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Taming the Imperial Impulse: Realising a Pragmatic Moral Vision

ABDULLAHI AHMED AN-NA'IM

The imperial impulse, or the tendency to dominate and exploit others, retains its hold on the hearts and minds of human beings. This essay does not suggest that humanity can once and for all overcome the imperial impulse, but emphasises making it unjustifiable in theory and untenable in practice. In other words, “taming” the imperial impulse, or understanding its rationale in ways that make empire unimaginable and imperial ideology unsustainable. This requires deliberate strategies, concerted action and deploying and supplementing existing normative and institutional resources for upholding the rule of law and protecting human rights everywhere. Instead of resorting to unilateral and extra-institutional “humanitarian intervention”, it proposes that whatever political will and resources any state is willing to devote to protecting victims around the world should be directed at enhancing collective institutional action through the United Nations.

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Introduction

Pervasive and multifaceted imperialism will persist at all levels of human relationships, from the communal and local to the national and global, as long as what I call “the imperial impulse”, the tendency to dominate and exploit others, retains its hold on the hearts and mind of human beings. The imperial impulse is manifested in an *act* of domination, but more importantly for our purposes here, in an *attitude* that authorises and legitimises the act of domination as appropriate, even necessary. The act of domination can be emotional, intellectual, psychological, economical, or physical, but it is the combination of both the act and underlying attitude that constitutes the imperial impulse on the large complex and protracted scale of modern imperialism. I am not claiming that the imperial impulse is absolutely true everywhere and all the time, but it is sufficiently present in acts and ideologies of domination in local and global relations to warrant serious examination. Conversely, I am not suggesting that humanity can once and for all evolve beyond the imperial impulse as such. Rather, my emphasis is on making the imperial impulse unjustifiable in theory and untenable in practice, whenever and to the extent it influences acts of domination and attitudes that authorise and legitimise such action. This is what I mean by “taming” the imperial impulse, as elaborated later.

Both the basic nature of the imperial impulse and the specific features of its modern manifestation should be incorporated into strategies for taming the imperial impulse. Large-scale and more blatant imperialism will adjust and adapt to changing conditions, but will not end until we are able to “tame” the imperial impulse of persons and communities. As I will explain later, it is possible, imperative in my view, to tame the imperial impulse, but that will not happen on its own simply because one form of imperialism or another has been overcome. For instance, decolonisation of European imperialism in Africa and Asia during the mid-20th century, and earlier in Latin America, did not mean the end of domestic or foreign imperialism. Native imperialists replaced European imperialists, and then conspired with European and other foreign imperialists to continue the domination and exploitation of local communities, as well as national politics and economies.

There are of course differences between internal domination by native imperialists and external domination such as that of Soviet and us colonialism and neocolonialism. Indeed, each situation of domination and exploitation has its distinctive features and dynamics, including its alleged justification or rationalisation,

and the strategies of resistance it evokes. British or French colonialism in Africa was not identical in every respect to British or French colonialism in Asia, or Spanish colonialism in South America. Such instances of external colonialism are not identical to the domination by one ethnic or religious group over another in Liberia, Nigeria, Rwanda or Sudan since the formal end of colonial rule in those countries. Each of those situations of internal domination is also distinctive in some respects. When we consider specific situations, each instance of external or indigenous domination should be understood on its own terms in geopolitical, demographic and other contexts. What I am suggesting is that it is coherent and useful to speak of the impulse to dominate as a shared underlying feature of both internal and external domination. From the "subaltern" perspective of the subordinated subject, it is irrelevant whether the source of domination is farther or closer to home. Identifying the imperial impulse as a shared feature of domination is useful for understanding the basic nature of the phenomenon, and helpful in developing and implementing effective strategies of resistance and redress.

I will return to these conceptual and terminological issues and their implications later. My limited purpose at this stage is to clearly state my premise that imperialism, as commonly conceived, is simply a broader manifestation of a common human impulse to dominate and exploit others. "For behind all the imperial impulse is ultimately the imperialistic individual, just as behind all peace is ultimately the peaceful individual" (Babbitt 1979: 160). Human beings in general, including the subjects of imperialism by others, can be imperialistic, and will probably seek to dominate and exploit other human beings, whether within their own communities or elsewhere, near and far. Imperialism is not new. It was not confined to the European colonial powers earlier and the Soviet Union in the recent past. Or is it to the us today. These are simply more obvious examples of the phenomenon on a larger scale because these states had – or have – the power and resources to engage in imperialistic acts on a visible, global stage. There have always been domestic and regional imperialists who seek to consolidate and expand as much as they can.

I should also emphasise that I am not suggesting a particular basis or source of the imperial impulse, whether in terms of its being universal, natural or biological or socially constructed, psychologically acquired or politically or economically motivated. I do appreciate that such inquiries can be necessary and helpful at different levels of analysis, but believe that they will distract from what I proposing to do in this article. The limited claim I am making for the purposes of my thesis and analysis here is that we can appreciate the reality and persistence of the common human tendency to dominate and exploit others,¹ regardless of where we believe it is coming from or how it gets to be so widely held or practised. If I presented a particular view about the sources or nature of this reality, for instance, that it is a universal truth or the manifestation of a biological need, the discussion would probably focus on whether this or that "causation" is valid. Those who reject the validity of my explanation of the phenomenon would tend to overlook its reality in human experience. In other words, my objective here would be untenable if the tendency to dominate and exploit others were not a common

human trait in most societies, historically as well as globally today. My argument that this is indeed a common human trait is not affected by disagreement as to the causes or rationale of this tendency or the processes through which it emerges or is manifested in human behaviour at the individual or collective level.

To take the reality of the impulse to dominate and exploit as my premise is not to absolve any imperialist from responsibility, but only to understand the true nature of the phenomenon to confront it more effectively. Combating imperialism in all its forms and at all levels requires what I call taming the imperial impulse in all of us through deliberate strategies and concerted action. In this light, the question I am raising is whether the mounting realities of individual and collective self-determination on a global scale indicate the realistic possibility of taming the imperial impulse and thereby diminishing all forms and degrees of imperial structures and power relations. Taking the imperial impulse as a perversion of the human motivation to self-preservation and self-determination, the distortion of "the will to live" into an unrestrained self-preservation can be tamed by the "the will to be free". In other words, it can be tamed by self-determination though a combination of external limitations and internal self-transformation. "At the level of this interaction [of the two wills] which produces the mind, the will to live is called the memory, while the will to be free is the imagination" (Taha 1987: 83). From this perspective, restraint is integral to the exercise of freedom, and when restraint is not self-driven, it may have to be externally imposed to assist the development of internal restraint as a moral choice or agency of the self-determining human subject.

In this light, I see the issue as one of self-determining human beings making a moral choice and acting accordingly to shift from the memory the perversion of self-preservation of the will to live to the superior imagination of the will to be free. This mediation of the imperial impulse and its restraint, which is what I mean by "taming", occurs within the individual person, before it can be manifested in collective action by communities or states. The premise of this view is that all human motivation and action, what I call human agency, whether good or bad, starts with individual persons, though it does not end with the individual and tends to extend into collective communal or institutional attitude and action. The advantage of this focus on individual persons is that it confirms that each of us has a role to play in taming the imperial impulse, whether in self-restraint of our own or resistance of that of others. My purpose is therefore to clarify the possibility of self-liberation and enable it through pragmatic normative and institutional means, as I will explain.

This focus on the individual person enables us to apply the analysis to a wide range of relationships, from the inter-personal to the inter-communal, the national, and the global. I should also emphasise that my argument for a moral choice followed by deliberate action to tame the imperial impulse is not to suggest that it is a matter of an inevitable progressive march of history. That is, in calling for the moral choice to tame the imperial impulse, I recognise the possibility of a moral choice towards the opposite outcome, depending on the position human beings take as moral actors as well as the means they have for realising their choices. At the same time, I am particularly concerned with

the ideological/cultural attitude of relating to other people in imperial terms of domination and subordination, regardless of the alleged justification for such an attitude.

As I will argue, one can imagine a world in which the imperial impulse exists but is either restrained by other actors and factors, disregarded at the source, or a combination of the two processes. The main thrust of my argument can be explained in terms of a dual process. First, we need human rights and the rule of law to create a space in which the imperial impulse is restrained by systemic forces, thereby enabling individuals to escape the pervasive fear that causes them to act on their imperial impulse. Second, under such conditions, persons will individually and collectively have a viable option and motivation to tame their imperial impulse for a combination of reasons, including the deterrence of the “cost” of being imperial as well as the humane impulse to respect the self-determination of others in exchange for having their self-determination respected by others. Ultimately, however, I believe that this is a matter of moral choice – the willingness to invest in the possibility of taming our imperial impulse at the risk of suffering harm or injustice in the shorter term. To encourage people to make that investment, we need to promote the normative and institutional resources to protect people against the risk of harm or injustice, which include ensuring accountability and redress whenever such negative consequences materialise in practice.

My argument acknowledges the historical reality of the imperial impulse and the specificity of its expression at different levels or scales of complexity and scope. As noted earlier, episodes of imperial colonialism have not been the same, and are different from internal ethnic or religious domination or economic exploitation. I also acknowledge that imperialists may have their own perceived pragmatic justifications or rationalisations of their impulse to dominate. Granted such factors, my argument seeks to shift the paradigm to show that taming the imperial impulse is the more pragmatic and sustainable way forward for global humanity in this age of self-determination. This can be done, I argue, by denying the imperialists of today the pretext of perceived claims of self-defence by ensuring the equal protection of the law that is predicated on the protection of human rights and promotion of social justice for all human beings everywhere. I also emphasise the human agency of global citizens in deploying and supplementing existing normative and institutional resources for upholding the rule of law and protecting human rights throughout the world.

Incoherence of Imperial Ideology

I will limit myself here to a sampling of imperial ideology as recently represented by three scholars, Niall Ferguson, Samuel Huntington and Robert Kagan. My limited objective is to draw on the views of these scholars to emphasise what I see as incoherence in that paradigm. The general objection I have to the position I am citing these scholars for is a dichotomous view of humanity that privileges the so-called west against the rest of the world. This chauvinistic view assumes that the benefits of peace, order, development, progress, and so forth, must be defined and applied on exclusively western terms for the rest of humanity to follow.

As I will argue, this world view is not only unacceptable in principle and futile and counterproductive in practice, but there is also a more just and viable alternative approach to those benefits for all human beings through the rule of law and protection of human rights.

Ferguson claims that “no organisation in history has done more to promote the free movement of goods, capital and labour than the British Empire in the 19th and early 20th centuries. And no organisation has done more to impose Western norms of law, order and governance around the world” (2003: xxi). He credits the British Empire with “the triumph of capitalism as the optimal system of economic organisation; the Anglicanisation of North America and Australasia; the internationalisation of the English language; the enduring influence of the Protestant version of Christianity; and above all the survival of parliamentary institutions, which far worse empires were poised to extinguish in the 1940s” (2003: xxv). He also represents this transformation of the world as a deliberate civilising mission (2003: 116).

Ferguson may be commended for being brutally honest in saying what others may be thinking, though few would go as far as he did. His bold assertions bring into sharp relief the incoherence and contradictions of imperial ideology. For instance, taking his assertions of the outcomes of the British Empire at face value means that we have no way of comparing that to what might have otherwise been because the British Empire prevented that alternative experience from materialising. We have no way of knowing what India or much of Africa might have become on their own simply because the British imperial impulse aborted any prospects of indigenous political, economic, and legal development and the evolution of those societies. Consequently, there is no way of telling whether the ways in which “Britain made the modern world” were good or bad because we have nothing to compare them with. This does not mean that those subjected to the brutality of European colonialism did not resist or assert their own human agency in the face of imperial negation.² What happened at the time was that the technological dominance and ruthless arrogance of European imperialism denied the humanity of “native” populations and did not permit fair or humane contestation.

The most remarkable aspect of Ferguson’s account, in my view, is the utter indifference of empire to the death of countless people and destruction of their communities in brutal conquests, and the total negation of the human agency and self-determination of generations of subjects of the British Empire across the world. For instance, in the single battle of Omdurman, Sudan, on 2 September 1898, “at least 10,000 enemies of the Empire were annihilated...the acme of imperial overkill” (Ferguson 2003: 264-65).³ Winston Churchill, who observed the battle as a war correspondent for a British newspaper, was profoundly impressed by the courage of the Sudanese defenders of the city, but reported that they stood no chance against British Maxim guns – “that mechanical scattering of death which the polite nations of the earth have brought to such monstrous perfection’... It was all over in the space of five hours” (Ferguson 2003: 268).

It is therefore clear that for every alleged benefit of the Empire there was a corresponding horrendous loss for its victims who did not accept that whatever the Empire wanted to impose on

them was superior to what they could have managed on their own. It is also clear that Ferguson is applying an imperial cost-benefit calculus to justify the massive violence and inherent brutality of British colonialism. Although Ferguson is writing after the collapse of the Empire he credits with making the modern world, he is doing so according to what I referred to earlier as the attitude that accompanies the action of the imperial impulse. Appropriately for that colonial mindset, human life is a commodity to be traded for the benefits of global capitalism.

Huntington's self-fulfilling prophecy of a clash of civilisations is premised on the view that the most important distinctions among peoples in the post-cold war world are cultural, and not ideological, political, or economic (1996: 21). Huntington seems to perceive conflict in terms of non-western reactions to western power, values, ideologies, and so forth (1996: 93, 183). Yet, it is difficult to see how or why certain traits, values and attitudes that he describes are distinctively and exclusively western or non-western, instead of just being human. It is also difficult to justify the western/non-western dichotomy by any coherent or consistent criterion. To take one example of Huntington's analysis that is particularly relevant to the question of normative and institutional resources to be discussed later, he claims that what happened at the United Nations' World Conference on Human Rights in Vienna in June 1993 illustrates the differences between the west and other civilisations. The incoherence of his categories can be illustrated by that he identifies China and Iran as the leaders of, in his own words, "a bloc of about 50 non-western states, the 15 most active members of which included the governments of one Latin American country (Cuba), one Buddhist country (Myanmar), four Confucian countries with widely varying political ideologies, economic systems, and levels of development (Singapore, Vietnam, North Korea, and China), and nine Muslim countries (Malaysia, Indonesia, Pakistan, Iran, Iraq, Syria, Yemen, Sudan, and Libya)" (1996: 195-96).

Moreover, Huntington's list of issues on which countries are divided along civilisational lines tends to mix cultural and ideological matters with practical and tactical questions as well as purely political concerns. His presumed "civilisational" divide includes organisational and political matters like the extent to which non-governmental human rights organisations should participate in a government conference and whether the Dalai Lama should address the conference (1996: 196). There is no "civilisation divide" or closed exclusive categories in any of the issues he identifies. My strongest objection, however, goes to Huntington's perception of "universality vs cultural relativism with respect to human rights" as a matter of civilisational difference (1996: 196). As I will explain, for the universality of human rights to be possible at all, it cannot be a matter of geopolitical or cultural difference. To "press other societies to respect *human rights as conceived in the West*", as Huntington put it (1996: 1986; emphasis added), is more about the foreign policy and national interest of western states, than about human rights as such. To speak about "Western" conceptions of human rights is inconsistent with the idea of universality of human rights itself, which must be accepted by all human societies around the world as their own, and not "authored" by any region to be imposed on others.

Kagan flatly contradicts the premise of Huntington's clash of civilisations and presents a purely imperialist view of the world in which the us has taken over the role of the global empire, which he believes to be necessary (2003). His basic thesis is that it was us military power that made it possible for Europeans to believe that military power was no longer important, and promote the principle that all nations, strong and weak, are equal under the law and all must abide by the law (2003: 3). In contrast, he asserts, the collapse of the Soviet Union enabled the us to intervene wherever it chose, including the invasion of Panama in 1989, the Persian Gulf War in 1991, interventions in Somalia in 1992, and in Haiti, Bosnia, Kosovo, Iraq, and Afghanistan (2003: 27). Compared to what he regards as a weak Europe that is interested in the rule of law in international relations (2003: 37), he holds, "As in the Cold War, America fought in the Balkans ultimately to preserve 'the West'" (2003: 50). Yet, he later argues that a cohesive, unified west ended with the cold war (2003: 81).

Kagan quotes with approval Robert Cooper, a senior British diplomat and European Union official, who said, "Among ourselves [Europeans], we keep the law, but when we are operating in the jungle [the world outside Europe], we must also use the laws of the jungle" (2003: 74). For the us, this has meant "the difficult task of navigating between these two worlds, trying to abide by, defend, and further the laws of advanced civilised society while simultaneously employing military force against those who refuse to abide by such rules" (2003: 75). Consequently, he claims, the us "must live by a double standard. And it must sometimes act unilaterally, not out of passion for unilateralism but only because [it has] no choice...such American behaviour may redound to the greater benefit of the civilised world, that American power, even employed under a double standard, may be the best means of advancing human progress – and perhaps the only means" (2003: 99-100).

To conclude this brief review of these exemplars of imperial ideology, it may be helpful to note the common threads in their thinking. One idea that runs through their arguments is the notion of European or Euro-us exceptionalism as the guardian of enlightened civilisation over the rest of humanity, who cannot be trusted with minding their own affairs. Moreover, what follows from this perpetual state of immaturity and dependency is the total lack of accountability of the superior Euro-us guardians to their minor subjects. This fiction is maintained in the face of overwhelming experiences of brutality and reckless irresponsibility of Euro-us powers even among themselves in two world wars that were the most destructive in human history, in addition to centuries of colonial domination and exploitation of the rest of the world. Another common thread that runs through these views is the assumption of authority to speak and set the terms of intellectual discourse around these issues, which is consistent with the imperial mindset that does not acknowledge the equal humanity of other peoples of the world. This assumption of unquestionable authority is upheld by the audiences of these views in western societies, which refuse to take other perspectives and experiences seriously.

While I strongly disagree with the views of these three scholars as representatives of imperial ideology, I am not dismissing their

position as totally false or unfounded in human experience. In terms of the view of Ustadh Mahmoud Mohamed Taha, quoted above, the position of these authors reflects the memory of mutual hostility and violence, but fails to imagine the possibility of peaceful mediation and cooperation. It is true that humanity at large has so far survived a long history of brutal violence and imperial aggression, but why should it be doomed to repeat that history in the future? Assuming that some aspects of what Kagan calls “an anarchic Hobbesian world” still persist, why should the unilateral power of the US, or any other imperial pretender for that matter, continue to be the only means of a viable response? Is it legitimate and realistic to expect an imperial power to keep the peace or advance “human progress” today?

In my view, the more pragmatic and sustainable response to such realistic concerns is through the rule of international law and protection of human rights, which are normatively institutionally inclusive of the whole of humanity, rather than through arbitrary, illegal and extra-institutional action by one or more imperial powers. I also believe that this paradigm requires challenging and taming the imperial impulse, regardless of who is acting on it or where in the world it is manifested. It is morally untenable and politically counterproductive to reject Euro-US exceptionalism and then concede similar exceptionalism to local elites in the global South. Imperialism is to be equally rejected when asserted by “native” imperialists as it is by Euro-US imperialists. This is why I am calling for analysis of domination and exploitation in terms of the imperial impulse as the shared underlying impetus of domination and exploitation everywhere. I will now argue for this strategy by first explaining it as a theoretical alternative to the imperial impulse, and then outline the normative and institutional resources we already have and should further develop and consolidate for the implementation of this strategy.

Pragmatic Alternative to the Imperial Impulse

The main idea at this stage of my argument is that taming the imperial impulse is both necessary for and possible through the self-determination of global citizens,⁴ protected under the rule of law and universal human rights. Making empire unimaginable is a more genuinely universal option today because it actually takes the idea of a global humanity seriously. This line of thinking is of course not new, as illustrated by the massive and sustained decolonisation process, global solidarity through the non-alignment movement, and the struggle for a New Economic Order at the UN and other international institutions during the mid-20th century.⁵ While debates about the success and/or failure of those initiatives continue, I see them as part of an evolving process of “incremental success” in the longer term. I also see the proposed analysis of taming of the imperial impulse as supportive of those trends through the promotion of the rule of law, embedded in appropriate normative and institutional resources, but ultimately founded on the agency and political will of human beings around the world.

It seems to me that there are two main paradigms in discussions about empire. On the one hand, some policymakers and scholars, such as Ferguson and Kagan discussed earlier, attempt to justify empire as necessary for the vital interests of the imperialists, maintaining a peaceful world order, or legitimated by benign

concern for its victims. This latter view persists today in calls for so-called “humanitarian intervention” or more recently “responsibility to protect”.⁶ If this recent concept refers to the responsibility of states to protect their own populations, it is simply reaffirming an established principle. But if it is a claim to legalise humanitarian intervention by other states,⁷ this could easily be a pretext for imperial ambitions, unless such intervention is conducted by the international community at large, acting collectively through the UN or similar institutions. It is true that neither international law nor the UN is democratic and effective enough. However, the scale and scope of participation in these institutions make them good candidates for a global rule of law. We should use these resources to the extent they can advance the purposes of the rule of law and peaceful mediation of conflict, while striving to overcome whatever limitations or problems we have with them.

I do appreciate that drastic humanitarian crises require concerted action to protect victims, but that cannot be achieved through military intervention by one or a few states acting on their own initiative outside the framework of international law and institutions.⁸ As we have seen most recently by contrasting the aggressive intervention in Iraq with the failure to act on Darfur, Sudan, such claims will not only be selective, arbitrary, and unsustainable, but also counterproductive for those they claim to save and protect. The only legitimate and sustainable way to protect victims and hold perpetrators accountable is through multilateral and institutional action by the international community as a whole. Whatever political will and resources any state is willing to devote to protecting victims around the world should be directed at enhancing collective institutional action through the UN. I am strongly emphasising this point because I fear that ambivalence about unilateral and extra-institutional so-called humanitarian intervention or duty to protect will diminish the prospects of ever building the normative and institutional resources for the rule of law.

The second paradigm, to be found among some strands of anti-colonial scholarship, seems to focus too much on the volition of imperial powers, the colonial political economy, and western interests.⁹ For my part, I would rather emphasise the will and agency of global humanity instead of crediting imperialists with ultimate power and authority over national and international affairs. The point I am making here is not only that massive self-determination everywhere makes it difficult to understand power relations in traditional imperial terms, but also that the imperial impulse operates at all levels, within and among local communities, as well as nationally and globally.

Imperial aggressors, whether local or external, must bear full responsibility for their actions, but they should also be assisted in taming their own fears, insecurity and immaturity. We should try to understand where the imperial impulse is coming from, and why people find it appealing to be able to tame it. We must also give people a credible alternative in the rule of law that is neutral and fair as much as humanly possible before we can expect them to give up on violence and aggression. This view does not condone imperial aggression, or naïvely assume that aggressors are only helpless victims of their overwhelming fear and

insecurity. Aggressive motivations are often mixed, and claims of self-defence or protection of “vital national interests” are usually rationalisations rather than true justifications. The point is that the fear and security concerns of the aggressor should be taken seriously to either address those concerns, to the extent they are true, or challenge them, if they are used as a pretext. I take this position as a matter of principle out of respect for the dignity and well-being of all human beings, as well as out of the pragmatic need to gain the trust and cooperation of those I believe to be aggressors. Regardless of what I think of the alleged justifications of the imperial impulse, the question for me is how to understand the rationale of the imperial impulse in ways that make empire unimaginable and imperial ideology unsustainable.

There are two sides to the objective of making empire unimaginable. First, since the logic of empire tends to emphasise power, the first side of the argument should demonstrate a significant shift in power relations in favour of self-determination, and show how this trend is working in practice today. I prefer to give priority to this side of the argument to reflect the potential and rationale of self-determination itself, instead of relying on moral appeals to imperialists to refrain of their own accord. The thrust of my argument on this side is to demonstrate the futility of imperial ambitions for their own purported rationale in the face of determined and highly motivated resistance. There are many experiences since the mid-20th century that support the mounting efficacy of this trend, from the great non-violent movements of the past – Gandhi, Martin Luther King, Jr, and the global anti-apartheid campaign for South Africa – to environmental, human rights and social justice movements across the world today. The capacity for just and effective self-government is an integral part of self-determination, but I am more concerned here with the aspects of the concept that emphasise resistance to the imperial impulse.

The second side of the argument is to shift the paradigm in a way that addresses the assumptions and concerns of imperial ideology. The purpose at this stage is not to accept such claims at face value or take them as politically innocent, but to show that whatever validity they may have can be responded to in a different, even more effective way, than through the imperial impulse. This is what I call re-conceiving *realpolitik*. I believe that this paradigm shift has already led to ending European colonialism in Africa and Asia, racial segregation in the us and apartheid in South Africa. This shift can also be seen in the evolution of the European Union (EU) out of the horrors of the world wars. The imperative of re-conceiving *realpolitik* is also seen in the total futility of the imperialist response of the us to the terrorist attacks of 11 September 2001. The illegal, immoral, reckless and utterly counterproductive invasion of Iraq by the us and its allies in 2003 is the more obvious example here. But let us take the “harder case” of Afghanistan where the us as the world’s leading military and technological power has been held to a complete stalemate for almost a decade now by the resistance of the population of one of the least developed countries in the world. After all the death and destruction the us and its allies have inflicted on the people of Afghanistan since the invasion in October 2001, in addition to the human and material costs to its own people, the

us has been unable to even define what victory means in Afghanistan in 2010, let alone achieve it.

In the final analysis, however, a pragmatic alternative to the imperial impulse has to contend with the common perception that imperial imposition and military force are effective in achieving security and prosperity. As Sharon Welch has observed, “The reasons for resorting to military force are simple and not merely thoughtless arrogance and deeply ingrained bellicosity. People are responding to danger with the tools they have. While we may be able to imagine alternative responses – the use of international mediators, an international court, and so forth – these responses lack the known status and evident power of military forces” (2004: 160). This belief in the efficacy of the use of force and the imperial impulse are mutually re-enforcing notions, as if to say, I need to dominate others to protect my security and keep the peace in the face of risk of the use of force by others. It is true that reliance on the police and other law enforcement agencies is commonly taken as a viable alternative to self-help and vigilante justice, but this assumes or presupposes confidence in the belief that such official agencies are genuinely concerned about the safety and well-being of the community. Conversely, “self-help” remains endemic among people who feel ostracised or targeted by aggressive forces, whether as individuals, local communities or national populations.¹⁰

I appreciate the apparent credibility of this perception, but wonder whether “the known status and evident power of military forces” noted by Welch do support the claims of imperial ideology. As briefly illustrated with the case of the us in Iraq and Afghanistan, the imperial impulse will probably diminish the security and material well-being of those who act on it in the present global realities of self-determination and possibilities of the rule of law at all relevant levels. Thus, I agree with Welch when she continues her above observation to say, “What is most needed now is not a mere denunciation of militarism. We can do far more. We can strengthen other institutional forms of response to terrorism and violence and make them more useful and usable. We can also be deeply grateful that these other forms of response do not need to be invented. Our task is to nurture the seeds of what is already in place” (2004: 160). I agree and will now try to briefly clarify what this might entail.

Normative and Institutional Resources

I believe we already have the sufficient normative and institutional resources to effectively begin taming the imperial impulse, though the task requires further development and more consistent application of these resources over time. Recalling the multifaceted levels of the working of the imperial impulse I am emphasising, from the local to the national and the global, I will highlight these resources in terms of constitutionalism at home and international law abroad. The two levels are of course interactive and mutually supportive. For instance, human rights and humanitarian law obligations arise under international law, but their practical application depends on national practice.

Briefly stated, constitutionalism is a framework for the mediation of certain unavoidable conflicts in the political, economic, and social fabric of every human society. This proposition assumes

that conflict is a normal and permanent feature of human societies, and defines constitutionalism in terms of being a framework for mediation, rather than permanent or final resolution of such conflicts. But since struggles over power and resources cannot be practically mediated by all members of any society, there has to be some form of delegation from those who, as a practical matter, cannot be part of the daily and detailed processes of administration and adjudication. At the same time, however, those who have to delegate to others also need to ensure that their interests are served by this process by participating in the selection of delegates as well as in holding them accountable to ensure that they act according to the terms of delegation. These pragmatic considerations underlie the basic constitutional principles of representative government, including bureaucratic aspects of democratic administration of public affairs, which is fully accountable to its citizens.

For the appropriate processes of constitutional governance to work properly in each setting, the general population must be able and willing to effectively exercise its powers of delegation as well as holding public officials accountable, whether elected or appointed. There are many aspects to such ability and willingness, some relating to the population while others pertain to the government and its organs, or the conditions of the interaction between the two. On the first count, for instance, the population at large must be capable of exercising intelligent, well-informed and independent judgment about the ability of its representatives and officials to act on its behalf, and to verify that they do in fact act in accordance with the best interest of the population. The public must also have the capacity to challenge and replace those who fail to implement its mandate. To ensure and facilitate a wide range of operations and functions of democratic government, all citizens must enjoy certain individual and collective rights, like freedoms of expression and association, access to information and effective remedies against excess or abuse of power by official organs. But in the final analysis, the best principles and mechanisms of constitutional governance will not operate properly without sufficiently strong civic engagement by a critical mass of citizens.

There are many aspects to constitutionalism that may be relevant to the issue at stake but all are not possible to discuss in detail this limited space.¹¹ The most critical aspect of constitutionalism we should note here, however, is a sufficiently strong civic engagement by a critical mass of citizens. This includes the motivation of citizens to keep themselves well-informed in public affairs and to organise themselves in non-governmental organisations that can act on their behalf in effective and sustainable ways. People are unlikely to assert and pursue avenues of accountability and redress without the material and human resources as well the psychological and cultural orientation to do so. Public officials and the agencies and institutions they operate must not only enjoy the confidence of local communities, but also be familiar, friendly, and responsive when approached. This is the practical and most foundational meaning of popular sovereignty, whereby a people can govern themselves through their own public officials and elected representatives. Constitutionalism is ultimately concerned with realising and regulating this ideal in the most sustainable and dynamic manner possible, whereby the

combination of theory and practice of this concept is capable of ensuring self-determination now and responding to changing circumstances in the future.

The possible working of constitutionalism as a set of normative and institutional resources for taming the imperial impulse at the domestic, "national" level may be briefly explained as follows. As noted at the beginning, the imperial impulse is the tendency to dominate and exploit others, and the idea of taming refers to making this tendency unjustifiable in theory and untenable in practice, whenever and to the extent that it influences acts of domination and attitudes that authorise and legitimise such action. Moreover, since the imperial impulse is manifested in an *act* of domination, as authorised and legitimised by an *attitude* or ideology, taming strategies should address both aspects, though probably in reverse order. That is, while the domination scenario normally starts with an attitude that is then expressed in an act of domination, the taming may first apply to the act and in that way undermine and diminish the legitimising attitude or ideology as it continues to fail to support action. By pre-empting acts of domination of individual persons and/or groups and communities through various safeguards, like the limitations and separation of powers of officials of the state, and providing for effective remedies through judicial enforcement and political accountability when violations are committed, constitutionalism should limit the incidence of domination and exploitation. Moreover, the deliberate development of strong civic engagement by a critical mass of citizens, as explained earlier, should over time undermine and diminish imperialistic attitudes. Of course, there is no guarantee that constitutionalism will succeed in playing this role, but there are no guarantees of anything, good or bad, in life. The best we can do is to promote the norms and institutions and encourage people to use them in realising their own self-determination and liberation. It is also up to people to correct whatever deficiencies or limitations they find in their normative and institutional resources to better realise their own objective. To expect other people to liberate us from domination and exploitation is a contradiction in terms.

Turning now to issues of the rule of law in international relations, I argue that international law is an indispensable means for realising the universal ideals of peace, development, and the protection of human rights everywhere. For international law to play its role in realising shared ideals of justice and equality under the rule of law for all human beings, it must be both truly international and legitimately law. It has to be equally accepted and implemented by all human societies, not something that some can choose to ignore while others are required to observe. From this perspective, the issue cannot be framed in terms of the so-called "West" being the primary author of international law and assumed to be fully conforming to its principles and underlying values, while the rest of the world is assumed to be struggling to subscribe to and comply with them.

Although there have historically been several parallel systems for regulating interstate relations, present conditions of global integration and independence seem to require a single system. That is, there can be some specialisation in this single system, such as in the fields of trade, human rights or humanitarian law,

but it is no longer feasible or desirable to have completely separate systems operating regionally or thematically. But international law cannot be limited to the European system of interstate relations that evolved since the 18th century, which was simply a regional system, like the Chinese, Hindu, Roman and Islamic systems that preceded it. The fact that European powers managed to extend the domain of their regional system further and more completely than any of the earlier imperial powers does not make it truly international. After all, that parochial European system justified the military conquest and colonisation of much of Asia, almost all of Africa, and other places on the basis of European conceptions of sovereignty and legality. The vast majority of the people of Africa and Asia had no possibility of being true subjects of international law until the decolonisation process after second world war. Native populations of the Americas and Australia are unlikely to qualify as subjects of traditional international law because the European colonisers of their historical territories would not recognise their "sovereignty" in European terms.

Process of Correction

The history and consequences of traditional "European" international law cannot of course be changed overnight, but the process of correction has already been under way for several decades now. From this perspective, I take international law to mean the legal system and institutions that have evolved since the end of the second world war, especially through the UN and the decolonisation process of the second half of the 20th century. It is only during this phase of decolonisation that international law became the legitimate legal framework for recognition of national sovereignty and territorial jurisdiction throughout the world, including all Islamic countries. Earlier, international law was not truly international not only because it excluded the colonised people of Africa and Asia, but also because it legitimised colonialism itself. The present system of international law has also become the legal and institutional framework for international relations in a much wider range of matters, from highly politicised issues of international peace and security to countless routine yet essential daily transactions, in such fields as health, postal services, trade, travel and the environment.

Accordingly, I take the UN Charter of the 1945 to be the most authoritative normative framework of international law we have so far, though it is certainly not sufficient for addressing some of the fundamental challenges facing the prospects of international legality today. The UN Charter is foundational not only as the most widely binding treaty that establishes a viable institutional framework for realising the fundamental purposes and rationale of international law, but also because of its commitment to self-determination and the equal sovereignty of all the peoples of the world. It follows from this premise that the use of military force is not allowed except in accordance with the Charter – in self-defence under Article 51, or when sanctioned by the Security Council under Chapter VII. It is imperative, in my view, that there cannot be any possibility of lawful use of force beyond those two grounds, whether claimed as "pre-emptive self-defence", "just war" or Islamic jihad. My point here is not simply that it is illegal to use military force beyond the strict limits of the UN Charter,

but also that the illegal use of force undermines the possibility of the rule of law in international relations.

Moreover, to achieve its objectives and rationale, this limitation on the use of force must apply with categorical consistency to all states, equally. I do not see any moral, political, or practical difference between international terrorism in the name of Islamic jihad, on the one hand, and the so-called pre-emptive self-defence or humanitarian intervention claimed by the US in Iraq, on the other. Both are instances of "self-regulated" use of force outside the institutional framework of the UN, which are so inherently arbitrary and unaccountable that they undermine the very possibility of international law. It is true that we need to find ways of extending the application of international law to so-called "non-state actors", like the Al-Qaida or Somali pirates off the coast of east Africa. However, it is not possible to redress this situation unless international law is consistently observed by states as its primary subjects. It is futile for state actors to demand observance of international law principles by non-state actors when states themselves are unwilling to abide by those principles in the first place.

As a general rule, states do in fact comply with the vast majority of international law norms, for the same sort of reasons people have for obeying any legal system, such as self-interest and fear of retaliation by others. In particular, the clear limitations of the military or economic power of all states, big and small, mean that all of them have to rely on international legality for their own survival. Events like the terrorist attacks of 11 September 2001 clearly show that even the most powerful states are vulnerable to the arbitrary action of individual international terrorists for whose crimes no state can be held accountable under traditional international law. I would therefore conclude that it is both dangerously unrealistic and unnecessarily limiting to focus exclusively on "state practice" as the primary source of international law unless we are all willing to hold all states accountable for their failure to respect the fundamental principles of international law as a whole.¹² For example, it is illusory to emphasise traditional notions of exclusive territorial jurisdiction unless all states are held accountable to the same principles. Take the example of international criminal charges by the prosecutor of the International Criminal Court against Omar Hassan al-Bashir, the president of Sudan, for his alleged responsibility for crimes of war and crimes against humanity during the Darfur civil war. I support this initiative because it seeks to hold high officials accountable for their actions, provided this principle is applied consistently in all such situations, from Israeli responsibility for violation of humanitarian law in Gaza in 2009, to the US for its illegal invasion and occupation of Iraq in 2003.¹³

As noted earlier, although human rights and humanitarian law obligations arise under international law, the practical application of these principles depends on national practice. This "division of labour" is unavoidable for the time being because coercive external enforcement will violate the fundamental principle of national sovereignty as the current legal and political expression of self-determination. Space does not permit much discussion of these issues, but here is what I need to emphasise on this subject.

The idea that all human beings are entitled to the same fundamental rights without any distinction on grounds such as race,

sex or religion remains as challenging to all human societies today as it was when first proclaimed in the Universal Declaration of Human Rights (UDHR) of 1948. This idea tends to contradict the common human impulse to either discriminate among people in terms of these attributes, or expect them to conform to our own ethnocentric and uniform notion of a universal human being. Universal values, like those affirmed by human rights norms, do not exist in the abstract to be discovered or proclaimed through declarations and treaties, as we all tend to perceive such values through the relativity of our own cultural and contextual world view and experience. If universal values are to exist at all, we have to construct them through debate and action.

In this consensus-building process, we all need to engage culture and religion and appreciate the relevance of local context in promoting respect for human rights everywhere in the world. We should also note that dialogue is a two-way street. If we are not prepared to be persuaded to change our minds about an issue, we should not expect others to do it. There must be good faith and respect for dialogue to work. In particular, we should appreciate that culture and religion are inherent to any conception of human rights, but that conception does not become universal until accepted by others. This is as true of so-called western conceptions of human rights as it is of any other conceptions from the rest of the world. No society, whatever its cultural and religious orientation has an inherent universal understanding of human rights, while the rest of the world is purported to be struggling with cultural or religious relativism. We are all relativists, shaped by our culture, religion, and context, and there is no “universal human being”.

The consensus-building process I mean is particularly important for most people around the world in view of strong memories of the colonial discourse of “the white man’s burden”, the idea that European societies are already enlightened and are invading other peoples to “civilise them for their own good”. This concern can be addressed through multilateral and institutional action, instead of unilateral and extra-institutional intervention. The more states from all regions of the world work together through the UN, the less likely it will be that others will see that as advancing the imperial interests of the intervening powers. I realise that there are many problems with the UN, structurally as well as operationally. However, the imperative is to correct those faults, instead of using them as an excuse for unilateral action. For all its faults, the UN is our best multilateral, institutional organ for the protection of human rights, and we are unlikely to do better through extra-institutional unilateral action because that imperial mode is counterproductive and futile.

Finally, I would note that although the human rights paradigm is an extremely useful and necessary project, it is only part of a wide range of approaches and strategies for sustainable development, and economic and social justice at home and abroad. By this I mean the development of networks of local and global civil society to address shared concerns such as protecting the environment; protecting the rights of particularly vulnerable groups, such as refugees and migrant workers and their families; and promoting the safety and well-being of children and women in situations of armed conflict or civil strife. Such strategies are to be pursued with national governments at home and through

inter-governmental institutions that implement the collective will of member states. Inspiring and successful examples of what I mean are experiences in self-liberation, like Gandhi’s non-violent struggle for the independence of India, Martin Luther King, Jr in the civil rights movement in the US, and the velvet revolution against Soviet imperialism in eastern Europe. The key element in all the cases was the ability of so-called “ordinary people” to contest violence, oppression and injustice without using violence themselves (Vinthagen 2009: 161-62). “Non-violent direct action has been used throughout the 20th century as a means of projecting immense political power. It has been employed to secure independence, establish rights, open up closed systems, prevent military coups d’état, resist military occupations, and create new democracies or preserve old ones” (King 1999: 1).

In concluding this section, my argument does not overlook the apparent plausibility of the unilateral use of force and other means available to sovereign states to protect themselves and advance their own conception of national interest. Instead, I argue that these vital concerns are better served by the rule of law and protection of human rights than through self-help and imperial imposition. The choice is not between self-help and helplessness, but between arbitrary unilateral self-help, on the one hand, and collective and institutional self-help through the rule of law, on the other.

Concluding Remarks: Realpolitik of Moral Choice

The underlying message of this article is about the moral choices we make and follow through with – do we concede the imperial impulse and stay with our history of vicious cycles of aggression and resistance, or do we seek to tame the imperial impulse to achieve a future of peace and justice? The cost of the first choice has always been excessive but may well have become too high for us to afford in this age of weapons of mass destruction and nuclear proliferation. The requirements of the second choice may also be difficult to fulfil, but I do believe that we have sufficient normative and institutional resources to succeed if we can summon the moral courage to try. It is also clear, however, that there is little value to moral condemnation of the imperial impulse without providing concrete normative and institutional resources for taming the imperial impulse. For this balance, I am calling for re-conceiving realpolitik.

The term “realpolitik” in German means “the politics of reality”, the end of which is to promote the security of the state, instead of attempting to promote abstract religious or humanitarian objectives. The negative connotations of the term realpolitik are due to some of the ways in which its legitimate purpose (security of the state) is defined, rather than inherent to the concept. Instead of encouraging war and expansion, realpolitik promotes pragmatism and moderation, and cautions against grand designs of power that can easily become counterproductive. Even in its traditional sense, the idea of realpolitik is to serve the true security of the state by adjusting goals and strategies, building resources and seeking a balance of power with adversaries. The proper use of realpolitik rationale, based on realistic assumptions, is unlikely to lead to aggression. Legitimate concern about miscalculations, limitations and bias of leaders should militate against exaggerated objectives.

An instructive illustration of the possibilities of re-conceiving realpolitik can be seen in the shift in the position on nuclear weapons by George P Shultz, William Perry, Henry Kissinger and Sam Nunn,¹⁴ who are now advocating the elimination of nuclear weapons (Shultz et al 2007). As Kissinger said in an interview on National Public Radio, "The classic notion of deterrence was that there were some consequences before which aggressors and evildoers would recoil. In the world of suicide bombers, that calculation doesn't operate in any comparable way." Nunn said in the same interview, "We're now in a race between cooperation and catastrophe, and unless we accelerate that cooperation now, obviously, the dangers are going to grow." Shultz added, "Time is not on our side... And we shouldn't wait around for the us and Russia to further reduce our arsenals. It's not a us initiative. It's not a us-Russia initiative. It's got to take the aspect of a global enterprise."¹⁵ The paradigm shift in realpolitik I am urging is a difficult and complex process, but there is no alternative in my view. The implicit underlying claim of the proponents of the

status quo is that there is no alternative to the imperial impulse in national politics and international relations. As I have argued in this article, there is in fact a more viable and sustainable alternative, if only we are prepared to make the necessary moral choice and act accordingly.

In the final analysis, all human beings live by the moral and pragmatic choices they make, or fail to make, whether as members of ethnic, religious or other forms of community, as political actors or participants in social movements, and so forth. We are all responsible for our actions as well as for our omissions because we suffer the consequences whether we act or fail to act in the face of challenging circumstances. It is true that choices are often made in response or reaction to choices made by others, but there are always possibilities for making different choices, even when responding or reacting to choices made by others. However, it is unrealistic to expect people to make free moral choices without addressing their primary concerns for security and material well-being.

NOTES

- Hannah Arendt (1970): *On Violence* (San Diego: Harcourt Brace & Company), pp 39-40, quoting John Stuart Mill (1861), *Considerations on Representative Government*, Liberal Arts Library, p 59.
- See, for example, T O Ranger (1967), *Revolt in Southern Rhodesia, 1896-7: A Study in African Resistance* (London: Heinemann), p 231; A Boahen (1987), *African Perspectives on Colonialism* (Baltimore: Johns Hopkins University Press), pp 63-65, 67; F Cheru (2002), *African Renaissance: Roadmaps to the Challenge of Globalization* (London: Zed Books), pp 45-46.
- Britain invaded Sudan in 1898 in the name of recovering the country for imperial Egyptian rule, which had been overthrown by a Sudanese rebellion in 1885, but Britain also had its own imperial and economic motivations. Another British motive was exacting revenge for the death of General Charles Gordon, the British governor of Sudan for Egypt, who was killed by Sudanese rebels when they captured Khartoum in 1885.
- By global citizenship I mean multilayered and overlapping proactive membership of communities, from local through the national to the global. See Abdullahi Ahmed An-Na'im (2007), "Global Citizenship and Human Rights: From Muslims in Europe to European Muslims" in M L P Loenen and J E Goldschmidt (ed.), *Religious Pluralism and Human Rights in Europe: Where to Draw the Line?* (Antwerp-Oxford: Intersentia), pp 13-55.
- See generally, for example, Prasenjit Duara, ed. (2004), *Decolonization: Perspectives from Now and Then* (London, New York: Routledge); Vrushali Patil (2008), *Negotiating Decolonization in the United Nations: Politics of Space, Identity, and International Community* (New York: Routledge); Rikhi Jaipal (1987), *Non-alignment: Origins, Growth and Potential for World Peace*, 2nd edition (New Delhi: Allied); P N Agarwala (1983), *The New International Economic Order: An Overview* (New York: Pergamon Press); and Herb Addo, ed. (1988), *Transforming the World-Economy? Nine Critical Essays on the New International Economic Order* (United Nations University, Tokyo).
- On the recent development of this concept and its need for clarification, see Edward C Luck (2008), "The United Nations and the Responsibility to Protect", Stanley Foundation Policy Analysis Brief.
- See, for example, Stephen John Stedman (2007): "UN Transformation in an Era of Soft Balancing", *International Affairs*, 83, No 5, pp 933-938. For a contrary view, see Carsten Stahn (2007), "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?", *American Journal of International Law*, 101, No 1, p 102.
- See Mourtada Déme (2005), *Law, Morality and International Armed Intervention: The United Nations and ECOWAS in Liberia* (New York and London: Routledge), pp xi-xiii, 1-11.
- See, for example, Mahmood Mamdani (2009), *Saviors and Survivors: Darfur, Politics, and the War on Terror* (New York: Pantheon Books). I am not criticising Mamdani here because I appreciate that he was probably focused on the role of the western imperial impulse in response to the way the Darfur issue was presented in international relations and domestic politics in some western societies, especially in the US, at the time he was writing. I also know that he has strongly criticised the Sudan government and local factions in Darfur when addressing those audiences. However, I see the need to address different audiences separately as part of the problem, which can be overcome by the proposed analysis of taming the imperial impulse as a shared impetus for domination, whether within a national context as in the case of Darfur, or globally as with colonialism and neocolonialism. The same normative and institutional resources (highlighted in the next section) can protect local communities against abusive local elites even as they can work against external imperialism.
- It is not possible to provide reliable documentation of the human and material costs because accurate information is difficult to obtain and verify while the war continues at the time of writing. If we take the human costs of the invasion of Iraq as an indicator, we find that a study in the medical journal *Lancet* claimed more than 6,00,000 deaths in Iraq by 2006, only three years into that war. See the report about the study in David Brown (2006), "Study Claims Iraq's 'Excess' Death Toll Has Reached 655,000", *Washington Post*, 11 October. The project, Iraq Body Count, which tracks civilian deaths in Iraq, provides a figure of about 1,00,000 civilian deaths as of 2010. See <http://www.iraqbodycount.org/>.
- See, for example, Abdullahi Ahmed An-Na'im (2006): *African Constitutionalism and the Role of Islam* (Philadelphia: University of Pennsylvania Press).
- Under the current structure of international law, state practice is the basis of all its four sources, as formulated in Article 38 of the Statute of the International Court of Justice, which is generally accepted as the most authoritative statement of

the sources of international law. For the text of this Article, see, for instance, Barry E Carter (2009), *International Law, Selected Documents*, 2009-2010 edition (New York: Wolters Kluwer), p 36.

- I have made this argument in several articles. See, for example, "Why Should Muslims Abandon Jihad? Human Rights and the Future of International Law", pp 785-97; "Islam and International Law: Toward a Positive Mutual Engagement to Realize Shared Ideals", pp 159-66, Proceedings of the 98th Annual Meeting of the American Society of International Law (2004).
- Shultz was secretary of state from 1982 to 1989; Perry was secretary of defence from 1994 to 1997; Kissinger was secretary of state from 1973 to 1977; and Nunn is former chairman of the Senate Armed Services Committee.
- All three remarks were made in the programme "Documentary Advances Nuclear Free Movement" by Mike Shuster of National Public Radio, 27 January 2010.

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