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# CIVIC ROUNDTABLE

MULTILATERALISM IN CRISIS

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Organised by the Council of Europe, in co-operation with the  
Association of Schools of Political Studies (ASPS) and the Civic  
School of Political Studies in Greece

## REPORT

Prepared by Lana Čop

*SYMBIOSIS*



## Table of Contents

<b>Foreword</b> .....	2
<b>Introduction</b> .....	4
The Historical Foundations of Multilateralism.....	5
<b>1. European Integration: Current Realities and Future Challenges to the Multilateral system</b> .....	6
1.1 Old and New Challenges to the EU .....	6
1.2. Global challenges.....	7
1.3. Future of the EU and Multilateral Global Governance: Is There a Way Forward?..	8
<b>2. Challenges to the Multilateral Human Rights System</b> .....	10
2.1 Challenges of the Modern Human Rights Regime: An on-going Struggle.....	11
2.2 State of Affairs in International Human Rights Organisations: UN, Council of Europe, OSCE and The EU .....	12
2.3 The Role of Civil Society in Protecting Human Rights: Citizens as Agents of Change.....	13
2.4 Shaping the Agenda for the Future .....	14
<b>3. Multilateral Responses to the Refugee Situations</b> .....	16
3.1 Chartering the International Protection of Refugees.....	16
3.2 Meeting the Challenges of the post-2015 Refugee Policy Crisis in Europe.....	17
3.3 Identifying Good Practices from the Past and Recommendations for the Future	18
<b>4. Conclusion</b> .....	19
<b>5. References</b> .....	20

# Foreword



Respect for the multilateral international legal order and reliance on international organisations has come increasingly under strain over the past few years. With increased political fragmentation on the one hand and rising economic and security interdependence on the other, the future remit of the multilateral institutions is likely to undergo some changes. The main stakeholders will have to explore the new paths towards effective global governance.

To discuss and analyse these challenges, the Council of Europe, in cooperation with the Association of Schools of Political Studies (ASPS) and the Civic School of Political Studies in Greece, brought together a selected group of alumni from the Council of Europe's Network of Schools of Political Studies (SPS) and of young leaders from other countries throughout Europe for the Civic Roundtable<sup>1</sup>. The event was held in Thessaloniki, Greece from 18 to 19 December 2018.

The experts on multilateralism who provided keynote presentations from different fields and perspectives were Loukas Tsoukalis, Professor at Sciences Po Paris and President of the Hellenic Foundation for European and Foreign Policy (ELIAMEP); Nils Muižnieks, President of the Association of Schools of Political Studies of the Council of Europe and former Commissioner for Human Rights of the Council of Europe (2012-2018); Philippe Leclerc, UNHCR Representative in Greece and Sonia Licht, President of the Belgrade Fund for Political Excellence.

By linking the pool of knowledge drawn from their presentations, the outcomes of the working groups, and existing literature on multilateralism, this report aims to provide a set of conclusions, that may to be considered by stakeholders and policy makers when responding to signs of crisis of multilateralism.

The one-and-a-half-day event included keynote speeches, plenary discussions and work in groups.

## **It was organised around three main questions:**

- How does the present multilateral rules-based global governance relate to current realities?
- What does it take to maintain the universal appeal of the multilateral human rights system?
- In a globalised world, can multilateralism safeguard social equality and refugee protection?

The present report draws on the speeches and discussions developed during the Roundtable, as well as on participants' perspectives and the outcomes of the working groups. In addition, contemporary research on the current state of multilateralism and some of its main findings were an important element in assessing the situation of multilateral organisations today. The report is divided into three thematic chapters, responding to each of the questions listed above and offering some conclusions.

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<sup>1</sup> The Civic Roundtable is an annual pan-European programme organised by the Council of Europe. The programme was initiated in 2016, building on the previous practice of annual international seminars for SPS alumni. The Network of Schools of Political Studies of the Council of Europe comprises 22 member Schools covering 22 European and 2 Northern African countries.

### It is structured as follows:

- The introduction to the report examines the definitions of multilateralism, followed by a short overview of the development of multilateralism since the beginning of the 20th century
- Chapter 1 examines the current challenges to multilateralism taking the example of one of the most successful contemporary multilateral cooperation frameworks: the European Union. It explains the multiple challenges (long term and short term) that the EU and the global liberal order are facing and draws lessons from the past to offer conclusions about the future multilateral system
- Chapter 2 focuses more precisely on the challenges to the multilateral Human Rights System. It presents the underpinnings of the current system and reflects on the short and long term tremours. It also sets out priorities for constructive developments in the multilateral human rights system
- Chapter 3 explores the ways in which multilateral organisations have been responding to the refugee phenomenon since its inception in the last century and examines the current responses of multilateral organisations, notably the UN, to the recent influx of refugees to Europe. A historical analysis recalls the changes in scope and functions of multilateral agreements that have responded to refugee situations, followed by examples of well-functioning multilateral responses to the refugee situation
- The report concludes with a set of observations that emerged from the discussions during the Roundtable and summarises the key conclusions developed throughout the report

# Introduction



To give some initial grounding to the following discussion on multilateralism, this section explores the different meanings as well as the historical development behind the concept of multilateralism.

A general definition of multilateralism can be considered as: “seeking cooperative approaches to international problems”<sup>2</sup>, while a more modern, 21st century guise may be defined as “three or more actors engaging in voluntary and (essentially) institutionalised international cooperation governed by norms and principles, with rules that apply (by and large) equally to all states.”<sup>3</sup>

Loukas Tsoukalis approaches the definition from another point of view, by highlighting the oppositions between multilateralism, unilateralism and bilateralism, as well as the old principle of international relations “Might is Right” as it stands for the rule of law and common institutions<sup>4</sup>.

However, finding a precise definition is difficult, not least because “it is not a static system made by unchanging norms and organisations, it is a social construct without a significant core.”<sup>5</sup> Through history we can observe a non-linear transformation of multilateralism that was directly affected by key changes in the world system.

Despina Syrri identifies several different stages in the evolution of multilateralism that developed in different parts of the world: hegemonic multilateralism (United States), normative multilateralism (European Union), defensive multilateralism (Global South) and revisionist multilateralism (emerging power states).

They are all based on different narratives, discursive legitimation, objectives and practices. These different realities coexist and all serve to establish the expectations, roles and behaviours of all the actors involved.

In recent years we can observe the widespread use of the term Global governance which describes “the aggregation of institutional tools and mechanisms that states were creating to manage their increasingly complex interdependence”<sup>6</sup>.

As defined by Thakur and Van Langenhove, “Global governance is the complex of formal and informal institutions, mechanisms, relationships, and processes between and among states, markets, citizens, and organizations, both intergovernmental and nongovernmental, through which collective interests are articulated, rights and obligations are established, and differences are mediated”<sup>7</sup>.

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<sup>2</sup> Lazarou, Elena: “The future of multilateralism: Crisis or opportunity?” European Parliamentary Research Service, May 2017. p. 2, <https://bit.ly/2AWzQYb>

<sup>3</sup> Bouchard, Caroline and John Peterson: “Conceptualising Multilateralism: Can We All Just Get Along?” Mercury, January 2011, p. 10, <https://bit.ly/2szQoCr>

<sup>4</sup> Tsoukalis, Loukas, intervention at the Civic Roundtable, Thessaloniki 2018

<sup>5</sup> Syrri, Despina, intervention at the Civic Roundtable, Thessaloniki 2018

<sup>6</sup> Ikenberry, John: “The Future of Multilateralism: Governing the World in a Post-Hegemonic Era” in *Japanese Journal of Political Science*, September 2015, p. 401, <https://bit.ly/2CyoklQ>

<sup>7</sup> Thakur, Ramesh and Luk Van Langenhove: “Enhancing Global Governance Through Regional Integration” in *Global Governance*, July–September 2006, p. 233

## The Historical Foundations of Multilateralism

Early ideas of ‘world politics’ can be traced back to the late 18th century when Europe was driven by Enlightenment thinking, the development of science, the industrial revolution, and the move beyond feudal and ancient societal formations<sup>8</sup>. By the 19th century we can already observe the emergence of various multilateral agreements, although they did not develop into formal organisations.

Ikenberry divides the development of multilateralism in the twentieth century into three parts. In the first half of the century, the world witnessed the rise of fascist and communist alternatives to the new liberal democracies of that time that triggered the breakdown of the multilateral organisation of global order. However, it was exactly these great upheavals in the global system that also “brought forth in their wake the most ambitious schemes for new and far-reaching forms of multilateral cooperation”<sup>9</sup>. In the interwar period, nations established the largest international organisation to exist at the time: the League of Nations, which is considered to be one of the earliest forms of a multilateral organisation<sup>10</sup>. This ambitious idea was soon exposed as an illusion

when the world returned to war in 1939. It was the post-war period when the flourishing of global and regional institutions started. They were “seen as a potential antidote to the protectionism of the 1920s and 1930s”<sup>11</sup> and were established to preserve peace among the great powers of the 20th century to manage economic, political, and security relations.

The motivations of countries in the 20th century to join the multilateral order were not based solely on a desire to solve common problems. Ikenberry argues that in that period, the multilateral order had an ideological and moral appeal with the idea that participation in the world order would move their societies upward in a modern direction<sup>12</sup>. The UN, Bretton Woods institutions, GATT, NATO and the US-Japan alliance were “the most intensive institution building the world had ever seen”<sup>13</sup>. By the end of the Cold War, several of these institutions extended into the more fully global multilateral system of governance which exists to this day. One of them is the European Union that stands as the leading example of the most advanced multilateral cooperation on the regional level in our contemporary history.

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<sup>8</sup> Ikenberry, p. 402

<sup>9</sup> Ikenberry, p. 403

<sup>10</sup> Lazarou, p. 2

<sup>11</sup> Ibid. p2

<sup>12</sup> Ikenberry, p. 408

<sup>13</sup> Ibid. p. 405

# European Integration: Current Realities and Future Challenges to the Multilateral system

## 1

Loukas Tsoukalis argues that “European integration is the most radical, most revolutionary and the most successful political experiment going on at the global level since the beginning of the second half of the 20th century”<sup>14</sup> and is as such the example *par excellence* of multilateral cooperation.

Indeed, many scholars agree, some stating that “multilateralism is in the European DNA”<sup>15</sup> and that it “comes closer than any other single concept to expressing what the EU stands for in world politics.”<sup>16</sup> The preference for a multilateral approach is also clearly stated in the official EU documents<sup>17</sup>.

### 1.1 Old and New Challenges to the EU

The history of European integration has been characterised by continuous expansion in terms of both membership and functions. Tsoukalis argues that this continuous expansion came with a price, namely an overstretch of European institutions. Moreover, the last decades have brought numerous challenges to the European project: the globalisation of markets, rapid technological change and a paradigm shift between the state and the market, with the market increasingly gaining power.

These challenges have directly affected the economy of the European Union, which has experienced:

- relatively slow growth, compared to the growth during the first three decades of the post-war period
- increased divergence between countries
- rising inequalities within countries of the developed world

To sum up these key characteristics and challenges of European integration, Loukas Tsoukalis proposes the following phrase to define the history of the European integration: “*Ever bigger, more intrusive and less inclusive in an increasingly challenging environment.*”<sup>18</sup>

<sup>14</sup> Tsoukalis, Loukas, intervention at the Civic Roundtable, Thessaloniki 2018

<sup>15</sup> Louise van Schaik, “Why the EU is not promoting effective multilateralism” In *Clingendael Policy Brief*, June 2013, p. 1, <https://bit.ly/2FBOVSZ>

<sup>16</sup> Elena Lazarou et al.: “The Evolving ‘Doctrine’ of Multilateralism in the 21st Century” In *Mercury*, February 2010, p. 1, <https://bit.ly/2CvSrum>

<sup>17</sup> E.g. European Security Strategy, where we can read that “multilateralism is a cornerstone of the EU’s external relations”. See <https://bit.ly/2pfEoVe>

<sup>18</sup> Tsoukalis, Loukas: *In Defence of Europe: Can the European Project be Saved?*, Oxford University Press, 2016

In addition to the challenges that emerged over the last few decades, there are also tremors that have affected Europe recently, notably the financial and refugee reception crisis. When these essentially external crises<sup>19</sup> hit Europe, they exposed the vulnerability of the European Union. The financial crisis was an indicative example of systemic weaknesses in the structure of EU<sup>20</sup>.

Tsoukalis lists some of the main consequences of this multiform crisis. Firstly, the EU is experiencing increased fragmentation not only between north and south or east and west but most importantly within the Member States themselves. Secondly, Tsoukalis highlights the emergence of a new balance of power as a result of the crisis. France and Germany, both considered as the main drivers of the European integration in the past, were now experiencing a shift of balance; with France becoming weaker and Germany emerging as the almost undisputable leader of the European Union. Thirdly, we can observe rising nationalism and anti-establishment parties in many Member States. Fourthly, Europe has tended to become more intergovernmental. Common institutions have been weakened and we can observe an increasing number of decisions taken on the intergovernmental level.

Support for European integration has been facing strong challenges in recent years. Nevertheless, Tsoukalis notes that four important changes have happened since that existential impasse. Firstly, the EU experienced economic recovery which has generated a higher level of support for European integration. Secondly, for the first time in the history of the EU, a Member State decided to leave. Contrary to some expectations, Brexit has acted as one of the most important unifying factors for the rest of Europe.

Thirdly, new leaders stepped onto the international stage. Donald Trump became the first president of the US to openly call for a weaker EU. His “repeatedly questioning the value of multilateral organisations such as the UN, North Atlantic Treaty Organization (NATO) and the World Trade Organization (WTO), has led to even greater preoccupation about the future of global governance.”<sup>21</sup> Vladimir Putin equally challenged the status quo as defined by Western countries, and the tensions between Russia and Europe have heightened. On the other hand, Emmanuel Macron took over the presidency of France with a clear vision and plan for the future of a revived EU.

## 1.2. Global challenges

Several crucial changes at the global level have affected the multilateral system of governance that was created in the post-war period. In line with Tsoukalis, we can identify the following:

- *Change in balance of power and hegemonic leadership*

Multilateral institutions created in the post-war period were supported by the US, which remained the hegemonic leader until the last decade when we could observe the power shifting towards Asia, notably China. Basing his work on historical records, Allison<sup>22</sup> argues that when one great power threatens to displace another, war is almost always the result. Therefore, this change of power relations can be a source of strong concern.

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<sup>19</sup> The financial crisis originated in the US with the bursting of the biggest world bubble since 1929. The refugee crisis is the result of trouble in the European neighbourhood that exports instability to Europe in the form of increasing numbers of migrants coming to Europe.

<sup>20</sup> In 1992, the EU created and implemented the common currency without being collectively ready, with a lack of institutions and policies that would make it sustainable in the long term.

<sup>21</sup> Lazarou, Elena: “The future of multilateralism: Crisis or opportunity?” European Parliamentary Research Service, May 2017. Intro., <https://bit.ly/2AWzQYb>

<sup>22</sup> Allison, Graham: “The Thucydides trap” In *Foreign Policy*, June 2017, <https://bit.ly/2FIHXII>



### ➤ *The globalisation paradox*

The contemporary world with a globalised market poses multiple challenges to the sovereign national states. Rodrik explains the tensions between the economic drive to globalise, the desire of countries to retain their individual sovereignty, and the need for democratic legitimacy. He argues that it is possible to have any two of these, but that trying to have all three runs into problems of either economic failure or political illegitimacy<sup>23</sup>. His theory holds that countries can nowadays choose only two of these demands.<sup>24</sup>

### ➤ *Growing tendencies towards regionalism*

Regional groupings are becoming more and more important. Ikenberry states that the future of multilateralism will most likely shift the balance from global multilateral approaches to regional multilateral approaches. He argues that multilateral institutions will have to address more the underlying local sources of problems<sup>25</sup>. The advantage of a regional approach is that it can directly address problems within the region.

### ➤ *The rise of private players*

Important change has also occurred in the power relations between state and private actors. Some global economic entities are nowadays much more powerful than sovereign states. Tsoukalis referred to the example of Amazon and Google that have strong bargaining power.

Ikenberry contributes to the discussion by pointing to mounting transnational dangers (e.g. global warming, health pandemics, nuclear proliferation, financial instability, and international terrorism) which necessitate the economic and security interdependence of states.

These issues are nevertheless often difficult to agree on as states are coming from very different levels of development.

### 1.3. Future of the EU and Multilateral Global Governance: Is There a Way Forward?

Although the EU is increasingly challenged and will most likely continue to be challenged, Loukas Tsoukalis believes that there is still a firm ground to believe that the EU will continue to develop. The sole fact that it still exists and survived the recent crises is an encouraging sign. He illustrates the situation with the metaphor of an unhappy marriage in which the partners stayed together essentially for two reasons: the fear of being alone and the costs of divorce. The lack of alternative is a reason mentioned by many scholars for why multilateral organisations remain important.

Ikenberry argues that “the benefit that states gain from operating in an open system outweighs the costs of multilateral governance”<sup>26</sup> and that the main alternative is not a new order, but rather disorder. Therefore, serious reflections on more effective multilateralism are necessary. Tsoukalis lays out his four main recommendations:

- Adjusting to a new balance of power<sup>27</sup>
- Recognising inherent limitations of global institutions
- Establishing different regimes depending on function
- Address the problem of growing divisions within countries

<sup>23</sup> Dani Rodrik: “The Globalisation Paradox” In Schrodgers, July 2013, <https://bit.ly/2FcrnUz>

<sup>24</sup> This applies less to the global hegemon

<sup>25</sup> Ikenberry, John: “The Future of Multilateralism: Governing the World in a Post-Hegemonic Era” in *Japanese Journal of Political Science*, September 2015, p. 401, <https://bit.ly/2CyoklQ>

<sup>26</sup> Ibid. p. 413

<sup>27</sup> Multilateral institutions have to reflect the existing balance of global power. China, Brazil, India and other emerging power states aspire to assume a bigger role in international institutions, which have to date essentially been run by western countries. States that were previously peripheral in the post-war order are now seeking to renegotiate their role in the global order.

In seeking to find a way forward, the following conclusions from discussions at the Roundtable may be taken into consideration<sup>28</sup>: (1) the European Union should increase public knowledge about the attractiveness of membership and invest more into political communication to address the citizens and offer an alternative to populist and nationalist discourses. (2) Political parties should explore more strongly the setting up of transnational structures and procedures in a pan-European perspective in order to increase their capacity to respond to global challenges. (3) Likewise, national governments should invest more in civic education and support formal and informal ways of educating people in citizenship and understanding of the common principles and institutions of the EU.

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<sup>28</sup> Developed in the working groups during the Civic Roundtable, Thessaloniki 2018

# Challenges to the Multilateral Human Rights System

## 2

The growing challenges to the existing multilateral system described in the previous chapter are directly affecting the international system of Human rights protection. Populism, authoritarianism, backlashes against LGBT and national minorities, and xenophobia towards refugee and religious communities are just a few of the challenges currently faced by the system.

Despite these numerous challenges, it is worth bearing in mind that adapting and changing strategies has been part of the development of the International Human rights system since its very beginning. In the words of Philip Alston, former UN Special Rapporteur on Extreme Poverty and Human Rights:

*“Defending human rights has never been a consensus project. It has almost always been the product of struggle. The modern human rights regime emerged out of the ashes of the deepest authoritarian dysfunction and the greatest conflagration the world had ever seen. It has duelled with and been shaped by the eras of reluctant decolonization, the cold war, neoliberalism, and now populism. It’s assuredly not a lost cause, but we should not be fooled into thinking that it’s ever going to be a winning cause; it’s an ongoing struggle”<sup>29</sup>.*

In order to safeguard Human rights, and to promote the responsibilities connected to them, it is necessary to identify the challenges and find solutions and new strategies to overcome them.

To set the ground for this ambitious task, this chapter will start by summarising the main principles that underpin the multilateral system of Human Rights<sup>30</sup>. First, Human rights apply to *individuals* and not “peoples” or the environment<sup>31</sup>.

Second, Human rights should be for *everyone within the jurisdiction* and there should be *no discrimination*. Third, the Human rights system should undergo *evolutionary change*, since human rights conventions are considered to be living instruments and can change along with our perceptions of Human rights. Fourth, countries should subject themselves to peer review and scrutiny and therefore accept *limited sovereignty*.

Each of these core principles has been criticised in the past. Posner<sup>32</sup> argues that Human rights were never as universal as people believed, and that the belief they could be forced upon countries as a matter of international law was misleading. He adds that the rights were described in vague, aspirational terms, which could be interpreted in multiple ways.

Despite the universality and inalienability of Human rights, another common critique is that the Human rights system does not make life better for everyone, because it is an *elitist project*. *In addition, “the systems reflect a vision of good governance rooted in the common historical experiences of western countries [...] there is no reason that this vision – the vision of institutionally enforced human*

<sup>29</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, <https://bit.ly/2CvW8jC>

<sup>30</sup> As explained by Nils Muižnieks during his intervention at the Civic Roundtable, Thessaloniki 2018

<sup>31</sup> On the global scale this is not the core everywhere: The African Charter on Human and Peoples' Rights also recognises collective or group rights to a degree not matched by the European human Rights institutions. See: [http://www.achpr.org/files/instruments/achpr/banjul\\_charter.pdf](http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf). Another example can be found in Ecuador, which was the first country to recognise Rights of Nature in its Constitution. See: <http://therightsofnature.org/ecuador-rights/>.

<sup>32</sup> Posner, Eric: “The case against human rights” In *The Guardian*, December 2014, <https://bit.ly/2T4pIJD>

rights – is appropriate for poor countries, with different traditions, and facing a range of challenges that belong, in the view of western countries, to the distant past”<sup>33</sup>.

Another critique that we can observe in recent discourse is that rights are given to the “*wrong individuals*”, to people with deviant lifestyles, migrants, terrorists or that exaggerated rights, e.g gender equality, can harm the family, religion or cultural identity. Moreover, *loss of sovereignty* of member states has purportedly resulted in alienation<sup>34</sup>.

## 2.1 Challenges of the Modern Human Rights Regime: An on-going Struggle

The Human Rights system is facing numerous challenges; some of them have existed for decades while others have become problematic only recently.

Nils Muižnieks recognises two main *long-term challenges*: generational change and granting membership of international Human rights institutions based on democratic promises.

- He argues that one of the main factors leading to the erosion of the Human rights system as it was created in the post-war period is the *generational change*. World wars, dictatorships and genocide are a distant memory for the members of contemporary societies and do not appeal as a relevant problem<sup>35</sup>.
- The source of the second factor stems from the internal structure and decision-making processes of some Human rights institutions. The EU and the Council of Europe were designed to be inclusive and to accept countries meeting certain criteria.

However, many member states were accepted without fulfilling the requested standards and the institutions “became schools for democracy instead of clubs for democracy”<sup>36</sup>. The practice of granting membership status to countries based solely on their promises to develop in a democratic direction does not seem to have lived up to the original expectations.

We can also observe that *recent crises* have affected the international Human rights system, among them the economic and migration policy crises.

Alston sets forth another challenge, populism, as a result of which Human rights institutions are facing challenges that are fundamentally different from those in the past. He argues that “the main characteristic of the new populist authoritarian era is disdain for social conventions, a currency on which respect for Human rights norms has long been heavily dependent”<sup>37</sup>.

## 2.2 State of Affairs in International Human Rights Organisations: UN, Council of Europe, OSCE and the EU

The international Human rights system obliges states to respect, protect and fulfil the Human rights of individuals within their territory. Nonetheless, in order to defend Human rights, it is essential to strengthen frontline organisations. They are, however, facing internal and external challenges and the human rights community will have to find innovative ways and solutions to overcome them.

### ➤ *United Nations*

The actions of the United Nations in Europe are not particularly well recognised, but they do have a significant role to play. One good example is the UN field offices in six Balkan countries where they are important actors on the ground.

<sup>33</sup> Ibid.

<sup>34</sup> Two recent emanations of the claim for lost sovereignty are public support for Donald Trump in the USA (with his slogan ‘America First’ that emphasizes American nationalism) and Brexit

<sup>35</sup> With the exception of countries of ex-Yugoslavia.

<sup>36</sup> Nils Muižnieks, intervention at the Civic Roundtable, Thessaloniki 2018

<sup>37</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, <https://bit.ly/2CvW8jC>

The main problems that the UN is currently facing are the following:

In the financial aspect of the problems, half of the budget of the Office of the High Commissioner for Human Rights, the leading UN entity on Human rights, is based on voluntary contributions. That leads to staff shortages, especially in the special procedures. Moreover, the US, which was the principal contributor to the UN budget<sup>38</sup>, is now withholding and questioning some of its contributions due to positions that the Trump Administration does not approve of.

Secondly, in comparison to other Human rights organisations (e.g Human Rights Watch) the UN has a much lower budget to allocate to communications. Thirdly, the UN is also facing opposition from its member states, most recently on The Global Compact for Migration, the first UN global agreement on a common approach to international migration, which was opposed by some member states who see it as a “Trojan horse that will lead to changes in national laws”<sup>39</sup>. The Compact has “split governments and become a touchstone for wider fears about declining global co-operation and growing unilateralism”<sup>40</sup>.

#### ➤ *Council of Europe*

Human rights activities are at the very core of the existence of the Council of Europe. The activities are separated into three pillars: Protection of Human Rights, Promoting Human Rights and Ensuring Social Rights. The main actor is the European Court of Human Rights, which has delivered more than 10,000 judgments in the fifty years of its existence. It has led governments to alter their legislation and administrative practices

in a wide range of areas, from prison conditions to cybersecurity<sup>41</sup>.

Recently, the Council of Europe has been confronted with a series of grave difficulties. Firstly, there is a significant backlog of cases in the Court and sometimes long delays in the implementation of judgments<sup>42</sup>. The Parliamentary Assembly (PACE) had to address serious issues related to corruption allegations against some of its members. The most important issue considering the future of the Council of Europe is Russia’s future role as it has suspended its contribution to the Organisation in 2017, which in addition to contravening rules of membership, has brought the Council of Europe serious problems in fulfilling its purposes.

#### ➤ *OSCE*

With 57 participating States in North America, Europe and Asia, the OSCE is the world’s largest regional security organisation. It addresses a wide range of security-related concerns, including Human rights. All 57 participating States enjoy equal status, and decisions are taken by consensus on a politically, but not legally binding basis. OSCE has a number of problematic internal procedures, starting with the possibility for one member state to block the adoption of the budget. Further, the crisis in Ukraine is first and foremost a security crisis and therefore a major challenge for the OSCE, that was created to prevent crises of this kind. Their military observers were held hostage in eastern Ukraine. In 2017, Azerbaijan ordered the OSCE to close its office in Baku where it promoted political reforms. More recently, in 2018, Turkey refused to accept OSCE observers for monitoring the presidential and parliamentary elections.

<sup>38</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, <https://bit.ly/2CvW8jC>

<sup>39</sup> With around 22 per cent of the contribution to UN regular budget, 28 per cent of the budget for peacekeeping and the voluntary contributor (12 per cent of the total) to the OHCHR . Source from Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, <https://bit.ly/2CvW8jC>

<sup>40</sup> Financial Times: “European states reject divisive UN compact on migration” <https://www.ft.com/content/00624c22-f176-1e8-ae55-df4bf40f9d0d>

<sup>41</sup> Ibid (Financial Times)

<sup>42</sup> In some countries, like Moldova, Russia and Ukraine it can take up to 10 years.

## ➤ European Union

Activity of the European Union on Human right issues is limited due to the fact that member states have not delegated any significant decision-making power in Human rights to the European level. However, the EU is active and effective in the following fields: antidiscrimination (especially in gender equality), protecting human rights defenders, data protection and indirectly, disability rights. With growing nationalism and populism, and the multiple crises, the key questions are: Can the EU confront authoritarian trends in its member states? How can the EU continue judicial cooperation with states that are questioning the values and norms regulated by the International Human rights values and norms?

### 2.3 The Role of Civil Society in Protecting Human Rights: Citizens as Agents of Change

The international Human rights system is more powerful if it ensures effective synergy between the international and local levels. Civic groups and movements can have a significant effect on national and international decision-making and they should not be undermined.

Sonia Licht<sup>43</sup> believes that citizens and their roles are not recognised enough in the discussion about safeguarding the multilateral system and Human rights. In her opinion, citizens are not only voters, but can act as actors of change when given substantial education (knowing their rights) and presented with opportunities to be involved in civil society. Regrettably, in many places the civic space is shrinking.

As Philip Alston mentions that “in many countries it has shrunk to the size of a prison cell”<sup>44</sup>.

Civil society is changing together with the social reality. Despina Syrri<sup>45</sup> describes the new forms of activism that have emerged with the increased use of internet and social media<sup>46</sup>. During the 2015 migration crisis in Greece, they observed numerous groups of activists that gathered through social media and were active for certain periods of time, but who did not develop more organised and long-term initiatives. Syrri supports that new ways of cooperating with this new “activism” should be considered. According to Alston, “the challenge is to see how the activities of international NGOs can have less of an extractive character (extracting information and leaving) and focus more on building or complementing national capacities [...] this is the key to sustainability”<sup>47</sup>.

### 2.4 Shaping the Agenda for the Future

This chapter explored the multi-layered crisis of the Human rights system in Europe and the role of institutions that should be promoting and protecting it. Important Human rights obligations are not respected by some member states and Europe is currently moving on a risky path that could lead to the end of the era as we know it. However, despair is not the only possible reaction as there are ways of adapting and safeguarding the Human rights system. What is needed is that “Human rights proponents [...] rethink many of their assumptions, re-evaluate their strategies, and broaden their outreach, while not giving up on their basic principles”<sup>48</sup>.

<sup>43</sup> Sonia Licht, intervention at the Civic Roundtable, Thessaloniki 2018

<sup>44</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, p. 5, <https://bit.ly/2CvW8jC>

<sup>45</sup> Despina Syrri, intervention at the civic Roundtable, Thessaloniki 2018

<sup>46</sup> As for example the *WeMove* campaign, <https://www.wemove.eu/mission>

<sup>47</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, <https://bit.ly/2CvW8jC>

<sup>48</sup> Ibid.

Muižnieks reflects on the best possible responses of the international Human rights community to the current crisis.

He and other scholars propose the following:

➤ *New Narrative and communication tools*

The way forward is to tell the story of Human rights in new and compelling ways. The need for a new narrative is necessary, because of the fears on which the current system was built. War, genocide, and dictatorship are not the same as the current fears of people that are afraid of terrorism, economic uncertainty and uncontrolled migration. This fact created the current reality where a majority of society feels that they have no stake in Human rights. The new narrative should therefore be focused on the use of Human rights against economic uncertainty, as a system that can protect the weak and vulnerable.

Alston likewise believes that a renewed focus of Human rights should be social rights, inequality and exclusion. With innovative thinking, we can find ways of showing citizens that Human rights are relevant to their concerns, especially by emphasizing the Human rights perspective in respect of various issues<sup>49</sup>. Majorities will then understand that they need Human rights as much as vulnerable groups do. Alston continues by stressing the need to “devote more time and effort to being persuasive and convincing, rather than simply announcing our principles as though they were self-evidently correct and applicable”<sup>50</sup>. In order to do so, institutions should invest more in communication, focusing on messages that are relevant for the times in which we live and the context in which we function.

The use of modern communication methods, like social media, could be a good tool for telling the story of Human rights in a new and effective way.

➤ *Adapting to current realities*

It is necessary that institutions adapt to the new balance of power in their internal and external environment. With the US withdrawal from the UN Human Rights Council, it is clear that Europe will have to take on a leadership role.

With renewed pushes for privatisation, the rise of global markets and the increasing powers of businesses on the world stage, Human rights institutions should also think about which new actors it can work with, e.g. the private sector<sup>51</sup>. Although Alston has doubts about the proposition that businesses can be persuaded to act as great proponents of Human rights, he believes that engagement with corporate actors is indispensable<sup>52</sup>.

➤ *Setting the Priorities*

Institutions will have to set their priorities straight. For Nils Muižnieks, these priorities should be the protection of Human rights defenders, free media, journalists, and strengthening of national Human rights structures (ombudspersons, equality bodies, human rights commissions). They are the key actors that enable the system to function. Human rights defenders expose violations and bring cases to court, journalists expose corruption and discrimination, and enable free elections. Consequently democracy and national Human rights structures are enabling the international multilateral system to be effective on the national level.

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<sup>49</sup> E.g. The Human Rights Implications of Fracking

<sup>50</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, p.11, <https://bit.ly/2CvW8jC>

<sup>51</sup> Alston, Philip: “The Populist Challenge to Human Rights” In *Oxford Journal of Human Rights Practice* 2017, p.11, <https://bit.ly/2CvW8jC>

<sup>52</sup> Alston, Philip, p9.

➤ *Education*<sup>53</sup>

Education is vital for the effectiveness of Human rights in general. Many national school curricula are centralised, anachronistic and ethnocentric. That is why formal as well as informal civic education, and education for democratic competences, is crucial for nurturing new generations that possess the notions of common good, Human rights and democracy. In addition, media and social networks are key channels for informing people about Human rights and raising awareness, therefore media and digital literacy trainings should be included in national education systems<sup>54</sup>.

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<sup>53</sup> Recommendation developed by participants of the Civic Roundtable, Thessaloniki 2018

<sup>54</sup> For more information see Council of Europe's Reference Framework of Competences for Democratic Culture, <https://bit.ly/2N73Rt6>



# Multilateral Responses to the Refugee Situations

## 3

For centuries, the old continent has been a place of inner migrations, mostly between and inside the European empires and countries. The World Wars are milestones in European history, in that respect, as shortly after the wars, non-Europeans started to emigrate mostly to the western and southern parts of Europe<sup>55</sup>.

This chapter aims to look closely at how the international community answered to the refugee situation since the years following the First World War.

### 3.1 Chartering the International Protection of Refugees

To understand the context of the international response to the refugee situation, it is important to study some of the main treaties, documents and policies dealing with migration and displacement.

As it was mentioned in the brief introduction of multilateralism, multilateral cooperation was relatively rare until the 19<sup>th</sup> century. Established in 1919 the League of Nations was one of the earliest forms of formal multilateral organisation and a precursor of post-war international organisations<sup>56</sup>. It was established as a result of the Paris Peace Conference that ended the First World War. Fridtjof Nansen, its first High Commissioner for Refugees, created the first multilateral response to the persecutions and displacement that happened after the war<sup>57</sup>. Philippe Leclerc<sup>58</sup> explains that back then multilateralism was the response to a particular geographical and historical situation. This collective response showed its limits during the Second World

War, when people that were persecuted in the 1930s could not benefit from any of the previous protocols and agreements. It was after the two World Wars when the international community took shape and created a more universal collective response. The United Nations were established in 1945 and proclaimed the Universal Declaration of Human Rights in 1948. The Declaration set out the fundamental human rights to be universally protected for the first time in history. In 1951 the UN created a subsidiary organ, UNHCR to provide international protection to refugees and, together with governments, to seek solutions to their plight<sup>59</sup>.

The main international instruments for ensuring protection of people who are forcibly displaced across international borders are the UN refugee law treaties, 1951 Convention and its 1967 Protocol. They are “the clearest indicators of a shared approach to refugee arrivals in practice”<sup>60</sup>.

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<sup>55</sup> McLaren, Lauren: *Immigration and Perceptions of National Political Systems in Europe*, Oxford University Press, 2015, p. vi.

<sup>56</sup> Lazarou, Elena: “The future of multilateralism: Crisis or opportunity?” European Parliamentary Research Service, May 2017. Intro., <https://bit.ly/2AWzQYb>

<sup>57</sup> With the creation of League of Nation’s travel document, called Nansen passport

<sup>58</sup> Philippe Leclerc, *Intervention at the Civic Roundtable*, Thessaloniki 2018

<sup>59</sup> UNHCR: *A guide to international refugee protection and building state asylum systems*, 2017, p. 41

<sup>60</sup> Cantor, David James: “The End of Refugee Law?” In *Journal of Human Rights Practice*, 9(2), July 2017

### 3.2 Meeting the Challenges of the post-2015 Refugee Policy Crisis in Europe

The 1951 UN convention contained time and geographic limitations (to the events occurring before 1 January 1951 and in Europe or elsewhere)<sup>61</sup> that were lifted with the 1967 Protocol. The 1951 Convention defined the term “refugee”, established the principle that refugees should not be forcibly returned to a territory where their lives or freedom would be threatened, and set out the duties of refugees and States’ responsibilities toward them<sup>62</sup>. Still today these two documents remain the main legal basis of refugee protection together with numerous international, regional and national instruments.

The current refugee situation in Europe put into question the relevance of the 1951 Refugee convention and 1967 Protocol. In order to adapt to the current challenges these “cornerstone” treaties are being reinterpreted and complemented with new regional agreements, EU asylum instruments, national laws, and expanding mandate of the UNHCR<sup>63</sup>. The most recent agreement created by the UNHCR is the Global Compact on Refugees that seeks to better define cooperation to share responsibilities. The Intergovernmental Conference to adopt the Global Compact for Safe, Orderly and Regular Migration, was held in Marrakesh, Morocco in December 2018. Leclerc believes that the Global Compact offers a sustainable response to the refugee situation, with enhanced cooperation and support for the states that are currently hosting the highest numbers of refugees, e.g. Turkey and Lebanon. Under the agreement, the states will be committed to the resettlement and part of the refugees would benefit from relocation.

Today there are more refugees in the world than at any time since the end of the Second World War<sup>64</sup>. Almost nine out of every ten refugees under UNHCR’s mandate are living in low- and middle-income countries, often very close to situations of conflict<sup>65</sup>.

The European Border and Coast Guard Agency (Frontex) reported 978 300 illegal border crossings between border crossing points<sup>66</sup> in 2015. The Eurostat data show that in the same year, 1 255 600<sup>67</sup> first time asylum seekers applied for international protection in the member states of the EU. Taking into account these numbers, the year 2015 was considered as the year of the “refugee crisis” or “migrant crisis” as the number of people fleeing to Europe has never been as high in contemporary Europe. However, some authors question the definition of the word “crisis”: the crisis of what and a crisis for whom? The answer given by Beauchemin is that the migrant crisis is first and foremost a crisis of European solidarities: “It is a crisis between European member states which failed to construct a mechanism for welcoming the refugees”. It is a crisis of solidarity in Europe vis-à-vis populations in need of protection<sup>68</sup>. Leclerc states that it was not a refugee crisis, but a reception crisis, because the European countries were not able to respond adequately and collectively to the problem. The burden was left mainly on the first reception countries as others refused to regard the crisis as a European challenge which requires a common humanitarian oriented approach. After the first arrivals of migrants and refugees it was already clear that “international policies advocating for global solutions to address the root causes of refugee flows, or to more

<sup>61</sup> UNHCR: A guide to international refugee protection and building state asylum systems, 2017, p. 41

<sup>62</sup> Cantor, David James: “The End of Refugee Law?” In *Journal of Human Rights Practice*, 9(2), July 2017

<sup>63</sup> Stevens, Dallal: “Asylum, Refugee Protection and the European Response to Syrian Migration” In *Journal of Human Rights Practice* 9(2), August 2017

<sup>64</sup> UNHCR: A guide to international refugee protection and building state asylum systems, 2017

<sup>65</sup> Cantor, David James: “The End of Refugee Law?” In *Journal of Human Rights Practice*, 9(2), July 20

<sup>66</sup> UNHCR Guidebook

<sup>67</sup> Ibid. p.11

<sup>68</sup> Beauchemin, Cris : “Crisis Des Migrants- Decoder Les Chiffres,” 33.

equitably share the ‘burden’ of refugees among nations, have failed to produce a tangible impact in practice”<sup>69</sup>.

The 2015 refugee crisis brought many challenges to the existing international asylum systems and to the cooperation between countries in the area of immigration. Having efficient reception and integration policies has been underlined as a crucial prerequisite in order to offer an adequate response to the high numbers of newcomers in Europe.

### 3.3 Identifying Good Practices from the Past and Recommendations for the Future

Although there are numerous challenges to international protection of refugees and some scholars debate about the end of the global refugee protection regime<sup>70</sup>, international cooperation is needed for any successful strategy towards immigration, because it is a challenge that individual states cannot deal with it alone.

There are several recommendations and good practices from the past that can lead to the articulation of a shared global vision of refugee protection.

Firstly, Leclerc believes that one of the good practices from the past is the European response to the crisis and refugee situations in Indochina. In his opinion this is a clear example of proper multilateral response that provided a safe and responsible framework for accommodation of people seeking international protection. The international response to more than one million persons who fled Indochina took the form of the Comprehensive Plan of Action for Indochinese Refugees (CPA), which was in place from 1989 to 1996.

The response was comprehensive and it was predicated on the right of Vietnamese boat people to land and to be processed for refugee status.

Casella believes that the CPA both saved lives and marked the transition from blanket recognition of refugee status to individual status determination<sup>71</sup>.

Secondly, the international treaties will need to take into account the national level where protection actually occurs. “UNHCR’s mandate is to provide international protection to refugees and to seek solutions for refugee problems. It can only carry out this mandate with the cooperation of States”<sup>72</sup>. James Cantor agrees that any new global vision for comprehensive protection of refugees should necessarily put more focus on the “consideration how domestic Human rights law pertains to other aspects of international protection and in a broader range of non-Western jurisdictions”. The domestic refugee law should be in his opinion studied in its own right and not relating to it as a secondary explanatory role. Richard Carver argues that “during a period when much of the European response to the refugee crisis was a source of deep shame, a number of national Human rights institutions not only took a principled stand but made sure that they were on the ground to protect refugee rights”<sup>73</sup>.

Thirdly, the failure of the international community to answer constructively to the refugee crisis gave a rise to alternative forms of protection that emerged from civil society. Individual actors, activists, NGOs and volunteers provided aid and assistance to asylum seekers. These actors should be taken into account when articulating a global vision of refugee protection.

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<sup>69</sup> Cantor, David James: “The End of Refugee Law?” In *Journal of Human Rights Practice*, 9(2), July 2017

<sup>70</sup> Ibid.

<sup>71</sup> Casella, Alexander: “Managing the “Boat People” Crisis: The Comprehensive Plan of Action for Indochinese Refugees” In *Desperate Migration Series* by International Peace Institute, October 2016, <https://www.ipinst.org/wp-content/uploads/2016/10/1610-Managing-the-Boat-People-Crisis.pdf>

<sup>72</sup> UNHCR: A guide to international refugee protection and building state asylum systems, 2017, p. 11

<sup>73</sup> Carver, Richard: “Refugees and National Human Rights Institutions: A Growing Engagement” In *Journal of Human Rights Practice*, 9, 2017, p. 211

# Conclusion

## 4

The present report examined current challenges to multilateralism and looked closely into the protection of Human rights and refugees as it has been developed during the last century. Although many threats to multilateralism were identified, the report did not focus extensively on negative observance, but presented diverse options for future development of multilateralism as a preferred way of global governance in times when challenges to our society are crossing national borders and have to be solved on the international level.

Key points highlighted in this report include: multilateral institutions will have to adjust to the new balance of power, recognise the limitations of global institutions, establish different regimes depending on the function of the institution, and address the growing divisions within the countries.

The multilateral Human rights community will have to find a new narrative, focus on promotion of social rights and engage more with corporate actors. International refugee protection will have to find new approaches to resettlement and enhance the collaboration with national Human rights structures that are main actors in the complex and gradual process of integration.

Education is the silver lining common to all the themes covered in the report. Civic, social and political education can help restore the trust of citizens in the international multilateral organisations that stand for the common good, explore the rhetoric of xenophobia and nationalism and, finally, strengthen people's moral resolve, sense of solidarity and support for democracy and Human rights.

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