

IPI's VP Adam Lupel's Remarks Delivered to the Ministry of Foreign Affairs, Helsinki, Finland, October 30, 2019

Excellencies, ladies and gentleman thank you very much for this opportunity.

We are having this discussion at a time when there is a broad recognition that International Law as the foundation of the Multilateral System is under increasing pressure and that we are living at a time when the multilateral system is in crisis.

Indeed, discussions of the challenge to global governance and the international rule-based order have become common. This is something that has been developing for years. But, for a number of reasons they have entered a critical period in recent months.

This has to do with the current geopolitical divisions we all know so well: the stepping back of the United States from its place as a champion of the multilateral system, repeated violations of International Humanitarian Law in armed conflicts in Afghanistan, Syria, Ukraine, Yemen and elsewhere, and the resulting increased vulnerability of civilians. But it also relates to the broader political phenomenon that continues to unfold around the world with citizens turning to nationalist leaders skeptical of multilateral cooperation in general.

I won't focus my remarks on the diagnosis of the problem.

Too often this is set up as a false opposition between multilateralism and nationalism. When in fact the multilateral system was built for the pursuit of national interest through cooperative frameworks: It is important to underline at the outset that you can be a patriot and a multilateralist at the same time. In fact, I think you have to be, and the experience of small states make that most evident. I will get to that in a moment.

But first I think it is important to understand what we are talking about when we talk about the crisis of multilateralism. Discussions of the crisis and the weakening of the international rule-based order and the way forward tend to conflate two related though distinct problems:

- one is the weakening of the *liberal* international order rooted in democracy, human rights, free trade, and collective security institutions like NATO;
- and the other is the wider threat to the United Nations system of multilateral cooperation, writ large. This includes a broader system of norms, agreed upon rules, and institutions to regulate disputes among states, manage competition, and set limits on the use of force, based on the principle of sovereign state equality, whether the state is small or large, democratic or authoritarian, or anything in between.

The liberal order could collapse completely and theoretically we could still have the broader multilateral system, but the question is in what form?

The UN multilateral system has always been a hybrid order. It is both an aspirational, liberal international order that reaffirms [“faith in fundamental human rights”](#) and a realist system of managed competition among sovereign states. This fact of hybridity is what produces some of

the most contradictory elements of the UN system, such as the presence of human rights abusers on the Human Rights Council (witness the recent election of Venezuela) or the need to balance institutional commitments to the sovereign equality of all states (regardless of their form of government) with the systematic promotion of [democracy](#) worldwide.

This hybrid system of global order has resulted in a relative amount of international stability, with ebbs and flows over the course of 75 years. Yet, the equilibrium is shifting—as the global balance of power gravitates from West to East and we experience a real pushback against liberal values and rights: And no one can be certain where it will all settle or whether this is in some sense temporary or whether we are experiencing a more durable shift of priorities back to an older model of state relations that has never completely gone away.

We must ask: **What are the risks of such uncertainty?**

What is at stake in the potential weakening of the international rule-based order? What is its potential impact on Small States? And what is their role in paving the path forward?

As the title of this paper would suggest, “A Necessary Voice,” I do believe small states have a very important role to play in this particular moment in time. Why?

At its most fundamental, international order seeks to limit the anarchical nature of global affairs, in particular to establish a system of norms, agreed upon rules, and institutions to regulate disputes among states, **and to set limits on the use of force**, both on when and how it may be used.

Among UN member states, small countries are most at risk if the international system further devolves into an older model of international order based on mere power politics and zero - sum games.

Small states are by definition vulnerable in a world where international law is compromised and only might makes right. While states of all sizes will strongly defend international law when it is in their interests, small states tend to have fewer economic or military tools to rely on to defend their interests and thus often place a greater emphasis on international law in their foreign policy.

In particular, historically, **small states have often highlighted a commitment to International Law when running for and serving on the Security Council** as did Slovakia in 2006-2007, Sweden in 2017-2018 term and Estonia did in its campaign for its term beginning next year.

And so in this paper, we focused on the Security Council. And one must ask, on a body like the Security Council, dominated by the large powerful states that are its permanent members, (China, France, Russia, the United Kingdom, and the United States) known as the P5, can small states serve as effective champions of the rule-based order and international law?

And if so, how?

Now it should come as no surprise that we believe they can and they have been effective members of the Council. But when asking what small states can do on the Council to defend the international order, one must first recognize the limitations of their participation.

Even the largest, most powerful elected members of the Council run up against the uneven nature of member state influence on the body. Many point to the veto as the critical factor of P5 power on the Security Council. And this is not wrong per se.

But when speaking to people at the working level, they often point to another factor. It is the element of permanence that gives the P5 a real edge in the day-to-day workings of the Council. The permanent seat on the Council allows the P5 to build up an institutional memory of relationships, working methods, and precedents that is difficult for an elected member to master in the short span of a two-year term.

Permanent members also tend to have much larger, well-resourced staff and diplomatic corps, which are difficult for small, elected members to match.

However, small states prove to be effective in a number of ways. Numerous observers have noted that one comparative advantage of small size is the ability to quickly maneuver in policy debates. Every Foreign Service is different, but small state diplomats on the Council often report feeling less constrained by large, impersonal bureaucracies that make internal consultations slow and difficult.

Small size also often tends to result in a more focused expertise among a small state's diplomatic corps.

Small states that choose to focus strategically on a particular set of policy areas and cultivate recognized areas of expertise, have often found a path to success. This type of "niche diplomacy" where a member state champions a particular issue to move it forward in the system is behind some of the most significant advances in multilateral diplomacy, including the Law of the Sea, the establishment of the International Criminal Court, or the 2013 Arms Trade Treaty.

In fact, recent years have witnessed several cases where small states have driven debates on the Security Council defending international law and the rule based order, in particular international humanitarian law. For example, Sweden's work taking forward the Humanitarian File in relation to Syria has been widely praised as highly effective, in particular in safeguarding cross-border humanitarian access. Or using their recognized Feminist Foreign Policy as a way to advance the Women, Peace and Security agenda on the Council is another example.

Let me conclude by briefly focusing on the example of Security Council Resolution 2286 on attacks on Healthcare, which the International Peace Institute has been following closely.

As many of you may recall, in 2014 and 2015, the WHO recorded an increasing number of armed attacks on healthcare (594 incidents in 19 countries), and they determined that 62 percent of those attacks were intentionally directed at those targets.

The protection of the wounded and provision of safe space for medical personnel goes back to the beginning of International Humanitarian Law in the first Geneva Convention of 1864. To undermine that norm is to call into question the very basis of International Humanitarian Law, and the very notion of an international rule-based order.

In early 2016, the small state of New Zealand (population under 5 million) initiated discussion on a possible Security Council resolution to help reinforce that bedrock of IHL by convening a multi-stakeholder round table at its UN mission. Soon, a draft resolution was being negotiated by five penholders from a diverse range of countries: Egypt, Japan, New Zealand, Spain, and Uruguay. After extensive negotiations, the final resolution served to clearly remind member states that “intentionally directed attacks” on health facilities and medical workers during armed conflict are war crimes.

From a negotiation standpoint, the resolution was a tremendous success. It was adopted unanimously, with eighty-five member states as co-sponsors—spearheaded by the bridge-building diplomacy of two small states in partnership with others.

While we have to recognize that attacks on healthcare tragically continue, the resolution and the small states diplomacy behind it makes an important statement about the need to reinforce normative commitments to international humanitarian law at a time when some might question the international community’s commitment. Studies show that “most compliance with law, including international law comes not coercion but from *patterns of obedience*” in the words of international law scholar Harold Koh. The risk is that once those patterns of obedience break down, noncompliance becomes pervasive and order disintegrates.

While disagreements abide, most small states share a primary concern for the importance of international law because they know that if order disintegrates their statehood can never be based on hard power alone. Norms are important.

How can small states help defend the international rule of law? There is no single formula to do so. It will take a combination of law, diplomacy, normative commitments, hard power, and soft power.

But I think the examples of the Syria Humanitarian file and Resolution 2286 demonstrate that small states have an important role to play.

And part of that is the insistence from the Security Council and elsewhere is that what we are seeing—in the attacks on hospitals and increasing humanitarian consequences for civilians in armed conflicts around the world—are violations of long-established norms and not a transformation of those norms into something else.

And Small States on the Council as specially affected states—who collectively make up the majority of UN member states—and who would be particularly vulnerable in a world with a weakened system of international law, are well-positioned to provide that message, to be that voice, as we refer to in the title to the paper, to be that “Necessary Voice” in this critical time. Thank you.