

can also be applied effectively between groups of actors and across time in thinking about turning points.

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NEIL ROLLINGS, *Professor of Economic and Business History, University of Glasgow, Glasgow, UK*

*Professor Rollings researches organized business and business-government relations at the national and transnational levels. His publications include "The Development of Transnational Business Associations during the Twentieth Century," Business History, part of a special issue on Brokers of the Wealthy, which he is coediting with Janick Schaufelbuehl and Pierre Eichenberger; "Organised Business and the Rise of Neoliberalism: The Confederation of British Industry 1965–1990s," in Aled Davies, Ben Jackson and Florence Sutcliffe-Braithwaite (eds.), The Neoliberal Age? Britain since the 1970s (London, 2021); and "The Vast and Unsolved Enigma of Power': Business History and Business Power," Enterprise and Society (Winter 2021).*

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## Quinn Slobodian

### Competing Projects in Global Governance

The twentieth century is a fascinating time to follow the relationship between global governance and firms because of the persistent tension between principles of mass democracy and private ownership and control. It is possible to narrate the entire century as a series of contestations between firms and international organizations. At times, firms have had the upper hand. At other times, the principle of popular sovereignty has threatened the self-perceived rights and prerogatives of business. In my own work, I have homed in on ruptures at two main points.

The first is the First World War, when governments first gained access to the inner workings of firms. The total war footing of belligerent powers broke down the long-standing public-private divide as all of the nation's available resources were mobilized for the military effort. The outcome was a new horizon of what the Germans call *Machbarkeit*, or

doability, that one can witness in political economic projects from Soviet communism to the US New Deal to the breakneck pace of Nazi rearmament. Business leaders feared, with good reason, that their autonomy had been compromised permanently in a new era of mass politics. We can see the interwar efforts of organizations like the International Chamber of Commerce as what they saw as a rearguard attempt to defend the sovereignty of business, the interdependence of the world economy, and the priority of property rights over projects of nationalization and expropriation.<sup>75</sup> I adopt the categories of midcentury intellectuals to describe this as a conflict between the principle of dominium—the domain of ownership and the government of things—and imperium—or the domain of sovereignty and the government of people.<sup>76</sup> It is a helpful shorthand for much of what followed.<sup>77</sup>

The end of saltwater empires after the Second World War was another rupture in the nexus of global governance and business. The United Nations granted a seat in the General Assembly to every new nation, tipping the balance toward the poorer world over time and creating a forum to contest the power of corporations in the period from the 1950s to the 1970s. The Code of Conduct for Transnational Corporations, first discussed in 1972, can be seen as a high point of pushback from international organizations vis-à-vis corporate power.<sup>78</sup> The eclipse of attempts at regulation by the late 1980s and the rise of international investment law and third-party arbitration such as Investor-State Dispute Settlements gave corporations the upper hand over states.<sup>79</sup> The success of US sectoral corporate lobbying in the Uruguay Round that transformed the GATT into the World Trade Organization put new emphasis on intellectual property, in particular.<sup>80</sup>

<sup>75</sup> David and Eichenberger, “A World Parliament of Business?”

<sup>76</sup> Wilhelm Röpke, *International Order and Economic Integration* (Dordrecht, 1959), 79; Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (New York, 2003), 137.

<sup>77</sup> See Slobodian, *Globalists*.

<sup>78</sup> Jennifer Bair, “Taking Aim at the New International Economic Order,” in *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective*, ed. Philip Mirowski and Dieter Plehwe (Cambridge, MA, 2009), 347–367.

<sup>79</sup> A. Claire Cutler, *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy* (New York, 2003); Vanessa Ogle, “State Rights against Private Capital: The ‘New International Economic Order’ and the Struggle over Aid, Trade, and Foreign Investment, 1962–1981,” *Humanity* 5, no. 2 (Summer 2014): 211–234; Perrone, *Investment Treaties*; Ntina Tzouvala, “The Ordo-liberal Origins of Modern International Investment Law: Constructing Competition on a Global Scale,” in *European Yearbook of International Economic Law*, ed. John D. Haskell and Akbar Rasulov (New York, 2019).

<sup>80</sup> See Sylvia Ostry, “The Uruguay Round North-South Grand Bargain: Implications for future Negotiations,” in *The Political Economy of International Trade Law*, ed. Daniel M. Kennedy and James D. Southwick (New York, 2002), 285–299; Susan K. Sell, *Private Power, Public Law: The Globalization of Intellectual Property Rights* (Cambridge, 2003).

Focusing on episodes of conflict with close attention to not just national power but sectoral pressure groups helps us to see the twentieth century as less a period of one-way secular trends than one of continued conflict, with diverse blocks forming and dissolving over time.<sup>81</sup> A historical approach can also help us deflate what is often the excessive sense of shock and novelty in the narration of ongoing events in the present. Reading editorials in the financial or popular press, one is struck by what is either an extremely short-term memory or a highly stylized (and often distorted) version of the past. Take the example of deglobalization, which has become something like common sense for the punditry since the outbreak of the Covid-19 pandemic. One reads and hears all too often about the supposed swing of a pendulum from the world governed by global markets to a world governed by national states. In the latter, it is assumed, economic interdependence wanes and the volume of traffic in goods, money, and people decreases. Yet a closer look at previous moments of global economic crisis, whether it is the interwar period—when trade bounced back very quickly after the rupture of the First World War—or the 1970s—when financial services in the midst of an energy crisis—suggests that we need to not only scrutinize empirical assumptions but also avoid unhelpful binaries that give the impression that the power of states somehow receded in earlier moments of globalization.<sup>82</sup> Even at the high point of what is often called “unfettered” globalization, states played an essential enabling and coordinating role. The history of international economic law is an especially fertile site of study here. In the very period that markets were supposedly set free, they were actually increasingly encased through new forms of investment agreements, trade arrangements, competition law, and, in many cases, the prioritization of private rights over national rights.<sup>83</sup>

A historical approach to the present can also help us see that the assumption that we have only recently departed from a “free trade world order” itself occludes the many ways that the past decades have included numerous deviations from free trade, above all in core

<sup>81</sup> For an example from the NAFTA negotiations, see Malcolm Fairbrother, *Free Traders: Elites, Democracy, and the Rise of Globalization in North America* (New York, 2019). On the influence of the steel lobby in the US–China trade war, see Quinn Slobodian, “Backlash Against Neoliberal Globalization.”

<sup>82</sup> For an incisive critique see Stefan Link, “How Might 21st-Century De-Globalization Unfold? Some Historical Reflections,” *New Global Studies* 12, no. 3 (2018): 343–365.

<sup>83</sup> See Antony Anghie, *Imperialism, Sovereignty, and the Making of International Law* (New York, 2007); Honor Brabazon, *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project* (London, 2017); David Schneiderman, *Constitutionalizing Economic Globalization: Investment Rules and Democracy’s Promise* (New York, 2008); Antoine Vauchez and Pierre France, *The Neoliberal Republic: Corporate Lawyers, Statecraft, and the Making of Public-Private Finance* (Ithaca, 2020).

countries like the United States.<sup>84</sup> The fields of international political economy and, especially, Third World Approaches to international law, are too often overlooked by both pundits and historians. Scholars who work, by nature, with macro frameworks are perfect resources and conversation (and collaboration!) partners for historians who tend to have specialization framed by a specific nation or language. Finding a way to move between scales is essential for understanding what is truly novel in our present conjuncture. To use a relevant example, understanding Indigenous perceptions of international relations in a rising power like China can also help us understand what may be different about a global economic order in which one of the dominant powers does not have the same will to world power or close relationship to corporate leadership that shaped the Anglo-American tradition and mindset of the British Empire and the misnamed Pax Americana.<sup>85</sup>

It has become ever more intuitive for scholars to place global governance and global capitalism in a single frame of analysis. But this was not always the case. As recently as the 1990s, there was still a sizable gulf between those who studied the history of international organization, empire, and decolonization, and those who studied the history of business and banking. How was the gap narrowed? One could narrate many versions of the trajectory, but I can share one of my own. It begins in the immediate wake of the US invasion of Iraq in early 2003, when many began searching for historical parallels and precedents for both analogous acts of military imperialism and effective acts of transnational solidarity. Interest in the 1950s, 1960s, and 1970s was strong in this moment, with a special emphasis on three episodes. First was the Afro-Asian Solidarity Conference in Bandung, Indonesia, in 1955—the first major gathering of nations without the participation of white-majority powers and the birthplace of the Non-Aligned Movement, a breath of archival fresh air in its prospect of escape from the stultifying confrontation of Cold War historiography and its centering of South–South cooperation.<sup>86</sup> Second was the anti-Vietnam war mobilizations

<sup>84</sup> See Nitsan Chorev, *Remaking U.S. Trade Policy: From Protectionism to Globalization* (Ithaca, 2007); Kristen Hopewell, *Breaking the WTO: How Emerging Powers Disrupted the Neoliberal Project* (Stanford, 2016).

<sup>85</sup> For the Anglo-American world order, see Jamie Martin, *The Meddlers: Sovereignty, Empire, and the Birth of Economic Governance* (Cambridge, MA, 2022); Kate Miles, *The Origins of International Investment Law: Empire, Environment and the Safeguarding of Capita* (New York, 2013). On China, see Maria Adele Carrai, *Sovereignty in China: A Genealogy of a Concept since 1840* (Cambridge, 2019); Meg Rithmire, “Going Out or Opting Out? Capital, Political Vulnerability, and the State in China’s Outward Investment,” *HBS Working Paper*, no. 20-009 (2021).

<sup>86</sup> See, e.g., Christopher J. Lee, ed., *Making a World after Empire: The Bandung Moment and Its Political Afterlives* (Athens, 2010); Vijay Prashad, *The Darker Nations: A People’s History of the Third World* (New York, 2007).

of the 1960s, and third was the New International Economic Order articulated by the group of poor nations known as the G-77 at the United Nations in 1974. This scholarship was housed more in the subfields of political and cultural history at first. There was an interest in the forms of symbolism, rhetoric, and affect that united people across cultural and geographic divides. There was also an interest in the political connections made by minority and Indigenous groups in northern countries as they began to reconceptualize themselves as colonized populations with potential points of solidarity in the Global South.<sup>87</sup>

Soon, however, especially in the wake of the convulsions of the Global Financial Crisis, this political impulse moved from the realm of politics into those of political economy and international economic law. The longer that people looked at the divides created in the modern period, the more that they realized they were not merely episodes of military invasion countered by often ephemeral acts of political solidarity but relationships hardwired into the architecture of commerce and investment. Empire and imperialism were not passing historical episodes but enduring relationships of asymmetrical power mediated by the power of finance and law.<sup>88</sup> To understand the lasting gulf between countries of the North Atlantic and those of Africa, Latin America, and Asia, it was necessary to delve into what Katharina Pistor calls “the code of capital.”<sup>89</sup> The mobilization around Occupy Wall Street in 2011 gave new fuel to this push into political economy as talk of debt, bailouts, and interest rates migrated from the business pages (and the private anxiety of the letter from the collection agency) to the front pages and discussions in the streets.<sup>90</sup>

Since that time, historians have begun to open up what had previously been something of a black box of scholarship. Archival records of negotiations over apparently dry topics like double taxation, access to waterways, extraterritorial capitulations and enclaves, commodity agreements, arbitration agreements, and land claims have become live topics vibrating with political import. As the global economic landscape continues to move to what seems like a period of more regionalized fragmentation, the task of historians becomes even more acute. New

<sup>87</sup> See, e.g., Quinn Slobodian, *Foreign Front: Third World Politics in Sixties West Germany* (Durham, 2012); Sean Mills, *The Empire Within: Postcolonial Thought and Political Activism in Sixties Montreal* (Montreal, 2010). Cynthia A. Young, *Soul Power: Culture, Radicalism, and the Making of a U.S. Third World Left* (Durham, 2006).

<sup>88</sup> See Sam Gindin and Leo Panitch, *The Making of Global Capitalism: The Political Economy of American Empire* (Brooklyn, 2012).

<sup>89</sup> Katharina Pistor, *The Code of Capital: How the Law Creates Wealth and Inequality* (Princeton, 2019).

<sup>90</sup> An influential book in this context was David Graeber, *Debt: The First 5,000 Years* (Brooklyn, 2011).

questions present themselves. How much autonomy do corporations have from states? How do investors deploy aspects of private governance to evade public accountability? How can we historicize the interest in trends like corporate social responsibility; environmental, social, and governance investing; and stakeholder capitalism? How does the move to services, digitization, and globally enforceable intellectual property rights change the balance of power between public and private actors—and richer and poorer nations? How can we excavate histories of collaboration between states and firms in the so-called mixed economy, especially in regional, continental, or municipal arrangements at a moment when the unipolar model of world economic order seems to be on the ropes? How does the mediation of public debt by globally active financial institutions create both new opportunities and new vulnerabilities? These and other questions are enough to keep historians well occupied in the coming years and decades. But there is a precondition; namely, that the very possibility of academic production—the secure position, the research institution, the graduate and postgraduate funding—is not itself eroded beyond salvage by the tendency toward a narrow idea of instrumentalizing higher education toward immediate marketable outcomes. Even as historians study the material conditions for the reproduction of the global economy with one eye, they have to keep the other eye on the more immediate concern of the material conditions for the reproduction of their own existence. The need for double vision will go nowhere soon.

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*QUINN SLOBODIAN, Marion Butler McLean Professor of the History of Ideas, Wellesley College, Wellesley, Massachusetts, USA*

*Professor Slobodian's most recent book is Crack-Up Capitalism: Market Radicals and the Dream of a World Without Democracy (2023). His previous book, Globalists: The End of Empire and the Birth of Neoliberalism (2018) won the American Historical Association's George Louis Beer Prize and has been translated into six languages. He is also the author of Foreign Front: Third World Politics in Sixties West Germany (2012), the coeditor, with Dieter Plehwe and Philip Mirowski, of Nine Lives of Neoliberalism (2020), and also with Plehwe, Market Civilizations: Neoliberals East and South (2022).*

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