The Habit of Return: International Law at a Quarter Century

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My own relationship to international law has never been purely academic. I was born in Australia, raised in China, educated in a British school system, and then came to the United States for higher education. Long before I learned the vocabulary of jurisdiction, sovereignty, or transnational regulation, I experienced the world as a set of overlapping systems: different languages, different institutions, different assumptions about what counts as legitimate authority. Those experiences did not make international law feel abstract. They made it feel unavoidable. They taught me that the rules of the world are rarely contained within one border, and that the costs of governance failures are rarely contained within one country. That is what brings me here, in law school, trying to learn the world's systems with enough precision to understand both their promise and their limits.

At the turn of the century, it was not hard to see international law as a project of consolidation. Institutions would coordinate, courts would clarify, and globalization would reward predictability. A quarter century later, the picture is more complicated and, in many ways, more honest. International law remains a vocabulary of aspiration, but it is also a field of stress tests. The last twenty-five years have repeatedly asked whether rule-based governance can hold under pressure, and what happens when it cannot. The answers have come in different registers—through security crises, institutional failures, the rise of private power, and the fracturing of mechanisms that once seemed durable. What follows is not a comprehensive account of the last twenty-five years. No single essay could be. It is, instead, a reflection on the moments that have most shaped my own sense of what the field is for and what it is up against. Others might draw the map differently. But these are the pressure points that seem to me to define what the rule of law is being asked to do, and where it has struggled to do it.

The post-9/11 era is the natural starting point, not because it was the only crisis of the period, but because it revealed something foundational: how easily legal frameworks bend when fear becomes a governing rationale. The debates that followed—over the use of force, extraterritorial detention, surveillance, and emergency powers—were not merely policy disputes. They were arguments about whether law could constrain sovereign power at its most self-certain. The answer, too often, was that it could not,

or at least that the constraint was temporary. What the post-9/11 era left behind was not resolution but residue: a set of eroded norms, a demonstrated willingness to treat exception as habit, and a harder question about how legal frameworks recover once they have been bent.

The International Criminal Court represented one answer to that question – an institutional wager that atrocities could be met with law rather than impunity, that accountability could be made permanent rather than episodic. Watching the ICC develop over the last twenty-five years has taught me that the wager was worth making, and that institution-building is only the first chapter. Legitimacy is harder to sustain than to declare. A court that operates in real time, under geopolitical scrutiny, with uneven state cooperation and finite resources, faces pressures that no founding document fully anticipates. The ICC's trajectory does not discredit the project; it clarifies what the project actually requires: not just rules and a building, but the political will to make procedure hold when it is most inconvenient. That lesson, that mechanisms are fragile in ways that ideals are not, carries directly into the story of international economic law.

The paralysis of the WTO Appellate Body is, in some ways, a quieter crisis than the others. No emergency declarations, no atrocities, no spectacular failure. That is partly what makes it instructive. The system did not collapse; it hollowed out. When appellate review stalled, dispute settlement became less predictable, regional agreements proliferated, and economic nationalism moved from the periphery to the center. The rules remained on paper. What eroded was the procedural infrastructure that gave them force. The deeper lesson is about the relationship between mechanism and authority: normative commitments do not sustain themselves. They depend on functioning procedures. When those procedures are undermined, the system's capacity to coordinate behavior quietly drains away. That kind of erosion is harder to see than a dramatic breach, and in some ways harder to reverse. It also points toward a challenge that the post-9/11 era and the ICC story do not fully capture: what happens when the actors exercising the most consequential power are not states at all?

That is the question that the rise of platforms and AI systems forces into view. Over the last quarter-century, private actors have increasingly set standards that govern speech, privacy, labor conditions, and market access across borders. Platform policies, content moderation systems, ranking algorithms, and AI-enabled decision-making now structure daily life with an immediacy and scale that traditional international law was not designed to address. This is not merely a gap in coverage. It is a structural shift in where authority resides. The entities that determine what can be said, seen, sold, and accessed are not states, and they are not bound by the procedural constraints—transparency, participation review—that we associate with legitimate governance. Taken together, the arc from 9/11 to the present

looks something like this: security crises revealed that law bends under pressure; the ICC showed that building accountability is easier than sustaining it; the WTO showed that mechanisms hollowed out before anyone sounds the alarm; and platforms showed that even a fully repaired multilateral system would still be operating on an incomplete map of where power actually lives.

As students and teachers and practitioners, we can read this moment as fragmentation or as an invitation. Fragmentation is often described as a problem in itself, as if the goal were a single coherent regime. But fragmentation is also a description of the world: multiple forums, multiple sources, and multiple actors exercising authority at once. In that world, what holds the enterprise together is not institutional unity but a shared discipline, the rule of law as a habit of return. Returning to procedure when politics accelerates. Returning to evidence when narratives harden. Returning to jurisdictional discipline when power seeks shortcuts. Returning to accountability when authority disperses. The rule of law matters precisely because it is not dependent on a single institution. It is a practice that travels across venues: reasons instead of fiat, evidence instead of assertion, procedures that allow participation, and decisions that can be reviewed and contested. When the map is messy, the rule of law is how we find our way back.

This is where the quarter-century frame becomes more than a commemorative device. Looking back is not nostalgia. It is diagnosis. The question is not whether international law has succeeded or failed in abstract. The question is what kinds of frameworks have proven resilient, where legitimacy has eroded, and what design features make governance credible in practice. Across public and private domains, the rule of law remains a unifying standard. It demands that power—whether exercised by a state, a tribunal, an institution, or a corporation—be constrained by publicly knowable rules, applied through fair procedures, and justified with reasons that can be evaluated. It is tied to human dignity, but also to the practical conditions that dignity requires: due process, transparency, accountability, and meaningful constraints on arbitrariness.

The last twenty-five years show how easy it is to treat law as a vocabulary rather than a constraint. They also show why that temptation must be resisted. This habit of return does not eliminate conflict. It makes conflict governable.

What lies beyond this quarter century will not be simpler. The distribution of authority is unlikely to reverse. The pressures that destabilized institutions in this era will not disappear. But reflection is not an exercise in pessimism. If the first quarter of this century taught us that international law cannot rely on states alone, the next quarter will require building interfaces between regimes, strengthening the legitimacy of

institutions through procedure, and developing accountability mechanisms that reach private and hybrid forms of governance without losing public values.

For me, that is the point of gathering for a symposium and the point of publishing a symposium issue. We are not only recording what was said in a room. We are practicing a method: to look back without illusion, to name problems with precision, and to keep returning to the rule of law as the discipline that makes any shared future possible. I grew up moving between overlapping systems, learning early that no single framework contains the whole. What I have come to believe is that the value of the rule of law lies precisely in that condition. It is not a solution to fragmentation, but the practice that makes fragmentation livable.