and safety standards or promoting conditions more conducive to labour organisation. As far as I have been able to see, there is nothing in the tools of their trade which would dispose them in that direction. Neither is it clear that the trade lawyers' efforts to develop an interface among different background national legal regimes is biased towards homogenisation—let alone unity at a high, low or medium level of protection. Facilitating trade is, after all, about facilitating exploitation of comparative advantage—differences in the background conditions of production. Again, to think about professional specialisations this narrowly is to be oneself captured by them.

The international economic lawyers we now have might, as a matter of fact, have been politically or methodologically captured, but that would be something altogether different. Similarly, just because international lawyers focus on states and seek to build a regime of law among them does not make them hostage to formalist conceptions of sovereignty—it places them in a professional vocabulary preoccupied with relations between formal and informal conceptions of law and sovereignty. In any event, it is not at all clear what the policy outcome bias of insistence on formal sovereignty would be. A more formal sovereignty, for example, might strengthen either high or low wage economies in defending their labour regimes, or might be the basis for a strengthened intergovernmental co-operative regime.

Moreover, although the terms and preoccupations of various policy-making disciplines do differ, efforts to understand their relative weaknesses or blind spots are prone to underestimate the internal flexibility of each discipline. Are military professionals too prone, or not prone enough, to use force? It turns out that economists have a vocabulary for internalising factors which non-economists tend to think of as matters of "value" rather than matters of "efficiency", just as lawyers have a vocabulary for criticising and limiting reliance on rules or litigation, broadening exceptions, promoting alternative dispute resolution, structuring administrative discretion and understanding the role of political life in constituting the rule of law. In a similar way, political scientists have a vocabulary for speaking about the influence of rules on the structure and operation of regimes, even if they often preface their stories about multilevel games and predictive stability with denunciations of "idealistic" lawyers who think politics can be tamed by rules or ethics.

As a result, it is easy to overestimate the differences between the preoccupations of the disciplines, and to underappreciate both their internal ambivalence and the contestability of what seem their central attachments. Indeed, mastery of any of these

contemporary policy disciplines means mastery of precisely the arguments which turn against or reverse lay understandings about disciplinary conventions. The stock experience of first year law students, confronting the unexpected fluidity of rules, stability of standards and interdisciplinary nature of legal expertise, is repeated in the training of professional students from other disciplines. Indeed, it tends only to be people *outside* each of these disciplines who share most avidly the professional deformations and narrowings customarily associated with them. The flexibility, agnosticism and interdisciplinary enthusiasm of each discipline makes it difficult to pin bias in the policy making machinery as a whole to the over-representation of one or another professional specialisation.

It is all too common in thinking about the limits of disciplinary imagination to imagine that interdisciplinary co-operation will provide a satisfactory remedy. There is no question that interdisciplinary work can often expand the imagination—if economists think too much about efficiency, the presence of priests and ethicists may well help to reset the balance. But faith in interdisciplinarity is often misplaced. The presence of priests and ethicists may well keep the economist from realising the full potential of his own professional vocabulary—may encourage disciplines to live up to their stereotypes. More importantly, in thinking about international policy making as a whole, it may be that the most important sources of possible bias in the machinery are shared by the disciplines which come into association. As a result, their association may strengthen a common perception which is more crucial in limiting the policy imagination than the supposed limitations of each disciplines particular expertise.

There is no doubt that progressive and humanitarian people should worry about a capture of international policy-making by anti-progressive ideas, interests, theories. When we sit outside the policy-making process and look at it from afar, we should ask whether policy professions which claim political neutrality or disengagement have in fact been harnessed to anti-progressive objectives. But we should reject the idea that professional knowledge can or should be politically dispassionate. And we should not ourselves remain outside the fray. International governance distributes, makes some outcomes more likely and some less. Where the results are progressive, we should applaud, and where they are not, we should contest them. Doing so places us *in* the policy process, governing, ruling, no longer standing outside lamenting its "capture".

The Politics of Global Governance and the Expertise of Policy Professionals

As participants in global governance, we must come to grips with the politics of the policy-making vernacular, with our underlying consciousness, style or sensibility. We are still far from understanding the ways in which a shared policy vocabulary shapes the outcomes of the policy process—there is much work to do to understand the politics of professional knowledge and its relationship to the broader policy vernacular. In some ways, this underlying vocabulary is not different from the combinations of arguments, theories and methods which are on the surface of the discipline and are sometimes thought to "capture" its imagination. Just as a given debate or professional discipline can be captured by "positivism", so presumably could the broader policy-making vernacular.

But this seems unlikely. Once they become conscious and are given names, specific schools of thought, doctrines or methods, tend to be contested—to be opposed by other schools and approaches. One almost always misses something with a claim of capture—somewhere in the discussion will be the opposing idea, the other school, sometimes even deep within the dominant strand itself. By underlying vernacular, I have in mind assumptions and conceptual boundaries which are more widely shared, which encompass both sides of these more common debates, and which are often less visible, perhaps less conscious, than adherence to a school of thought or enthusiasm for a dominant policy idea. Still, the boundary is a porous one. Aspects of the underlying vernacular can be contested and pop up as a school of thought or a policy fad, just as it can happen that a school of thought so dominates the consciousness of the policy-making establishment that it recedes from view into the underlying vernacular. To make aspects of this underlying vernacular visible that we might assess their politics, I propose to ask rather simple questions about the preoccupations of policy-makers of whatever school or tendency—how do they see their world, how do they understand their history, what do they see as the techniques and tools available to them, how do they define problems and solutions, how do they understand the possibilities and limits of their own roles?

How do they see “global governance”? Under and overestimating the special dimensions of policy-making in the international context

International policy-makers tend to mis-apprehend the peculiarities of policy-making at the international level, either over- or underestimating the unity and distinctness of the international system. Doing so can distort judgment about the likely consequences and effectiveness of international policy initiatives, often undercutting the plausibility of claims for their humanitarian potential. This quite common deformation is also a surprising one. The peculiar dilemmas of international governance are, of course, precisely the focal points of the international policy professional's special expertise, and are widely discussed in the theoretical literature of international law, politics, and economics. International “governance” is more process than institution, depends on law more than force, erects norms on the basis of horizontal consent rather than vertical authority, lacks common fiscal or monetary authority, stretches over numerous heterogenous cultural and political contexts, relies upon decentralised enforcement machinery, the “mobilisation of shame” rather than police, etc. The political culture within which international policy-making takes place is structured by the voices and distributional clashes of national identities organised into state and governmental entities rather than by the clashes of class, ideology, religion or other interests organised as party, governmental, corporate, individual or social entities more characteristic of national political life. Each functional branch of the international governance machinery is far more diffuse than its national analogue and is enmeshed in various local and national institutions. The international “judiciary” is not a uniform system hierarchically organised around the “World Court”, but an ad hoc and shifting set of co-operative and deferential practices among numerous national, local and international adjudicative bodies. Similarly the “administrative” branch, where the importance of nominally “international” administrative bodies varies considerably in

different places and the implementation structures of private institutions or national and local governments is key.

The claim is that the international policy professional knows all this—and forgets all this. After inventing international governmental organs as formal or functional imitations of national parliaments, executives, judiciaries, they then make policy in them as if their Potemkin government would operate like the domestic institutions on which they were modelled. As a consequence they overestimate their own effectiveness. They treat the adoption of a norm as the implementation of a policy, mistake the judgments of the World Court for the decisions of a judiciary embedded in a dense and functioning legal culture, mistake treaties and the resolutions of international organisations for statutes, anticipating their implementation, and so forth. They underestimate the diversity of political, legal and social contexts within which their policy initiatives will need to be realised. The policy solutions proposed by international policy-makers often have a one size fits all quality which imagines that what works in one place will work in another. The idea here is not only that they fail to respect local cultures, but that they, paradoxically, underestimate the specificity of the culture of international governance itself.

When policy-makers underestimate the uniqueness of the international policy-making, they can easily overestimate the humanitarian potential of their initiatives. This happens when they applaud the extradition proceedings for Pinochet in the United Kingdom and the effort to try him in Spain as if there existed an cross-cultural criminal and humanitarian legal fabric which could be strengthened or affirmed by such a *sui generis* gesture. Or propose concluding a treaty to outlaw landmines as if consent to their elimination could have been procured absent recognition of their military uselessness, and as if their outlawry would translate into their elimination. Or promote an international criminal court for war crimes, as if the political and military contexts in which war crimes were likely to occur, and the forces which would be brought to bear in prosecution, were somehow analogous to the social forces surrounding other criminal behaviour. Or when they promote the adoption of human rights norms and codes, without noticing how often doing so substitutes for developing the cultural and political machinery necessary to promote the human dignity they are meant to guarantee.

In each of these cases, the argument is not simply that the initiative will be less successful than hoped, or will not succeed until a more complete international government is in place, but that these seemingly progressive and humanitarian initiatives will either make the problems worse or have unintended bad effects. So, a trial about Pinochet in the United Kingdom or Spain, far from being the first step towards a working international criminal law to defend human rights, establishes a random and unpredictable international prosecutorial machinery which undermines the most basic rights of prospective defendants. Or, outlawing land mines and other marginal military techniques, rather than beating the first sword into a ploughshare, reinforces the legitimacy of more violence than it prevents.

It is quite common for international humanitarians to overestimate the integration of the international governance machinery, to fantasise administrative and judicial components subsidiary to its legislature, or think of a distinct commercial sector subject to regulation by public law-making. Because international policy-makers so often downplay the importance of their own expertise and overestimate the importance of

constitutional structures as sites for policy-making, they overlook differences in the sensibilities and professional vocabularies of the various disciplines involved in global governance, and overestimate the clarity with which humanitarian policy initiatives composed in one vocabulary and location will be translated into another. The result has been a repeated effort in one discipline after another to catch too many different fish with the same hook—for international lawyers, for example, the hook of broad normative texts attached to institutional mechanisms for accumulating technical expertise and reporting on violations. Consequently, when progressive international lawyers think of international economic institutions as alternative sites for public law-making, they underestimate the difficulty of translating progressive regulatory initiatives into the quite different argot of trade professionals and often miss the opportunity to enlist the professional vocabulary of trade or commercial policy-makers in their progressive projects.

Overestimating the unity and specificity of international policy-making can also mean taking too seriously the notion that the international system is a world outside culture and politics, a neutral world of expertise, a universal world of sovereign equality, a normative world of respect for sovereign autonomy or the benignly co-operative world invoked by the phrase "international community". International policy-makers too often take the fantasy world of characters they have imagined into existence at face value, treating governments as stand-ins for their people, treating the "international community" as something other than a media reference to a particular group of elites, or treating international "civil society" as if it were an embedded part of global cultural and political life, rather than a reference to the hodge-podge of advocacy institutions which have managed to gain access to international institutional machinery.

The result has been policy-makers who imagine themselves innocent of political commitment or identity, and policy initiatives which present themselves as best practices detached from knowledge of, or responsibility for, distributional choices. It has meant policy made in a relative political vacuum—policies for "development" or "transition" suitable for all time and places because hatched in the a-political and universal hothouse of international expertise and policy-makers, including the most humanitarian and progressive, who underestimate their engagement with and responsibility for the policies they make.

I think people have this at least partly in mind when they criticise the European Union policy-making machinery for a deficit of democracy or a lack of transparency—the deeper problem is the tendency of European Commission policy-makers to imagine themselves outside politics altogether, to experience politics as always somewhere else (last month in the Council, next month in the Parliament, and so forth), to think of politics as a *fact* pressuring for a response, or as a temptation (more dangerous even than corruption), rather than as an aspect of their own work, and to find their own detachment from it a virtue rather than either a vice or a delusion. But it is also true of progressives enthusiastically planning international missions to stabilise this or that trouble spot, or respond to some humanitarian catastrophe—living in an international professional cocoon of their own imagination they will often be blind to the consequences of their policies as translated into other contexts. The effort to intervene in places like Kosovo or East Timor or Palestine to "keep the peace" or "rebuild the society" or "strengthen the state" or provide "humanitarian assistance"

without affecting the background distribution of power and wealth betrays this bizarre belief in the possibility of an international governance which does not govern.

Thinking themselves situated in an imaginary international community, international policy-makers are particularly prone to under—or over—estimate the differences between different geographical, political or cultural policy contexts. This often means over or underestimating differences between the first and third worlds. When international policy-makers take the first world as the “normal” background condition for policy-making and overlook the distinctiveness of the developing world, we get policies which look uniform, but can have dramatically skewed results. Guarantees of religious freedom which generate religious pluralism in the first world and contribute to the increasing hegemony of modern proselytising religions in the third, or trade regimes which leave complex social welfare systems intact in the first world, but force the third world to live in the bracing deregulatory wind of the trade regime unmediated by national or regional regulatory interventions. At the same time, the association of the international community with civilisation, enlightenment or liberal virtue can lead policy-makers to overestimate the difference between the first and third worlds—“orientalising” the developing world. This can eliminate opportunities for alliance among people in the first and third worlds who share interests, while encouraging domestic political cultures in the developing world to organise themselves around opposition between domestic “tradition” and foreign “modernisation” despite the obvious presence of a third world in the first or a first world in the third.

How do policy-makers see their world? Spatial mistakes and geographical misconceptions

As we can begin to see, international policy-makers operate with a map of the world in their heads which affects the types of proposals they make, the outcomes they both expect and bring about. Each profession involved in international policy-making, of course, has a map of its own: the one foregrounding central banks and currency flows, the other troop movements and supply lines, yet another trade flows and productivity measurement. It makes sense to ask about the limitations these maps impose on humanitarian policy-making. But there is also a set of ideas about space common to a broad range of people involved in global governance.

On this map, “the international community” is a large and real place. As we might expect, the map is also marked by the exaggerated size of well-known political and historical hotspots, and quite often by the foreshortened perspective available high in the United Nations headquarters building, or from the space one inhabits flying among conferences, summits, or the meetings of commissions, councils and expert working groups. From this perspective, the sites of prior international engagement and disengagement loom large—Paschendale, Somme, Munich, Bretton Woods, or, closer to our day, Vietnam, Somalia, Cambodia, Bosnia, Congo, Iraq, Rwanda and so forth. Each offers an opportunity for a range of more and less plausible analogies—humanitarian engagement will work, will fail. Each stands for a “lesson”, has added or subtracted from the humanitarian policy-maker’s toolkit of possible solutions. More importantly, these places, in all their divergent reality, lead policy-makers to exaggerate the uniformity of international policy-making—their ability, whatever the differences on the ground, to know what a “sanctions regime” or a “currency bailout” entails and to compare their success here and there. The map encourages policy-makers to think of

their techniques as having shape, potential, potency abstracted from the context of their application, and precisely to overlook the specificity of context. In a way, navigating on the map becomes a substitute for navigating in the world.

This conceptual map can encourage would-be humanitarians to underestimate the constitutive effect of their own policy work on the world they confront. Take "rogue states"—when global policy makers use the term, they know to what and whom they refer. These places seem similar—their modes of engagement in the world seem shared, and it seems sensible to work out policy ideas which would be effective across a range of rogues. And yet, how does a rogue learn his trade, his position, his possibilities? Why do rogue regimes converge in tactic and technique? When we evaluate the humanitarian potential of measures addressed to pre-existing difficulties of this type, we are likely to underestimate the co-responsibility of international governance for the world it governs. The same type of argument could be made of "rebel groups", "ethnic minorities", "insurgents", "belligerents", "indigenous peoples", "failed states" and so forth—these are roles in the world, to be sure, but they are also policy categories, and it is easy to forget that the world is also looking at the policy-makers, mapping their own possibilities and strategies.

Thinking about the world the international policy-maker sees suggests other built-in limits on the possibilities for humanitarian policy-making. For example, the professional vocabularies of policy-makers all map political and economic entities in different colours. Often the political entities figure larger than the economic, and are thought to either pre-exist or to follow the movement of economic forces. Political identities are often associated with places, regions, terrains, while economic entities float more freely, somehow off the map, or outside the space of policy altogether. Where institutions are shown at all, they are public institutions—there is a tiny mark for the Federal Reserve and the World Bank, but nothing for General Motors or Shell. Rhode Island might be shown, Luxembourg certainly would be, but Ted Turner, whose private land holdings in the United States alone are larger than Rhode Island and Delaware put together, would not appear. The world's spaces are divided up into political and legal jurisdictions, which don't overlap—and all of which are at least nominally "countries". Turner is said to own land *in* this and that country—but it is hard to think the sentence "the Mexican authorities govern activities *in* this and that corporation".

People have criticised this professional map in many ways. The most familiar criticism—that this arranges the political world into formally separate public spaces—is in some ways the least helpful. It returns us to the claim that the policy-making machinery has been methodologically captured, again by formalism. The overly "formal" map gives governments more authority than they can responsibly exercise while limiting artificially what the international policy-maker can accomplish. It is often argued that national governments have retained the authority to disable international policy-making, but have not retained the capacity to resolve problems on their own. There is something to this charge. Some humanitarian policy proposals do overestimate the stability of political boundaries, just as some underestimate the boundedness of economic life. Policy-makers often fail to inhabit the full range of their professional vocabulary, and sometimes give exaggerated deference to the formal boundaries of state power. But international policy making has never had a purely formal or territorial conception of political authority. From the first, the policy professions have worked with two mental maps—an ideal map of perfect sovereigns

holding complete bundles of rights over clear territories, and a map riddled with exceptions, shared jurisdictions, non-sovereign right holders, disputed areas, internationalised territories, half-sovereigns, and so forth. Indeed, many of these deviations are the work of international policy itself. To evaluate the humanitarian potential of global governance as a whole, we need to understand the political consequences of a professional practice of *two* minds about the centrality of hard political boundaries.

As we go beneath this familiar argument about capture to the underlying consciousness shared by both sides of the formal/antiformal boundaries debate, we will notice that however stable or flexible the boundaries, the shared mental map discourages engagement with things which happen *below the line of sovereignty*. When international policy-makers wash their hands of the violence and injustice which attended the creation of states and accompanies their ongoing exercise of authority, progressive and humanitarian voices should be concerned. In a similar way, progressives have criticised international policy-makers for relegating international policy to the space *outside and between* all these political/legal jurisdictions. To Antarctica. Outer space. The seabed. To the issues posed by jurisdictional conflicts and the recognition of immunities. To the space in which a refugee can be found after leaving his country of origin and before settling in his new country of settlement. The space of things which cross boundaries, like smoke or fish. The space of transport. The result is progressive policies which address only those elements of a problem which cross or exceed national borders.

Consequently, international environmental policy has an odd shape—it covers the oceans, but with decreasing density as one moves closer to shore or on board a ship, it covers outer space, it covers those aspects of pollution flows which cross boundaries, it applies more densely to smoke than to sewage. Of course, with clever and expansive interpretation, international policy makers *could* stretch the reach of their engagement until very little escaped their purview. International policy-makers know *how* to blur the boundaries which restrict their ambit, but their default conception is, from this point of view, unnecessarily self-limiting. The gradation and segmentation of authority leads international policy-making to have a widely differential impact, and can reinforce the authority of precisely the boundaries it might be thought committed to undermine.

Regardless of how the boundaries of sovereignty constrain the ambit of international policy-making, they also reinforce a limited conception of what international governance itself can be. Whether flexible or firm, the rights which international policy-makers unbundle and apportion are the ideal rights of an ideal state with an ideal territory. Other conceptions of the points for policy engagement—private rights the most salient—are not part of the picture. This makes it more plausible to treat economic “forces” as naturally global, and political opportunities as naturally channelled through the jurisdictional capillaries of government. Whether or not the international policy-maker is too respectful of sovereign rights, sovereign rights is what international policy-making is, and can be, about. The arrangement of the world’s political spaces into national and international domains, the distinction between an international space of governance and a local or national space of its application and enforcement can dramatically constrict the humanitarian potential for international policy-making. Governance on this map is a public matter of exceptional intervention from “above”, an oscillation between respecting and re-allocating public rights, policy the extension of a public regulatory order *into* or *onto* a pre-existing natural private order.

The policy-makers' map is the map of potential public intervenors, of a space *above* sovereignty, a space in which sovereigns *conceptually* mingle, communicate, have "disputes". Things that happen in the international policy space are disembodied, the a-cultural and apolitical interactions of representatives and experts. For something to get into this space—to be "taken up on the international plane"—it must be a *grave* matter, a *serious* breach, cause *material* damage, result in *irrevocable* harm, *shock* the conscience—or meet any of numerous other substantive tests for reversing the presumption that things below the line of sovereignty are not within the purview of the international policy-maker. Sovereigns can do as they like at home—for their actions to be respected *on the international plane* they must meet certain standards. Of the things which cross borders and of the exercises of sovereign power which annoy other sovereigns, international policy gives its overt attention only to the most serious and grievous. Its influence on the background conditions in which more and less grievous problems develop is off the screen.

Although we might well think "the environment" simply *is* a global phenomenon when we argue for international environmental policy-making in the environmental field—when we then *do* international policy-making, the environment has become something else altogether. There is the terrain of physical activity, private activity, economic activity, of snail darters, financiers and property owners. Above that are public rights to intervene, regulate, distort, reorganise. These are mostly, usually, normally, allocated to national sovereigns and their sub-entities. The question for international policy-makers is when this presumption should be reversed. International environmental issues occur, and international policy-making begins, when the activities of fish and air and capital—whose primary existence is below the line of sovereignty—somehow escape those boundaries, cross them, when one or another sovereign has become annoyed at a *particularly grievous* environmental act of another. In this sense, international policy-making is about the tips of icebergs, while ignoring the influence of international governance on what lies beneath the waterline.

This way of thinking also focuses international policy-making on the boundaries of its own exercise—on the relationship between sovereign discretion and the rearrangements required by international public policy. The line between the global and the local is harnessed to the task of holding back—and then engaging—the domains of politics, culture, economy, society, from the distanced height of reason. And the progressive readjustments in the line—raising issues to the international plane, descending to manage local disputes, re-allocating sovereign rights over territory to other entities—are themselves exercises, indeed the primary exercises, of policy.

One consequence is that international policy-makers become invested in their proposals as signs for the possibility of international policy-making itself. At stake in every policy-making effort is the much larger promise that international policy-making is possible at all. As a result, individual policy-making exercises are easily overwhelmed by the needs and ambitions of the policy-making apparatus itself. We find humanitarian and progressive voices arguing that trying Pinochet in Britain might well be bad for Chile, for reconciliation, for justice, for the victims and the defendants—but it was great for the emergence of an international criminal law of individual responsibility. As progressives, we have over-invested in the status of "international" sites and situations, and under-invested in people and problems which have not risen onto the international plane. We have allowed allegiance to a cosmopolitan promise of

future humanitarian governance to distract us from the political work necessary for humanitarian government today.

What do policy makers think they are doing? Intervening

Humanitarian and progressive participants in global governance think of international policy-making as intervention by the international community on or into a local world which is, until the moment of intervention, animated by forces endogenous to it. They share with other international policy-makers the idea that there is no international policy where international policy-makers have not acted, and a preoccupation with debate about *whether or not* to intervene. Intervention requires justification and authorisation, requires that someone make an exception. This familiar liberal idea about public policy-making has a particular resonance in the international context, where policy-makers think of themselves spatially as *outside* the vertical authority of any sovereign. Although many international policy regimes have been self-consciously designed as modes of non-intervention or neutrality for either the international community or its members, the idea that the terrain is already covered by a layer of responsible sovereigns makes it easy for the international policy-maker to sustain the idea that not making an exception to intervene is letting someone else take responsibility.

The idea that one should not intervene without good reason and good authority erects a conceptual hurdle in front of their every initiative. What standing do they have? In what sense is the situation exceptional enough to warrant their engagement? By whose leave do they/we act? International policy-makers, including the most humanitarian, find it all too easy to take responsibility for engagements, but not for disengagements. They find it easier to take responsibility for successes than for failures—which can always seem to have been the result of forces on the ground, of resistance to intervention by people outside the international community.

And they find it easier to imagine that intervention can itself be accomplished without disturbing local conditions, without taking responsibility for local political and economic conditions, without compromising the posture of neutrality, of remaining external to the allocation of stakes so central to the project of governing. That one can also intervene without intervening—freezing the situation, inserting oneself between “the” parties, that one can govern on an interim basis, preparing the way for a future political reconstitution, impose policies as passive assistance in a natural process of “structural adjustment”.

The autonomy and disengagement of the most caring international intervenor is embraced by tradition and defended by numerous rules and institutional practices. Think of the Red Cross inspector going in and out of prisons, the peacekeeper wearing a United Nations helmet, the agricultural or health advisor on the ground in a rural village. We imagine these people wandering about the scenes of local catastrophe in a kind of parallel universe. There and not there, in the world, but not of it.

The hesitancy to “intervene” is not evenly distributed. It is stronger when the “intervention” will have a clearer impact on background norms and institutions—when it will, for example, affect private property rights rather than public regulatory claims, when the situation can be figured as part of the naturally occurring market rather than the natural domain of state authority, or as part of the naturally occurring

local culture, rather than as a technical aspect of a global problem. These conceptual boundaries—between the local and the global, between private and public law, between the economy and the State, between culture and the technical, act like spatial boundaries, cabining and channelling policy-making. Regardless of the nature of the problem, it will be easier to make policy through public law than private law, when framed as a political rather than an economic matter, or as a technical rather than a cultural matter. In each case, it will be understood to be less aggressive an “intervention”, and will require a lower threshold of justification and authority to act.

Innumerable progressive and humanitarian policy initiatives have crashed on the rocks of this hesitation to engage in “cultural imperialism”. The hesitation to intervene when it would seem to implicate “culture” is troubling not only because it ignores the effects of international governance on the arrangements of power or wealth within the “cultural”, but also because the cultural frame is itself so much a construct of the vocabulary which uses it as a reason to avoid engagement. From a progressive point of view, this is particularly unfortunate because it turns out that the vague and malleable term “culture” often seems to be invoked where issues of concern to the left are at stake—in matters which implicate local solidarities and communal forms, individual health and welfare, traditional beliefs, and the status of marginal members of society or disadvantaged groups, including women. A willingness to intervene to achieve economic development or political peace, but not to affect “culture” often introduces an anti-progressive bias into international policy-making.

We can see this easily by thinking about a national market-based economic regulatory scheme aimed to bring about “development”. This can often be supported by international institutions without seeming like an intervention at all—the scheme is a national one, its policies are passive enablers for the decisions of market actors, property rights are left alone. To blame the international institutions for the results would be unfair—they are designed by local elites to whose call the international institutions have merely responded, and the agent of their implementation is the “force” of “the market”. The threshold level of justification and authority necessary for international policy-making here is very low—commercial and economic policies, nationally developed, market-inspired. Of course this sort of scheme can have dramatic effects on the fabric of social life, moving people from rural to urban settings, transforming educational opportunities, making workers of peasants, changing the distribution of religious belief, the authority of traditional communal leaders, changing the opportunities for young people, for women, and so forth. The collection of such changes we know as “modernisation” is what we mean by development, and is the objective of all sorts of economic policy-making, both nationally and internationally.

But now let us imagine an international policy initiative which would bring about directly what these economic reforms have brought about indirectly—transferring ownership of assets to and among private parties, restructuring local production, transforming the social and educational opportunities available for rural and urban workers, for women, secularising the economy, destroying traditional cultural sites of resistance to economic modernisation—suddenly the hurdle of justification and authorisation jumps up. Lots of people oppose the intervention, including many progressives and humanitarians. Those who favoured it begin to lose confidence. Imagine further that an international institution or foreign NGO responded to requests by local feminists with a policy initiative to reduce the incidence of a traditional

practice like clitorodectomy in the countryside. The bar is much higher—now we are in the core of culture, religion, the family, personal autonomy. Even the most progressive internationalist gets uncomfortable. Gets uncomfortable even if it turns out the original national market-based development policy will have a far more profound effect on the actual level of female genital mutilation in the countryside—may even eliminate country life altogether.

It is no wonder good-hearted internationalists have a hard time evaluating global governance initiatives in pragmatic terms, or remaining focused on distributional consequences. Their policy-making vernacular shifts their attention to a set of conceptual worries—what is culture and what is economy, what is local and what is global, what is public and what is private? Above all, when will we be said to have “intervened”? And what then was our exceptional justification and authority? By what *right* did we go so far? International policy-makers focus on who makes policy rather than the policy they will make, and on the appropriate form for policy rather than the resulting outcomes of policy-making. Discussions about what policy to make are transformed into discussions about how much and whether to intervene, with conceptual boundaries between public and private operating as vague proxies for outcomes.

What do policy-makers see as movable and immovable in their world? What is the background terrain for policy-making, and what is open to policy initiatives and professional intervention?

Policy-makers typically focus their attention on the *intervention*, on the justifications, authorisations and modalities for action, and think of their interventions as open to their manipulation. Legal policy-makers, for example, are often quick to think of ways to rearrange and rebundle legal entitlements, treating the entire domain of law as an artificial and plastic one. The *terrain* upon which policy-makers see themselves intervening, by contrast, seems more natural, a pre-existing domain less amenable to manipulation. For legal policy-makers, it is normal to think of politics or economics as natural processes to which they can only react. This idea of a passive background and an active foreground leads policy-makers to underestimate both the degree of agency in the context to accept or resist policy projects and their own ongoing influence in the background terrain.

Of course different professional disciplines may see different things as background and foreground. For political scientists or economists, “the law” may be background—and it is common that they would treat its provisions in an overly rigid fashion, underestimating the plasticity of the law as experienced from the inside, as well as its ongoing engagement with both politics and economics. Ideas about foreground and background will often be part of arguments about the deficiencies of specialisation. It turns out, as we have seen, that things often look more rigid from the outside.

It may turn out, however, that an entire policy vernacular may share a set of underlying ideas about what is foreground and what background. The political consequences will hinge, of course, on what is, in fact, understood to be open to active intervention and what seems to belong to the naturally passive terrain. For the international humanitarian, it is common to think of international policy-making as a

domain of reason, civilisation, pragmatism, modernity, expertise, arriving on a terrain of passion, backwardness, tradition. It is easy to see how this might rub people living in that terrain the wrong way, stiffening opposition. Identifying the local as "traditional", when it may well have been some amalgam of serendipity and the effect of prior interventions, can reinforce the authority of what the international policy-maker has come to change. It can also encourage international policy-makers to overestimate the novelty of their initiatives, and miss opportunities for weaving their efforts into the existing local context. This took on a dramatic dimension when international policy-makers turned their attention to restructuring the economies of post-socialist societies, undervaluing existing economic and social relations and the opportunities for their engagement in the project of restructuring.

But the policy vernacular can also become limited by the process of continually separating foreground from background, and remaining committed to the idea that policy is about the foreground, regardless of what precisely figures where. Consider humanitarian efforts to restrict the international use of force. If we were to catalogue the norms and institutions which affect the incidence of military violence, which structure the incentives and possibilities for using military force and protect those who do from scrutiny, many would be cultural, private, local, religious and economic institutions, norms and practices. A full catalogue of the "law about war", would include private law rules about producing, selling and transporting arms, norms and institutional structures facilitating logistical supply, norms affecting incentives to become soldiers, and many more. Many of these would be international—or would have been affected by international policy making—just as many would be national. International norms, like national norms, would often justify and legitimate the use of force.

Humanitarian policy-making attention will focus on only some of these norms—often, but not necessarily, those which are international and public, rather than national or private. It is not surprising that humanitarians will associate their own efforts with this class of norms, and associate the production of force with all the rest. As humanitarians become ever more focused on those norms they think of as foreground, they may become fixated on those which are the least significant in generating military violence, even as they underestimate the extent to which their favourite tools have anti-humanitarian potentials and uses.

This phenomenon is quite general. Across a range of initiatives and policy sectors, policy-makers underestimate the plasticity and policy potential of what they take to be the "background" and overestimate the benevolence and instrumental effectiveness of what they take to be the foreground of policy. Politics can be background to law, passion to reason, the economy to the State, private to public law—and also the other way around. In each case, policy-makers underestimate the contestable and their own complicity in what they see as background.

Assumptions about foreground and background can bias even scrupulously even-handed policy-making. To the extent some economies rely on public and others on private law norms to achieve distributive aims, an apparently universal international arbitration regime which treats public and private norms differently—as part of a malleable foreground and an undisturbed background—will have different effects in different places even if its procedural structure and substantive norms are completely neutral. An international mediation effort which treats "states" as pre-existing political

entities and other international "entities" or "institutions" as malleable or artificial constructions of law or policy may well come to a conflict with every good intention of remaining even-handed, but be unable to avoid a bias in favour, say, of the Israeli "state", and against the Palestinian "entity".

The idea that politics pre-exists an artificial legal intervention also encourages international policy-makers to think of their own policy work as weak, against the powerful forces of nature unleashed through the political activities of others. Although it seems natural to think of Macedonia or Mexico as more "real" than the UNHCR, it is unclear why we should. And doing so can dramatically affect the range of policy engagements which seem legitimate. It can also make it seem as if one can never get enough international law—but that one always already has an excess of international politics. As progressives, we should be concerned about precisely the reverse problem. There is no shortage of international governance mechanisms and regimes, but almost no attention, by international policy-makers or anyone else, to constructing a conscious global politics and shared political culture.

How do they understand history? Progress narratives as programs and international policy-making as a humanitarian religion

Policy makers also share ideas about time and history which channel and limit their work. Unsurprisingly, moments of international policy-making success and failure figure prominently in their shared historical narrative. This is a grand story of the slow and unsteady progress of law against power, policy against politics, reason against ideology, international against national, order against chaos in international affairs over three hundred and fifty years. In this story, international governance is itself a mark of civilisation's progress: law brought to politics, civilisation brought to primitive societies, reason brought to passion, the universal brought to the particular. International policy-making has always been or aspired to be the same thing: a humanitarian, rational and civilised alternative to the messy worlds of national politics. Over time global governance has had advances and set-backs. There have been sharp breaks in the story—the two world wars of the last century, the global depression of the 1930s, various moments of economic or political nationalism, during which only a few have carried the torch for the cosmopolitan promise of international governance. And there have been great moments of institutional and normative renewal. When you add it all up, there has been a great deal of progress—the world today is more international and more governed—but there remains a long way to go.

That this story is largely a myth, retold in different ways in each of the professional disciplines associated with international governance, is not surprising. This sort of mythologising is common—policy-makers turning their own achievements into the stuff of legend. But it can be more than that. Progress narratives of this sort can become policy programmes, both by solidifying a professional consensus about what has worked and by defining what counts as progress for the international governance system as a whole. This can redirect policy-makers from solving problems to completing the work of a mythological history, orienting or shaping their efforts to build the international system.

These progress myths affect the spatial maps policy-makers have in their heads, identifying the in and the out, the up-to-date and the old-fashioned. The idea that post-

socialist or third world societies are "behind" and need to "catch up" before it is sensible to think of them as full participants in the international arrangements common to wealthy industrial societies affects the pace and substance of much international policy-making. International policy-makers find it natural to think of these societies being shocked by the market in ways which would be unthinkable within the industrialized West. We need only compare the idea that Portugal or Greece needed to be jump-started on democracy by immediate entry into the European Communities with the treatment accorded Eastern European applicants who need to "catch up" before membership can be contemplated to see the effects of progress narratives of this type. Within international policy-making, something similar distinguishes the legitimacy and weight of voices articulating their objectives in different terms.

Those who speak the language of antiformalism, transnationalism, functionalism, civil society, are understood to speak the language of international community—while those who insist upon their sovereign entitlements, while often respected, are understood to be more primitive players. This can turn out to have an anti-progressive effect, if marginal countries like Iraq more often express themselves in terms more formal than those used to defend the prerogatives of the great powers or the international community itself. We need only think of Saddam Hussein, insisting on his sovereignty, his autonomy, on a narrow and formal reading of the Security Council's various resolutions. Or of the Third World recent conferences on the environment or women or intellectual property, insisting on their sovereignty, their autonomy, their rights. Although the savvy policy-maker would recognise these as completely plausible moves in the vernacular, they are also marked as discrediting. To be for international law is to go beyond forms, as we have gone beyond politics. To be humanitarian or progressive is to be for the progress of international law, without focusing on the distributional outcomes of professional ideas of this type. Whether form favours or disfavors the weak in a given case becomes less important to policy-makers than the sense that formal claims constitute and mark the marginal as outdated.

These historical stories solidify the sense that something called an "international community" exists, even if in a spatially disembodied way. Indeed, the "international community" seems to exist more firmly in time than in space. Through time it can be said to have acted, to have "agreed" to some things and foregone agreement on others. The international community is the thing which has repeatedly aspired to respond to war with law and reason, which has built an ever more solid normative fabric, an ever more elaborated list of precedents for intervention, an ever larger toolkit for policy-making, whose constituents were in the forefront of the battle for human rights and so forth. Such progress narratives reinforce the collective identity of participants in global governance—we are those who have stood against politics, against religion, in favour of peace and humanitarianism, and not those who fail to share our secular, cosmopolitan, and pragmatic history. Ours is not the history of a culture or a people or a place, but of an idea, an abstraction, a commitment, an orientation.

But more importantly, these stories establish a tradition of progress against which individual doctrinal innovations can be judged. The common myth of a more formal past of state sovereignty out of which an international community developed by rendering itself more fluid and active in rearranging sovereign rights becomes itself a sign for progress. To be fluid and antiformal is to be part of a governance capacity more attuned not only to doing things globally, but to doing progressive things globally. This

makes it easy for policy-makers to mix up their progressive or humanitarian ambitions for society with their commitment to the progress of what they understand to be their own humanitarian professions.

It is surprising how many international policy arguments read as arguments for international policy, how often more global governance becomes a substitute for addressing particular conflicts and social problems. International policy-makers should certainly care about human rights or alleviating the AIDS crisis or reducing the violence of warfare—but when one reforms the human rights machinery to be less formal, or purges the World Health Organization of its attachment to sovereign forms, or relativises the law of war to erase its formal commitments to a distinction between war and peace, neutral and belligerent, there is progress—a progress more important, more general, more historically enduring and reliable, than the quotidian matter of actually helping any particular person avoid AIDS or landmines or torture.

International policy-making sees itself, the conditions of its deployment and the likely results of its engagement, as in some sense automatically humanitarian. The idea that international policy-making is already and automatically part of the solution rather than the problem has numerous sources—the tendency to think of policy choices in constitutional (centralised/decentralised) rather than substantive terms, the association of international policy-making with the triumph of an enlightened civilisation over a primitive politics, the tendency to overlook background conditions or treat them as exclusively responsible for difficulties or setbacks—all this gives international policy-making the feeling of being a religion rather than a governance practice. The incidence of international policy-making has become itself an object of humanist devotion, a sort of fetish for those committed to humanitarian objectives. It seems a progressive or humanitarian thing for policies to be made internationally, regardless of what those policies are.

This sort of prejudice can blind international policy-makers to the regressive consequences of their own activities. If you speak of international environmental law, you typically speak of the effort to throw a few environmentally protective norms over the despoilation practices of individuals and governments. And yet, if you asked for a catalogue of all the international norms which affect the international incidence of environmental damage, the list would include many which encouraged despoilation—perhaps more than the number encouraging protection. International law and policy offer the environmental despoiler, like the war criminal or the human rights abuser, a great deal of comfort and protection—and yet the effort to address these “problems” through international policy-making has an automatic humanitarian feel.

In fact, even when the particular projects misfire, and solution to the practical problems remains out of reach, so long as the field remains oriented towards “governing”, particular failures of government become simply warnings to do more, to intensify one’s efforts to build the system as a whole. International policy-makers, in this sense, live in an interminable procedural or constitutional present, polishing their tools, embroidering their technique, strengthening international governance itself, that it might one day tackle particular substantive problems. It would perhaps be more accurate to say that solutions to particular problems emerge as a by-product of this system building agenda, as an almost accidental consequence of professional practices of self-effacement, marginalisation and a need not to know that one is governing.

Progressives and International Policy Making

One makes international policy to distribute. Humanitarian and progressive policy making, when it works, results in more humanitarian or progressive distributions of resources, status, authority, wealth. We should evaluate policy-making by its likely consequences, and we should evaluate global governance by its outcomes. Too often, progressives hesitate to do so. They share with other policy-makers an allergy to the mantle of rulership. Like other policy-makers, progressives have cultivated a posture of disengaged modesty about the exercise of governmental authority, protected by a policy-making vernacular which stresses the exceptional and technical nature of their "interventions".

The policy-making vernacular gives policy-makers many substitutes for a clear-eyed look at the consequences of their action. They can find comfort in the forms of engagement, in the structures and signs of international policy-making itself. When progressives and humanitarians evaluate global governance, they tend either to accept its humanitarian motives at face value, or suspect that the machinery has been captured by unfriendly forces. What remains difficult is either an overt politics which acknowledges its will to rule or an acknowledgement of the underlying politics of the policy-making vocabulary used to imagine, propose, engage, accept and implement international policy initiatives.

We see this reticence to acknowledge the exercise of power in an allergy to colonialism. Despite the similarities between the efforts of international policy-makers to extend their influence over places like Kosovo or East Timor and those of colonial powers of the last two centuries, we struggle to understand these interventions in a different way. Any different way will do: as willed, consented to, in the interest of the governed, respectful of local cultures and powers, mirror to sovereign desire, interventions which do not alter local arrangements, which are temporary, which facilitate integration into a larger world, mere technical assistance, structural adjustment, humanitarian aid, peace-keeping, a thin blue line. But colonialism spoke about itself similarly in its time—the intervenor who would not intervene, the civiliser, consented to, invited, cautiously respectful. International policy-making is a government without responsibility, without the face of engagement, without a name it could dare to speak, even to itself.

Progressives who worry about the limits and politics of the constitution for global governance and about the political capture of the policy-making professions have helped us to break free of this mold. Institutional structure can matter, and the policy professions often do narrow the range of political possibility by becoming caught in one or another ideology or policy fad. This can limit policy-making the way languages which are word rich or word poor may shape their literature. But this sort of limit turns out to be less significant than it would at first appear. Word poor languages come up with all sorts of ways to express things, just as word rich languages can become expressively stalled.

I have suggested questions we might ask to get beyond worry about constitutions and capture—what do the policy-makers see, where do they think they are in the world, how do they understand progress, what do they think is their work, how do they experience their own role? These aspects of the policy-making vocabulary are more difficult to identify, their consequences often more difficult to assess. The policy-

making vernacular is more widely shared, but also less conscious and more difficult to see, its politics in particular cases harder to understand.

As a participant in global governance who shares both the impulse for more enlightened social and economic policy and the intuition that this will mean policy at the international level, I am dismayed by the difficulty humanitarian internationalists have had understanding the limits and the politics of their expertise. The objections I have brought together here are intended to highlight dimensions of international policy-making which are often overlooked. But because they go so directly to the sensibility and spirit with which so much international policy-making is undertaken, it is hard to imagine the international policy-maker taking them to heart. They call for a completely different sort of mental map, a different understanding of the tools and vocabularies with which international policy-makers engage the world, a rereading of the progressive historical myths which provide so many of the default ideas proposed in the name of international policy reform, an altered consciousness about the will to power and false modesty of policy-making, an embrace of policy-making as the exercise of power, not as advice or description or service—policy-making as decision, rather than analysis, in the present rather than in the indefinite future. Perhaps all we can do at this point is try to unthink those habits of mind which prevent international policy-makers from confronting the political consequences of their vernacular. We might practice mental exercises or heuristics to help us unravel the effects of the establishment consciousness about policy-making.

One practice of mental resistance would be this: set aside the impulse to think about international policy-making in constitutional terms. Simply set aside questions about the level at which policy should be made, pursue an aggressively zen-like agnosticism about *whether or not to intervene*, about the appropriate mix of *centralisation and decentralisation*, and about the form policy should take in general. Ask not whether we prefer *formal or antiformal* legal structures, *substantive or procedural* legal rules, or how much *discretion* is optimal. Ask how we wish to transform the distribution of power, status and authority in society, and speak about winners and losers, about gains and losses.

Another useful heuristic: abandon faith in the automatically progressive and humanitarian character of international policy-making itself. Reject the idea that international law and governance are a worthy end in themselves, and embrace the dark side, the ambivalence, the historical involvement of our own professional tools in constituting the problems we now seek to solve. This would mean foregrounding the role of international policy-making in the constitution of national power—the powers and political cultures against which it sets itself as a weak reformer. It would mean acknowledging the range of background norms of international and national law which legitimate and defend the projects and distributions we understand as obstacles to humanism. And it would mean accepting the pathology of our own professional vernacular.

Finally, root out the idea that international policy-making is weak, partial, fragile, and in need of our fealty. Abandon the image of policy-making as advising, wishing, foreshadowing, describing, rather than governing, ruling, exercising authority. Rather than marginal players throwing a frail network of norms and institutions over an unruly world or intervening exceptionally on a pre-existing terrain, we should see

ourselves as participants in that world, with our own culture, power and authority, pursuing projects with consequences for ourselves and others.

This will mean conflict and disagreement about outcomes, also on the left. But only if we give up the posture of speaking to power from the domain of knowledge, *without* giving up our role as experts who speak the policy-making vernacular, will we become active participants in an engaged global politics. It should be our task to build a mode of politics, and a mode of governance, which takes responsibility for itself as a ruler, allocating and deciding in a world for which our policy vocabulary offers no sure guidance, and in which our progressive and humanitarian commitments have been opened to contestation and conflict. The posture of progressive policy-makers after the fall of expertise and commitment into doubt should not be modesty, but affirmation and decision.