

---

## ***NSI's Jelena Vidojević in conversation with Miloš Hrnjaz***

This exclusive interview is part of **Missing Voices: Critical Thinking in Times of Polycrisis**, a discussion series presented by the New South Institute (NSI).

The series seeks to offer a necessary and fresh contribution to current global debates on the future of the global order, bringing together diverse voices and perspectives that have often been marginalised, oversimplified, or silenced altogether. Here, NSI's Jelena Vidojević is in conversation with Miloš Hrnjaz.

**Q Jelena Vidojević: There is widespread agreement that the (liberal) international order is in crisis. However, there is less consensus on the primary causes of this crisis or the early warning signs that signalled the breakdown of the Western model. From an international law perspective, what were the early indicators of this decline, and which factors have contributed most to the current instability?**

**A Miloš Hrnjaz:** The claim that the liberal international order is in crisis evokes two dominant emotional responses. In one part of the world, there is fear, rooted both in concern that cherished values are under existential threat, and in anxiety over the potential loss of a privileged global position. In another part, there is a cautious sense of hope or even joy, driven by the belief that the systemic injustice and inequality associated with the current order may be replaced by a more equitable alternative, even if its contours remain undefined at present. Between these polarities lies a narrow, fragile space for gradual change, which, however idealistic it may sound, might avert more catastrophic outcomes than those we are currently witnessing.

From the perspective of international law, local and personal experience can offer revealing insights. If the late 20th century represented the apex of the liberal international order, then NATO's<sup>1</sup> 1999 aggression against the Federal Republic of Yugoslavia (Serbia and Montenegro) marks a significant moment of contradiction. While NATO's aggression against Yugoslavia was framed politically as a humanitarian intervention, most NATO member states avoided using this justification as a legal framing.

<sup>1</sup> North Atlantic Treaty Organisation



### **Miloš Hrnjaz**

Miloš Hrnjaz is an Associate Professor of International Law at the University of Belgrade – Faculty of Political Science where he teaches Public International Law, Use of Force in International Law, and International Humanitarian Law. His latest research is focused on the classification of armed conflicts with a special emphasis on armed conflicts in Yugoslavia. He was a Research Fellow at the Geneva Academy of IHL and Human Rights, American University – Washington College of Law, and Leiden University. His professional experience includes also a post of a Personal Assistant of a Chief Legal Advisor in the Ministry of Foreign Affairs of the Republic of Serbia.

At the International Court of Justice, only Belgium used the argument of a humanitarian intervention to justify NATO's actions.

What is particularly relevant is the global response to this argument. The 'rest of the world' overwhelmingly rejected the inclusion of the term or concept of humanitarian intervention as an international norm in the system of international law. Despite differences among Global South countries, and occasional sympathy toward the Kosovo Albanians, there was also unified resistance to incorporating this concept into international legal norms. It was this firm opposition that prompted the development of the Responsibility to Protect (R2P) doctrine, aimed in part at softening resistance to the concept of a humanitarian intervention, through reformulated language.

Yet at that time, as now, non-Western states have found it easier to articulate what they oppose, rather than unifying around a shared vision of what they support. As a result, their resistance to embedding Western liberal values into international legal structures has often been dismissed as conservative or reactionary. Nevertheless, in the past 25 years, Global South states have increasingly sought to articulate alternative visions of a global order and international law, ones that reflect their values and interests, and which deserve to be evaluated on their own terms. However, this remains a project in its early stages.

**Q Jelena Vidojević: Predictions about the future are largely pessimistic, with the world increasingly seen as chaotic and even dangerous. Multilateralism appears to be in retreat, as the rise of populism and nationalism has driven key states to prioritise narrow self-interests over the global common good. Moreover, many scholars argue that shifts in the global distribution of economic and military power will inevitably lead to greater contestation and deadlock within multilateral institutions. How do you view this perspective?**

**A Miloš Hrnjaz:** In an article published last year on the international order and Martin Luther King Jr.'s "Letter from Birmingham Jail", Hurd (2024) highlights King's emphasis on the necessity of tension. King argued that tension is not inherently negative in a society marked by deep injustice. In this light, it seems important to underscore that the liberal (or post-1945) order has produced many outcomes that not only warrant critical re-examination, but also demand tension in the form of active, creative, and non-violent resistance.

I raise this point because I believe that much of the pessimism surrounding the future stems from the fear I mentioned previously. It is easy to dismiss this fear by framing it as merely a fear of losing privilege, but it is

also rooted in something deeper. Most people desire predictability and fear chaos. Those who defend the liberal international order now stress that chaos may follow its erosion or collapse. To some extent, this fear is justified. No matter how strongly we emphasise the injustices produced by the current order, that does not mean a worse world is not possible.

One such alternative world is the one you refer to, a world marked by malignant nationalism, where national interests drive us into a space from which there may be no return, as we descend into violent and destructive conflicts. Therefore, working towards an alternative to the existing order is essential, but we must proceed with great caution regarding what we aim to achieve and how. For instance, multilateralism is not necessarily of value in and of itself, if, for example, the multilateral institution's functioning is governed by more or less concealed power dynamics. At the same time, the benefits of the mere existence of a forum for dialogue should not be underestimated.

**Q Jelena Vidojević: There is an underlying assumption, particularly among scholars from the Third World Approach to International Law (TWAIL)<sup>2</sup>, that, due to its explicit Eurocentric origins and historical ties to colonialism, international law has largely served the interests of the dominant social forces and powerful states in global affairs. Chimni (2017) argues that international law plays a crucial role in legitimising and sustaining the unequal structures and processes that deepen the North-South divide. How, then, can international law be leveraged, and to what extent, to advance the interests of Global South countries, both in protecting them from the excesses of authoritarian states and in securing their rights on the international stage?**

**A Miloš Hrnjaz:** I'm not sure I can offer a brief response to this question, but I'll try. International law has legitimised colonial domination and crimes committed at that time. That fact is now recognised and it is an uncontested part of the dark history of the discipline I teach<sup>3</sup>. So many scholars have written about this, that there's no need for me to elaborate further here.

More broadly, in an essay I have recently submitted titled "Conceptualising the New (Global) South: Perspectives from International Law",<sup>4</sup> I tried to demonstrate that international law always plays a dual role. It legitimises power within the global order, yet it is never completely determined by global power relations. To some extent, it is also subversive, because it promises a justice that is never fully attainable.

For instance, even in its distorted forms, international law promises equality. And the very idea of equality of individuals or even of states, is subversive, even utopian, in any global order. Given that the idea of justice

<sup>2</sup> TWAIL is a critical school of thought that challenges traditional, Western-centric perspective on international law.

<sup>3</sup> Public International Law, International Humanitarian Law and the Use of Force in International Law.

<sup>4</sup> Not yet published.

is, for human beings, both indestructible and inherently vague or unattainable, it continues to challenge and undermine various corridors of power within the international system.

If I were to give a more concrete answer and address the potential role of international law in protecting Global South states today, I would point to one particularly important historical example where international law played a progressive and protective role, the process of decolonisation. This is a perfect example of the duality of international law.

There is no doubt that decolonisation was both a political and a legal struggle. Certain states, such as those in the Non-Aligned Movement, as well as individual actors, fought simultaneously for specific interpretations of existing legal norms and for the creation of new ones that would facilitate decolonisation. This struggle unfolded within international institutions, particularly the General Assembly and Security Council of the United Nations.

From today's perspective, however, the outcome of that struggle is often viewed as a defeat. The reason for this is clear. While the vast majority of former colonies gained formal statehood during decolonisation, they were denied true or substantive independence and sovereign equality. Statehood did not prevent the persistence of certain forms of domination within the international order. The key question, then, is whether the global order was fundamentally transformed by the decolonisation process, or whether it remained essentially the same.

I use this example to illustrate what international law is still capable of today. I'm not creative enough to envision an international society free from all forms of domination and injustice, but I also don't believe this is an all-or-nothing game. Every step forward, no matter how small, is worth fighting for. And no battle is ever permanently won or lost. Nothing good is guaranteed. Progress requires tension and struggle, always, even for the smallest of advances.

**Q Jelena Vidojević: If we acknowledge both the possibility and reality of multiple worlds by recognising the (regional) variations that (co)exist, can international law (and if so, what kind of international law) serve as the unifying framework that holds these worlds together? Can it enable both the creative and critical coexistence of diverse legal and political traditions? In other words, how can a common world be constructed when it emerges from fundamentally different founding assumptions?**

**A Miloš Hrnjaz:** The first thing we might want to reflect on in addressing this question is whether there even should be a unifying framework. It seems to me that the answer is not necessarily affirmative. It is perfectly acceptable to have universally applicable norms, provided they truly reflect at least a minimal consensus that such norms ought to exist in that particular form. There are, of course, some strong candidates for such norms, such as the prohibition on the use of force in international relations.

On the other hand, there are likely areas where it would make more sense to have norms at the regional level, whether in smaller or larger regions. It would be entirely legitimate for those norms to reflect the specificities and differences of those regions. However, that does leave open the complex question of how these regional systems relate to one another, what we might call the framework that holds these worlds together.

Hybrid solutions are also possible. For instance, a small number of binding, general norms could exist at the universal level, with diverse systems of more detailed rules at regional levels. These regional norms would not necessarily contradict the universal norms, but would elaborate on them within a specific context.

At a more general level, one could say that it is indeed possible to construct a shared international legal world even if different foundational assumptions exist, but such a construction should not be forced. And if we go down that road, we must accept that the norms in such a world will necessarily remain highly abstract and general. That, in turn, inevitably leads to struggles over the meaning and scope of those norms, something we are already witnessing today.

**Q Jelena Vidojević:** Goodman writes in *Ways of Worldmaking* (1978) that ‘Worldmaking as we know it always starts from worlds already at hand; the making is a re-making.’ In your opinion, under ideal circumstances, what aspects of the existing order, considering both its fundamental principles and institutional infrastructure, should be preserved, and what should be ‘re-made’ or even entirely abandoned?

**A Miloš Hrnjaz:** To begin with, I really wouldn’t want to make this decision. The world would be full of the consequences of my prejudices and overall weaknesses.

But if I were to embark on this adventure of imagining ideal circumstances, it seems to me that the key questions are really old, even worn-out: how to retain values like human rights (yes, yes, despite all the criticisms!) in the future order, without creating a world based on greed and selfishness; how to create a world of free individuals who voluntarily renounce (do we truly know when it’s genuinely voluntary?) certain

aspects of that freedom for the sake of solidarity or the common good; how to preserve this freedom without becoming selfish and lacking empathy; how to accept the different answers societies give to these questions, without falling into total moral and every other kind of relativism...

More concretely, it should be noted that radical changes in the order have usually come after major conflicts with unforeseeable consequences. Regardless of all my awareness of the flaws in the existing order, I do not wish for such a thing.

#### References:

Chimni, B.S. (2017). *International Law and World Order: A Critique of Contemporary Approaches*. Cambridge: Cambridge University Press.

Hurd, I. (2024). World order from Birmingham jail. *Ethics and International Affairs*, 38(2): 152- 161.

Goodman, N. (1978). *Ways of Worldmaking*. Indianapolis: Hackett Publishing.