

EXPOSÉ

A quarter century ago, upon the end of the bipolar power struggle of the Cold War, expectations were running high for a new era of peace and justice – a “new world order” where the rule of law between states would ultimately prevail, as envisaged in the UN Charter. These were the years when the 19th century idea of humanitarian intervention was revived, the principle of universal jurisdiction was drafted into domestic law, the Rome Statute of the ICC was negotiated, and ad hoc tribunals, whether international or hybrid, were established – supposedly as part of measures to preserve or restore international peace and security.

At the same time, the sudden absence of a balance of power facilitated large-scale use of force – whether authorized by the UN or not – by so-called “coalitions of the willing,” operations for which no one was held accountable. Only those defeated in conflict could be brought to justice, as Carla Del Ponte, Prosecutor of the Yugoslavia Tribunal, belatedly, albeit implicitly, admitted in her memoir.

The predicament of global justice, and in particular the challenges to international criminal jurisdiction under these and the global conditions now emerging – where national interests increasingly trump international law – will be the primary focus of the roundtable’s deliberations. These deliberations may build on the International Progress Organization’s assessment and analysis of humanitarian interventions since the 1991 Gulf War, the conclusions of its UN-mandated monitoring mission at the Scottish Court in the Netherlands (2000-2002), and recent meetings on “Responsibility in International Relations” (2023) and “Sovereignty and Coercion: The United Nations in the Web of Power Politics” (2024).

One of the dilemmas in this context is the question of how to deal with a reality where the prohibition of the international use of force is effectively non-existent for its enforcers (and their allies) – due to the provisions of Article 27(3) of the United Nations Charter. This circumstance undermines the very foundation of the pursuit of global justice; it has also been the reason for the organization’s paralysis in matters of collective security since its inception.

Against this backdrop, and in view of the recently promulgated National Security Doctrine of a major global player, one may indeed ask whether a Schmittian *pluriversum* of spheres of influence of the great powers will erode, and eventually make obsolete, the United Nations *universum* of values and norms shared by all states by virtue of their “sovereign equality.” Will, under these conditions, *peace* ultimately be rooted not in justice, but depend on an ever volatile balance of power – the reciprocity of interests – between the great players?

What can be the meaning of “global justice” under a statute where the major players feel emboldened to impose their will according to a rationale reminiscent of the era of the Peloponnesian War – “right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must” (Thucydides)?

Impunity in the exercise of power makes the law meaningless.