

## Editorial: A new international order? What international order?

We are not facing a new crisis in international Law. International Law is in permanent crisis, the natural state of a system of rules that seeks to subject the relations between subjects of an insufficiently institutionalized horizontal society to the rule of Law. A look at the bibliographic indices reports many articles that repeatedly speak of the crisis. In a changing society, it would be illusory to conceive ID as a peaceful, compact, and static order. We should not analyze the legal reality without entering into the uncertain and unstable process of its transformation, nor should we isolate the violation of the norms from the historical context in which they occur. Despite this, it should be noted that the members of that society have proclaimed the mandatory nature of norms that have been considered fundamental and qualified their violation as an international crime.

From the systematic bombing of Serbia by the United States and its allies to the invasion of Ukraine by Russia, going through the series of aggressions and interventions that we have briefly mentioned, the conclusion is drawn that the *New Order* of some and others is part of the deliberate infringement of the principles, bodies, powers, and procedures of the Charter of the United Nations and of the fundamental norms of International Law that have been developing, especially since decolonization. The *New Order* turns upside down a legal system and a universal and representative organization.

This is the terrifying scenario we face: the reversion to the 19<sup>th</sup> century with 21<sup>st</sup> century weapons. It causes melancholy to recall how optimistic we were about our future in 1989, when the recurring crisis was presented in terms of growth and progress. Now we can talk about the lost forty years—2022, a tragic event that can be added, for worse, to other outstanding years, such as 1648, 1815, 1914, or 1939.

Is there no reform without a cataclysm? It is sad to see the inability of the United Nations members to accommodate the purposes of the Charter, its organs, powers, and procedures to the new political and economic environment following their own reform forecasts. Significant changes have been linked to great conflagrations. The League of Nations emerged as a result of the Great War. The UN, from World War II. An early commentator on the right of veto in the Security Council ([G.Day, 1952, p. 88](#)) reported that Greece had voted in favour of this formula in the Charter of the United Nations “in the conviction that... the Charter is it will change with the times. According to the adage of the Greek philosopher, *everything will collapse....*”. Well, the Charter has collapsed.

What kind of reform can inspire such a cataclysm? Without going so far as to see the horse riders of the Apocalypse riding or to identify Putin (or other adversary leaders) as the *Golden Beast* or *the Antichrist*, evil exists, and there are plenty of reasons to be

concerned. When the lords of evil rise to the surface, humans must seek refuge in the bowels of the Earth.

**The (Nuclear) Power and the Law.** Understanding that the mere enjoyment of power is a source of legitimacy for all kinds of actions pushes the formation of blocs attracted by force. It makes the international order a precarious concept, linked to the truce, not to peace, to the sect and not humanity—creating regional hegemonic orders (blocs) subject to great powers. The weakest are attacked. What if Ukraine had kept its nuclear arsenal instead of handing it over to Russia for agreements to respect the sovereignty and territorial integrity it had not complied with? Cold War or Cold Peace? The new darkness: The dark times. The problem of collective global security remains whole.

So, if it is already a nightmare to imagine that the New Order can settle on a mound of aggression and other criminal acts of the great powers, whatever the clothes they wear, that nightmare turns into a fatal glow when the conflict involves nuclear powers. Years ago ([Civilized, Barbarians and Savages in the New International Order, 1996](#)), I suggested that the inspiration for the New Order might lie in that of chimpanzees, a world in which the emergence of an undisputed victor heralds the improvement of a negative relationship. That suggestion no longer works in a conflict between atomic chimpanzees. There would be no survivors, and they would drag all kinds of bonobos and macaques with them.

**From dystopian to utopian discourse.** Think it is impossible? Take up the dreams of E. Kant? Save the UN, our Private Ryan? We must not save the UN just because, without it, everything would be worse. The Organization has taken advantage of scarce resources, was able to transcend what was initially a coalition of winners, launched plans and strategies for development, made a notable contribution to the codification and progressive development of the DI, and learned to be universal, respecting the formal sovereign equality of the Member States, the only opportunity for many to have a voice and a vote in problems that affect humanity as a whole, without prejudice to recognizing the statutory inequality of the permanent members in the Security Council in the fundamental task of maintaining and, where appropriate, restoring collective peace and security.

The International Law built from the Charter was a giant step in the history of international relations, which the *Cold War* could not quell. It is urgent to return to the Charter, clearly improvable, to rebuild the consensus on the institutions that must serve the constitutional principles we gave ourselves in 1945 and expand or complement such principles. Its potential is intact.

The primary need is the survival of human beings, peoples, states, and humanity. We need food, health, and education as the premises of our freedom and dignity. The people have to save their identity and their culture. The States remains the political unit that, sovereign and independent, makes up the primary international society. Humanity, which encompasses us all, is the holder of a

common heritage and creditor of the solution to today's planetary problems, such as the conservation of the natural environment, the sustainable use of resources, and human development. We are, ultimately, a *village in the universe*.

Our *unity of destiny should* lead us to an institutional articulation, increasingly democratic and vigorous, to face common problems considering the principle of solidarity. The most powerful must not be above international law, nor should their pretensions be imposed unilaterally. Will there come a day when the international community becomes present and accumulates enough power to make its institutional reaction to aggression and its consequences fearsome? The unequal distribution of power, its accumulation and conservation as one of the essential objectives of the states to protect themselves and satisfy their own interests, continues to favour a soft and discriminatory articulation within which the *large ones* dispute the hegemony or try to neutralize themselves, the *small ones* are subjected to more or less benevolent domination, and the *weakest* are engulfed.

What was good for Afghanistan could be good for the planet: a broad-based, multi-ethnic, and representative government committed to maintaining peace; respectful of international norms and human rights, without distinction of gender, race, and religion; cooperative in the fight against terrorism and all kinds of illicit traffic; solidarity and assistance; and dedicated to the construction of a literate, healthy, and progressive society.

However, what has not been possible in Afghanistan? Will it be possible on a universal scale?

Let civil society push forward without Manichaeism. There is a citizen responsibility to deactivate illegal coercive policies assumed by those who represent the States. In non-democratic regimes, the risk is undoubtedly higher. In democratic ones, by exercising their rights and freedoms to oppose such policies, citizens uphold the law. Perhaps that is why there is no shortage of those who, from retrograde positions, even in democratic countries, propose to criminalize defeatist citizens who publicly demonstrate against participation in the wars committed by the lords.

Faith without hope. It insists on the wrong paths.

**Antonio Remiro Brotons**

**Full Professor of Public International Law**

**Directive board member of the Review of  
International and European Economic Law**

