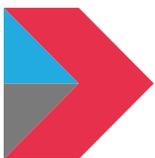




URGING GLOBAL GOVERNANCE REFORM





The structures and processes of global governance are facing a tremendous test. Although it's one of several conflicts – such as those in Syria, across the Sahel and until recently in Ethiopia, among others – Russia's war on Ukraine placed a particular strain on the UN. Ukraine's government and civil society alike looked to the international system for peace and justice. But the UN's response was hamstrung by Russia's power to obstruct.

The experience should provoke renewed reflection about how the international system works and who it serves. Civil society's critiques of global governance and calls for reform have never been more relevant.

Since 2014, when Russia occupied Crimea and invaded Ukraine for the first time this century, Ukrainians have seen thousands of international organisations' representatives spending their time here, mostly in expensive hotels and restaurants. But now that Ukrainian lives are in fact under immediate threat, international organisations are not here anymore. For us, they are now invisible and silent."

 **YAROPOLK BRYNYKH**
Truth Hounds, Ukraine

SECURITY COUNCIL FAILURE

Russia is one of five permanent members of the UN Security Council (UNSC), the global body charged with upholding peace. Enduring divisions between the permanent five – broadly, Russia and China on one side and France, the UK and the USA on the other – mean the UNSC often fails to act on conflicts when one of the permanent five has an interest, as seen repeatedly in relation to Syria's civil war. But the deadlock and dysfunction of the UNSC is now plain for all to see.

Russia's war is in clear violation of the UN Charter, which prohibits the use of force against the 'territorial integrity or political independence' of another state. In March, the International Court of Justice (ICJ) – the UN's court that settles inter-state disputes and issues opinions on international law – made a **provisional order** that Russia must halt its invasion. The ruling is binding but Russia ignored it.

Despite its clear conflict of interest, Russia simply applauds to **spread disinformation** about its intervention in Ukraine.

The architecture of the international governance system is not working properly because it has a fundamental design defect. Russia is a permanent member of the UNSC. The mandate for this body is to maintain international peace and security, but we have seen the total opposite of that take place in Ukraine.

 **OLEKSANDRA MATVIICHUK**
Center for Civil Liberties, Ukraine

In the absence of UNSC action, it fell to the UN General Assembly (UNGA), encompassing all UN member states, to condemn Russia's invasion. In a rare special session in March, the UNGA passed two resolutions calling for an end to the fighting, humanitarian access and immediate withdrawal. But patchy patterns of support were a cause for concern.

Several authoritarian states voted with Russia. This isn't surprising: states with poor human rights records often side with fellow violators in opposition to international scrutiny. But many more, global south states, particularly those in Africa, abstained rather than vote against Russia. This partly reflects Cold War habits of solidarity and a current of public opinion that sees Russia

as standing up to the west. But it's also a measure of Russia's increased diplomatic and economic engagement in African countries, backed by growing deployment of its mercenary forces.



UKRAINE WAR EXPOSES WEAKNESSES OF INTERNATIONAL SYSTEM

MIXED MESSAGES FROM THE HUMAN RIGHTS COUNCIL

A similar scenario was seen at the UN Human Rights Council (UNHRC), which in March voted to establish a commission to investigate war crimes and other human rights violations committed by Russia, but with 13 states abstaining. It begged the question of why states serve on the UN's peak human rights body if they're so unprepared to examine abuses.

Russia was one of the 47 UNHRC members, an absurdity finally dealt with in August, when the UNGA took the rare step of voting to **suspend** Russia from the Council. But with 24 states voting against and a staggering 58 abstaining, this resolution also fell far short of unanimity, enabling Putin to downplay criticism of his sustained assault on universal human rights as patchy and biased.

In October, the Council voted to establish a special rapporteur on human rights in Russia. The office-holder is to report back in a year's time, offering an opportunity for civil society

to share evidence of violations. It marks the first time a permanent UNSC member has been subjected to this kind of scrutiny, offering hope that impunity can be challenged, however powerful the offender.

But again the vote was far from unanimous. Only 17 Council members voted for the resolution, with 24 abstaining – 12 of them African states.

An enduring problem was seen in the annual vote for the UNHRC's new members in October. States serve three-year terms, renewable for a second term, with around a third rotating off each year. But the elections of new members are rarely competitive. The five regional blocs of states often put forward as many candidates as seats are available for each region. This leaves little opportunity to use the election process to scrutinise states' human rights records.

In 2022, there was competition in only two blocs, and civil society worked to make this count. In Asia and the Pacific, one positive was that authoritarian Bahrain pulled out of its campaign for a seat, following backlash over its extensive human rights violations. Similarly in the group of Latin American and Caribbean states, civil society successfully campaigned for Venezuela to lose its bid. But still many states with grim human rights records took a place on the Council, including Algeria, Bangladesh and Vietnam.

Currently, 34 UNHRC member states – over 70 per cent – have serious civic space restrictions. For such states, it's fair to ask whether they genuinely seek to uphold the UNHRC's mission – or whether they intend to undermine it.



UN HUMAN RIGHTS COUNCIL TAKES ACTION ON RUSSIA

THE CHINA TEST

Another permanent member of the UNSC, China, presented another massive test of the international system – and one only partly passed.

In August, the UN's report on the Chinese government's systematic human rights abuses in its Muslim-majority Xinjiang region was finally published, in the face of a concerted effort by China to block it. The report found credible evidence of torture, sexual and gender-based violence and arbitrary and discriminatory detention, among other violations, and concluded these may constitute crimes under international law. China enlisted its allies to mount a furious backlash.



CHINA: UN REPORT LEAVES NO ROOM TO HIDE

Controversy over the delayed report dogged the final year of Michelle Bachelet as UN High Commissioner for Human Rights. She was accused of downplaying human rights criticism and trying to negotiate with rights-violating states, an approach that risked making rights look like something amenable to negotiation and trade-off. The report was released just before her term ended.

The UNHRC then missed the moment in October when it narrowly voted not to hold a debate on China's Xinjiang abuses. The report had provided ample evidence – but the Council simply decided not to discuss it. China pulled every string to ensure this moderate proposal fell. While 17 states voted for, 19 were against and 11 abstained. Few states outside the European bloc backed the proposal, and even several Muslim-majority states abstained, underlining China's deep influence.

States that resist calling out China's abuses tend to fall back on the platitude that the UNHRC should promote dialogue rather than name and shame – but given the chance, they prevented dialogue. Still, the report's damning evidence remains, and civil society will keep pressing for follow-up.



CHINA: UN HUMAN RIGHTS COUNCIL FAILS CRUCIAL TEST

CONTINUING DIVISION ON ISRAEL

There's another major test some states failed. In December, the UNGA passed a resolution calling for an ICJ opinion on Israel's occupation of Palestinian territories. Numerous UNGA resolutions have described the occupation as illegal, and in October the UN's fact-finding mission **issued a report** finding reasonable grounds to conclude it is indeed in violation of international law.



Protesters, including members of US-based Kazakh and Uyghur communities, denounce the Chinese government's human rights violations. New York, USA, 26 July 2022.

Photo by Michael M. Santiago/Getty Images

The call for an ICJ opinion was **carried**, with significant numbers of votes against and abstentions, but here the split was very different. Most of the western states that backed action on China and Russia took a different stance on Israel's abuses, abstaining or voting against the resolution. Overwhelmingly states voting for the resolution were from the global south. China and Russia both supported it, leaving Russia bizarrely condemning an occupation while conducting an invasion.

Once again this pointed to the biggest challenge of global governance: political leaders make largely self-interested calculations rather than taking principled stands. States that rightly condemned the crimes being committed by China and Russia chose to ignore those being perpetrated by Israel. In doing so, they enabled the rejection of criticism as selective and politically motivated. Consistency, not hypocrisy, is needed in the face of human rights abuses.

A NEW HUMAN RIGHTS HEAD FOR THE UN

Bachelet was by no means unusual in serving a single term as the UN's human rights head, and China wasn't the only controversy she faced. Her time in office pointed to an enduring tension in the role, between diplomacy and advocacy. Civil society wants the office to be led by a human rights champion but it often ends up in the hands of a career politician or diplomat. The appointment process is opaque, giving little scope for civil society input.



That was the case again this time. In September UN insider Volker Türk was appointed as the new High Commissioner. It isn't clear how the selection was made and what criteria were applied.

The appointment came at a time of a widespread backlash against human rights, including the fundamental civic freedoms civil society relies on. Civil society urged the new High Commissioner to stand up for human rights publicly and within the UN system. They want the High Commissioner to call out human rights violators however powerful they may be and act on the early warning signs of violations. To do so, the office must engage with and defend civil society.



CIVIL SOCIETY LOCKED OUT

Civil society provides an important counterbalance to the state-centric nature of UN processes. It needs access so that it can seek to influence decisions and hold states to account. But the gap between aspiration and reality was laid lamentably bare at the annual high-level UNGA session held in New York in September.

President after president lined up to make their speeches. Many condemned Russia's war on Ukraine, and in the light of the war, some raised the hope of progress in UNSC reform to limit veto power of the kind flexed by Russia. President Biden went further than before, **supporting** the idea of expanding the Council's membership, something **backed** by many African states.

Some abused the platform. Iran's President Ebrahim Raisi disingenuously used his **speech** to paint his country as a champion in the struggle against injustice, even as Iranian protesters were being **gunned down**. Mali's Prime Minister Abdoulaye Maiga lauded his country's warm relationship with Russia. Many speeches were a waste of global attention, aimed squarely at domestic audiences.

The real value of the high-level session is the chance to have less formal interactions. But civil society remained locked out of any such opportunities. The CSOs that the rest of the year can access UN headquarters, having cleared the hurdles of accrediting to the UN's Economic and Social Council (ECOSOC), remained denied entry on security grounds. Civil society still organised a plethora of parallel initiatives, but its exclusion from UN headquarters deprived it of a priceless opportunity to engage.

This pointed to a bigger problem: civil society consistently struggles for access. The UN has offered some encouraging signals in this regard. In 2020, Secretary-General António Guterres issued a **Call to Action on Human Rights**, which promised to put human rights at the centre of the UN's work – something that can only happen if civil society is enabled to play a full role. This was

accompanied by UN-wide **guidance** on civic space. But there have been few signs of follow-up. A lack of resources is part of the problem: human rights is supposedly one of the UN's three pillars alongside development and peace and security, but very much the poor relation, receiving only around **four per cent** of regular funding.

Civil society will keep pushing for more ambition. Little progress has been shown so far on implementing the 2021 **Our Common Agenda** report on UN reform. This was already a disappointment for civil society since it paid little heed even to the modest idea of appointing a UN-wide civil society envoy or champion, something that remains urgently needed to help enable civil society's engagement.



SOME PROGRESS ON ACCREDITATION

At least a small step forward came in December when nine CSOs received ECOSOC status after years of trying. Accreditation is in the hands of the Committee on NGOs, an ECOSOC subsidiary body of 19 states, and this has a habit of deferring applications from CSOs working on human rights issues that some states object to. Several have faced repeated years of questioning and demands for further documentation, in what has seemed a deliberately attritional process. The longest wait – **15 years** – was experienced by the International

Dalit Solidarity Network, whose accreditation was long held up by India.

When the committee again blocked accreditation for nine CSOs, the **US delegation** pushed instead for the decision to be taken by the larger, 54-member ECOSOC, which voted to accredit them with 24 votes for, 17 against and 11 abstentions. States with serious civic space restrictions almost all voted against accreditation.

Despite the steps taken to clear the way this time, the habit of blocking accreditation remains. In January 2023 the committee recommended one CSO for accreditation but **deferred** another 103. The questions states put to the CSOs denied accreditation made clear their suspicions of CSOs that stand for human rights. The Committee on NGOs is an obstacle to civil society's engagement with the UN and needs urgent reform.

A TEST OF VALUES FOR INSTITUTIONS

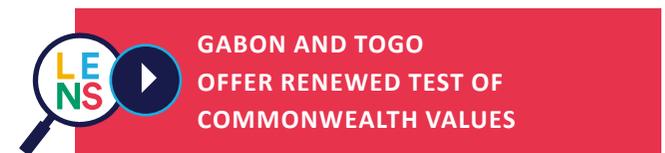
Away from the UN, it was a year of returning for normal for several international organisations, able to hold key summits in person for the first time since the start of the pandemic. The Organisation Internationale de la Francophonie, the international network of French-speaking countries, held its meeting in Tunisia in November. There was little sign of any attempt to discuss the **increasingly dictatorial** rule of President Kais Saied; rather the meeting offered him valuable prestige.

It was a similar story with the Commonwealth. Just like Tunisia, and like Egypt with COP27,

the much-delayed Commonwealth Heads of Government Meeting, held in June, showed that a dire human rights record is no barrier to hosting an international summit: it was held in Rwanda, where critics of tyrannical President Paul Kagame tend to end up **dead or in jail**.

Another development further suggested the Commonwealth's commitments to democracy and human rights mean little in practice: at the summit, two new countries were welcomed as members – Gabon and Togo. Like other Francophone African countries, they're keen to distance themselves from France, and joining a network of mostly former UK colonies is one way of signalling this.

But neither country remotely meets the supposed entry requirements on democracy and human rights. Neither government allows free and fair elections, and both severely restrict people's rights to organise, protest and speak out. They both have long-standing autocratic presidents who took over from their presidential fathers. Commonwealth membership looks like a way of laundering their reputations.



Meanwhile, the Pacific Islands Forum, Oceania's regional cooperation body, met in July. The summit ended harmoniously, helped by the fact that Australia's new government is taking climate change **more seriously**. Regional cooperation however received a setback when Kiribati left the organisation,



Judge Miatta Maria Samba enters the courtroom for the trial of Mahamat Said Abdel Kani at the International Criminal Court in The Hague, Netherlands, 26 September 2022.

Photo by Peter Dejong/Reuters via Gallo Images

citing bias against countries from the Micronesia region. In January 2023 the rift appeared healed when it was **announced** Kiribati was re-joining.

The backdrop to the meeting was China's growing regional role. Just ahead of the summit, China attempted to secure a region-wide economic and security deal. Several states said they needed more time, and collectively they've made clear they expect any partners to commit to strong action on climate change. China continues to pursue bilateral relations with several Pacific Island states, notably Kiribati – a relationship that may have prompted the disagreement – and Solomon Islands. Australia and the USA have been prompted to step up their engagement in response.

It seems clear that to manage both the opportunities and risks enhanced relations may bring, states should work collectively in the Pacific Islands Forum – and they need to ensure they're guided by human rights principles and hear civil society's voices.



CHANGING TIMES IN OCEANIA?

HOPES OF INTERNATIONAL JUSTICE

One of the reasons people look to the international system is in the hope of ensuring accountability and justice over human rights violations. 2022 marked 20 years of the Rome Statute, which established the ICC, in charge of investigating

and prosecuting gross human rights crimes. In September an ICC trial **began** of Mahamat Said Abdel Kani, accused of committing crimes against humanity and war crimes as part of an insurgent uprising in the Central African Republic in 2013.

In its two decades, the ICC has prosecuted and convicted several perpetrators of gross human rights abuses. Each prosecution offers some redress to victims and sends a message against impunity. But a key challenge remains: several powerful states – including China, Russia and the USA, three of the five permanent UNSC members – haven't ratified the Rome Statute, limiting the Court's ability to hold them to account.

In the absence of jurisdiction due to non-ratification, the ICC can still act with an UNSC referral – with all the challenges that entails – and its lead official can launch investigations independently. But without state cooperation, little progress can be expected. An international institution set up to compensate for state failures – to prosecute gross crimes when national-level courts are unable or unwilling to – remains vulnerable to state manoeuvrings. This has forced the ICC to take a patchwork approach, investigating and prosecuting when it can.

Ukraine isn't an ICC member either, but following the start of the war, its government granted jurisdiction. In May the ICC sent its **largest-ever** team of investigators to Ukraine to begin collecting evidence. The hope is that one day those behind Russia's crimes can be held to account.

The existence of the ICC keeps hope alive among victims of human rights violations. But the ICC could deliver accountability more effectively if states backing ICC action towards Russia – notably

the USA – took the logical next step and also put themselves under its jurisdiction. They should make it clear they support the institution unconditionally, not only when it suits their agendas.

"The UN should establish an international tribunal to establish the facts of the Russian Federation's military aggression, while the ICC should consider and promptly rule on war crimes and crimes against humanity in Ukraine."

 **SASHA ROMANTSOVA**
Center for Civil Liberties, Ukraine



The ICC isn't the sole pathway for international justice. In November Kunti Kamara, a former rebel leader in Liberia's 1989-1996 civil war, received a **life sentence** for crimes against humanity. The trial took place in a French court acting on the principle of universal jurisdiction, which holds that any state may take action in cases involving crimes against international law.

This principle has increasingly been used by European states, including Finland, Germany and Switzerland. In January, Anwar Raslan, a former senior official in Syria's intelligence services, received a life sentence after being **convicted** in Germany of crimes against humanity.

These prosecutions offer hope that, alongside the ICC, there can be multiple and complementary routes to international justice. Civil society has a strong role to play in pushing for more states to exercise the

principle of universal jurisdiction and collecting the evidence that helps hold perpetrators to account.

"CSOs on the ground have had the opportunity to speak in trials involving Liberians abroad and victims and survivors have had their say. The international community is helping us seek justice by bringing the accused to trial. That makes it unique and important to the quest for justice in Liberia."

 **ADAMA DEMPSTER**
Civil Society Human Rights Advocacy Platform of Liberia



NEW FRONTIERS IN INTERNATIONAL COOPERATION

International institutions and agreements need to keep evolving to meet and anticipate the challenges of an ever-changing world. The COVID-19 pandemic showed how ill-equipped institutions at all levels are for a global emergency. Lack of preparedness cost millions of lives. State-centric approaches dominated, narrowly defined national interests prevailed and there was little international cooperation. The lessons from the pandemic need to be learned for response to future global crises.

In 2022, drafting began to develop a treaty on pandemic prevention, preparedness and response, under the auspices of the World Health Organization (WHO). This came following extensive civil society

advocacy, which even before COVID-19 struck was calling for stronger international cooperation.

“The principles of equity, transparency and accountability must be built into this treaty. We need to think what needs sorting out or making right, because these are the things we will be held accountable for. Civil society is clearly asking for more say in health issues and in the development of the pandemic treaty, and I think this is truly necessary.”



BARBARA STOCKING
Panel for a Global Public Health Convention

The pandemic **showed** the crucial difference civil society makes in helping communities and upholding rights. Civil society has a role as an official observer at the WHO, but for an inclusive and effective treaty to result, it should be afforded much more scope for influence. Voices from the global south particularly need to be heard, given the vast global inequalities the pandemic exposed.



PANDEMIC TREATY: WILL THE WORLD BE READY FOR THE NEXT CRISIS?

Civil society will keep trying to influence other important treaties currently in negotiation, including those on ocean conservation, plastics use and business and human rights. Civil society's positive influence was shown with the agreement of a relatively progressive **Global Biodiversity Framework** in December. The value civil society can bring is further demonstrated by its continuing role in UNAIDS, where civil society representatives serve on the governing body, helping ensure it stays

focused on the people most in need.

“Our purpose is to bring the perspectives and experience of people living with HIV/AIDS and those populations particularly affected by the pandemic, as well as civil society, to ensure that UNAIDS is guided by an equitable, rights-based, gender-sensitive approach to ensuring access to comprehensive HIV prevention, diagnosis, treatment, care and support for all people.”



GASTÓN DEVISICH
Fundación Huésped, Argentina

The pandemic and the war in Ukraine aren't the only crises to have exposed the inadequacy of current global governance arrangements. Climate change, a global **hunger crisis**, the soaring cost of living and massive economic inequality all point to abject failures of global governance. The problems of the world are too big to be tackled by states alone. They need global solutions, but for these to be the answers people need, international processes must be open to and enabling of civil society.

Upcoming opportunities should be embraced to push the case for reform. These include the Summit for the Future, due to be held in 2024 to develop a 'Pact for the Future', and before then, a session as part of 2023's high-level UNGA to take stock of progress in achieving the Sustainable Development Goals – an ambitious development agenda that is impossible to achieve without full civil society participation. In these and in all such events civil society needs to be a full partner and its calls to make the institutions of global governance more democratic, responsive and fit to face contemporary challenges must be heard.

3 IDEAS FOR ACTION

- 1 By starkly exposing the dysfunction of the UNSC, Russia's invasion of Ukraine opened up a unique opportunity for reform. Civil society must work with like-minded states to expand the Council and limit the use of veto power, making it both more inclusive and more effective.
- 2 Greater scrutiny is needed over appointments to senior UN positions, including of the Secretary-General and High Commissioner roles. Civil society must continue to push for transparent selection processes, including dialogue with civil society, and a commitment to select on merit.
- 3 Limited civil society access to intergovernmental forums results in poor outcomes: in the absence of the pressure and influence that civil society exerts, the commitments and standards are often weaker than needed. As a first step towards improving civil society access across the board, the UN should establish a civil society envoy or champion to coordinate engagement.



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