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RESEARCH ARTICLE

Trust, Negotiation, and the Renewal of International Law: Towards a Relational Normativity

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Abstract

The erosion of international law is not unique in today's world. Its crisis of legitimacy is characterised by polarisation in world affairs, declining trust among actors on the international plane and competing claims to authority. Existing perspectives on international law and international relations explain this erosion only partially since they overlook the relational processes through which international law acquires meaning and binding force. This article introduces the Theory on the Relational Normativity of International Law (TORNIL), which reconceptualises the sources of international law's normativity as arising from the interaction of formal rules, moral values, and relationships— between actors concerned with and affected by its application and development—characterised along a continuum of trust and distrust. By operationalising this framework through the practices of principled negotiation, the article advances a relational understanding of international law's normativity and offers a pathway for rebuilding legitimacy and trust in global governance.

Keywords: relational normativity; relational governance; trust; negotiation; mediation; international law

1. Introduction

The international legal order is facing once again a profound legitimacy crisis. Polarisation in world affairs, declining trust among actors on the international plane and competing claims for authority have eroded the foundations of cooperation that sustained global governance. (Keohane, 2005; Bernhardt, 2014; Atapattu and Gonzalez, 2015). Once framed as a universal project of law and reason, international law now applies again in an environment of strategic rivalry, selective engagement, and mutual suspicion (Andornino and Caffarena, 2024; Spektor, 2024)—reminiscent of a divisive past during the Cold War and in the aftermath of the Global War on Terror (Joyce, 2019; O'Connell, 2004). Institutions that relied on a shared belief in impartiality and fairness increasingly appear partisan or obsolete (Gilmore, 2018). Competing visions of justice, sovereignty, and order no longer merely contest policy outcomes; they challenge the normative foundations of international law itself (Moyn, 2018). As these divisions intersect, the result is an international order abundant in rules yet impoverished in trust (Abbott et al., 2000; Alter et al., 2019). The challenge for international law is thus institutional, procedural, and ultimately existential: how can it sustain its authority when the relationships that once grounded its normativity have fractured along multiple fault lines?

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Existing scholarship on international law and international relations, i.e. positivism, liberalism, and constructivism, offers only partial answers to this crisis. Positivism secures normativity through formal consent to the application and development of international norms (Hart, 1961; d'Aspremont, 2011); liberalism pursues enhanced (functional) cooperation and procedural fairness to enable norms to restore their binding effect (Slaughter, 2005); constructivism seeks the convergence of shared beliefs as the basis for a common understanding on the content of international law (Wendt, 2012). Yet, each treats law as an external constraint acting upon autonomous, individual actors. They overlook how the quality of relationships, expressed in trust, recognition, and reciprocity, could constitute a distinctive source of the normativity of international law. In this regard, when these relational foundations are under strain, rules lose their capacity to bind, regardless of their formal legal validity or moral appeal. The present and the past crises of legitimacy therefore reveal the limits of an epistemological perspective that neglects the relational conditions upon which international law's binding force is grounded. Addressing this gap requires a relational understanding of international law's normativity, in which rules and values acquire their binding force through the relationships where international law is applied and developed so international law can live up to its potential to bind actors concerned with its application and development.

This article introduces the Theory on the Relational Normativity of International Law (TORNIL) as a new lens for understanding how international norms come into being, acquire binding force, and endure accordingly (Vanhullebusch, 2015, 2016, 2019, 2020, 2021a, 2021b, 2024). TORNIL rests on the premise that international law's normativity emerges from the interaction of three interdependent sources: the formal rules, i.e. treaties, international customs, and general principles of law (the first source), the moral values that underpin them (the second source), and the relational context shaped by patterns of interaction between different actors characterised on a scale of trust and distrust (the third source). Within this triad, the relational dimension functions as the mediating condition that translates legal obligation into genuine commitment. Law thus becomes a structure of norms embedded in a web of relationships whose quality determines whether rules command adherence or resistance. By integrating atomistic and relational epistemologies, TORNIL reframes international law as a dynamic process of co-creation in which its normativity depends as much on trust and recognition as on formal legal and moral foundations.

Beyond its theoretical contribution, the article seeks to operationalise this theory on relational normativity through the practices of principled negotiation (Susskind and Cruikshank, 1987; Fisher and Ury, 1991; Mnookin et al., 2000). Such a negotiation process aims to create the communicative conditions under which international law's relational foundations, and, thus, trust can be restored. Negotiation and assisted negotiation, i.e. mediation, show how rules-based governance can be enhanced when complemented by relational governance establishing the conditions necessary to facilitate dialogue, reciprocity, and fairness (Qin, 2011). By linking the normative and the procedural, TORNIL reveals that rebuilding the authority of international law requires more than revising doctrines or institutions. In doing so, it connects international legal theory with the practices of conflict management, diplomacy, and relational governance, treating them as integral mechanisms of rules-based governance through which international law's normativity is enacted and sustained.

The argument unfolds in the following four sections. Section 2 diagnoses the erosion of international law's normativity in an age of polarisation, tracing how trust deficits intersect with distinctive fault lines. Section 3 develops the TORNIL, situating it within broader epistemological debates about knowledge, order, and authority in world politics. Section 4 translates this theory into practice, drawing on negotiation and mediation as relational mechanisms that operationalise trust and reciprocity. Section 5 concludes by

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reflecting on the prospects for rebuilding the normativity of international law through sustained engagement across divides and fault lines aimed at restoring trust. The ambition of this inquiry is both analytical and normative: to reimagine international law's binding force as dependent on trustworthy relationships among actors concerned with and affected by the application and development of international norms and thereby to offer a pathway for restoring confidence in the international legal order so it can regain its legitimacy and capacity to govern.

2. The erosion of international law's normativity in a polarised world

Polarisation has become a defining feature of contemporary international relations, straining both interstate relations and the legitimacy of global governance institutions. Across political, economic, security, and humanitarian domains, cooperation increasingly gives way to strategic rivalry and selective engagement with international law and institutions. Institutions once regarded as custodians of the common good are now perceived as partisan, unrepresentative, or ineffective. The authority of these bodies, long dependent on a shared belief in their neutrality and universality, has been undermined by widening geopolitical, ideological, and moral tensions (Tallberg and Zürn, 2019). As mistrust between major powers and competing blocs seeps through multilateral frameworks, disputes that were once presupposed to be governed by a common normative foundation have turned into contests over the foundation itself. Competing narratives of justice, sovereignty, and authority fragment what had to be a coherent international legal order (Mearsheimer, 2019). The result is an international system in which legitimacy is contested at every level (i.e. from bilateral relations to global institutions), revealing institutional fatigue and estrangement alongside an erosion of international law's normativity (Krisch, 2021).

The present landscape of polarisation is sustained by a series of intersecting fault lines that undermine both cooperative behaviour among states and institutional legitimacy. The first is a geographical division marked by enduring asymmetries of voice and authority between the Global North and South. The second is a political division opposing liberal and authoritarian systems that advance conflicting visions of political authority and its limits. A third concerns methods of international engagement where multilateralism conflicts with unilateral approaches that privilege power over inclusion. A fourth is a value division reflecting contestation between claims of universality and the assertion of cultural relativism. Finally, a governance division has emerged between rules-based governance and more relational, context-sensitive understandings of governance.

The first fault line lies in the divide between the Global North and South. Rooted in the hierarchies of empire and consolidated through the institutional order established after World War II, this divide reflects persistent asymmetries of voice, authority, and material capacity to act on the international plane. While the principle of sovereign equality remains a cornerstone of international law, in practice it obscures structural inequalities in rule-making power and access to decision-making fora (Islam, 2015). States of the Global North continue to shape the agendas of global governance, defining priorities, procedures, and often the very criteria of legitimacy. For many nations in the Global South, this asymmetry reproduces rather than redresses the inequities of the past, sustaining perceptions of exclusion and dependence (Hofer, 2017). The result is a persistent tension between the promise of sovereign equality and the lived experience of marginalisation undermining recognition, representativeness, and fairness (Zürn, 2018, p. 185).

The asymmetries between the Global North and South are now most visible in the evolving landscape of global governance institutions (Lopez et al., 2020). Institutions created in the mid-twentieth century continue to reflect distributions of power that no

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longer correspond to today's realities. Calls for reform of the Security Council, the Bretton Woods institutions, and major trade bodies repeatedly meet resistance from established powers; thus, reinforcing perceptions of structural bias (Vestergaard and Wade, 2013; Weiss, 2016). In parallel, new regional organisations and multilateral frameworks, such as the Shanghai Cooperation Organisation, the Asian Infrastructure Investment Bank, and the BRICS, have emerged as venues to exercise greater autonomy over selected competences within their own regions, particularly in the domains of security and development (Salter and Yin, 2014). While this diversification of authority may democratise participation, it also multiplies arenas of norm production and interpretation, complicating coordination and consistency in the governance of transnational challenges and embedding the North–South tension across different legal and political orders (Stephen, 2017).

A second fault line runs through the competing visions of political authority that separate liberal and authoritarian-based orders. The international liberal order, founded in the West and grounded in constitutionalism, human rights, and rules-based governance, now faces states that define legitimacy through sovereign equality, stability, and non-interference (Ginsburg, 2020). These latter governments may seek to reorient the purpose of international law from protecting individuals to preserving state autonomy. International law becomes a language of defence rather than limitation, used to legitimise state power and to guard regime security against external conditionalities or threats (Koh, 2018). The liberal premise that authority derives from the consent of citizens and the protection of their rights thus confronts an authoritarian conception that locates authority in the collective will of the state in general and the ruling political party in particular. What emerges is a struggle over the political purpose of international law rather than its outright rejection (Sandholtz, 2019).

The divide between liberal and authoritarian-based orders now shapes the operation of global governance institutions and the behaviour of states within them. In human rights bodies, liberal democracies continue to promote accountability and individual protection, while authoritarian-oriented states invoke non-interference to protect their sovereignty (Lake et al., 2021). Voting alignments in the Human Rights Council, the redefinition of democracy assistance as external intrusion and opposition to value-based sanctions all reflect competing understandings of where legitimate authority resides (Vanhullebusch, 2024). The same dynamic surfaces in digital and information governance, where models of openness and control mirror rival visions of how state power relates to the public sphere. These practices express ideological divergence grounded in alternative conceptions of political authority: one resting on the autonomy of the citizen, the other on the prerogative of the state (Pohle and Thiel, 2020). As these opposing claims are translated into international institutional practice, the liberal-authoritarian tension becomes embedded in multilateralism itself.

A third fault line concerns the methods of international engagement through which states pursue cooperation and exercise influence, i.e. multilateralism, on the one hand, and unilateralism and mini-lateralism, on the other hand. Multilateralism, once regarded as the institutional expression of collective problem-solving, has come under strain due to functional and political pressures (Rosand, 2006). Decision-making within international institutions is often slow, distributive outcomes are contested, and legitimacy is undermined by perceptions of procedural inequality. In response, (powerful) states increasingly turn to unilateral action or to smaller, issue-specific coalitions, i.e. a form of mini-lateralism, that privilege efficiency and control over inclusive decision-making and problem-solving (Kassoti, 2022). These approaches promise greater responsiveness and autonomy but erode the reciprocity and procedural balance on which international institutions exercise their competences. They reveal a deeper paradox: mechanisms created to embed collective governance now generate incentives for selective engagement whenever common rules constrain national preferences to act independently. As a result,

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multilateral institutions defend their ideal of common governance while states recalibrate cooperation around expedience, capacity, and strategic interest (Flonk and Debre, 2025).

The tension between multilateralism and unilateral or mini-lateral alternatives is manifested in particular in the security domain. The campaigns waged under the banner of the Global War on Terror and the practice of humanitarian intervention revealed the limits of collective action under the UN framework: coalitions of the willing operated alongside or in the absence of Security Council authorisation, invoking contested morality and legality while bypassing institutional oversight (Finnemore, 2003). Similar dynamics are evident in trade and climate governance, where persistent gridlock in multilateral fora has prompted the proliferation of regional arrangements among like-minded states (Falkner, 2021). The management of global health crises has followed a comparable trajectory, with national and regional initiatives sidestepping international mechanisms whenever urgency or competition prevails (Gostin et al., 2020). As a result, inclusive decision-making makes way for pragmatic coordination between like-minded states, where authority is exercised based on the capability to commit and the consent among (few) willing actors. As such modes of engagement become more common, they render cooperation on transnational challenges ever more difficult.

A fourth fault line concerns the moral values that international law seeks to advance, i.e. peace, humanity, and accountability amongst others, and the foundations that give these values authority. These aspirations are shared across the international community, yet the belief that they possess universal validity has more than ever been challenged (Joyner and Dettling, 1990). Many states and societies regard the universalist project as the expression of a particular civilisational and historical experience, questioning its claim to constitute a neutral moral standard. Invocations of culture, religion, and tradition are used to defend different conceptions of dignity, community, and social order, asserting that legitimacy derives from specific moral contexts (Johansson Dahre, 2017). What appears as disagreement over particular norms thus conceals a division over the moral basis of rights and obligations under international law itself. When the moral grounds of such rights and obligations are in competition, their realisation is undermined and can deepen the distrust across the divide, in particular in the practice of global governance settings (Mushkat, 2002).

The tension between universalism and cultural relativism permeates contemporary global governance, most prominently in the domain of human rights. Mechanisms of human rights conditionalities, monitoring as well as naming and shaming are defended as essential to accountability but are often perceived as instruments of political pressure reflecting unequal authority (Anghie, 2005; Hopgood, 2013). Humanitarian interventions and sanctions justified on ethical grounds reveal similar ambiguities, where claims of universal conscience confront accusations of selectivity and double standards (Orford, 2003). In response, regional and civilisational initiatives have sought to articulate alternative moral vocabularies, such as through Asian values, the African Charter's emphasis on community and duty or the invocation of religious principles in global ethical debates. Contestation within institutions such as the Human Rights Council, particularly on issues of gender equality and women's rights, reflects this spectrum of diverging moral reference points (An-Na'im, 1990). The growing confidence with which states and regional actors invoke their own moral traditions has reshaped ethical perspectives on international law, embedding different conceptions of legitimacy in global governance institutions (Dukalskis, 2023).

A fifth fault line concerns the modes of governance through which international law is sustained, namely the tension between rules-based and relational governance approaches. The rules-based approach conceives governance as the application of general and impersonal norms, assuming that predictability and equality before the law safeguard fairness in an otherwise decentralised global system (Chesterman, 2008; Dugard, 2023;

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Cohen, 2026). The relational approach, by contrast, regards governance as an evolving process of interaction in which its legitimacy arises from context, reciprocity, and the maintenance of trust among actors concerned with and affected by the application and development of international law (Kavalski, 2017; Raftopoulos, 2018). International law, in this latter view, is a structure of rules whose meaning and authority depend on the relationships through which they are applied and developed (Qin, 2011, 2016). As interdependence deepens and legal regimes struggle to adapt to complex transnational challenges, the gap between these two orientations becomes increasingly visible. What is at stake is whether international law's capacity to govern depends primarily on compliance with universal rules and/or on the relational practices that give those rules their normative force.

The tension between rules-based and relational governance is reflected in the operation of international institutions and regimes. While the former rests on legal formalism and procedural equality, the latter builds on culturally grounded notions of harmony and reciprocity that view cooperation as dynamic relationships whose meaning develops through continuing interaction beyond a fixed (contractual) exchange. In parts of Asia, this relational ethos, traced back in Confucian traditions and elaborated in contemporary scholarship, frames legitimacy as informed by context, mutual accommodation, and the avoidance of open conflict (Chesterman, 2016). Similar tendencies appear elsewhere as institutional actors rely on dialogue, mediation, and confidence-building to preserve engagement beyond formal adjudication, such as in the context of the Association of Southeast Asian Nations (ASEAN). Peacebuilding, climate action, and development processes likewise reveal a shift from uniform rule application to more participatory and trust-based practices (Acharya, 2014). These developments show that rules alone cannot secure compliance or legitimacy without the underlying relationships that give them meaning, while preserving the continued importance of rules themselves (Huang and Shih, 2014). The coexistence of these two governance approaches thus exposes the challenge facing international law: reconciling formal legality and predictability with the dynamic relational conditions upon which the normativity of international law ultimately depends.

These five fault lines in contemporary international relations are reinforcing each other, and together they present a challenge to the legitimacy of international law. Geopolitical asymmetries between the Global North and South amplify ideological contestation between liberal and authoritarian-based order, while both are mirrored in competing moral vocabularies that challenge the universality of shared values (Acharya, 2017, p. 283). These ideological and normative disputes erode confidence in multilateral institutions, encouraging unilateral and selective forms of engagement with international law that in turn reinforce perceptions of exclusion and bias. Polarisation thus conditions how structural, ideological, and moral divisions continually reproduce one another. What connects these fault lines is the steady erosion of trust, i.e. the glue without which neither rules nor relationships can sustain the authority and normativity of international law.

The polarisation of the international order and the erosion of trust that accompanies it have undermined the binding force of international law to govern parties on both sides of the divide. Where legality once rested on confidence in shared purpose and mutual restraint, mistrust now defines both. The result is an order abundant in formal rules, yet compliance with them is weakened. Restoring the binding force of international law therefore requires more than institutional reform or procedural innovation; it calls for a relational reorientation that centres process, interdependence, and recognition as the conditions of its normativity. In this regard, international law's normativity must be understood as equally arising from the quality of relationships between different actors concerned with and affected by the application and development of international norms. Only by rebuilding trust within and among these relationships can international law

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recover its legitimacy and capacity to govern a multipolar world. The next section turns to this task: outlining a Theory on the Relational Normativity of International Law (TORNIL).

3. The theory on the relational normativity of international law

3.1. Towards an epistemological turn in the study of international law

The search for revisiting the sources of international law's normativity begins with an epistemological turn. To understand the conditions under which international norms operate or come into being, it is necessary to examine how actors on the international plane perceive and interpret the world they inhabit. The premises through which knowledge is organised shape what counts as legitimate, binding, or just. Accordingly, different epistemological frameworks give rise to distinct understandings of the world (Hirsch, 2015). By analysing the cognitive and cultural orientations that underpin these perceptions, one can better grasp why actors on the international plane respond differently to shared norms and, more importantly, how they might be able to work together despite those epistemological differences (Nisbett, 2003). Two broad epistemological frameworks can be discerned: one that explains reality through taxonomies and abstraction and another that interprets reality through relationships and context. Exploring their interaction reveals that revisiting the normativity of international law requires cultivating mutual understanding of the diverse ways in which reality and the norms governing it are known and sustained (Northrop, 1946; Nakamura, 1964).

The first epistemological orientation conceives knowledge as the outcome of classifying reality according to individual characteristics. It understands the world by isolating objects and actors from their environment, identifying their attributes and features and arranging them into general categories. Meaning thus emerges from differentiation and comparison, with less emphasis placed on the connections between different objects and actors. The validity of knowledge rests on its logical coherence and its presumed universal application. This mode of thought privileges the formulation of abstract principles detached from circumstance and context (Foucault, 1994). By emphasising separation between objects and their generalisation into categories, it offers clarity and order but risks overlooking the dynamic and situational dimensions through which understanding is continually reshaped. In distinguishing the parts from the whole, it fosters an outlook that values order through distinction, yet at the cost of obscuring their interdependence (Reed, 1997).

The second epistemological orientation conceives knowledge as emerging from relations and context. It understands the world as a dynamic field in which objects and actors connect with each other. Meaning arises through the shifting patterns of interdependence between objects and actors that unfold across time and space. Rather than formulating fixed universal properties, this mode of situational thought values adaptability and flexibility and pays attention to transformation within the surrounding dynamic environment (Hwang, 2006). Perception itself becomes comparative and adaptive, guided by permanent change and sensitivity to evolving context. Continuity, balance, and adjustment are treated as indicators of insight since knowledge is seen to mature through responsiveness to evolving relationships between objects and actors within a given environment. Because relationships evolve, meaning remains open and contingent, reflecting the dynamic changes within the world itself. In conceiving knowledge of reality as co-constituted through evolving relations, it privileges dynamism above abstraction (Moore, 1967).

An epistemological orientation shapes both personal conduct and the organisation of social life. Individual thought processes encourage people to perceive themselves as autonomous agents acting independently from their surroundings. Their decisions and

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conduct are guided by calculation and internal reasoning, steering behaviour that values self-direction, consistency, and personal responsibility. In collective life, these habits of thought translate into institutional arrangements that prioritise competition, efficiency, and clearly defined roles (Triandis, 1995). Social interaction is mediated through formal procedures and normative expectations designed to protect independence and regulate coexistence. Such a framework strengthens initiative and accountability, yet it also limits responsiveness to others and reduces cooperation to the coordination of separate interests. As taxonomies of reality are translated into the social realm, individualism becomes the organising principle of society. The resulting pattern mirrors its epistemological source, namely a social order built on boundaries and distinction sustained by the belief that social stability depends on the autonomy of subjects (Cousins, 1989).

A relational epistemological orientation also shapes human conduct and the organisation of society. Relational thought processes lead individuals to understand themselves as parts of a larger whole, whose identity and choices gain meaning through connection with others. Accordingly, behaviour pays attention to context and seeks to preserve the maintenance of harmony within a complex web of relationships (Chen and Starosta, 1997). Action is therefore situational, oriented towards preserving balance within the respective relationships. In collective life, these habits of thought give rise to social structures that privilege consensus, reciprocity, and mutual accommodation of interests over competition (Yeh, 2010). Institutions operate through dialogue and shared adjustment valuing cohesion. Cooperation is sustained not by strict rules but by the continuous renewal of trust and recognition among actors. As perceptions of interdependence are translated into the social realm, communitarianism becomes the organising principle of society, namely an order grounded in relationships and sustained by equilibrium rather than by the realisation of individual pursuits (Hsu, 1981).

Both epistemological orientations reveal partial yet complementary ways of understanding the world. Analytical reasoning offers clarity, stability, and precision; relational cognition privileges sensitivity to context, adaptability, and balance. Each alone captures only one aspect of the human condition, namely the need for order and the reality of interdependence. In practice, societies and institutions continually move between these poles, translating moments of individuality into cooperation and moments of connection into renewed differentiation. The challenge lies in recognising the interdependence of both modes of order. Revisiting these orientations as complementary ones as opposed to competing ones opens the way for rethinking how actors, individually and collectively alike, make sense of their place in the world. Such a question must be and has been equally raised in theories and practices of international relations.

3.2. Towards a relational outlook on international relations

When transposed into the study of international relations, epistemological orientations become templates for imagining the international order itself. On the one hand, an atomistic perspective drawing from individual thought processes conceives international order as a condition engineered through institutions, rules, and rational control. On the other hand, a relational perspective drawing from relational thought processes interprets international order as an evolving process sustained through reciprocity and trust among interdependent actors. The former locates order in design and hierarchy; the latter in adjustment and continuity. These orientations shape how scholars theorise international order as well as how states and institutions enact it differently. Patterns of diplomacy, alliance, and governance reflect underlying assumptions about what makes the world coherent; whether equilibrium arises from the management of independent units or from the cultivation of their mutual relations. Exploring these differing imaginations of order

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reveals how epistemology quietly organises international practice, transforming modes of knowing into distinct logics of international relations.

Traditional international relations scholarship focuses on explaining the conduct of individual actors on the international plane. Such behaviour either contributes to or contests international order. Realists view order as the precarious outcome of power equilibria or domination, namely the imposition of restraint by the strong upon the weak to prevent anarchy (Jervis, 1998). Liberals interpret it as the product of functional cooperation, institutional design, and mutual gain (Moravcsik, 1997). Constructivists, in turn, locate order in the convergence of shared beliefs and social norms that align expectations among individual actors (McCourt, 2016; Minatti, 2024). Despite their differences, all three traditions rest on the assumption that international order, or the absence thereof, can be explained by reference to the behaviour of self-contained actors governed by interests, incentives, or identities. Order becomes an external arrangement to be imposed, engineered, or maintained, while the quality of interaction between actors remains outside the explanation of how international order evolves (Brunnée and Toope, 2010). It remains a site of control with limited attention to the relationships through which order is sustained.

By contrast, a relational conception of international order begins with the quality of the relationships among actors, characterised on a scale with trust and distrust on each side of the spectrum. It understands stability as the (temporary) outcome of an ongoing process of interaction and adjustment between the different actors concerned. As Qin observes, order emerges through the continuous negotiation of socio-political arrangements that manage complex relationships within a given community, allowing members to act reciprocally and cooperatively as mutual trust develops through shared understanding over norms and values (Qin, 2011, p. 133). Raftopoulos likewise notes that by managing diverging and converging interests and values, diplomatic negotiation can generate a relational regime of common interest operating pluralistically (Raftopoulos, 2018, p. 9). In this sense, harmony transforms relationships through sustained engagement amongst actors. Order becomes a dynamic field of relations co-constituted through dialogue, reciprocity, and shared moral values.

Within a relational outlook, the stability of international order depends on the trust that sustains relationships among its participants. Trust functions as the medium through which reciprocity and cooperation become possible. Because trust is relational, it cannot be decreed or enforced; it develops gradually through consistent interaction that allows expectations to converge and uncertainty to recede (Hoffman, 2002). It is nurtured through responsiveness, transparency, and reliability of mutual expectations over time. Building or restoring it requires sustained investment: time, resources, and emotional restraint that signal commitment to the relationship itself. The ability to maintain and rebuild trust therefore becomes the decisive measure of a resilient relational order, namely one that is grounded in continuity, interdependence, and shared commitment (Keating and Ruzicka, 2014). Yet trust remains inherently fragile and is vulnerable to misperception, coercive action, or the asymmetrical exercise of power (Krisch et al., 2026). Once confidence collapses, order gives way to suspicion and disengagement. Even the most elaborate institutional and normative frameworks lose their capacity to command adherence and often precisely because of them (Elhardt, 2015).

In this regard, rules-based governance, when detached from context, reflects the persistence of an atomistic perspective. It assumes that order can be engineered through abstract norms applied uniformly to individual actors, irrespective of the underlying relationships that define them. By treating law as an external constraint, this approach privileges predictability and control. Its formalism, however, conceals the lived reality of international relations, which is relational (Jackson and Nexon, 1999; Odysseos, 2007). When rules ignore these conditions, they risk hollowing out the trust and legitimacy on

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which their compliance ultimately rests. As Qin notes, rules and institutions should serve to harmonise relations, acquiring meaning when embedded in processes that sustain mutual recognition and accommodation (Qin, 2010, p. 138). If applied rigidly or instrumentally, they fracture cooperation and transform international law from a framework of shared understanding into a mechanism detached from reality, alienating actors on the international plane and in the long run eroding its very normativity.

Both rules-based and relational outlooks reveal partial yet complementary ways of sustaining international order. Rules provide clarity, predictability, and coordination; relationships instil them with adaptability, legitimacy, and trust. Each alone captures only one dimension of global order. In practice, international society continually moves between these outlooks. The challenge lies in recognising the mutual interdependence of both orientations. The durability of rules depends on the relationships in which they are embedded, just as relationships require normative frameworks to endure beyond their given contexts. Revisiting these orientations as mutually supportive opens the way for re-examining how norms acquire authority and meaning in international relations; an enquiry which the TORNIL takes forward.

3.3. Towards a theory on the relational normativity of international law

If order on the international plane rests both on rules and on relationships, then the question arises whether the normativity of international law itself must also be understood in relational terms. The TORNIL addresses this question by reconceptualising international law's normativity as emerging from the interaction of three interdependent sources: the formal rules of international law (the first source), the moral values that underpin them (the second source), and the relationships through which they are applied and developed (the third source). Within this latter context, trust functions as the mediating condition that converts legal authority into genuine commitment, anchoring the normativity of international law in the quality of interaction among different actors concerned with and affected by the application and development of international norms. Accordingly, rules-based and relational governance operate in complementary ways to ensure that international norms can resort their binding force.

Traditional approaches to international law explain its normativity through two distinct sources. Positivism identifies the first source in the formal structure of rules: treaties, international customs, and general principles of law derive authority from the consent of states and the coherence of the international legal order itself (Schachter, 1968; Schauer, 2017; Thirlway, 2019). The International Legal Process school advances a second source grounded in the moral and political values that inform the creation and interpretation of international rules (Koh, 2005; O'Connell, 1999). While they enrich the understanding of how international law binds, they share an atomistic premise, namely that authority originates and resides outside the web of relationships through which international law operates. Positivism secures order through form; the process school, through purpose. Yet neither fully accounts for the contextual conditions that allow these sources to function. Detached from the relational settings in which norms acquire meaning, they portray international law as acting upon autonomous units, with limited attention to how it arises among and applies to interdependent actors on the international plane.

In contrast to the atomistic epistemology that traditionally conceives international law as acting upon autonomous units, the relational approach to international law advanced here identifies a third source of its normativity, namely one rooted in context where international law is created, interpreted, and applied through a complex web of relationships. In this view, international law's normativity arises from rules, the values that underpin them and the quality of interaction among actors characterised on a scale of trust and distrust. Meaning and commitment to international norms emerge through

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recognition, reciprocity, and trust cultivated over time. Context thus becomes more than a setting for international law's operation: it is a constitutive source of its binding force. Within this relational field, trust allows rules and values to gain normative force. TORNIL therefore reframes international law as a relational practice in which the normativity of rules and values depends on the relational soil that nourishes them. Accordingly, the interdependence of the three sources therefore provides a basis for understanding the authority of international law and the conditions under which its normativity erodes or strengthens. In this sense, rules-based and relational governance constitute complementary modes of governance in the same normative process (Vanhullebusch, 2018, pp. 55–56).

TORNIL, however, faces certain methodological limitations. First, the relationships it identifies as a source of international law's normativity are difficult to delineate and measure. They operate across multiple spatial and temporal scales and their boundaries shift as actors change and contexts evolve. This over-inclusiveness complicates any systematic assessment of how such relationships contribute to international law's binding force. Second, TORNIL's reliance on trust as a principal variable introduces further uncertainty. Trust is an inherently indeterminate condition. It is contextual, dynamic, and often beyond external observation. Measuring how and when trust emerges, endures, or collapses depends on insights into diplomatic or institutional processes which are rarely accessible in practice. Together, these challenges risk rendering the analysis of relational normativity inconclusive or unstable beyond empirical settings. While TORNIL highlights important conditions on how international law operates, yet its explanatory reach remains contingent on the availability and quality of (relational) data. These methodological limits do not preclude empirical inquiry. TORNIL could be tested by analysing both discourse and practice across selected relational settings. Discursively, changes in the language of states and international institutions may reveal whether actors recognise a norm, contest it, hollow it out, or reaffirm its authority. Text-as-data methods could identify shifts in vocabulary, justificatory patterns and references to shared standards over time. In practice, these findings could be compared with patterns of institutional engagement as well as with compliance with international norms (Scherzinger, 2023; Peez, 2025, p. 319).

In summary, TORNIL treats rules, values, and context as interdependent sources of international law's normativity. TORNIL provides a framework for understanding how international law operates within a complex web of relationships that shape its development and application. Yet, its methodological limits, i.e. the difficulty of delineating relationships and assessing trust, call for an operational perspective. Section 4 addresses this need by examining negotiation and mediation as relational mechanisms through which trust can be cultivated, maintained, and restored. These processes translate the theory on the relational normativity into practice, showing how cooperative problem-solving reinforces the complementarity between rules-based and relational governance. Through such mechanisms, the procedural dimension of trust becomes the means by which international law's authority is enacted and renewed within an international order divided along different fault lines.

4. Operationalising relational normativity in international law through negotiation and mediation

Trust is the glue that allows international norms to take root. Yet, trust itself depends on the relational settings in which it is generated and maintained. Relational governance describes this preliminary layer of ordering, where international actors shape normative expectations and shared understandings before rules can consolidate into formal commitments (Qin, 2011, p. 133). In practice, it operates through diplomatic negotiation

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and mediation procedures involving those concerned with and affected by the application or development of international norms in order to reach (provisional) agreements, creating the ground on which rules may later rest. Direct negotiation enables parties to test intentions and recalibrate positions (Fisher and Ury, 1991); mediated processes, i.e. assisted negotiation, extend this dynamic by facilitating communication and recognition where relations have become strained, and the parties are unable to reach agreement on their own (Bush and Folger, 1994; Crocker et al., 2004). Through such methods, relational governance operationalises the relational normativity of international law by showing how norms emerge, adapt, and gain traction under specific conditions of trust (Qin, 2011, p. 133).

Negotiation constitutes the core principal method of relational governance. Yet the way parties negotiate determines whether trust in relationships can be strengthened or not. Traditional positional bargaining follows two familiar patterns. Hard bargaining treats negotiation as a contest, seeking advantage through pressure, concealment, or endurance; soft bargaining privileges accommodation, preserving cordiality through unilateral concession. Both strategies mirror the logic of positional power and thus provide limited scope for the relational engagement needed to gain and sustain trust. By contrast, principled negotiation or interest-based negotiation, though not the only model through which relational governance can be operationalised, aims at understanding the needs and concerns underlying positions. It seeks alignment through communication and problem-solving, allowing parties to move from the assertion of positions to the exploration of underlying interests without relying on coercion or compromise (Susskind and Cruikshank, 1987). The approach is structured around four guiding principles that operationalise interest-based negotiation and give effect to relational governance: separating people from the problem, focusing on interests rather than positions, inventing options for mutual gain and insisting on objective criteria to evaluate potential outcomes (Mnookin et al., 2000). In practice, these principles unfold across successive phases of the negotiation process: from initial framing and exploration of underlying interests to option generation and finally closure and implementation of the agreement.

The first principle of principled negotiation is to separate the people from the problem. It reverses the logic of positional bargaining by being hard on the problem or soft on the person. In relational governance, this distinction preserves respect for the negotiating party while allowing to gain clarity on the substance of the conflict itself. Conflicts often escalate because parties confuse the impact of another's conduct with that actor's intent, turning disagreement into personal grievance (Shapiro, 2016). Separation therefore demands restraint. Emotions ought to be acknowledged as part of the negotiation process (Wong, 2016). Recognising feelings as legitimate responses while refraining from attributing blame keeps communication open and balanced (Hicks, 2001). This restraint enables negotiators to engage firmly with the substantive issues while investing in and maintaining the relationship that makes dialogue possible. By protecting this relational dimension, this principle lays the foundation on which further negotiation can unfold, ensuring that the focus remains on problem-solving while limiting the antagonism that is inherently involved in such a process.

The second principle of principled negotiation is to focus on the interests underlying the parties' positions. Positions are the surface claims through which parties express their stance; interests lie beneath them and reflect the needs, fears, and aspirations that often give conflict its emotional weight. These may concern recognition, identity, security, or fairness as much as tangible, material outcomes. By uncovering such underlying motives, negotiation moves from defending entitlements to understanding what is at stake and important for each side. In relational governance, this shift of perspective is crucial: it acknowledges the full human dimension of disagreement and opens space for empathy without requiring concessions at this stage. When interests are articulated explicitly,

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misperceptions diminish and possibilities for constructive exchange emerge (Rothman and Olson, 2001). The focus on interests thus transforms opposition into inquiry, revealing that conflict often conceals overlapping concerns that, when acknowledged, can sustain dialogue. Accordingly, mutual recognition of interests lays down the foundation of trust, which will be much needed throughout (assisted) negotiation.

The third principle of principled negotiation is to invent options for mutual gain. Once the underlying interests have been identified, negotiation turns from division to co-creation. The parties at the table seek to enlarge the scope of what can be achieved so that each may benefit without the other's loss. This step shifts the focus from value claiming to value creating, transforming negotiation from distributive exchange into a process of joint enrichment (Susskind and Field, 2006). In relational governance, such creativity is essential: it widens the horizon of cooperation and reaffirms trust as a productive force for brainstorming. Mutual gain requires a willingness to imagine arrangements that recognise interdependence and difference alike, without presupposing perfect harmony. Even when final agreement proves partial, the effort to expand possibilities strengthens the relationship and establishes a pattern of collaboration that endures beyond the immediate negotiation (Rothman, 1997).

The fourth principle of interest-based negotiation is to insist on objective criteria. Negotiated outcomes should rest on standards that are independent of the parties' will and accepted as fair by all involved. Such criteria may include factual evidence, expert evaluation, precedent, or practical benchmarks that allow issues to be decided on their merits. Their function is to balance power, thereby safeguarding equilibrium where unequal power relations exist at the negotiation table and to ensure that the agreement operates within a common understanding of fairness (Susskind and Cruikshank, 1987). By appealing to standards that both sides recognise, negotiators transform an agreement into a verifiable commitment: each party can assess whether obligations are met without reverting to assertion or suspicion. Within relational governance, such standards enhance justice and accountability.

These four principles of interest-based negotiation unfold through successive phases that shape how trust is generated, tested, and sustained (Fisher and Ury, 1991). These stages, i.e. framing, information exchange, option generation, and closure with implementation, translate respectively the principles of separation, recognition, creativity, and fairness into the process of negotiation. Each phase reflects a different aspect of relational governance: framing clarifies roles and depersonalises tension; information exchange acknowledges mutual concerns and underlying interests; option generation embodies cooperative imagination built from the identification of common interests; closure and implementation anchor fairness in durable commitment (Rothman and Alberstein, 2013). Across these stages, the different methods of engagement, namely active listening, transparency, reciprocity, and acknowledgement, sustain the dialogue through which trust can mature. Yet, negotiation seldom advances in a linear sequence. Misunderstandings along the way may demand reframing, imbalances can stall communication and premature closure risks weakening trust. Recognising these phases matters since their interdependence reveals that negotiation is a continuous performance of relationship building and maintenance. When that relational balance falters and trust cannot be restored by the parties themselves, mediation becomes the method through which dialogue and confidence can be renewed.

Mediation represents the assisted form of negotiation through which the relational basis of dialogue is restored when direct negotiation fails. An independent, impartial, and neutral mediator who has no interest in the outcome facilitates the communication between the parties without deciding for them. Acting impartially, the mediator puts the negotiation back on track and proceeds with its different phases: reframing issues to clarify perceptions, reopening information exchange to uncover underlying interests,

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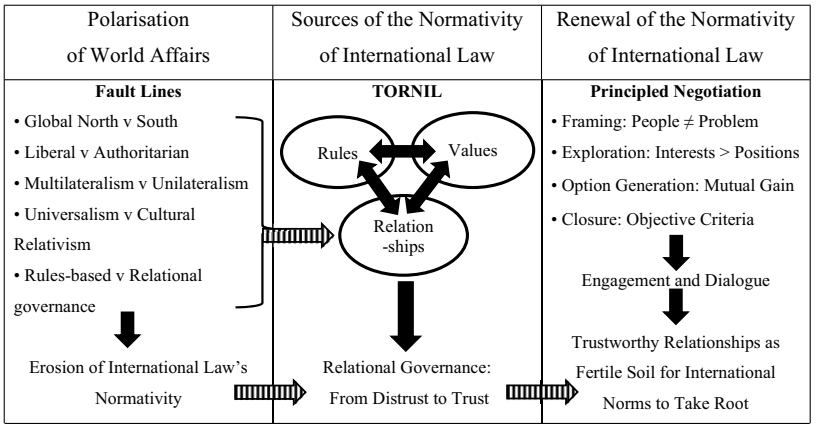

Figure 1. From polarisation to the renewal of international law's normativity

encouraging the generation of options, and supporting closure and implementation once a common understanding is found or renewed. The process preserves party autonomy whereby the process of engagement remains voluntary, and ownership over the final agreement rests entirely with those involved (Menkel-Meadow, 2018). Mediation thus reactivates the same phases of negotiation under conditions of balance, confidentiality, and recognition. Within relational governance, it provides a structured process through which confidence can be repaired and cooperation can be (re)established (Bush and Folger, 1994). Yet, relational progress remains contingent on the broader conditions under which assisted negotiation unfolds. Procedural safeguards, such as balanced participation and transparency in information secured by the mediator, remain essential to ensure that recognition is not undermined by existing power asymmetries (Caparrós et al., 2004; Forester, 2009).

The principles and phases of negotiation, whether direct or assisted, reveal how relational governance complements and sustains rules-based governance. They show that the normativity of international norms arises from formal legal validity and moral values together with the trust and recognition built through (assisted) negotiation. By structuring interaction in such a manner, principled negotiation and mediation give rules meaning when embedded in relationships that render them intelligible and acceptable to those concerned with and affected by their application and development. In this sense, negotiation forms part of the processes through which international law's normativity is constituted: it advances the communicative processes through which rules are interpreted, adapted, and given their binding force. Relational governance thus precedes and underpins rules-based governance within the international order (Figure 1).

5. Conclusion

This inquiry began with an epistemological turn: a recognition that the normativity of international law cannot be explained without understanding the complex web of relationships through which it applies and develops. International law has long been described as a system of rules derived from formal sources and moral values, yet it is equally sustained through the interactions among those who create, interpret, and apply it, namely interactions that unfold along a continuum of trust and distrust. Polarisation on the international plane across different yet intersecting fault lines exposes this neglected dimension. It shows that the authority of international norms depends on the quality of

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relationships which they seek to govern. TORNIL, therefore, offers an analytical and normative framework to address the normativity of international law. Regarding the former, it seeks to uncover the conditions under which and through which international norms can take root and retain their binding force. Regarding the latter, it remains informed by a lawyer's concern for the international order itself, affirming that respect for international law presupposes efforts to rebuild the trust on which its normativity ultimately rests.

If international law's normativity depends on relationships characterised by trust, the question becomes how such trust can be restored once it has eroded. This article has proposed principled negotiation and mediation as methods through which that restoration can occur. When parties concerned with or affected by the application or development of an international norm engage in principled negotiation, or, where necessary, with the assistance of mediation, they (re)establish communication and recognition; thus, transforming conflict into cooperative modes of engagement. These practices operationalise relational governance: they provide processes through which reciprocity, fairness, and recognition can be tested and renewed. Whether formalised within international institutions or conducted (in)formally among states, their value lies in their flexibility and openness, allowing trust to grow within the specific contexts of interaction. In this way, negotiation does not merely accompany law-making or compliance; it becomes the medium through which the relational conditions for the authority of international norms are cultivated and sustained.

Relational governance does not promise that negotiation or mediation will always succeed. Trust cannot be mandated; it depends on the willingness of actors to engage in good faith and to sustain dialogue even when incentives and interests diverge. Political will and institutional capacity together shape whether trust-building can translate into durable cooperation. Nor can every conflict be resolved through negotiation and mediation alone: asymmetries of power and perception may resist balance despite the best procedural design. These limits reinforce TORNIL's analytical purpose by clarifying the conditions under which international law's binding force can be restored. By revealing the conditions under which law's binding force can be restored, it clarifies why that binding force sometimes is missing. The task for international lawyers and policymakers is therefore to understand how to nurture the relationships that allow rules to work. Normativity remains fragile, yet within that fragility lies the possibility of renewal through continued engagement and investment in trust.

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