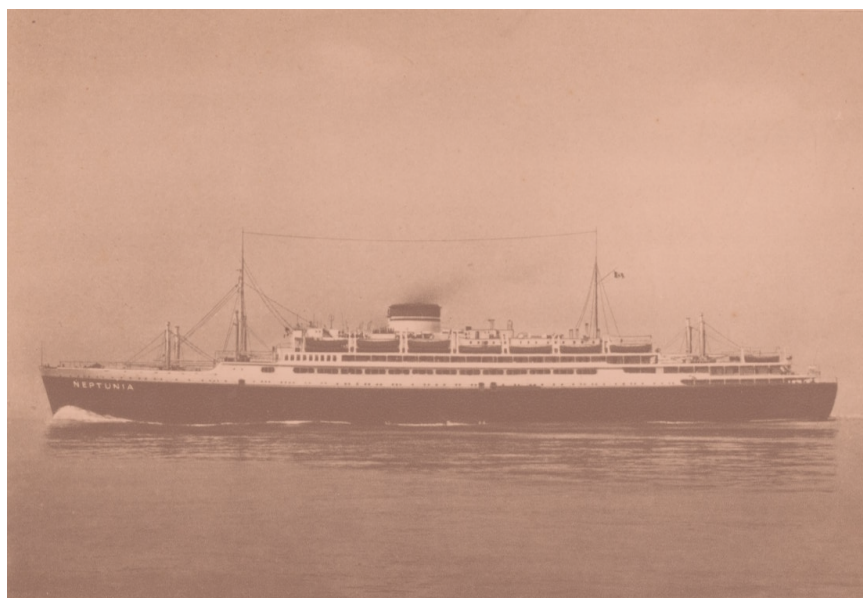


PAIX ET SÉCURITÉ INTERNATIONALES



08

2020



JOURNAL OF INTERNATIONAL LAW
AND INTERNATIONAL RELATIONS



ISSN 2341-0868

DOI: http://dx.doi.org/10.25267/Paix_secur_int.2020.18

Citation: ARREDONDO, R: “The Age of Disorder: Global Governance in COVID Times”, *Paix et Sécurité Internationales*, num. 8, 2020, pp. 37-47.

Received: 8 October 2020.

Accepted: 18 October 2020.

THE AGE OF DISORDER: GLOBAL GOVERNANCE IN COVID TIMES

Ricardo ARREDONDO¹

I. COVID-19: GAME-CHANGER OR ACCELERATOR? II. LACK OF LEADERSHIP. III. THE DISENCHANTMENT OF MULTILATERALISM. IV. THE RESPONSES TO THE CRISIS. V. THE POST COVID-19 SCENARIO. VI. A NEW INTERNATIONAL ORDER?

I. COVID-19: GAME-CHANGER OR ACCELERATOR?

As a consequence of the coronavirus disease 2019 (COVID-19) pandemic², the international community is facing a substantial crisis that is likely to generate significant mutations in the international order as we know it. The pandemic has come to remind us in a clear and unquestionable way of the vulnerability of people and the planet to global threats.

This crisis has contributed to accelerating the weaknesses of multilateralism and a rules-based international order.³ This is not a situation created by the coronavirus, but something that had already been brewing for many years and that the pandemic has precipitated. Already in 2013 David Held told us

¹ Diplomat, Full Professor (Catedrático) of Diplomatic Law and Practice at the Foreign Service Institute (Argentina), Associate Professor (Profesor Titular) of International Law (University of Buenos Aires, Argentina) and Full Professor (Catedrático) of Diplomatic and Consular Theory and Practice (University of Belgrano, Argentina). Email: ricardoarredondo@derecho.uba.ar.

² This is the expression used by Res. 74/270, adopted by the United Nations General Assembly on 2 April 2020, Doc. A/RES/74/270).

³ ARREDONDO, R., “La ausencia del Consejo de Seguridad de las Naciones Unidas”, *Clarín*, Buenos Aires, 15 April 2020.

about a paralysis or stalemate in the globalization process and wondered about the causes of why international cooperation was failing when it was most needed.⁴ Held and his colleagues Thomas Hale and Kevin Young observed that multilateralism seemed to fail in the face of planetary challenges such as protecting the environment, international trade, and security. The central argument of this work was that the postwar multilateral order promoted an extraordinary phase of economic and social progress, which in turn increased interdependence between countries, establishing the conditions for the emergence of global challenges of unprecedented complexity, although ultimately it ended up affecting the ability of international institutions to respond to these challenges.

It is in this context that the current backlash against globalization and the perceived withdrawal of liberalism must be understood. This refractory movement can be observed in various *exogenous* factors, external to the liberal international order of the second postwar period, and *endogenous*, that is, originated by internal causes of that order. Without going into an exhaustive analysis, among the former we can mention, among others, the rise of China in the global order, the resurgence of Russia and the failure of the “Arab Spring”. Among the latter, understood as an rebuff to the Western liberal values, we see the loss of faith in democracy and the core values of liberalism, the rise of populism on both the right and the left, the emergence of strongly nationalist movements such as Brexit and the emergence of pseudo-democratic governments with a strong imprint of authoritarianism, which some like Madeleine Albright describe as fascist.⁵

The way globalization has developed has also spawned many forms of discontent and backlash dynamics⁶, from the revival of a more sovereignty-focused vision by China⁷ and Russia⁸ to the resurgence of unilateralism in

⁴ HALE, T., HELD, D., YOUNG, K., *Gridlock: Why Global Cooperation is Failing when We Need It Most*, Wiley, 2013.

⁵ ALBRIGHT, M., *Fascism. A Warning*, Harper, 2018.

⁶ STIGLITZ, J. E., *Globalization and Its Discontents*, Norton, 2003.

⁷ Council on Foreign Relations Infoguide, “China’s Approach to Global Governance”, 2020, available at <https://www.cfr.org/china-global-governance/> (access 5/10/2020).

⁸ CANTELMÍ, M., “China y Rusia, o cuando el Oso y el Dragón se van juntos a la cama”, *Clarín*, Buenos Aires, 27 de septiembre de 2019.

the United States⁹ and the growing ultranationalist and populist movements, both on the right and on the left, in Europe as well as in other parts of the world. The dangerous, chauvinistic and racist attitudes that have marked these movements, for example towards migrants and refugees, threaten many of the basic norms and values of the liberal international order.

The coronavirus pandemic has acted as a *catalyst* for all of these processes and, as Hague points out, precipitated transformations that could have continued to unfold slowly over 20 years or more.¹⁰

II. LACK OF LEADERSHIP

Another element that COVID-19 has come to highlight is the absence of clear leadership in the international community. The United States, which had led in previous crises such as the financial crisis of 2008 or the Ebola epidemic in 2014, that “indispensable nation”¹¹ of which Albright spoke to us in the 90s and Obama a few years ago, has abdicated its claim to global leadership.¹² It has not done so in the face of this pandemic. The United States has been absent since Trump took office in January 2017, showing his manifest disinterest in multilateralism and a rules-based international order. In a clear attack on that international order that the United States itself built after World War II, the Trump administration carried out what Haass describes as a “diplomacy of withdrawal”¹³ that resulted in the abandonment of numerous organizations, forums and international treaties. As soon as he assumed his mandate, Trump announced that the United States would not be part of the Trans-Pacific Trade Agreement, then withdrew the United States from the Human Rights Council, stopped providing funds for Palestine refugees (UNWRA), reduced

⁹ NYE, JR., JOSEPH, S., “Is Trump a Turning Point in World Politics?”, *Project Syndicate*, 1 September 2020.

¹⁰ HAGUE, W., “Coronavirus has accelerated eight mega-trends that will transform everything”, *The Telegraph*, London, 20 April 2020.

¹¹ ONEA, T., “The Indispensable Nation and US Unilateralism”, in Onea, T., *US Foreign Policy in the Post-Cold War Era*, Palgrave Macmillan, 2013.

¹² DAALDER, I. H., LINDSAY, J. M., *The Empty Throne: America’s Abdication of Global Leadership*, Public Affairs, 2018.

¹³ HAASS, R. N., “Trump’s Foreign Policy Doctrine? The Withdrawal Doctrine”, *Washington Post*, 27 May 2020.

his contribution to the Organization of American States (OAS), withdrew from the Paris Agreement on Climate Change, the agreement to achieve the denuclearization of Iran, the agreement on intermediate nuclear forces (known INF) and the Open Skies treaty, among many other actions aimed at undermining multilateral institutions and global governance, including the paralysis of the dispute settlement system of the World Trade Organization. In the midst of this pandemic, he first announced a cut in funds to the WHO and in early July he sent a note to Congress requesting authorization to completely leave this organization.¹⁴

China has also shown no interest in leading in the face of the pandemic. While it managed to control the outbreak, it has been criticized for its initial failure to act transparently and effectively to prevent the spread of the virus.¹⁵ This will not be easy to forget or forgive, notwithstanding that Beijing seeks to redress the damage through its active “mask diplomacy”, providing aid and advice to many states.¹⁶

III. THE DISENCHANTMENT OF MULTILATERALISM

The United Nations, the forum that should “serve as a center that harmonizes the efforts of nations to achieve these common purposes” (art. 1.4 of the Charter), has been a site where the competition for primacy and power in the global order has been revealed in a particularly acute way.

The first reaction came from the Secretary General of the Organization, António Guterres, who on March 23 characterized the pandemic as the most challenging crisis since World War II and called for an “an immediate global ceasefire in all corners of the world”.¹⁷ Subsequently, through different messages and efforts, he tried to highlight how COVID-19 has long exceeded

¹⁴ ARREDONDO, R., “El asalto de Trump al derecho internacional: su impacto en la OMC”, *Revista Peruana de Derecho Internacional*, Tomo LXX mayo-agosto 2020, N° 165, pp. 197-225.

¹⁵ MILLER, P. D., “Yes, Blame China for the Virus”, *Foreign Policy*, 25 March 2020.

¹⁶ FUCHS, A. (et al.), “China’s mask diplomacy: Political and business ties facilitate access to critical medical goods during the coronavirus pandemic”, *VoxEU.org*, 16 September 2020, available at <https://voxeu.org/article/china-s-mask-diplomacy> (access 5/10/2020).

¹⁷ GUTERRES, A., “The fury of the virus illustrates the folly of war”, available at <https://www.un.org/en/un-coronavirus-communications-team/fury-virus-illustrates-folly-war>.

its nature as a health crisis and its effects have spread to politics, the economy, social relations and the environment, among others.

However, and perhaps conscious of the internal divisions in the Security Council, he did not use the powers conferred upon him by the Charter to bring to its attention “any matter which in his opinion may threaten the maintenance of international peace and security” (art. 99).

On April 2, the General Assembly adopted Resolution 74/270, by which it reaffirmed its support for international cooperation and multilateralism in the global response to the coronavirus, underlining the central role of the United Nations. In this regard, it urged the United Nations system, under the direction of the Secretary General, to work with all relevant entities in order to mobilize a coordinated global response to the pandemic and its adverse social, economic and financial consequences for all countries and societies. This resolution recognizes the crucial role played by WHO in the global response and calls for the application of the relevant guidelines recommended by the agency. This suggestion was supported by many members, approved by the United States, and then accepted by China.

As a response to the refractory measures adopted by several States at the beginning of the pandemic,¹⁸ on April 20, the General Assembly adopted, at the proposal of Mexico, resolution 74/274¹⁹ on international cooperation to guarantee, under equal conditions, global access to medicines, vaccines and medical equipment to deal with COVID-19, which had massive support.

The Security Council, due to disagreements among its permanent members, took 111 days to reach the necessary consensus that would allow it to adopt a resolution on the matter. The impertinence of the US administration in calling the coronavirus “Chinese virus”, “Wuhan virus” or “Kung-flu”²⁰ and its insistence on holding China responsible for its emergence, in addition to generating reactions of discrimination, racism and xenophobia at various points of the planet, obviously produced the rejection of the Chinese government, which threatened to veto any type of resolution that had a language of that nature. On the other hand, the negotiations dragged on

¹⁸ ARREDONDO, R., “La diplomacia de la COVID-19”, *La Gaceta*, Tucumán, 28 April 2020.

¹⁹ Res. 74/274, adopted by the United Nations General Assembly on 20 April 2020, Doc. A/RES/74/274.

²⁰ BBC NEWS, “Trump angers Beijing with ‘Chinese virus’ tweet”, 17 March 2020, available at <https://www.bbc.com/news/world-asia-india-51928011>.

largely due to differences between China and the United States on whether to include a reference to the World Health Organization (WHO) in the text of the resolution, something that Beijing favored and the United States opposed.

The initial paralysis of the Security Council, which recalls the Cold War times, accentuated the lack of world leadership to seek a way out through international cooperation, the only effective instrument, to this global crisis. On July 1, the Security Council adopted Resolution 2532 (2020) which expresses grave concern about the devastating impact of the pandemic worldwide, especially in countries ravaged by armed conflict, in post-conflict situations or affected by humanitarian crises and supports the Secretary-General's call for a global ceasefire to address the COVID-19 crisis for a period of 90 consecutive days to allow the delivery of humanitarian assistance.

However, it affirms that this general and immediate cessation of hostilities and this humanitarian pause “do not apply to military operations against the Islamic State in Iraq and the Levant (ISIL, also known as Da'esh), Al Qaeda and Al Nusra Front (ANF), and all other individuals, groups, undertakings and entities associated with Al Qaeda or ISIL, and other terrorist groups, which have been designated by the Security Council”.

This call for a universal truce had already received strong support from most of the Organization's Member States, including United States main allies, as well as the Alliance for Multilateralism, which issued a joint statement on April 16, endorsed by 193 countries, human rights groups, charities and the Pope. However, less than a week later the Security Council was again bogged down over the reopening of humanitarian corridors in northern Syria, first due to the veto of China and Russia to the draft German resolution that proposed the reopening and to the next day, not approving the draft resolution proposed by Russia.

IV. THE RESPONSES TO THE CRISIS

Although Don Herzog and others give up for dead the traditional conception of sovereignty²¹, paraphrasing Louis Henkin we could affirm that

²¹ HERZOG, D., *Sovereignty RIP*, Yale University Press, 2020.

the reports of the death of the Westphalian notion of sovereignty are greatly exaggerated.²²

The response to the pandemic has been varied, from States that have turned in on themselves, seeking individual solutions to others that have shown solidarity and offered cooperation. The provision of sanitary materials and equipment by China to European and African countries, called the “mask diplomacy”, was later replicated by the United States, which has contributed respirators for African countries, in an attempt to reclaim the space won by China on this continent. Russia sent a plane full of personal protective equipment to the United States, in addition to sending aid to Italy and Serbia. Meanwhile, South Korea and Taiwan have sent test materials and more than sixteen million masks to countries in America, Asia and Europe.

Even institutions favorable to multilateral and cooperative solutions, such as the European Union (EU) have exhibited internal divisions that in a first phase prevented their Member States from applying a common strategy until they adopted a joint “Roadmap” for recovery and reached an agreement to work towards the establishment of a recovery fund aimed at the sectors and geographical areas most affected in Europe and be specific to address this crisis.

In the Americas, the Organization of American States (OAS) has been absent. The Pan American Health Organization (PAHO), as a branch of WHO, has tried to implement some responses, whose prevention and treatment protocols have been accepted by many governments. In Latin America, the governments of the region have adopted different solutions to a crisis that is deeper and longer than the forecasts anticipated.

The crisis of regional governance mechanisms has conspired against the design of a joint strategy. Mercosur has adopted certain formal measures, seeking to advance the integration agenda to overcome obstacles in the area of trade and transport between the States Parties. Beyond the rhetoric, the few provisions adopted in this first half of 2020 are an example and a consequence of the ideological and positional rivalry in the face of the coronavirus that has prevented substantial coordination among its members.

Subnational entities have played a valuable role in this crisis. While in some countries such as Argentina a joint and orderly policy of support for federal

²² HENKIN, L., “The Reports of the Death of Article 2(4) Are Greatly Exaggerated”, 65 *American Journal of International Law* (1971), p. 544.

government decisions to face the pandemic has been observed, other countries such as the United States or Brazil have witnessed a divergent *paradiplomacy* of local governments, in open opposition, if not defiance, to the directives emanating from the central government.

V. THE POST COVID-19 SCENARIO

The crisis will impact on the globalization process as we know it and will probably reduce support to it.²³ The speed at which the virus spread around the world, thanks to economic interdependence, as well as tourism and travel, will be attributed to globalization and possibly generate reactions against it. One of the most powerful myths of globalization: that of a world without borders has quickly dismantled itself before the closing of national and provincial borders, reaffirming the traditional notion of state sovereignty.

However, those who predict a return to the pre-globalization era are also wrong. There is a strong degree of imbrication among national economies that could be affected by the decision of some countries to relocate the production of goods that they currently import, since these value chains can hardly be dismantled without impacting production, costs, competitiveness and wages, among other factors. Contrary to those who see the crisis as a warning sign of the dangers of globalization and underline the virtues of self-reliance, I believe that the pandemic vindicates supporters of interdependence. The real argument of interdependence theory is not that it prevents conflict, but that it makes it more costly for all parties in an interdependent relationship.²⁴ Notwithstanding this, a reformulation of the rules of the multilateral trading system will be necessary to prevent the decoupling of economies that has already started from worsening.

COVID-19 has seriously undermined the credibility of the United States globally and, particularly, that of the Trump administration within the United States. This is outstandingly relevant in an election year. Although Trump seems unconcerned with international public opinion, many Americans, who still attach importance to values and principles have a sense of helplessness over the attitude of the current Head of State. The US needs a strategy to

²³ ACHARYA, A., “How Coronavirus May Reshape the World Order”, *The National Interest*, 18 April 2020.

²⁴ KEOHANE, R. O., NYE, J.S., *Power and Interdependence*, Longman, 1997.

transform globalization and overcome the strategic rivalry with China. This new diplomacy should establish a relationship of friendship and cooperation and at the same time of rivalry and competition between the United States and China, what is called “co-opetition” (cooperation-competition). Theories about the interaction between rivals focus on competition or cooperation, but not on the combination of the two types of interaction. However, this type of relationship, which some call “frenemy” (friend-enemy), implies a situation in which the parties compete and cooperate simultaneously and reciprocally benefit from this ambivalent strategy. In this sense, it is good to recall that ideological differences have not been an obstacle to cooperation between the United States and China since the meeting between Nixon and Mao in 1972, although the current situation is completely different.

VI. A NEW INTERNATIONAL ORDER?

Heraclitus taught us that “No man ever steps in the same river twice, for it’s not the same river and he’s not the same man”. The corollary of this expression, accurate and sagacious, is simple: history is dynamic and irreversible. It never goes backwards and its engine is change. Humanity will defeat the virus, but nothing will be the same. Neither does the international order. The new order that is being born is a product and response to the pandemic.

The coronavirus pandemic has served as a catalyst for divisions that have been undermining the international order for years and deepening them. COVID-19 in a way has contributed to “systematizing” the power relations that had been developing, exacerbating the rivalry between China and the United States and generating what some describe as an increase in “entropic bipolarism”.²⁵ While the crisis comes with renewed calls for global solidarity, it remains to be seen whether the current multilateral system can respond effectively. If that response depends on the attitude of states, it is likely that some will use the crisis to further undermine multilateralism, as they are already doing, while others will seek a multilateral and cooperative solution. Multilateral institutions will remain an important part of this conversation if,

²⁵ SCHWELLER, R. L., “The Age of Entropy. Why the New World Order Won’t Be Orderly”, *Foreign Affairs online*, 16 June 2014; ACTIS, E., CREUS, N., “Un mundo acelerado. ¿Bipolaridad o nueva Guerra Fría?”, *Nueva Sociedad*, 20 June 2020, available at <https://nuso.org/articulo/China-Estados-Unidos-Guerra-fria/>.

in the future, they respond quickly and effectively, something they have not done so far. The threat is global and needs a global response.

The United Nations still remains mired with rivalries in the Security Council, disagreements and its relative ability to solve problems. The total confidence of some states in their power and influence, with their tendency to act unilaterally, is another evidence of the weakness of the liberal international order. This pandemic has clearly established the failure of these unilateral policies.

As Acharya points out, the loss of US hard and soft power will accentuate the transition to a post-American order, which he calls “multiplex”²⁶ and proposes a multi-stakeholder problem-oriented world governance.²⁷ An international order administered by “global clubs” that replace that order governed by a hegemon.

Today, perhaps more than ever in the last 75 years, it is necessary to build a framework that overcomes the current rivalries and creates the conditions for a more stable and secure world. Perhaps we need to exit from an international rules-based order and enter a *deals-based order*. This model could not come directly from existing multilateral institutions but from new coalitions of countries, with varying memberships depending on the type of issue in question, seeking a new plurilateral but segmented system to address the weaknesses of the current scheme. A *hybrid model* that gathers elements from existing institutions and redirects them towards new international cooperation schemes.

An example that illustrates this proposal is the decision of a group of forty countries to build an alternative trade dispute settlement system in the face of the paralysis of the Appellate Body (AB) of the World Trade Organization (WTO). Faced with Trump’s decision to hinder the appointment of new AB members and in order to overcome this obstacle to the functioning of the WTO dispute settlement system, the European Union, China, Canada and others, including an important number of Latin American countries (Chile, Colombia, Costa Rica, Guatemala, Mexico and Uruguay), agreed to a multi-

²⁶ ACHARYA, A., “After Liberal Hegemony: The Advent of a MultiplexWorld Order”, 31 *Ethics & International Affairs* (2017), pp. 271-285.

²⁷ ACHARYA, A., “How Coronavirus May Reshape the World Order”, *The National Interest*, 18 April 2020.

party interim appeal arrangement (MPIA), based on current WTO rules.²⁸ The Alliance for Multilateralism, launched by Germany and France, also falls within this logic.²⁹

The absence of clear leadership, the lack of an effective and rapid response from multilateral institutions and the demand to find solutions to new problems in order to avoid their exacerbation and, eventually, the conflict, invite us to think of new mechanisms to overcome these challenges. New mechanisms and institutions are required to provide a coordinated and multilateral response to challenges of a global nature such as climate change, pandemics, cyberattacks, hunger and poverty, just to name a few. As Juan Rulfo once envisioned: “Nos salvamos juntos o nos hundimos separados”.

²⁸ European Commission, “The WTO multi-party interim appeal arrangement gets operational”, 3 August 2020, available at <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2176>.

²⁹ See <https://multilateralism.org/>.

PAIX ET SÉCURITÉ INTERNATIONALES

08
2020

JOURNAL OF INTERNATIONAL LAW AND INTERNATIONAL RELATIONS

SOMMAIRE / Janvier -Décembre 2020 / N° 8

IN MEMORIAM

Alejandro DEL VALLE GÁLVEZ

In Memoriam Gil Carlos Rodríguez Iglesias, Former President of the European Court of Justice. A Biographical Note (1946-2019)

ÉDITORIAL

Ricardo ARREDONDO

The Age of Disorder: Global Governance in COVID Times

ÉTUDES

Teresa FAJARDO DEL CASTILLO

The Global Compact for Safe, Orderly and Regular Migration: a Soft Law Instrument for Management of Migration Respecting Human Rights

Ángel RODRIGO HERNÁNDEZ

Between Grotius and the *pro communitate* Principle: The Limits to the Principle of Freedom of the Seas in the Age of Marine Global Commons

Miguel A. ACOSTA SÁNCHEZ

An Analysis of Integrated Management of the External Borders of the European Union

María AVELLO MARTÍNEZ

Human Rights and Gender Aspects in United Nations Peacekeeping Operations Mandates: How did they sneak in?

Nora SEDIKKI

Répenser la responsabilité en affaires dans un monde globalisé

Jorge URBANEJA

The European Union-Turkey Cooperation on Migration matters: Towards a Review of the Migratory Statement of 18 march 2016

Michel REMI NJIKI

Le statut juridique des étrangers dans l'Union européenne: Le cas des ressortissants camerounais

Anass GOUYEZ

Les défis sécuritaires de la région sud-ouest de la méditerranée : vers une vision globale et intégrée

NOTES

Najib BA MOHAMED

Exigences de la sécurité sanitaire, crise du multilatéralisme et implications géopolitiques

Joan David JANER TORRENS

Migrant Search and Rescue Operations in the Mediterranean by Humanitarian Organizations: Migrant Smuggling or Humanitarian Assistance?

Helena TORROJA MATEU

Reflections on the 'Statement on the Lack of Foundation on International Law of the Independence Referendum that Has Been Convened in Catalonia' on the occasion of its third anniversary

Jorge QUINDIMIL

Technology Transfer, International Law And Protection of Marine Biodiversity Beyond National Jurisdiction: Key Issues for a New International Agreement

Taoufik EL MARRAKCHI

Les enjeux stratégiques actuels de la Russie en Méditerranée: analyse rétrospective et prospective

María Esther JORDANA SANTIAGO

The European Union Fight against Trafficking of Human Beings: Challenges of the Victim's Statute

AGORA

Antonio LAZARI

Las redes y el *écart*: reflexiones al margen de la lectura de «El Estado de derecho y la Unión Europea»

Juan Domingo TORREJÓN RODRÍGUEZ – Lorena CALVO MARISCAL

Presentation of Research Results: R&D Project 2015-2019 "Spain, Security and European External Borders in the Strait of Gibraltar Area" (DER2015-68147-R)

BIBLIOGRAPHIE CRITIQUE

TABLEAU D'ÉQUIVALENCE DES POSTES UNIVERSITAIRES

