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Review Article

Beyond Place: Network Effects Versus Jurisdiction and Sovereignty

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Abstract

Anxieties about the viability and future of the liberal international order have been multiplying in both scholarly discussions and the popular press. But what does the "coming apart of the liberal international order" actually mean? Some commentators point to sanctions and tariffs that are destroying free trade; and some are focusing on democratic backsliding, the rise of populism and the crumbling of human rights protections (especially in international migration). An arguably more fundamental, and equally worrying, shift is discussed in three recent books: the end of territorial jurisdiction, and with it, a deep uncertainty in what independence, sovereign equality, nonintervention, self-determination, and other fundamental concepts of peaceful coexistence can mean in the twenty-first century. Because thirty or so banks control almost all of international finance and the United States controls the dollar and the hegemonic currency of international trade, the difference between territorial jurisdiction and extraterritorial jurisdiction has disappeared in global trade and finance, as well. Henry Farrell and Abraham Newman provide a readable and popular introduction; Pierre-Hugues Verdier explains in detail the mechanisms of international financial law; and Cornelia Woll tries to integrate these events into legal theory and doctrine.

Keywords: international jurisdiction; international law; international finance; extraterritorial jurisdiction

The liberal international legal order seems to be fissuring. *The Economist* is certainly worried about it: "The world's rules-based order is cracking," declared one headline in May 2024, mostly lamenting the ineffectiveness of the International Criminal Court.[1] "The liberal international order is slowly coming apart," announced another one from the same issue, this one worrying about tariffs and international trade.[2] The question also worries scholars, not only journalists: Bryan Druzin has argued that "isolating China from the global system [of trade] could lead to the collapse of the liberal international order."[3]

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[1] Anon., "The world's rules-based order is cracking," *The Economist*, 9 May 2024, https://www.economist.com/international/2024/05/09/the-worlds-rules-based-order-is-cracking.

[2] Anon., "The liberal international order is slowly coming apart," *The Economist*, 9 May 2024 https://www.economist.com/leaders/2024/05/09/the-liberal-international-order-is-slowly-coming-apart.

[3] Bryan H. Druzin, "How to Destroy the Liberal International Order," *Duke Journal of Comparative & International Law* 34, no. 1 (2023): 4.

There are three specific areas of international agreement and cooperation that seem to be coming apart. One of them is the death of the WTO (for the time being, at least) and the rise of tariffs and restrictions in international trade.[4] "Offshoring," "nearshoring," and "friendshoring" are three fashionable terms for the drive to break up global supply chain networks, lower foreign direct investment to China, and ensuring that the production of key goods and materials only takes place in countries that are friendly to the West and unfriendly with Russia and China.

A second area of worry is democratic backsliding and the crisis of human rights. The superiority of liberal democratic states in terms of promoting economic growth, technological progress, social harmony, and individual human flourishing was a strong and widely held belief during the 1990s, but it has been badly shaken since. The Chinese system of centralized capitalism without political freedom seemed to be better at promoting economic growth,[5] and now still seems to be better at promoting technological progress.[6] Chinese economic power and Russian disinformation methods have spread open skepticism about human rights and liberal democratic institutions, which has been readily taken up by right-wing parties in Western democratic states.[7] The turn to populism endangers the liberal international order in two ways. One of them is the direct attack that populists make on some key international regimes—especially refugee law and trade law.[8] The second is the overall way that populists focus on internal affairs and national(ist) priorities (see "America First"), thereby relegating international affairs in general to an uninteresting and second-class arena of politics. The transactional and nationalist way in which foreign affairs are conducted by populists means that vulnerable persons without much to offer in exchange for support and protection are abandoned, and values are abandoned for pure material interests in foreign affairs.[9]

The third area is the least observed and discussed in the press and scholarly literature, but it is perhaps the most far-reaching in terms of the future of the (liberal) international order. Essentially, it involves changes to the separation between domestic and international law, with far-reaching effects on sovereignty. Three recent books discuss this transformation (or perhaps destruction), wrought at the

[4] E.g. Patrick Low, "The WTO in Crisis: Closing the Gap between Conversation and Action or Shutting Down the Conversation?," World Trade Review 21, no. 3 (2022): 274–290; Amrita Narlikar, "From a Legitimacy Deficit to an Existential Crisis: The Unfortunate Case of the World Trade Organization," in *The Crises of Legitimacy in Global Governance*, eds. Gonca Oguz Gok and Hakan Mehmetcik (Abingdon and New York: Routledge, 2022), 107–121.

[5] E.g., Frank K. Upham, *The Great Property Fallacy: Theory, Reality, and Growth in Developing Countries* (New York: Cambridge University Press, 2018); but see e.g., Ian Johnson, "Xi's Age of Stagnation: The Great Walling-Off of China," *Foreign Affairs* 102, no. 5 (September/October 2023): 104–105, 110–112.

[6] E.g., Anon., "China has become a scientific superpower," *The Economist*, 12 June 2024, https://www.economist.com/science-and-technology/2024/06/12/china-has-become-a-scientific-superpower;

[7] Bethany Allen, *Beijing Rules: How China Weaponized Its Economy to Confront the World* (New York: HarperCollins, 2023); Peter Pomerantsev, *This is Not Propaganda: Adventures in the War Against Reality* (London: Faber & Faber, 2019); Sergei Guriev and Daniel Treisman, *Spin Dictators: The Changing Face of Tyranny in the 21st Century* (Princeton and Oxford: Princeton University Press, 2022).

[8] See supra note 4 for trade law. On the growing toughness and inhumanity of refugee laws, see Daniel Ghezelbash, *Refuge Lost: Asylum Law in an Interdependent World* (New York: Cambridge University Press, 2018); David Scott FitzGerald, *Refuge Beyond Reach: How Rich Democracies Repel Asylum Seekers* (New York: Oxford University Press, 2019).

[9] Philip Alston, "Human Rights Under Siege," *SUR International Journal on Human Rights* 14, no. 25 (2017): 267–272; also Anon., "The world is bracing for Donald Trump's possible return," *The Economist*, 22 January 2024, https://www.economist.com/international/2024/01/22/the-world-is-bracing-for-donald-trumps-possible-return.

intersection of international law, criminal law and financial law, which has been evolving since the Global Financial Crisis of 2008. One lesson from these books is that the decay of the liberal world order is just as much the result of intra-Western juridico-politics as it is the outcome of the evolving "New Cold War"[10] between the West and Russia, China and Iran. Indeed, the books primarily describe U.S. government action against European banks.

In this review article, I will first parse the technical international legal meaning of the liberal international legal order and how it builds on an almost 300-year-old conceptual separation between the "internal" and the "external," or "international." The three books present the breakdown of this distinction through somewhat different lenses. *Underground Empire: How America Weaponized the World Economy*[11] was published by the acclaimed international relations scholars Henry Farrell and Abraham Newman in 2023. The book is an elaboration and popularization of the duo's widely cited concept of "weaponized interdependence," published as a scholarly article in 2019[12] and the subject of an edited volume in 2021.[13] This book, aimed at a more lay audience, is largely a history of the internet and international financial transactional networks as centralized or recentralized systems, instead of the more traditional (and clearly wrong) description of decentralized systems. It is filled with interesting anecdotes and clearly aimed at a lay audience.

The second book, *Global Banks on Trial: U.S. Prosecutions and the Remaking of International Finance*,[14] by Pierre-Hugues Verdier, a professor of financial law at the University of Virginia, is also loosely historical, but it starts elsewhere and ends elsewhere. Verdier does not care much about the structure of the internet; instead, he describes the structure of international finance and the internal and external governance of the 30 or so globally financially significant banks (or G-SIBs, in the parlance of the Financial Stability Board).[15] In Verdier's book, the international legal order is purely in the background, a more or less accidental casualty of American federal prosecutors' drive to make sure that international bankers don't get away with the financial regulatory equivalent of murder. Verdier provides a shocking and clearly explained tour of the endemic way in which G-SIBs flouted U.S. and other laws to help their clients commit tax evasion, to launder international criminal cartels' money, to manipulate global currency markets, and to circumvent U.S. sanctions against Iran and Venezuela. U.S. prosecutors, in their commendable drive to uphold and enforce the law, also rode roughshod over more traditional U.S. banking regulators, as well as European states' sometimes different geopolitical priorities. Verdier adds nuance, detail, and the legal expert's knowledge of interacting systems to Farrell's and Newman's more broad-brush account.

[10] Noah Smith, "You Are Now Living Through Cold War 2: A Late Push for Reengagement Won't Work," *Noahpinion*, 4 February 2023, https://www.noahpinion.blog/p/you-are-now-living-through-cold-war.

[11] Henry Farrell and Abraham Newman, *Underground Empire: How America Weaponized the World Economy* (New York: Henry Holt & Co., 2023).

[12] Henry Farrell & Abraham Newman, "Weaponized Interdependence: How Global Economic Networks Shape State Coercion," *International Security* 44, no. 1 (2019): 47–65.

[13] Daniel W. Drezner, Henry Farrell and Abraham Newman eds., *The Uses and Abuses of Weaponized Interdependence* (Washington, DC: Brookings Institution Press, 2021).

[14] Pierre-Hugues Verdier, *Global Banks on Trial: U.S. Prosecutions and the Remaking of International Finance* (New York: Oxford University Press, 2020).

[15] Verdier, *Global Banks on Trial*, 5–6.

The third and most recent book, *Corporate Crime and Punishment: The Politics of Negotiated Justice in Global Markets*,[16] was written by Cornelia Woll, currently the president of the Hertie School, a private school for public policy in Berlin. Woll uses her impressive expertise in comparative law to analyze the changes described by Verdier, Farrell, and Newman in terms of comparative, criminal, and international legal theory. Woll's book is definitely aimed at legal professionals who are already familiar with both the events described by the previous two books and who have a good grounding in legal scholarship. Arguably though, Woll's book does not succeed in establishing much that is novel regarding the crisis of international law. By trying to evaluate every aspect of the U.S. criminal prosecutions of the G-SIBs, Woll repeats a lot of transnational legal theory on comparative legal traditions, extraterritorial jurisdiction, lawfare, and negotiated justice, but the findings do not add up to any definitive change in legal doctrines.

The virtues of the three books are therefore mostly descriptive: for those of us in law and political science who struggle to understand the interactions between the internet, global finance, the United States' geopolitical sanctions regime, popular anger over the subprime mortgage crisis, and the technicalities of U.S. criminal law, the books are valuable and interesting reading materials. For those of us who are pondering "what's next?" in terms of making sense of the normative structure of the world, the books provide help and background material but no definitive answers.

What Is the Global Liberal Legal Order? A Structuralist Introduction to International Law

The basic claim that the enforcement of U.S. financial law is endangering the basic structure of public international law may well raise some eyebrows in itself, so it is probably useful to sketch out this basic structure to begin with. The best description of these fundamental structures comes from Martti Koskenniemi, I believe, in his groundbreaking book from 1991, *From Apology to Utopia: The Structure of International Legal Argument*.[17] In Koskenniemi's description, liberal international law (but all liberal public laws, really[18]) is a legal order that aims to reconcile global order with the sovereign freedom of all its participants.[19] The way it does that is though mixing top-down rules promoting unity and order with bottom-up rules promoting the freedom and the disparate interests of individual states that are opposed to the plurality.

The bottom-up aspect of the international order is established by a network of rules and principles that reference and reinforce one another: sovereign equality, exclusive jurisdiction over domestic affairs, territoriality, respect for established boundaries (uti possidetis), nonintervention, and strict limits of the international use of force. Jurisdiction and territoriality are the chains holding this network of

[16] Cornelia Woll, *Corporate Crime and Punishment: The Politics of Negotiated Justice in Global Markets* (Princeton: Princeton University Press, 2023).

[17] Martti Koskenniemi, *From Apology to Utopia: The Structure of International Legal Argument* (Finnish Lawyers' Editions, 1991; repr. Cambridge University Press, 2005).

[18] See Jack Goldsmith and Daryl Levinson, "Law for States: International Law, Constitutional Law, Public Law," *Harvard Law Review* 122, no. 7 (May 2009): 1791–1868.

[19] Koskenniemi, *From Apology to Utopia*, 5, 18–24.

norms together.[20] Sovereign equality is established by each state having exclusive rights to regulate its own internal affairs, and what is "internal" largely overlaps with all the things that take place physically within the territory of each state. The exclusivity of these (both conceptually and geographically) internal affairs creates an equality that is purportedly separate from wealth or power: as Emer de Vattel argued in the eighteenth century, "A dwarf is as much a man as a giant; a small republic is no less a sovereign state than the most powerful kingdom."[21] The inviolability of each state's territory and the prohibition of the use or threat of force make sure that sovereign equality cannot be circumvented by conquest or armed intervention.

In this sense, the liberal international order is neither new (its conceptual foundations were laid down by seventeenth and eighteenth century natural law scholars such as Hugo Grotius, Samuel Pufendorf, Christian Wolff, Emer de Vattel, and Georg Friedrich von Martens), nor is it particularly liberal in its post-1945 sense (given that it privileges the separation of national competences over human rights concerns, or close international cooperation). Nor, for that matter, is the "assault" on it done by populist leaders and governments, primarily: the books all describe technocratic developments in financial law, criminal law, IT regulations, and national security law. It is all the more worrisome that these developments could threaten the basic elements of the entire system.

The weak spot of the liberal international order as a conceptual system is that, at least in a world of international commerce, migration, pollution, and other forms of human interaction across borders, the distinction between "internal" and "external" affairs no longer corresponds to "events taking place inside versus outside of a state's territorial boundaries." Small states that rely on imports for almost all of the necessities of modern life, or agricultural states that rely on a single crop for most of their export revenues and are thereby at the mercy of global commodities markets, have known this for some time. The three books reviewed here deal with another facet of international codependence that arose in the last forty years or so, and one that targets all states, not only small import- or export-reliant ones. This is the centrality of the internet, and the dollar-based international financial system.

These developments put weight on a crucial *conceptual* weakness in the liberal international order: the law of international jurisdiction. As outlined previously, the division of the world into independent states creates freedom for each country to create and live by its own laws and values—as long as these laws are only valid and active within the territory of each state. Exclusive territorial jurisdiction is thereby supposed to be the guardian of sovereignty. In reality, though, transborder events and networks have always been a basic factor of international life.[22] These

[20] For classic statements of how territorial jurisdiction is supposed to be the protector of sovereign equality, see e.g., Vaughan Lowe, *International Law: A Very Short Introduction* (Oxford: Oxford University Press, 2015), 86–87:

[T]he legislature of a State has the primary right to set the laws that apply to everyone *within the borders of the territory of that State*. [This] is *an aspect of territorial sovereignty*, and of *the right of self-determination* [*according to which*] *States and peoples have the right to pursue their own economic, social, and cultural development, freely choosing the legal structures that support them*.

For a particularly incisive critique, see Nico Krisch, "Jurisdiction Unbound: (Extra)territorial Regulation as Global Governance," *European Journal of International Law* 33, no. 2 (2022): 481–511.

[21] Emer de Vattel, *The Law of Nations*, eds. Bela Kapossy and Richard Whatmore, (London, 1758; repr. Indianapolis: Liberty Fund, 2010), 75 (Preliminaries, §18).

[22] See Peter D. Szigeti, "The Illusion of Territorial Jurisdiction," *Texas International Law Journal* 52, no. 3 (2017): 370–379.

can be as simple as a transborder shooting incident, when a person "fires a weapon across a frontier killing somebody in the neighbouring state."[23] Did the murder happen in State A or State B? In these cases, the traditional answer is "both" because both State A and State B have an interest in prosecuting the murderer, both of them have jurisdiction over the cross-border shooting.[24]

To ensure that international justice is served, an exception to territorial sovereignty must be admitted: this is the right to extraterritorial jurisdiction. Extraterritorial jurisdiction by necessity results in overlapping, arguably competing claims by two or more states over the same matter.

Inevitably, problems will arise when the transborder event in question is legal in State A, but illegal (or even compulsory) in State B. *This* is the gaping hole in the middle of the liberal system of international law. *Underground Empire* shows how this hole grew bigger and bigger, through the development of the internet and informational systems that rely on the internet.

"Underground Empire" by Henry Farrell and Abraham Newman

As mentioned previously, *Underground Empire* is a trade book that is meant to explain and popularize Farrell's and Newman's previous work on weaponized interdependence.[25] Weaponized interdependence is first and foremost a critique of liberal assumptions of interdependence: according to these, greater economic and financial interdependence between states will surely secure international peace and goodwill.[26] This liberal theory of interdependence was the driving force behind European integration from the late 1950s onward, as well as the acceptance of China into global trading system anchored by the WTO. Farrell and Newman, by contrast, argue that interdependence is rarely proportionate: instead, interdependence is usually created through the formation of networks with hubs and spokes, where hub states (within the EU, France, and Germany; globally, the United States) will acquire the bulk of powers within the network, and spoke states will be forced to acquiesce to the terms set by the hub state(s), or try to make it on their own without any of the benefits of the network. The specific powers that hub states acquire are "panopticon effects" (which allow hub states to know what any and all actors in the spokes are doing on and with the network) and "chokepoint effects" (which allow hub states to selectively block states or individual transactions).[27] The two examples that Farrell and Newman use to illustrate weaponized interdependent networks are the internet and the global financial system.

Underground Empire does not elaborate or modify the theory of weaponized interdependence; instead, it illustrates its workings and provides a highly entertaining and informative history of its development. A few metaphors are used to unite the scenarios and describe weaponized interdependence: sometimes the

[23] E.g., Malcolm Shaw, *International Law*, 8th ed. (Cambridge and New York: Cambridge University Press, 2017), 490; also James Crawford, *Brownlie's Principles of Public International Law*, 9th ed. (New York: Oxford University Press, 2019), 443.

[24] For a broad-ranging comparison, see Cedric Ryngaert, "Territorial Jurisdiction Over Cross-Frontier Offences: Revisiting a Classic Problem of International Criminal Law," *International Criminal Law Review* 9, no. 1 (2009): 187–209.

[25] See supra notes 12–13.

[26] Farrell and Newman, *The Uses and Abuses of Weaponized Interdependence*, 44–47.

[27] Farrell and Newman, *The Uses and Abuses of Weaponized Interdependence,* 54–56.

sewer system, sometimes an underground road system, sometimes just an abstract system of infrastructure:

> All are connected to the underworld. Every empire's architecture of rule and display would fall into ruin were it not joined to a filigree of tunnels and pipes, conveying resources and information like the mycelium that spreads out from a mushroom through the surrounding soil. The threads of empire operate in both directions, spreading influence and power outward as they gather resources to the center.[28]

This allows the authors to describe the workings of this empire as hiding in plain sight:

> On a casual glance . . . fiber-optic cables, server farms, financial payment systems, and the manufacturing systems that produce complex products such as semiconductors . . . seem simultaneously dull and arcane—the complicated wiring and plumbing arrangements of the global economy. But the plumbing is political. Just as all roads once led to Rome, the world's fiber-optic networks, financial systems, and semiconductor supply chains converge on the United States, allowing it to project its might.[29]

In Farrell's and Newman's account, the new(est?) American empire, like the British Empire in the adage, was acquired in a fit of absent-mindedness. In the 1990s, we learnt about the internet as the fruit of a decentralized communication network without any hubs, designed by and for the U.S. military, which makes it more resilient against foreign military, terrorist, or other attacks.[30] The decentralized nature of the internet was touted as its greatest virtue, and a model for governance in general, as it practically guaranteed the unfettered availability of information.[31] As the saying went, "the internet interprets censorship as damage, and routes around it."[32] Farrell and Newman thoroughly refute this story and describe the development of the internet as the constant redevelopment and recreation of hubs that are designed to be uncircumventable. Uncircumventable hubs are the sources of many vulnerabilities, but they are also a source of monopoly power (i.e., "chokepoint effects"), so they were in fact preferred by entrepreneurs who wanted to make their own internet businesses resistant to being bypassed by competitors.

Farrell and Newman go into the details of the development of Loudoun County, Virginia, just west of Washington D.C., where "the major cloud computing centers of Amazon Web Services, Microsoft and Google cluster . . . jostling for room with colocation centers and other dull-seeming but crucial aspects of the internet's plumbing."[33] It turns out that most data on the internet is either stored here or passes through here, and it is in fact close to impossible for any one operator to disconnect and move their servers to another location, while still maintaining connectivity and preserving their data.

This physical structure is different from the risks of software walls and centrally managed virtual networks, which are still carefully avoided through the end-to-end principle and the routing of software packets in the most efficient

[28] Farrell and Newman, *Underground Empire*, 8.

[29] Farrell and Newman, *Underground Empire*, 9.

[30] E.g., Jonathan Zittrain, *The Future of the Internet and How to Stop It* (New Haven and London: Yale University Press, 2008), 27–29.

[31] E.g. John Perry Barlow, *A Declaration of the Independence of Cyberspace*, 8 February 1996, https://www.eff.org/cyberspace-independence

[32] Attributed to John Gilmore, around 1993–1994: see Joseph Reagle, *Internet Quotation Appendix*, https://cyber.harvard.edu/archived_content/people/reagle/inet-quotations-19990709.html

[33] Farrell and Newman, *Underground Empire*, 31.

manner.[34] Nevertheless, the physical infrastructure of web hosting services and other caterers to internet service providers did have the means and the incentives and the means to (re)centralize the physical internet, almost from day one.[35] Although the United States' efforts in the 1990s were for the creation of a decentralized, depoliticized, purely commercial global network of communication, finance, and supply chains; the fact that the networks were built by private firms searching for chokepoints that could in the future be leveraged for further profit and market power made them prime candidates for partial government takeovers later on. If there is a specific theoretical contribution that the book makes, it is perhaps this one, buried in the conclusion to Chapter 1.[36]

The next step in the creation of the underground empire was the national security scramble after 11 September 2001. Despite the predictions and assurances of the 1990s, the NSA surveyed basically all of the information flowing through the internet by directly accessing the intercontinental fiberoptic cable landing sites that conveyed all the data flowing between Europe, Asia, and North America.[37] The story of NSA's global surveillance operations is better told elsewhere,[38] and it is more of an illustration than a central point of the underground empire. The point is more that once a global informational infrastructure existed with key U.S. nodes, it could easily be repurposed for national security reasons. "From outside, the underground empire seems like a relentless machine of domination, the product of decades of careful engineering. From inside, it looks quite different, a haphazard construction lashed together from ad hoc bureaucratic decisions and repurposed legal authorities."[39]

Another key element of the underground empire is SWIFT, the international wire transfer system that was created as an alternative to Citibank's proprietary MARTI system in 1973.[40] SWIFT resisted calls for cooperation by law enforcement agencies until 9/11 but allowed access by the U.S. Treasury Department to the financial information it conveyed after the terrorist attacks. The creation of SWIFT and its slow and eventual opening to become a tool of sanctions enforcement by U.S. federal agencies was an important development for the underground empire: it allowed for the joining of the internet and international financial networks, thereby uniting the two main networks of weaponized interdependence.

The rest of Farrell's and Newman's book is a summary of recent events involving the deployment of sanctions and limitations, using the underground empire. Chapter 3 describes the U.S. government's sanctions against Huawei and ZTE. Chapter 4 analyses the European Union's strategic dilemmas regarding Russian energy dependency and U.S. secondary sanctions. Chapter 5 provides a bottom-up perspective of sorts, detailing survival and escape strategies as varied as Google's decision to encrypt all its online information flows and Facebook's attempt to create its own digital currency. Here and in the final chapter, which recounts the

[34] Zittrain, *Future of the Internet*, 31, 250, n. 2; also Marjory S. Blumenthal, "End-to-End and Subsequent Paradigms," *Law Review of Michigan State University Detroit College of Law* 2002, no. 3 (2002): 709–718.

[35] Farrell and Newman, *Underground Empire*, 32.

[36] Farrell and Newman, *Underground Empire*, 33–36.

[37] Farrell and Newman, *Underground Empire*, 44–54

[38] E.g., Glenn Greenwald, *No Place to Hide: Edward Snowden, the NSA and the U.S. Surveillance State* (London: Penguin Press, 2014); Tom Englehardt, *Shadow Government: Surveillance, Secret Wars and a Global Security State in a Single-Superpower World* (Chicago: Haymarket Books, 2014).

[39] Farrell and Newman, *Underground Empire*, 159.

[40] Farrell and Newman, *Underground Empire*, 28–30, 57–59

sanctions against Russia in the wake of its ongoing war in Ukraine and speculation about Chinese strategies and U.S. counterstrategies around sanctions and currency domination, the book loses some focus. In trying to describe all the effects of the underground empire as well as strategies against it, the narrative veers close to a recounting of all the major foreign policy events of the last eight or so years.

Nevertheless, *Underground Empire* is a captivating and joyful read, providing a panoramic tour of how the current U.S. sanctions regime was made possible by the architecture of the internet and the international currency transaction regime. As most trade books in its genre, it features fascinating minibiographies of the people who contributed to the construction of the "Underground Empire," including Walter Wriston (the CEO of Citibank between 1967–1984, and the creator of the Eurodollar market and Citibank's MARTI network)[41] and Ren Zhengfei (the founder of Huawei).[42] However, it may not be detailed and technical enough for a legal or political science audience. It does not go into any domestic or international legal doctrines that undergird the underground empire and thereby misses some important pieces of the "global plumbing" that it discusses.

"Global Banks on Trial" by Pierre-Hugues Verdier

Pierre-Hugues Verdier's book, *Global Banks on Trial*, is perhaps the most useful companion book to *Underground Empire*, providing technical legal details about how the underground empire works. Verdier's book was published in 2020, but it does already reference Farrell and Newman's concept of weaponized interdependence.[43] It also adds some crucial details to the "global plumbing" described by Farrell and Newman. First and foremost, the number of "global banks" is in fact quite small. As Verdier begins:

> Walk along the streets of any of the world's great financial districts—Wall Street, the City of London, Hong Kong's Central District, Tokyo's Marunouchi—and look up. From the summits of glass and steel towers, the same neon signs peer back at you. HSBC, JPMorgan, Deutsche Bank, UBS, Credit Suisse, and a handful of other global banks rule the world's financial markets.[44]

International currency transactions are handled almost exclusively by the G-SIBs, which number between thirty and forty.[45] "Together, G-SIBs own more than $51 trillion in assets and manage more than $142 trillion—equivalent to 60 percent and 165 percent of the entire planet's GDP."[46] Many of these banks are national champions from Japan and various European countries formed in the great mergers and acquisitions of banks during the 1980s and 1990s, which snapped up historic U.S. banks in order to compete with Citicorp and other large American banks both in the U.S. and globally.[47]

The story that Verdier tells about the rise of international banking has some overlap with Farrell and Newman's account, but the focus is very different. Farrell and Newman describe the underground empire as an insidious or unwitting

[41] Farrell and Newman, *Underground Empire*, 21–31.

[42] Farrell and Newman, *Underground Empire*, 73–78.

[43] Verdier, *Global Banks on Trial*, 32–33, 184–185.

[44] Verdier, vii.

[45] Verdier, 5–6. The Financial Stability Board updates the list every year, so there is some change both in the numbers and the banks at the bottom of the list.

[46] Verdier, 13.

[47] Verdier, 10–12.

attempt at preserving post-Cold War hegemonic power. Verdier paints U.S. control over the G-SIBs as a desperate and unavoidable bid to lower systemic risk, (re)-impose fairness and lawfulness in international markets, and quench the general public's thirst for accountability following the 2008 financial crisis. Instead of a geopolitical tale about masked great power competition, the driving force of the events is domestic political pressures in the U.S. to punish, or at least regulate, "too-big-to-fail" banks.

Verdier's account, in essence, is a morality tale in three acts. Act One clarifies the various, fraudulent or at least dishonest practices that G-SIBs engaged in, from facilitating tax evasion to manipulating interest rate benchmarks and international currency markets. Act Two recounts the efforts of federal and state prosecutors in New York and the Treasury Department to punish and rein in the offending global banks: not through criminal trials against individual bankers but through novel forms of plea bargains and enormous financial penalties. Act Three outlines the new, reformed, tamed global banks, with larger than ever compliance departments and in-house government supervisors, ready to report the slightest infractions to the Treasury Department and the District Attorneys.

While the overall narrative conforms to this somewhat sunny structure, the structure of Verdier's book is in fact more sophisticated. The book presents a series of case studies, each of them explaining a different area of international finance (and wrongdoing therein), and demonstrating with force and clarity how U.S. prosecutors have worked as ersatz banking regulators. The introduction is a detailed mise-en-scene that successfully summarizes the development of global banks; their internal structure (focusing on the opposition between compliance departments and profit-making "front office" bankers); traditional financial regulatory institutions (and their tendency for regulatory capture and less-than-effective backroom deals); and the emergence of prosecutors' offices as the true financial regulators in the early 2010s. Verdier describes the global financial power that the United States wields in more precise and striking terms than Farrell and Newman ever do:

> The U.S. government can threaten to choke a global bank's access to U.S. dollar payments and to essential U.S. trading, clearing, and settlement systems, effectively destroying its capacity to conduct its business *anywhere in the world*. . . . The United States issues the world's dominant trade and reserve currency, a status the U.S. dollar acquired in the aftermath of World War II and retains today. Nearly 80 percent of inter-regional trade payments are made in U.S. dollars. Its closest competitor, the euro, is a distant second at 5.9 percent. The world's most important commodities markets—crude oil, gas, precious metals—rely on the U.S. dollar for pricing and settling transactions. The U.S. dollar also dominates foreign official reserves. At the end of 2018, the world's central banks held $6.6 trillion in U.S. dollars, amounting to 61.7 percent of their overall reserves. The U.S. dollar's competitors are far behind: 20.7 percent for the euro and only 1.9 percent for the renminbi, despite the Chinese government's decade-long campaign to promote its adoption by foreign central banks.[48]

Added to these sources of global financial power are the centrality of U.S. Treasury bonds for both private and public foreign investors (including foreign central banks), and the necessity of the U.S. dollar as an intermediate currency for international currency transfers in general:

[48] Verdier, 29.

> Global banks play a central role in [international wire transfers], serving as correspondents through which firms and smaller banks worldwide send and receive U.S. dollar payments. Ultimately, much of these payments is cleared between global banks in New York through U.S.-based payment systems: the Clearing House Interbank Payments System (CHIPS) . . . and the Federal Reserve's Fedwire system. The numbers involved are staggering: in 2017, CHIPS processed 113 million payments worth $393 trillion. . . . CHIPS estimates that 75 percent of the payments it processes originate outside the United States, amounting to "a very high percentage of all international interbank funds transfers that are denominated in U.S. dollars."[49]

Cutting off a G-SIB (or other bank) from the U.S. dollar clearing system is therefore a death threat, and G-SIBs will comply with U.S. demands framed by this threat, above all other threats by any other international actor. Verdier's example is HSBC's behaviour vis-à-vis Huawei, one of its major clients before the U.S.-imposed sanctions against Huawei in 2018. HSBC handed over all of Huawei's financial information to help the U.S. make its case against Huawei, despite knowing how much this would invoke the wrath of China.[50] A related phenomenon is "de-risking" and overcompliance with sanctions. As Emmanuel Breen has described it, this means that G-SIBs and other reputable banks will terminate business relations even with law-abiding, nonsanctioned entities, if they are perceived as being too close to sanctioned entities, or if they sense the *possibility* of being sanctioned in the future due to sudden shifts in U.S. foreign policy.[51] Some of the results have been unquestionably destructive:

> [De-risking and overcompliance have] resulted in many countries finding themselves largely "unbanked," which goes hand-in-hand with a broad and devastating range of negative humanitarian consequences. [This has] frustrat[ed] even the work of the UN and other major aid providers. . . . De-risking has been recognized as such a fast-growing global problem that organizations such as the Financial Action Task Force, [the] Financial Stability Board, [the] International Monetary Fund and [the] World Bank have put out an urgent call for a new approach to deal with the challenge.[52]

The rest of Verdier's book consists of the previously mentioned case studies. Chapter 2 provides a comprehensive description of the London Interbank Overnight Rate (LIBOR) manipulation crisis that took place a few years before and up to the 2008 financial crisis and the collusion of foreign exchange traders that created it. The chapter starts off with a short history of LIBOR and its role in international finance, and it introduces the most important bankers coordinating this fraud at Barclays and UBS, before describing criminal prosecutions both against the bankers and the banks they made enormous profits for. An important element in the story is the hesitancy of British institutions such as the British Bankers Association (BBA) and the Financial Services Authority (FSA) to take any actions against the bankers in questions, leading to U.S. institutions stepping in to enforce the(ir) law after 2012.[53]

Chapter 3 describes the U.S. government's fight against tax evasion by its own citizens. Verdier notes how the fight against tax havens and bank secrecy was no

[49] Verdier, 30.

[50] Verdier, 32–33.

[51] Emmanuel Breen, "Corporations and US Economic Sanctions: The Dangers of Overcompliance," in *Research Handbook on Unilateral and Extraterritorial Sanctions*, ed. Charlotte Beaucillon (Cheltenham and Northampton: Edward Elgar, 2021), 256–269.

[52] Erica Moret, "Unilateral and Extraterritorial Sanctions in Crisis: Implications of Their Rising Use and Misuse in Contemporary World Politics," in Beaucillon ed., *Extraterritorial Sanctions*, 30.

[53] Verdier, *Global Banks on Trial*, 47–55.

fight at all for decades, as Switzerland and other states with offshore banking industries successfully torpedoed the OECD's and other institutions' efforts to create international agreements on sharing tax information. The turning point in the decades-long opposition between U.S. authorities and Swiss banks was the whistleblowing of Bradley Birkenfeld in 2007, a U.S. native who had a lucrative career at UBS courting rich American clients for a long time. Birkenfeld revealed that UBS did a lot more than just accept American clients' money in Switzerland, no questions asked. In fact, UBS' bankers proactively hunted for American clients within the United States, behaving more like secret agents and less like respectable bankers:

> UBS bankers were trained to avoid detection by lying to border officials, changing hotels frequently, and using encrypted laptop computers. They were told not to carry statements identifying UBS, and their business cards did not refer to "wealth management" . . . Birkenfeld squeezed diamonds into a toothpaste tube to carry them across the border for a U.S. customer. A customer later testified that his UBS banker had handed him $50,000 in cash wrapped in a newspaper.[54]

Birkenfeld's disclosures led to a Deferred Prosecution Agreement against UBS, in which UBS agreed to pay hundreds of millions of dollars in fines, disclose the names of their U.S. citizen clients, and install a compliance program with external auditors to ensure continued respect for U.S. tax laws. The case against UBS soon required an international agreement and the modification of Swiss law, to avoid Swiss bankers violating Swiss criminal law by giving out bank secrets to the U.S. without clients' authorizations. Wegelin Bank, a small Swiss bank without any foreign subsidiaries or offices in the United States, tried to step into UBS' shoes between 2007 and 2010, and collected some U.S. clients who were still interested in concealing their holdings from the IRS. Not having a corporate presence in the USA did not save Wegelin, however:

> Like many smaller foreign banks who have no direct access to the U.S. payment system, Wegelin needed [a correspondent account in the United States] to process U.S. dollar payments. Thus, even though Wegelin told its clients not to call or mail the bank from the United States and kept its business outside the country, it could not escape using the U.S. financial system for many vital transactions.[55]

When the U.S. Department of Justice seized Wegelin's foreign correspondent account within the United States, Wegelin soon went bankrupt in January 2013. Verdier then shows how the decisions to prosecute or threaten with prosecution under U.S. domestic law slowly transformed foreign and international law as well: Switzerland reformed its bank secrecy laws, the U.S. and Switzerland concluded a protocol to update their tax treaty, and Swiss authorities started cooperating with the IRS' requests for information. Conversely, the U.S. Federal Reserve and the White House sometimes put pressure on the Department of Justice to cease or postpone indictments based on systemic global financial stability considerations, or diplomatic pressures from Switzerland.[56] U.S. pressure on Swiss law created an opening for European countries to make similar demands to end tax information withholding vis-à-vis European states. Likewise, the weakening of Swiss bank secrecy led to pressure on other tax havens (many of them British

[54] Verdier, 82.
[55] Verdier, 89.
[56] Verdier, 91–93.

overseas territories and dependencies) to repel or limit their own laws that barred international tax information sharing.

International affairs take center stage in Chapter 4, on the role of global banks in sanctions evasions. Sanctions against Iraq, Iran, Cuba, Sudan, and North Korea have been mainstays of U.S. foreign policy, sometimes for decades. Furthermore, trade restrictions against Russia and China have been the most prominent examples of the collapse of the global liberal order, discussed at the beginning of this article. Here, too, Verdier provides a brief but illuminating history from the 1980s onwards.[57] Economic sanctions acquired a bad reputation in the 1990s due to the suffering they inflicted on the Iraqi people, without toppling Saddam Hussein's regime. They returned as a favored tool after 9/11, given that the "war on terror" was as much about uncovering and cutting off sources of financial support for Al-Qaida and other Islamic extremist groups, as it was about police or military action against terrorists. As mentioned previously, this was the time when SWIFT agreed to share information on international wire transfers with the U.S. Treasury.[58]

From the late 2000s, U.S. officials started using the tools that had served them so well in the fight against international tax evasion to enforce sanctions against supporters of terrorism, including the state of Iran. The G-SIBs were threatened and sanctioned for engaging in transactions with major Iranian banks. As with the tax evasion cases, the ultimate threat was suspending banks' licenses to transfer and clear payments in U.S. dollars. Deferred prosecution agreements against StanChart, HSBC and BNP Paribas imposed billions of dollars in fines for assisting Iran, Sudan, and (in the case of HSBC) laundering Mexican drug cartels' money.

The final chapter is the odd one out, describing sovereign debt collection via litigation against global banks, in their role as facilitators of states' debt payments. Although Verdier is concise and enlightening in his descriptions of how foreign currency-denominated sovereign debt works (mostly, the dilemmas of insisting on full payment of debts versus restructuring and "haircuts"), the chapter is still somewhat out of place in this book. The attempts to force Argentina to pay up on its defaulted U.S. dollar-denominated bonds was not about bringing global banks to justice or order: indeed, they seem to be a minor player in this story. Nor is it about great power politics or geopolitical aspirations: the U.S. government generally facilitated Argentinian debt restructuring, and the central players in forcing Argentina to honor its debts were a small group of investor-creditors.

Despite its predominantly descriptive nature, Verdier's book is illuminating and well worth the read. Verdier does a fantastic job of describing the evolution of global finance, and the interactions between U.S. domestic and international politics, as well as law enforcement, in the domain of finance. Verdier does not try to synthesize U.S. government actions into a more general theory of "underground empire" or infrastructural dominance through path dependence; he does not even make a concerted effort at evaluating the overall effects of the prosecutions that he describes in terms of U.S. foreign policy or global justice.[59] This is nevertheless understandable, given the length and detailed nature of his book, and the complexity that any evaluation or theoretical synthesis would have to entail.

[57] For a longer, more foundational history, see Nicholas Mulder, *The Economic Weapon: The Rise of Sanctions as a Tool of War* (New Haven and London: Yale University Press, 2022).

[58] Verdier, *Global Banks*, 115–116; see also Farrell and Newman, *Underground Empire*, 56–29.

[59] Cf. " . . . tallying the overall costs and benefits of these U.S. actions is beyond the scope of this book . . . ": Verdier, *Global Banks*, 180.

"Corporate Crime and Punishment" by Cornelia Woll

The final book reviewed in this piece, Cornelia Woll's *Corporate Crime and Punishment: The Politics of Negotiated Justice in Global Markets*, reads much like a sequel to *Global Banks on Trial*. Where *Global Banks on Trial* is almost exclusively descriptive, *Corporate Crime and Punishment* attempts to wrap the events described into a general theory of international law and draw some normative conclusions. In doing so, it presumes a lot of knowledge about its subject-matter that *Global Banks on Trial* does a better job of explaining, and its evaluative and analytical focus pulls the book in different directions that damage the coherence of the book. More concerningly, some of the statements and conclusions drawn by Woll are questionable, or even downright incorrect.

Corporate Crime and Punishment does not have the easygoing, mostly chronological storytelling structure of *Underground Empire* and *Global Banks on Trial*. Nor is it a newspaper report-like collection of enlightening vignettes and anecdotes that *Underground Empire* sometimes becomes. Rather, it is an ambitious theoretical book that aims to situate the developments described in *Underground Empire* and *Global Banks on Trial* in terms of international legal theory or doctrinal developments. The cases being discussed by Woll are mostly the same ones that are brought up by Newman, Farrell, and Verdier: UBS, Credit Suisse, and Wegelin being caught between Swiss bank secrecy laws and U.S. criminal law; BNP Paribas's eye-watering $8.9 billion fine in 2014; the lack of criminal prosecutions for bankers after the subprime mortgage crisis; the creation and cooptation of SWIFT. The facts of the cases are quickly glossed, only as a prelude for an enormous legal theory machinery that Woll musters to do the analytical work. Sadly, the complicated and heteronymous nature of the concepts and the quick overviews necessary to bring nonexpert readers up to speed overwhelm all discussions and analyses. Just between pages 15 and 34, Woll brings up the following debates and concepts:

- The question of legal transplants (i.e., what happens to rules that originate in one legal culture, but are adopted, that is "transplanted," often verbatim, by another culture). This requires referencing and explaining the work of Alan Watson, the late, great Scottish comparative lawyer who coined the term in 1974.[60]
- It also necessitates the explanation of "legal families," and the principal differences between common law systems, Continental (Roman law-based) legal systems, religious and custom-based legal systems.[61]
- Legal transplants, it turns out, are only required to discuss Gunther Teubner's and Andreas Fischer-Lescano's theory of "legal irritants,"[62] i.e., the idea that foreign rules in a legal system function as "irritants" in biology, provoking the

[60] Alan Watson, *Legal Transplants: An Approach to Comparative Law* (Edinburgh: Scottish Academic Press, 1974; repr. Athens and London: The University of Georgia Press, 1993).

[61] Woll, *Corporate Crime*, 22, referencing Rene David, *Traité élémentaire de droit civil comparé : Introduction à l'étude des droits étrangers et à la méthode comparative* (Paris: LGDJ, 1950) and the generations of work based on David's ideas, e.g., Patrick Glenn, *Legal Traditions of the World: Sustainable Diversity in Law* (New York: Oxford University Press, 2010).

[62] Andreas Fischer-Lescano & Gunther Teubner (Michelle Everson trans.), "Regime-Collisions: The Vain Search for Legal Unity in the Fragmentation of Global Law," *Michigan Journal of International Law* 25, no. 4 (Summer 2004): 999–1046.

creation of more norms to insulate or mediate between the transplanted new norm and the older elements of the legal system.

- Along the way, the opposition between realism and liberal institutionalism in International Relations also has to be expounded.[63]
- Liberal internationalism leads to game theory and economic self-interest.[64]
- A page later, social constructivism is introduced as a counterpoint.[65] All this is mentioned in order to introduce Gunther Teubner's and Andreas Fischer-Lescano's theory of "legal irritants," as mentioned previously.
- Robert Kagan's description of "adversarial legalism" as a key feature of U.S.-style common law: that is, legal processes where the parties hold all the procedural powers, and the role of judges and other decision-makers is minimized.[66]
- Edward P. Thompson's concept of a "moral economy," that is ethical judgments on economic activities that are themselves subject to change due to economic activities.[67]

All this, it turns out, is a prelude to a discussion on the difficulties of corporations as subjects of criminal law (separate from corporate officers and other human decision-makers). This is an important and complicated question, and one of the starkest divisions between the common law and traditional European jurisprudence. But the riot of conceptual introductions does not lead to conclusions that are deeper than the worries that Verdier raised three years before: "Prosecutors are encouraged to "compromise with corporations' to strike "justice deals." Even though corporate fines can be massive and compliance requirements highly constraining, the elimination of the notion of guilt is disconcerting. . . . At worst, corporate misconduct becomes just another cost of doing business."[68] Verdier's quite similar words were:

> By allowing banks to pay large fines and avoid convictions, critics contended, NPAs and DPAs turned criminal sanctions into a cost of doing business imposed on the bank's shareholders. They also took aim at the lack of individual prosecutions against bankers. Even if indicting global banks could cause systemic risk, why should individuals who took part in crimes not be punished?[69]

Woll's next concern about U.S. prosecutions is the questionable even-handedness of American justice. Although the majority of financial institutions that were prosecuted by U.S. authorities were U.S. banks (84 percent of cases had American defendants), less than 44 percent of the cumulative fines levied were paid by U.S. banks (57 percent of the fines up to 2021 were collected from British, German, Swiss, Japanese, French, Korean, and Dutch banks).[70] Are U.S. prosecutors and judges biased against foreign firms? Or is this just an instance of U.S. prosecutors

[63] Woll, *Corporate Crime*, 18.

[64] Woll, *Corporate Crime*, 18.

[65] Woll, 19.

[66] Robert A. Kagan, *Adversarial Legalism: The American Way of Law* (Cambridge: Harvard University Press, 2001).

[67] Edward P. Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century," *Past & Present* 50, no. 1 (February 1971): 76–136.

[68] Woll, *Corporate Crime*, 31.

[69] Verdier, *Global Banks*, 132.

[70] Woll, *Corporate Crime*, 5–6.

only going after foreign firms if their conduct is egregious, and therefore meriting the harshest punishments? This is not a question that can be answered without empirical work, and therefore Woll's answer is not really an answer:

> [T]he available data *does not allow us* to speak of outright discrimination against foreigners, but it does raise important questions about the origins of the observed advantage for domestic firms in US law enforcement. The . . . incentives provided by the political system *seem to* facilitate the increasingly extraterritorial ambition of US law enforcement. At the same time, foreign companies *do not seem* to benefit from the political protection that may shield domestic companies . . . [71]

The meat of Woll's book is chapters 4 and 5, which consider the extraterritorial face of U.S. prosecutorial power. By prosecuting the actions of French, Swiss, Japanese, and other foreign banks—even if doing so through their U.S. subsidiaries—is the United States in fact infringing on the sovereignty of these other allied countries and denying them the freedom to legislate over their own banks? The question is especially salient for sanctions with regard to links to Iranian banks, which have no direct effect or territorial connection with the United States. This is also a question that both Verdier and Farrell and Newman mention in passing at best, but do not discuss in any depth.

The question is certainly a hard one. Territoriality has become an all-encompassing concept that allows the exercise of jurisdiction for any matter with basically any territorial connection to the state in question, thereby deeply eroding smaller states' sovereignty.[72] Nevertheless, Woll's presentation of the problem itself is dubious. Firstly, she presents extraterritoriality as a story of legal imperialism and jurisprudential decay,[73] when there is plenty of evidence that the same techniques and extensions of territoriality were used a century ago as today—except that what today is called *extraterritorial* jurisdiction today was called *territorial* jurisdiction back then.[74] Secondly, she ignores that some of the key U.S. techniques of weaponized interdependence (particularly denying foreign banks access to U.S. dollar clearing and exchange facilities) are undeniably and absolutely territorial, in the most traditional sense possible. "[A]ccess to economic facilities based in the territory [of a state] are grounded on . . . [states'] territorial sovereignty . . . [and their] discretionary power to control their borders."[75] As Régis Bismuth, Tom Ruys, and Cedric Ryngaert convincingly argue, "[E]xcluding a corporation from US markets or revoking its bank licence is a sanction that is strictly territorial . . . [M]any other states have a far less open economy in the first place, and . . . impose stringent conditions on the access of foreign operators to their territory or markets."[76] The dangers to the liberal international legal order do not stem primarily from "the long arm of American law,"[77] that is the dubious and specifically

[71] Woll, 56 (emphasis added).

[72] Peter D. Szigeti, "In the Middle of Nowhere: The Futile Quest to Distinguish Territoriality from Extraterritoriality," in *The Extraterritoriality of Law: History, Theory and Politics*, eds. Daniel S. Margolies et al. (London and New York: Routledge, 2019), 30–48; also Szigeti, *Illusion*; Krisch, *Jurisdiction Unbound*.

[73] Based primarily on Kal Raustiala, *Does the Constitution Follow the Flag? The Evolution of Territoriality in American Law* (New York: Oxford University Press, 2009).

[74] See Szigeti, *Illusion*, 370–372, 374–379.

[75] Tom Ruys and Cedric Ryngaert, "Secondary Sanctions: A Weapon Out of Control? The International Legality of, and European Responses to, US Secondary Sanctions," *British Yearbook of International Law* 90 (2020): 12.

[76] Ruys and Ryngaert, *Secondary Sanctions*, 14, also citing Régis Bismuth, "Pour une appréhension nuancé de l'extraterritorialité du droit américain—Quelques réflexions autour des procédures et sanctions visant Alstom et BNP Paribas, " *Annuaire Français de Droit International* 61 (2015): 789.

[77] Woll, *Corporate Crime*, 66–76.

American doctrines of extraterritoriality or effects jurisdiction, which give more and more power to U.S. judges as well as the U.S. executive.[78] Rather, even under the most conservative interpretations of territoriality, the United States has achieved *territorial* control of the key nodes of (currently) irreplaceable global informational and financial networks, and the entire idea of network powers and effects is unintelligible from a territorial viewpoint. In financial law and internet law, territorial jurisdiction and universal jurisdiction have become the same thing.

This conclusion is uncomfortable, and none of the works discussed here addresses it in any meaningful way. Woll's attempts to analyze the situation through the concepts of geoeconomics and economic lawfare do not work because neither of these concepts are legal concepts. They do not appear in any legislation or caselaw and cannot mediate between the extended meanings of territorial jurisdiction and our sense of imbalance and unfairness. Instead of any breakthrough legal analyses, Woll recounts geoeconomic/geopolitical oppositions between the United States, China, the EU, and Japan in Chapter 5 (in a way that is quite similar to Newman's and Farrell's descriptions). In Chapter 6, Woll then returns to a standard, if exhaustive, comparative analysis of the Americanization of criminal procedure in five different countries.

In the preamble of her book, Woll writes:

> This is the story I would like to tell. Companies are no longer above the law in global markets, and compliance has turned into a major challenge during the last decades. But law is not just a neutral arbiter between right and wrong when domestic law travels across boundaries. . . . Some of the most likely candidates for severe sanctions will walk away unscathed, while other[s] receive heavy punishment.[79]

Well, certainly. But the really interesting questions, one feels, are not the ones about inequality in law enforcement, but the ones that Farrell and Newman raise: has the fundamental structure of international relations been transformed, once we have identified that a metaphorical "plumbing" has been built for the financial and informational infrastructure of the global economy, and that "plumbing" is controlled by a single state?

(In Lieu of a) Conclusion

What, finally, can we take away as conclusions about the fissuring liberal world order, from these three books? One is that the division between domestic politics and the fundamental rules of international law are wearing thin. What started off as belated U.S. criminal responses to the subprime mortgage crisis, and improving intelligence gathering following 9/11, morphed quickly into global policies. A second lesson is that the "cracks" affect Western allies of the United States as much as they do antiliberal states such as China or Russia. During the (first) Cold War, one could argue that liberal international legal principles were intact in the West, ready to be extended to the entire world after 1990. Today, it seems that the new U.S.-EU relationship cares less about Europeans' sovereignties.

The books end with a cautionary note: overuse of the U.S. chokepoint powers may well trigger a realignment of international trade, financial and informational infrastructures. "In the long run, unilateral U.S. sanctions may encourage other states to look for alternatives to the U.S. dollar and the country's financial

[78] Woll, 63–66.
[79] Woll, xii.

infrastructure, loosening its hold over the international financial system."[80] Nevertheless, for now, this looks unlikely.[81] Ruys and Ryngaert show that legal pushbacks by the EU that forbid European corporations from complying with U.S. sanctions simply do not work because European economic actors have more to fear from U.S. authorities than from European governments. In any case, European governments would be shooting themselves in the foot by sanctioning their own corporations for following plain business sense.[82] Daniel McDowell also argues that despite some decline in the U.S. dollar's role as reserve currency, it does not have a true alternative for denominating and facilitating global trade.[83]

The underground empire is clearly an evolving and changing force, and nothing definitive can be said about the long-term prospects of weaponized interdependence in the global arena. We can therefore look forward to more books building on the insights discussed here, to see if the liberal international order is truly rupturing, or if the cracks created by financial and informational networks can be mended.

[80] Verdier, *Global Banks on Trial*, 145; see also Farrell and Newman, *Underground Empire*, 68–69, 161–169; Farrell and Newman, *Weaponized Interdependence*, 51–53.

[81] E.g., Adam Tooze, "Chartbook #211 Bucking the Buck? Debating the global dollar … Again!" *Chartbook*, 28 April 2023, https://adamtooze.substack.com/p/chartbook-211-bucking-the-buck-debating

[82] Ruys and Ryngaert, *Secondary Sanctions*, 81–111.

[83] Daniel McDowell, *Bucking the Buck: U.S. Financial Sanctions and the International Backlash Against the Dollar* (New York: Oxford University Press, 2023).