The Challenges Facing International Human Rights Law

Introductory Speech: Challenges, Issues at Stake and Future Perspectives

By

Linos-Alexandre Sicilianos

Professor and Former Dean of the Faculty of Law, University of Athens
Former President of the European Court of Human Rights
President of the Curatorium of The Hague Academy of International Law
President of the Marangopoulos Foundation for Human Rights

Introduction

Mr. President, dear colleagues, ladies and gentlemen,

Allow me, first of all, to express my sincere gratitude to the René Cassin Foundation for its kind invitation. I would also like to highlight the close and longstanding ties between the Foundation and the Marangopoulos Foundation for Human Rights, which I have the honour of serving as President.

The figure of René Cassin remains a source of inspiration for us all. I had the privilege of representing the Marangopoulos Foundation at the ceremony marking his interment in the Panthéon, an occasion that remains a deeply moving memory.

The International Institute of Human Rights and the René Cassin Foundation are exemplary institutions, both in the teaching of and research on human rights. As a testament to the mutual esteem and shared vision uniting our two institutions, we established the Marangopoulos Chair during the Institute's Summer Session as early as 1989. Each year, it is awarded to a distinguished scholar. This year, it has been conferred upon our esteemed Argentine colleague, Emiliano Buis.

Let me begin with a simple observation. International human rights law is passing through a particularly significant period. Never before has its normative framework been so comprehensive. Yet never before has its legitimacy been so openly questioned. These two developments are not contradictory. On the contrary, they are closely connected. The more human rights law expands its reach, the more it causes discomfort. The

more it constrains States, the greater the resistance it encounters. Such contestation is not a sign of weakness. Paradoxically, it is evidence of its importance.

Since 1945, we have built a remarkable legal edifice: declarations, conventions and protocols, courts, treaty bodies and monitoring mechanisms. This edifice has fundamentally transformed the place of the individual within the international legal order. It has made the human person a genuine subject of international law, rather than merely an object of State sovereignty. This is a profound transformation—one whose exceptional nature we have perhaps come to take for granted.

Yet today, this edifice is being put to the test. It is challenged from the outside by those who question its very foundations, and from within by the persistent gap between legal norms and reality.

My introductory remarks pursue a modest objective: to identify the challenges, assess what is at stake, and outline a number of possible ways forward. I make no claim to be exhaustive. Rather, I simply wish to offer a few points of reference for our discussions.

I. CHALLENGES

Let us begin with the challenges. I shall distinguish four of them. They are closely interconnected, yet it is useful to consider them separately in order to appreciate their full significance.

The first challenge is the contestation of universality.

The universality of human rights has never commanded unanimous acceptance. But the nature of the challenge has changed. It no longer comes solely from openly authoritarian regimes. It is now voiced within the very heart of established democracies. State sovereignty is invoked against international scrutiny. Cultural or religious identity is opposed to rights portrayed as excessively "Western". We hear criticisms of an alleged "government by judges."

This contestation forms part of the broader crisis affecting multilateralism. The withdrawal of one State from the Istanbul Convention, and debates over possible withdrawals by others, provide a clear illustration. What once appeared to be a consensus has become a battleground. The principle of equality between women and men is at the forefront of these

developments. So-called "anti-gender" movements increasingly target some of the most recent achievements. What was once a marginal phenomenon has become an organized program.

The second challenge is that of effectiveness.

This is perhaps the oldest and most persistent challenge. Declaring a right is not enough to guarantee its enjoyment. The gap between treaty commitments and their practical implementation remains considerable. Monitoring mechanisms observe this reality during every evaluation cycle. Positive obligations are often poorly understood. Numerous recommendations remain unimplemented. The execution of judgments continues to be delayed.

This challenge is compounded by a shortage of resources. Courts are overwhelmed. Treaty bodies lack adequate funding. The pace of the law is not the pace of victims. And justice delayed ultimately ceases to be justice.

The third challenge concerns new frontiers.

International human rights law was conceived for a world that is no longer entirely our own. New risks have emerged. The digital sphere is reshaping the meaning of privacy, freedom of expression and human dignity. Mass surveillance, online violence and artificial intelligence raise unprecedented legal questions. Climate change is becoming a human rights issue in its own right. Migration continues to test the principle of *non-refoulement* and the prohibition of inhuman or degrading treatment.

In each of these areas, the law is struggling to keep pace with rapidly evolving realities. It must adapt without losing sight of its fundamental principles. This requires a delicate balancing exercise. If it is too rigid, it becomes ineffective. If it is too flexible, it risks losing its very substance.

The fourth challenge is that of coherence.

Our system is pluralistic. It is both universal and regional. It is comprised of multiple legal instruments, bodies and strands of jurisprudence. This diversity is one of its greatest strengths. Yet it can also become a source of fragmentation. Interpretations sometimes diverge. The level of protection varies from one system to another. And for individuals seeking justice, navigating this landscape is no easy task. Which instrument should they

invoke? Before which body? What level of protection can they expect? The risk is twofold: inconsistency on the one hand, and a downward levelling of standards on the other. Our task is not to eliminate this diversity, but to ensure that it functions as a coherent whole.

II. ISSUES AT STAKE

Making this system coherent, ensuring its effectiveness, and defending it against growing contestation are not simple objectives among many others. They are the very conditions for its survival. For behind these challenges lie issues of far greater significance. I shall highlight three in particular.

The first is the question of legitimacy.

A body of law that is challenged without being defended inevitably loses authority. And the most dangerous form of contestation is not the most direct. Rather, it is the more insidious narrative that portrays human rights as an instrument of domination. According to this view, human rights are not universal at all; they are merely Western values. They are said to serve not the human person, but the interests of the powerful. They are invoked against some, while conveniently ignored in relation to others. They cloak what are, in reality, relations of power in the language of morality.

This criticism is, to some extent, unfair. Yet it is not without force. It draws strength from our own inconsistencies. Every selective silence lends it credibility. Every double standard reinforces it.

Another equally corrosive narrative has also gained ground: the notion that human rights are a luxury reserved for times of peace. A convenience to be set aside whenever societies face threats, crises or emergencies. Yet it is precisely in such moments that human rights matter most.

If we allow these ideas to take hold, we risk losing the battle for hearts and minds. Legitimacy cannot simply be asserted. It must be earned. It is earned through consistency and the rejection of double standards. Nothing undermines our credibility more than selective application.

The second issue at stake is the effective protection of the most vulnerable.

Behind every legal norm are real people: women subjected to violence, children, migrants and members of minority groups. It is these individuals whom international human rights law is specifically intended to protect. Yet they are also those who, more often than not, are unable to gain access to its mechanisms. When the system fails, it is not the powerful who bear the consequences. It is those who are already the most exposed. Effectiveness, therefore, is not merely a procedural concern. It is a matter of human lives.

The third issue at stake is the rule of law itself.

Human rights cannot be separated from democracy or the rule of law. They are inseparable. When one begins to erode, the others soon follow. Experience confirms this. Democracies rarely collapse overnight. More often, they deteriorate gradually. And that erosion almost always begins with attacks on rights: restrictions on press freedom, the subordination of the judiciary, the silencing of political opponents.

The weakening of human rights is, more often than not, the first sign of democratic decline. It is our early warning signal. To defend human rights is therefore to defend far more than rights alone. It is to defend the very conditions upon which a free society depends.

III. FUTURE PERSPECTIVES

It is possible to defend these foundations. But we must not stop at diagnosis alone. Identifying the challenges is not enough. Nor is assessing what is at stake. We must also act. The situation therefore calls not for pessimism, but for responsibility. Allow me to suggest four possible ways forward.

First, we must shift the centre of gravity from the proclamation of rights to their implementation.

This does not mean abandoning further normative development. Important work remains to be done. I am thinking, for example, of the ongoing efforts concerning the rights of older persons, and of initiatives relating to corporate responsibility for human rights. Where genuine gaps in the legal framework remain, there is undoubtedly room for new legal instruments.

But that is no longer where the essential challenge lies. The real priority is to ensure that the instruments we already have are effectively implemented. Today, the future of international human rights law depends less on the adoption of new norms than on the effective application of those already in force.

Second, we must strengthen synergies between monitoring mechanisms.

Monitoring bodies have much to gain from working together rather than in isolation. Cooperation between the universal and regional systems, judicial dialogue, and greater consistency of human rights standards are all concrete avenues that deserve further attention. Fragmentation cannot be overcome through hierarchy. It can only be overcome through coordination.

Allow me, in this regard, to pay tribute to the European Court of Human Rights for its tireless efforts to promote dialogue: dialogue through its judgments, which frequently draw upon a wide range of sources of inspiration; dialogue through its advisory opinions under Protocol No. 16—the Protocol of Dialogue; dialogue through the Superior Courts Network, the largest judicial network in the world; and, finally, dialogue through its countless bilateral exchanges with national courts, the Luxembourg Court, and other international courts.

The third perspective is to reaffirm universality with intelligence.

Defending the universality of human rights does not mean disregarding different contexts. Rights are always embedded in a particular history, culture and society. Recognizing this is not a sign of weakness. It is a prerequisite for their effective implementation. But there is a limit. Respect for different contexts can never serve as a justification for regression.

Too often, "cultural specificity" is invoked not to enrich human rights, but to restrict them. And it is almost always the same groups who bear the consequences: women, minorities and the most vulnerable. Universality is not the same as uniformity. It represents a common foundation below which no one should be permitted to fall.

Finally, and perhaps most importantly, we must place civil society and victims back at the centre of the system.

Human rights law does not live solely in courtrooms. It also lives through the commitment of human rights defenders, the voices of victims, and the vigilance of civil society. They are the ones who raise the alarm, document violations and bring cases before our institutions. Without them, our legal instruments would remain little more than words on paper. Yet across the world, the space available to civil society is steadily shrinking. Human rights defenders are harassed and, in many cases, silenced. Protecting their work is therefore not a secondary concern. It is about safeguarding the very source of our legitimacy.

Conclusion

Ladies and gentlemen,

International human rights law is not an accomplished fact. It is a continuing construction. A project that is never complete and whose achievements can always be reversed. Each generation must therefore make it its own.

We are living through a time of crisis. Yet the Greek word *krisis* originally denotes discernment—the moment when a choice must be made. That is precisely our task during this conference: to exercise discernment; to distinguish between what must be defended and what must be rethought.

For my part, I do not believe that this edifice is doomed, quite the contrary. I believe that its future depends on us: on lawyers, judges, scholars and human rights defenders. On all those gathered here today who have made human rights not merely an object of study, but a genuine personal commitment.

It is in that spirit that I invite you to continue our discussions.

Thank you.