

Book Review

Theory on the Relational Normativity of International Law (TORNIL)

Matthias Vanhullebusch, *Global Governance, Conflict and China* (Boston: Brill Nijhoff, 2018) pp 476. Hardcover: \$183.00.

We live in a world of normativity. Global governance under normativity presupposes peace and prosperity. The exclusive nature of normativity also provokes conflicts and retaliations. Power politics, on the other hand, manipulate normativity with compromises and concessions. Participation of China as a rising hegemony, yet a rule-breaking recidivist, further complicates global governance. How do the authentic rule-based negotiations accommodate China?

Matthias Vanhullebusch, in his book, *Global Governance, Conflict and China* (2018), offers an alternative peacekeeping theory called TORNIL (the Theory on the Relational Normativity of International Law). It

aims to provide a tool of communication that can enhance a new understanding on the operation of existing norms ... and on the creation of new ones by the respective global governance bodies and member states in the prevention, humanization and peaceful resolution of conflicts (p. 4).

In the words of the author,

TORNIL essentially embraces two epistemological frameworks—western and Asian/Chinese It postulates that the normativity of international law depends on its particular sources. Traditionally two sources have been identified. First, are the norms themselves Second, are the (moral) values ... TORNIL introduces a third and new source, namely the relationships between those actors on the international plane that evolved within different settings where competing interests are at play Through the introduction of the third source, relational governance has a new role to play, namely to nurture those relationships in such a way as to create a fertile soil in which existing norms can find an application, and new ones can gain root (p. 6).

This new theory, TORNIL, proposes a relational normativity of international law that “integrates (a) a western and Chinese epistemology” as well as “(b) a western rule-based and Chinese relational governance perspective for the purpose of studying the sources of normativity of international law” (p. 11). TORNIL finds that the normativity of international law based on legality and morality has failed to promote effective communications between the West and China, thus relational governance should be taken as a third interdependent source of normativity. It is only when solid relationships with the “trust” recognized by China can serve as the “fertile soil” of international norms that good communications may be achieved for good global governance.

We may be wondering why the normative world needs to give way to the intruding hegemony that breaks well-established international rules. We may be afraid that concessions to the hegemony could bring the normative world to a slippery slope. TORNIL, on the

other hand, urges that “without communication, no knowledge about the other can be gained nor can compromises be reached, decisions be made, joint actions be pursued, and thus responsibilities be assumed towards the realization of such humanitarian goals” (p. 7). So, if the orthodox world intends to maintain good governance, the Chinese perspectives on legality and morality need to be understood with the claimed relationship-based epistemology.

According to the author, experts of international relations and law find China’s behaviour unpredictable and often contradictory (but then who isn’t?). It is necessary to develop a framework to understand Chinese behaviour and its challenges to current international law. The author argues that the Western epistemology finds Chinese behaviour incomprehensible and thus troubles global governance. The adoption of TORNIL to understand the Chinese relational normativity will facilitate communications that lead to peace negotiations.

Law is normative and demands respect, legitimacy, and authority to itself. This is what the author calls “normativity” (p. 44). In order to discuss normativity of international law, the West concentrates on the ideology of rule of law that emphasizes legality and moral values. The Western approach finds, however, “indeterminacy” in law, meaning that law cannot escape from ambiguity and cannot control many important fact situations. Legal provisions, including those of international law, look universal and seem to carry normative authority but “indeterminacy” in law allows intentional distortion in application of these provisions. All of these will damage normativity of law. So long as experts use the rule-based approach, they cannot understand the behaviours of China.

Western epistemology focuses on an object in a vacuum such as one individual and tries to analyze it in contradistinction from something else. This leads to an analysis of “a particular problem in conflicting terms” (p. 10). A Chinese epistemology, however, sees things and people in relational and contextual terms. The object is observed not in a vacuum, but in an environment. Since the environment will change over time and space, opposing views will coexist and may complement each other. This relational perception generates a buffer to neutralize contradictions and to achieve the harmony that needs continuing efforts to maintain with trust. Continuing efforts produce a “synthesis based on thorough evaluation of the relationship between parties.” This relational epistemology provides a possibility to go beyond the static rule-based understanding of normativity. In this relational normativity, the Chinese epistemology invites us to look for not only rules, but relationship and trust between parties.

For TORNIL, relational governance is a practical concept contrasted with the Western static rule-based governance. Rule-based governance has come to a standstill in power politics. Relational governance seeks better communications among parties and cares about who these parties are, what they are, and why they are. Relational governance approaches normativity of law from rules as well as actual relationships of the parties. Thus, equality and inequality are not judged on a fixed balance, while a solution is not reached once and for all. This relational governance under Chinese epistemology is process-oriented, trust-based, and demands long-term efforts to achieve deeper understanding of others through relationship-building.

Matthias Vanhullebusch gives vivid accounts of how China has behaved in the international arena involving collective security, peacekeeping, arms control, war on terrorism, and post-conflict justice. The theory of TORNIL leads insightful observations with the Chinese epistemology to evaluate how the rule-based international governance functions and

dysfunctions. While considering the paradoxical justifications for rule-breaking behaviours of China, we may need more clarifications on questionable premises of this book: first, there is real “peaceful and equal negotiation” under the international arena of normative governance; second, many conflicts between China and the world (the West) are misunderstandings out of miscommunications; third, in order to communicate with China, major participants of the negotiation are willing to make concessions; and, fourth, trust may be built up in the ongoing relationships with a hegemony that often breaks well-established rules of international negotiations.

We may also need the author to clarify some uncertain arguments of the book: Does TORNIL work only to justify the behaviours of China or also to challenge the agreed norms of international negotiations? Is it not true that other Confucius countries except China still build up trust and relationships on rule-based normativity? And is there one “Chinese” epistemology as against “the West”? To participate in the international society, China has made efforts to develop systems of democracy and rule of law, though the pace has not been as punctuated as expected. Is it a possible pitfall of TORNIL to single out China from the world and undermine the Chinese efforts to become a “developed” state?

Karl Marx once predicted that communism would displace capitalism.¹ The analytical dichotomy has elapsed over time. In the 1990s, Francis Fukuyama defined the ending of the Cold War as the endpoint of mankind’s ideological evolution to witness the universalization of Western liberal democracy as the final form of human government.² But his instructor, Samuel P. Huntington, perceived that

the fundamental source of conflict in this new (post-Cold War) world will not be primarily ideological The great divisions among humankind and the dominating source of conflict will be cultural The clash of civilizations will dominate global politics The fault lines between civilizations will be the battle lines of the future.³

Apart from adding the Chinese epistemology to rule-based normativity, may it be considered to reconceptualize “normativity” to include cultural diversities? The twenty-first-century globalization emphasizes the merits of pluralism and cultural differences. The practice of normativity needs to accommodate embedded cultures and make practical negotiations under rule of law. Global governance that accommodates cultural diversity may confront fewer conflicts.

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1. Marx (1859), Preface.
 2. Fukuyama (1989).
 3. Huntington (1993).