

## **Cleveringa lecture Budapest**

**28 November 2019**

### **Goodbye or not-so-goodbye?**

## **Withdrawing from international organizations in the age of nationalism and populism**

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During and after the Second World War many international organizations have been established. International cooperation was considered to be in the common interest. A growing number of problems could no longer be effectively addressed at the national level only. The UN, the IMF and the World Bank, the Council of Europe, the European Communities and NATO were created, as well as the World Meteorological Organization, the European Space Agency, the African Union, ASEAN and many other organizations. However, nowadays these structures for international cooperation are increasingly criticized. Political leaders propose to withdraw from international organizations, and sometimes states actually withdraw. Is this not ‘throwing away the baby with the bathwater’? Or has globalization gone too far? Is there a need to recalibrate multilateralism and ‘update’ international organizations?

Introduction: Cleveringa, the Cleveringa lecture (26 November 1940). See:

<https://www.youtube.com/watch?v=mng0NUQun-0#t=17>

This happened in the beginning of the Second World War, half a year after Germany invaded the Netherlands. We know what happened after 26 November 1940. For us this is a past that “brought untold sorrow to mankind” (as is stated in the first sentence of the UN Charter). But at the time for Cleveringa, the Dean of the Law Faculty, this still was a very uncertain future. In the midst of the difficult and confusing early months of the German occupation, Cleveringa concluded that the German occupier had crossed a red line, and he decided to give his courageous lecture.

Cleveringa was not alone in his criticism. He was joined by a number of other law professors, in particular Ben Telders, professor of international law. Telders died in 1945 in concentration camp Bergen-Belsen. In his honour, the Telders international law student association was founded after the War, and in the 1970s this association took the initiative to establish the Telders International Law Moot Court Competition, in which teams from ELTE University have been so successful. To honour Telders, we are organizing a symposium in Leiden next April, 75 years after he died.

It is important to remember the *Zivildcourage* of Cleveringa, Telders, and others. Each European country has its own examples of courageous citizens who stood up against injustice, protested against the Nazis, and they must be remembered. The horrors of the Holocaust are not only dark pages in the books of history, they also have a meaning for the future. This was true first of all in 1945 for the immediate post-war future: the Second World War and the Holocaust triggered the establishment of the post-war world order and the European integration project. It is also true now, almost 75 years later, when the memory of the War and the Holocaust must be kept alive to provide guidance in building our common future. As Imre Kertész stated at the end of his speech when receiving the Nobel Prize in Literature, in Stockholm in 2002: “in thinking about Auschwitz, I reflect, paradoxically, not on the past but the future”. And earlier in this speech – I am sorry I cannot quote Kertész in Hungarian, the language in which he delivered this statement: “What was revealed in the *Endlösung*, and in the universe of the concentration camps, cannot be misunderstood, and the only way survival is possible, and the preservation of creative power, is if we recognize the zero point that is Auschwitz. Why couldn’t this clarity of vision be fruitful? At the bottom of all great realizations, even if they are born of unsurpassed tragedies, there lies the greatest European value of all, the longing for liberty, which suffuses our lives with something more, a richness, making us aware of the positive fact of our existence, and the responsibility we all bear for it”.<sup>1</sup> ‘The longing for liberty’, this is appealing to professors from Leiden University, whose motto is *Praesidium Libertatis*, bastion of liberty.

It is therefore important to remember the *Zivildcourage* of Cleveringa, Telders, and others. It is necessary to keep the memory of Cleveringa’s protest lecture alive. This happened when in 2015 this lecture was honoured as the ‘Best Dutch speech in history’. This also happens each

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<sup>1</sup> Available at <https://www.nobelprize.org/prizes/literature/2002/kertesz/25364-imre-kertesz-nobel-lecture-2002-2/>.

year when, in Leiden and around the world, ‘Cleveringa lectures’ are given, as today here in Budapest. It is an honour for me to be here. I thank the organizers - the Leids Universiteits Fonds, the Netherlands Embassy in Budapest and ELTE University - for having invited me. Leiden and ELTE are members of the same Coimbra family, which unites 39 old European universities and promotes international cooperation in high-level teaching and research. Veel dank, nagyon köszönöm.

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The title of my presentation is ‘Goodbye or not-so-goodbye? Withdrawing from international organizations in the age of nationalism and populism’. What I aim to discuss is the following.

At the global level, a new world order rose from the ashes of the Second World War. In Europe, the process of European integration was initiated. These were not acts of nature. World War II was man-made, so was the postwar order. As was written in the Schuman Declaration and reproduced in the Preamble of the Treaty establishing the European Coal and Steel Community: “world peace can be safeguarded only by creative efforts commensurate with the dangers that threaten it”. New rules of international law were made, new international organizations were created. *Après la mort, le médecin ...*

But this world order and the European project are now increasingly criticized, in particular by nationalist and populist governments and leaders. They say things like

- “We want our country back” (Nigel Farage, former leader of the UK Independence Party, at the UKIP Annual Conference in Doncaster, 25 September 2015)
- “We reject the ideology of globalism, and we embrace the doctrine of patriotism” (US President Trump, speech before the UN General Assembly, 25 September 2018)
- “If I’m elected president, I will leave the UN. This institution serves no purpose... It’s a meeting place for communists” (Jair Messias Bolsonaro, now President of Brazil, during his campaign for the elections, 18 August 2018).

There are not only these words, fueled with strong criticism and threats to withdraw. Some of these governments and leaders also practice what they preach and actually leave international organizations. Other governments also become more critical. The Netherlands has become a much more critical EU member state in recent years, it is against a larger EU budget and rejected the start of EU accession talks with Albania. Hungary is one of the few countries that voted against the UN Global Compact on Migration. Burundi and the Philippines left the ICC. The US has withdrawn from UNESCO, from the UN Human Rights Council and from the International Coffee Organization. Japan has left the International Whaling Commission. A number of countries have withdrawn from the UN Industrial Development Organization. There is Brexit. Also, following the Brexit referendum in the UK in 2016, various populist leaders stated that their countries should leave the EU (Marine Le Pen (‘Frexit’), Wilders and

Baudet ('Nexit')). As far as I know, there has not been much support for a 'Hexit' in Hungary.

These are major topics in political debates these months and years, in particular in times of elections. It is discussed in the cafes of Amsterdam, Budapest, and Leiden. I would like to offer a modest academic contribution to this grand debate. My main expertise is the law of international organizations. The 6<sup>th</sup> edition of a book of which I am the co-author, *International Institutional Law*, was published a year ago. The research for this new edition is the basis for the few observations I would like to make, in the context of the tension between globalization, multilateralism on the one hand, and nationalism, populism on the other.

I will focus on one important part of the criticism by nationalist and populist governments and leaders. I will not focus on particular areas of international cooperation such as climate change, human rights, criminal justice, migration, economic integration, finance, trade, or other substantive fields of cooperation. Instead, I will concentrate on the institutions for international cooperation, *les rouages du monde*, the UN, the EU, the ICC, NATO and hundreds of other international organizations. It is these organizations that are often criticized by nationalist or populist governments and leaders.

The question I want to discuss is how we should assess these developments. Are these dangerous developments that may threaten our future? Is our collective memory fading away? Has it been forgotten that the United Nations was once created "to save succeeding generations from the scourge of war", as mentioned in the first sentence of the Charter? Has it been forgotten that "the contribution which an organized and vital Europe can make to civilization is indispensable to the maintenance of peaceful relations", as mentioned in the Preamble of the ECSC Treaty?

## **OR**

Is some of the criticism of nationalist and populist governments and leaders justified? Has multilateralism gone too far and is it now firing back on us? Have states lost too much control, independence, identity?

In order to answer these big questions, the remainder of my presentation is divided into two parts. In a short first part, I will argue that much of what is happening today is in fact not really new. As I will show, *plus ça change, plus ça reste la même chose* ... . However, in the second and longer part I will argue that it is also true that there is something new in the current nationalist and populist criticism, and that this must be addressed.

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*Plus ça change, plus ça reste la même chose ...*

Much of what is happening today is not completely new. *Plus ça change, plus ça reste la même chose ...* . “To-day international law finds itself in a state both of rapid flux and of considerable peril. Attempts to make the international community conform to high standards of law, equity *and organization* conflict with the efforts of certain Powers to impose their will, replacing legal relations by relations of force”.<sup>2</sup> This was not written this or last year, but some 65 years ago, by two eminent Dutch lawyers (Van Eysinga and Meijers) in their introduction to the newly established Netherlands International Law Review.

The study of international organizations, their law and practice, shows that it would be wrong to believe that we are now in an age that is completely ‘anti-international organizations’ while the post-war period was an age of only building new ones. There is room for nuance here. Plans to create new international organizations have sometimes failed in the past (the International Trade Organization (Havana Charter, 1948); the European Defence Community (1952); the European Political Community (1953)).<sup>3</sup> The reasons for such failures are often related to protectionism, nationalism, or more vaguely to ‘protection of sovereignty’.

Something similar can be observed concerning withdrawals from international organizations. Brexit is of course the first case of a withdrawal from the EU. But it has happened before that member states have withdrawn from international organizations. Since 1945, states have withdrawn from IOs in close to 200 cases.<sup>4</sup> Central and Eastern European states (including Hungary) withdrew from WHO and from UNESCO (1949-1953), South Africa during *apartheid* (ILO, 1966), Greece (Council of Europe, 1970). *Plus ça change, plus ça reste la même chose ...* In many of these withdrawals, the states concerned (including Hungary) have returned to these organizations after some time. Against this backdrop, it remains to be seen *when* rather than *if* the UK will rejoin the EU, at an appropriate moment in a future that now seems distant.<sup>5</sup>

In addition, while preparations for Brexit have now been finalized, so have preparations for a continued close relationship between the UK and the EU. There is a strong common interest in this. So also in this respect: *plus ça change, plus ça reste la même chose ...* As the UK may find out, the Eagles were right in their 1970s Hotel California song: “you can check-out any time you like, but you can never really leave”.<sup>6</sup> You can withdraw from an international organization, but you cannot fully withdraw from Europeanization and globalization ... . It is

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<sup>2</sup> W.J.M. van Eysinga and E.M. Meijers, ‘Introduction’, *Nederlands Tijdschrift voor Internationaal Recht/Netherlands International Law Review*, Vol. 1 (1953-1954), pp. 2-4 (quotation at 2 (italics added)).

<sup>3</sup> While these plans proved to be a bridge too far at the time, much of what was envisaged has now become reality (the establishment of the World Trade Organization in 1994; the EU’s common foreign, security and defence policies).

<sup>4</sup> I. von Borzyskowski and F. Vabulas, ‘Hello, goodbye: When do states withdraw from international organizations?’, *The Review of International Organizations* (2019), pp. 335-366.

<sup>5</sup> Art. 50.5 of the TEU explicitly mentions this possibility.

<sup>6</sup> See R.A. Wessel, ‘You Can Check out Any Time You like, but Can You Really Leave? On ‘Brexit’ and Leaving International Organizations’, *International Organizations Law Review*, Vol. 13 (2016), pp. 197-209.

not easy to say goodbye, and, in the long run, it may not be so good to say goodbye ... In fact, this was demonstrated already long ago by Stan Laurel & Oliver Hardy.<sup>7</sup>

So it is difficult to say goodbye: you can withdraw from an international organization, but you cannot fully withdraw from Europeanization and globalization ... This fact of the 21<sup>st</sup> century life may make it necessary, if nationalist and populist sentiments will remain or become stronger, to further develop the already existing possibilities for participation in international organizations that are 'lighter' than full membership. In this way, a possible sovereign wish to withdraw can be accommodated as well as a strong common interest to maintain a certain relationship to limit the negative effects of a withdrawal.

So, to conclude this first part: it is not true that the current critical statements and actions by nationalist/populist governments and leaders are completely new. Much of it is not. This may put the current criticism more in a historical context and should assist to 'de-dramatize' this Grand Debate.

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#### What is new in the current nationalist/populist criticism?

At the same time, while it is true that much of what is happening today is not really new, there also seems to be something that *is* new, and that must be addressed. This is the criticism that globalization and European integration are not, or not sufficiently inclusive. This criticism concerns the situation both within and amongst states. It is argued by the critics that *within* countries, mainly the elites benefit from globalization – the same elites that are often criticized by populists. For the elites, the world has become a global village in which they feel at home. But other parts of the population, often those living in the countryside or in the *banlieux*, may see globalization more as a threat. They may feel disconnected and may have a reason to vote for political leaders who seem to take their concerns seriously. In addition, the critics argue that *amongst* countries mainly the richer ones benefit, while the least developed countries are disconnected. As UN Secretary-General Antonio Guterres has written in the introduction to his Annual Report 2018: “[g]lobalization has taken root, generating remarkable gains, yet too many people are unable to share in these benefits, and millions continue to live in extreme poverty”.<sup>8</sup> He delivered a similar message in 2017, in his first annual report: “[g]lobalization [...] has been cruelly unfair: as wealth has increased, so too has its asymmetry, leaving millions behind in all parts of the world. [...] this sense of exclusion is not limited to the poorest countries but is vividly on the rise in developed countries as well, fueling trends of nationalism and a lack of trust in national and multilateral institutions”.<sup>9</sup>

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<sup>7</sup> See [https://www.youtube.com/watch?v=S9\\_AdehYiIY](https://www.youtube.com/watch?v=S9_AdehYiIY).

<sup>8</sup> Report of the Secretary-General on the Work of the Organization (A/73/1, 2018), para. 5.

<sup>9</sup> Report of the Secretary-General on the Work of the Organization (A/72/1, 2017), para. 7.

In my view, the best way to address this criticism is to have ‘not less but more international organization’. International organizations are not so much (part of) the problem, rather they are (part of) the solution. The function of international organizations is to operate as instrumentalities, *rouages du monde*, not only to facilitate and organize globalization, but also to deal with its negative or uneven effects. International organizations are not only the ‘transmitters’ of globalization, bringing a different and rude outside world into our relatively calm and safe domestic affairs, our comfort zones. They may also function as instrumentalities to temper, to moderate negative or uneven effects of globalization, to make it more inclusive, more fair, more civilized.

Already in the 19<sup>th</sup> century, in specific fields, sovereign states recognized that it was in their common interest to establish international organizations. One kilo in Japan should be the same as one kilo in Hungary, therefore the Bureau International des Poids et Mesures was created in 1875, and agreement was reached on common standards such as ‘le grand K’. One year before, the Universal Postal Union was created, in which also common standards could be agreed upon, for example on the minimum size of letters. The Austro-Hungarian Empire was a member of both organizations from the beginning. Nowadays international organizations are established for rather different purposes, such as the prohibition of chemical weapons (OPCW), cooperation on renewable energy (IRENA) and the prosecution of the most serious crimes of international concern (ICC). But the key underlying principle is similar. States are unable to deal effectively at the national level, in isolation, with a growing list of issues. It is in their common interest to cooperate, often within an institutional setting, in order to deal with these issues. We need to re-discover why we need international organizations or how they should be renovated in the 21<sup>st</sup> century, to make them more inclusive, more fair, more civilized. This is the direction in which the functioning of international organizations must be improved: towards more civilized governance of globalization.

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The next question is: how to do this? How can international organizations better perform this function of tempering globalization? Three ways in which this could be done are the following:

- improve decision-making by international organizations, make it more effective; in short, they should ‘deliver’
- make international organizations less inter-governmental (less elitist, more representative)
- improve the relationship between international organizations and their members.

(i) *More effective decision-making*

The first way in which the functioning of international organizations could be improved, so that they can deliver and strengthen their function of tempering globalization, is to make their

decision-making more effective. What the Schuman Declaration said in 1950 is now also true at the global level: Europe / the world ‘will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity’.

Being more effective is perhaps first of all necessary for the UN Security Council. While the UN is in a state of semi-permanent reform, the Security Council has been mostly excluded from these efforts since the chances of success are slim.

More effective decision-making is also necessary more generally. Today many international organizations take many of their decisions by consensus. The 2015 Paris Agreement on Climate Change is a good example, as is the 2010 Kampala agreement on the crime of aggression amendments to the ICC Statute. The advantage of taking decisions in this way is that the prospects for implementation are better than when members are outvoted. However, often it is not possible to arrive at a consensus, because of antagonism or lack of a willingness to compromise. It is therefore important that there is the ‘fall-back option’ to vote (‘a visible shadow of a vote’) if consensus cannot be reached, so that international organizations can deliver.<sup>10</sup> It should not be possible for one country to completely block decision-making and to hold all the other members hostage. This may please nationalists or populists in the dissenting country, but not those in the other countries since the organization fails to deliver.

The relationship between consensus and a vote was well summarized by the German Chancellor Angela Merkel when President Donald Tusk of the European Council was re-appointed, on 9 March 2017. In spite of massive support by the other member states for the reappointment of Tusk, Poland continued to resist consensus. Finally, it was decided to reappoint Tusk by a qualified majority vote; 27 members of the European Council voted in favour, Poland against. After the meeting, Merkel captured the essence of consensus decision-making, describing the situation as follows: “I think a search for consensus is important even with qualified majority voting. When you’re not dependent on getting unanimity and a qualified majority is possible, you should still try to find a consensus. But, of course, the search for a consensus must not be used as a blockade”.<sup>11</sup>

Two recent examples may further illustrate the importance of having the ‘fall-back option’ to vote. A first example concerns the OPCW. This organization decided last year that it is part of its powers not only to find whether chemical weapons have been used, but also to identify the ‘whodunit’, “those who were the perpetrators, organizers, sponsors or otherwise involved”.<sup>12</sup> The initiative for this decision was taken by the United Kingdom, following the poisoning of Sergei Skripal – a former Russian spy – and his daughter in Salisbury (UK) in March 2018. It was supported by Western and many other states. However, Russia and some others were strongly opposed. The OPCW normally takes decisions by consensus, but in many areas, it may also take decisions by two-thirds majority vote, if no consensus can be reached. Since there was strong disagreement about this issue amongst the member states, no consensus

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<sup>10</sup> The expression ‘a visible shadow of a vote’ is used by C.-D. Ehlermann and L. Ehling, ‘Decision-making in the World Trade Organization’, *Journal of International Economic Law*, Vol. 8 (2005), pp. 51-75.

<sup>11</sup> See <http://www.politico.eu/article/poland-failing-to-tar-donald-tusk-paints-itself-into-a-corner-eu-council-president/>.

<sup>12</sup> OPCW Decision C-SS-4/DEC.3, para. 19 (27 June 2018).

could be reached. Nevertheless, a decision could still be adopted because the requirement of a two-thirds majority of members present and voting was met.<sup>13</sup>

A second example relates to the appointment of members of the Appellate Body of the World Trade Organization. The WTO dispute settlement system is currently in crisis. When the WTO was established in 1994, a new judicial body (the Appellate Body) was created to deal with trade disputes. This Appellate Body has taken final decisions ('adopted reports') in some 150 often very important trade disputes. By far most WTO members are positive about having the possibility to settle their trade disputes in this judicial way and about the functioning of the Appellate Body. However, the US has become more critical in recent years. The Appellate Body has seven members, who are appointed by the Dispute Settlement Body, composed of all WTO members. The decision to appoint Appellate Body members must be taken by consensus. There is no 'fall-back option' to vote. Since 3.5 years ago (May 2016), the US is blocking the consensus on the appointment of members of the Appellate Body. At present, there are only three members left, and this is the minimum required for taking decisions. The term of two of these three members will end in less than 2 weeks from now (11 December). Then, the Appellate Body will no longer be able to work. This would not have happened if the WTO decision-making rules would make it possible to vote in this case.

These two examples demonstrate the importance for international organizations of having 'the visible shadow of a vote' if no decision can be taken by consensus.

(ii) *Making international organizations less inter-governmental*

Traditionally almost all international organizations were forms of cooperation 'between governments' (the ILO being the main exception). Often they were therefore correctly referred to as 'intergovernmental organizations'. This was also how the International Law Commission has defined international organizations since the 1960s, and how this definition was subsequently used in a number of treaties, such as the 1969 and 1986 Vienna Conventions on the Law of Treaties. For the purpose of the Articles on the Responsibility of International Organizations, the ILC adopted a more substantial definition of international organizations, and it agreed that they "may include as members, in addition to states, other entities" (Art. 2(a)). We have seen in recent years that international organizations have become less inter-governmental in two ways: by cooperating more with NGOs, private enterprises and other entities, and by incorporating parliamentary and judicial organs within their institutional structures.

Many international organizations cooperate more than before with NGOs, private enterprises and other entities. Former Secretary-General Ban-Ki Moon of the UN stressed some years ago: "[o]ur times [...] demand a new constellation of international cooperation - governments,

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<sup>13</sup> 82 votes in favour, 24 against. See OPCW Doc. C-SS-4/3, para. 3.15.

civil society and the private sector, working together for a collective global good”.<sup>14</sup> Some organizations have developed policies, guidelines and strategies for such cooperation.<sup>15</sup> The reason for this is simply that organizations can better perform their functions if such other parties are more involved in their activities. For example, the FAO observes that food insecurity can be defeated “[o]nly through effective collaboration with governments, civil society, private sector, academia, research centres and cooperatives”.<sup>16</sup> For the UN, such collaboration is essential for the implementation of its 2030 Agenda for Sustainable Development,<sup>17</sup> which is according to Secretary-General Guterres “our contribution to a fair globalization that leaves no one behind”.<sup>18</sup>

A second way in which international organizations have become less inter-governmental, is by incorporating parliamentary and judicial organs within their institutional structures. Parliamentary organs have mainly been created in regional organizations. There is some inter-parliamentary cooperation in a few universal organizations (WTO, ICC), but this is less structured, more informal. In earlier times parliamentary organs hardly existed outside Europe. This has changed radically during the last 25 years, when such organs were created in Latin America, Africa and Asia as well, for example in Mercosur, ECOWAS and ASEAN. In addition, parliamentary bodies were added to the institutional structure of specific organizations such as the International Organization of La Francophonie, the Organization of Islamic Cooperation and the Cooperation Council of Turkic Speaking States. It is true that the powers and composition of most of these parliamentary organs are completely different from the powers and composition of the European Parliament and the Parliamentary Assembly of the Council of Europe. At the same time, the current position of these two European assemblies is the result of a remarkable evolution of more than 65 years. If this is taken into account, it is also remarkable that the members of some of the Latin American parliamentary organs and the ECOWAS parliament are now directly elected. The rise of international parliamentary organs has made a number of international organizations less governmental. Obviously they are far from a panacea to the problems involved in bridging the gap between the need for international cooperation seen by parts of the population and unseen by other parts. But they are the beginning of the representation of the *vox populi* at the international level.

There has also been a remarkable increase of the number of international judicial organs. While some six international courts and tribunals existed in 1990, there are some 30 now, even 50 if international administrative tribunals are included. Some of these courts and tribunals are self-standing international organizations (e.g. ITLOS and the ICC), but most of them are part of the institutional structure of an international organization. Originally, this was

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<sup>14</sup> Secretary-General Ban Ki-moon, Speech at World Economic Forum Davos, Switzerland (29 January 2009), available at <https://www.un.org/sg/en/content/sg/statement/2009-01-29/secretary-generals-plenary-speech-world-economic-forum-global>.

<sup>15</sup> E.g. UNESCO in 2013 (see UNESCO Doc. 192 EX/5.INF, adopted in 2013 by UNESCO’s Executive Board); the WHO in 2016: Resolution WHA69.10 at [http://apps.who.int/gb/or/e/e\\_wha69r1.html](http://apps.who.int/gb/or/e/e_wha69r1.html).

<sup>16</sup> See the website of the FAO, at <http://www.fao.org/partnerships/en/>.

<sup>17</sup> In the words of UN Secretary-General Guterres: “The ambition and breath of the Sustainable Development Goals make them simply unattainable without robust partnerships” (UN Doc. A/72/684 – E/2018/7, p. 32).

<sup>18</sup> Report of the Secretary-General on the Work of the Organization (A/73/1, 2018), para. 5.

mainly a European phenomenon, as in the case of parliamentary organs. But nowadays judicial organs have been established also elsewhere, for example the Andean Court of Justice, the East African Court of Justice and the ECOWAS Court. As a result of the functioning of such organs, there is now more rule of law and less 'rule of power' in the relevant international organizations. Cooperation in these organizations is now more 'judicialized', and has become less inter-governmental.

All these new parliamentary and judicial organs as well as the increased involvement of NGOs, private enterprises and other non-state actors make the work of international organizations less exclusively inter-governmental. It must be added that these new developments by far not always bring immediate successes and results. Almost by definition, governments may not always like international organizations becoming less inter-governmental, as they lose some control. At the same time, however, collectively they gain some control over the area in which the organization is competent. In the EU, this is experienced by all member states, including the Netherlands and Hungary. The new Hungarian member of the European Commission, Olivér Várhelyi, does not represent the Hungarian government. The Commission is "completely independent". Its members are chosen "on the ground of their general competence and European commitment" and their "independence is beyond doubt" (Art. 17.3 TEU). The European People's Party of the European Parliament is now considering expelling the Fidesz party. There are proceedings in the EU Court against Hungary because it does not implement decisions concerning the relocation of immigrants from Greece and Italy. Two months ago, Advocate-General Sharpston criticized the Czech Republic, Hungary and Poland in very strong terms, emphasizing three important strands of the EU legal order by which the member states are bound: the rule of law, the duty of sincere cooperation and the principle of solidarity. However, even though the governments of the member states may not always like how European integration works out on each and every issue, it is important not to forget that there are good reason why - in the 1950s and now - European peoples and states voluntarily decided to be part of this larger European family. The metaphor of a family may evoke both a nest of vipers and feelings of confident warmth, as Suzanne Bastid once wrote.<sup>19</sup> These are long-term processes; 'Rome has not been built in a day'.

(iii) *Improving the relationship between international organizations and their members*

A third and perhaps most fundamental way in which international organizations could better perform their functions is to improve the relationship with their members, so that an international organization is really more than the sum of its members.

This relationship is fundamental for any international organization, but is not always well-understood. The ideal scenario is that an international organization is more than the sum of its members, delivering, successfully performing its functions. The worst case scenario is that

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<sup>19</sup> With regard to the UN family ; the notion of a UN family "peut évoquer suivant les circonstances le noeud de vipères [nest of vipers] ou la chaleur confiante [the confident warmth] du foyer", in 'Sur quelques problèmes juridiques de coordination dans la famille des Nations Unies', in *Mélanges Reuter* 75-101 (1981, at 75).

members see an organization as a scapegoat. This happens when they blame the UN, the EU, the WHO and other organizations for what is in fact a failure by the members to enable the organization to perform its functions. It does not often happen that members admit that they themselves should be blamed, rather than their organization. An example is the speech by President Macron before the UN General Assembly during the General Debate last year: “Born out of hope, the UN may become, like the League of Nations that preceded it, a symbol of powerlessness. And there is no need to look for those responsible for this disintegration; they are here, in this Assembly. They are speaking today. It’s we, the leaders, who are responsible”.

How to improve this situation? Essentially this can be done in two ways: international organizations must become better international organizations, and members must become better members.

#### *International organizations must become better international organizations*

International organizations should become more transparent and accountable, they should have modern management and personnel policies (e.g. whistleblower protection policies). They should better explain what they are doing, why and how they are doing it. They should become better in ‘marketing’, i.e. demonstrating why they perform particular functions, showing the advantages/ benefits of the work of the organization, as well as the price of non-cooperation.

In recent years, many organizations have taken steps in this direction. Examples are the creation of remedial mechanisms to deal with wrongful acts of the organization, and the development of whistleblower policies by a number of organizations.

#### *Members must become better members*

However, even more important is that members must become better members. By enabling international organizations to do what they want them to do. By refraining from micro-management. By implementing their decisions, even though each individual member may not always like each of the organization’s decisions. By respecting the independence of international civil servants. By not blaming international organizations for things for which they should blame themselves. By explaining at home not only the failures but also the advantages and benefits of the work of international organizations (EU). And perhaps most generally, by actively supporting international organizations if they face unjustified criticism. This is what already happened in some cases in recent years: in the EU following the Brexit referendum, in the ICC Assembly of States Parties after some African states criticized the Court, and now also to some extent in the UN General Assembly following attacks on the UN by populist leaders such as Trump and Bolsonaro. The postwar international order is not self-perpetuating. It requires maintenance, permanent support and regular updating.

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## Conclusion

Three conclusions may be offered at the end of this Budapest Cleveringa lecture. First: some of the nationalist/populist criticism is fundamental and must be taken seriously. This may not always be easy in the current climate, in which many talk, shout, tweet, and few listen and reflect, and in which antagonisms are magnified by modern means of communication. But it is in our common interest to better understand and address the part of the nationalist/populist criticism that is fundamental. Globalization has not been sufficiently fair and inclusive.

Second: the answer to this criticism should be that we need 'more rather than less international organization'. We should be careful not to throw away the baby with the bathwater. We should not dismantle the postwar order because it has uneven and negative impacts, but we should calibrate/renovate it so that it fits in with society today. The function of international organizations in the international community is to organize and civilize globalization.

Therefore, third: leaving international organizations is neither in the self-interest of the exiting state, nor in the collective interest of the other members. In short, answering the question in the title of my presentation: it is 'not-so-good to say goodbye'.