

International Society and Its Institutions in Refugee Protection  
during the COVID-19 Pandemic:  
Revisiting the Solidarism/Pluralism Debate in English School

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# International Society and Its Institutions in Refugee Protection during the COVID-19 Pandemic: Revisiting the Solidarism / Pluralism Debate in English School

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## ABSTRACT

This study aims at discussing the vulnerability of the Global Refugee Protection Regime (GRPR) during crises by applying the ‘international society’ concept within the English School of International Relations theory to the COVID-19 pandemic. We analyze the efficiency of the international society institutions on GRPR through the policies and practices of states as well as organizations such as the United Nations, European Union and Council of Europe. The GRPR has been selected because the ‘vulnerability’ of this regime has become a matter of academic and political debate as much as the vulnerability of those persons in need of international protection, specifically during times of crisis. Our analysis reveals that GRPR-centric practices and policies by the institutions of international society during the first four months after the breakout of COVID-19 suggest a greater vulnerability of the regime.

**Keywords:** International Law, Balance of Power, Diplomacy, Great Powers, Health Crisis

## COVID-19 Pandemi Sürecinde Uluslararası Toplum ve Kurumlarının Mülteci Koruma Politikaları: İngiliz Okulu Çerçevesinde Çoğulcu/Dayanışmacı Tartışması

### ÖZET

Bu çalışma uluslararası mülteci koruma rejiminin kriz dönemlerindeki kırılganlığını tartışmayı amaçlamaktadır. Bu kapsamda, son dönemin küresel krizi olan Covid-19 salgını örnek olay olarak belirlenmiş ve Uluslararası İlişkiler kuramlarından İngiliz Okulu’nun geliştirdiği ‘uluslararası toplum’ kavramının etkinliği onun aktörleri/kurumları üzerinden değerlendirilirken hem devletler hem de Birleşmiş Milletler, Avrupa Birliği ve Avrupa Konseyi gibi uluslararası örgütlerin politikaları ve uygulamaları üzerinden değerlendirilmiştir. Uluslararası mülteci koruma rejiminin özellikle kriz dönemlerindeki “kırılganlığı”, uluslararası korumaya ihtiyaç duyan kişi ve grupların da kırılganlığını artırması bakımından hem politik hem akademik tartışmaların odağı olmuştur. Çalışma ilk Covid-19 vakasının ortaya çıkışından itibaren dört ay içerisinde uluslararası toplumun, mülteci koruma rejimi çerçevesinde ortaya koyduğu uygulama ve politikaların kırılganlığını gösteren önemli ipuçları içermektedir.

**Anahtar Kelimeler:** Uluslararası Hukuk, Güçler Dengesi, Diplomasi, Büyük Güçler, Sağlık Krizi

## Introduction

The Global Refugee Protection Regime (GRPR)<sup>1</sup> presents a framework based on a set of legal instruments and institutions, which are designed to provide international protection for individuals as well as clarify the responsibilities of states and other stakeholders. In recent decades, the ‘vulnerability’ of this regime has become a matter of academic and political debate as much as the vulnerability of the persons in need of international protection, particularly during times of crisis. In other words, the effectiveness of the regime and whether it ‘actually works’, particularly during international crises, has been under heavy scrutiny. While the reasons for the delicate and labile nature of this regime are various, structural factors that contribute to this vulnerability are worth analyzing.

Presenting one of the most ‘global’ crises that the world has faced in recent history, the COVID-19 pandemic has been a unique test of the effectiveness of this seemingly fragile regime of international protection and allows us to examine the determinants of its effectiveness through a close analysis of its institutions. In order to protect the well-being of their populations and slow the spread of the coronavirus, countries have adopted restrictive measures amidst unforeseen challenges posed by the pandemic. One significant issue in this context concerned how the institutions of international society would fare within this perceived ‘state of emergency’ and respond to states’ predictable tendency to prioritize their own security, considering the norms and commitments made by the states to uphold it. International asylum-seekers and refugees, who are supposed to be under international protection as defined by the GRPR, represent groups which are disproportionately affected by these circumstances because of their legal, socio-economic, political, and psychological vulnerabilities. This exposes the need to examine the effectiveness of legal norms and institutions in the GRPR framework during international crises.

In this context, this study aims to discuss this GRPR vulnerability during the current pandemic by using the ‘international society’ concept from the English School in International Relations theory. Specifically, we analyze the efficiency of the instruments of international society on GRPR during times of global crisis by studying the recent global COVID-19 pandemic. GRPR was selected because providing international protection to vulnerable individuals escaping conditions of human insecurity through widely-accepted international rules and norms as well as dedicated international organizations exemplifies, and perhaps justifies and supports, the English School’s notion of an international society that operates through dialogue and mutual commitments in response to perceived common responsibilities and challenges.

While there have been various violent, economic, and political crises on an international scale that could also be considered; the current COVID-19 pandemic is the focus of this paper because, through its rapid impact, it presents one of the most quintessentially global health crises ever experienced. As a re-

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1 The concept of ‘Global Refugee Protection Regime’, also referred to as the ‘International Refugee Protection System’ or ‘International Law on Refugee Protection’, refers to the body of norms, rules, and regulations as well as institutions related to asylum-seekers and refugees created by states through international agreements and conventions over the last several decades. While a detailed review and historical background of GRPR was considered unnecessary for the purposes of the present study, a comprehensive review of the GRPR can be seen in Frances Nicholson and Judith Kumin, *A Guide To International Refugee Protection And Building State Asylum Systems*, Inter-Parliamentary Union and the United Nations High Commissioner for Refugees, *Handbook for Parliamentarians*, 2017, <https://www.unhcr.org/3d4aba564.pdf> (Accessed 28 June 2020). Also see Kevin Appleby, “Strengthening the Global Refugee Protection System: Recommendations for the Global Compact on Refugee”, *Journal of Migration and Human Security*, Vol. 5, No 4, 2017, p. 790

sult, this paper will focus on the policies and practices of states and international organizations regarding international protection within a period of approximately four months, between 11 March 2020, when the World Health Organization (WHO) declared COVID-19 as a pandemic, and June 2020. Due to the recency of this case study, web-based resources, newspapers, and websites of the relevant international organizations and agencies were used as the primary data sources. By examining these resources, a list of instances, where states and international organizations were involved in actions related to international protection within this time frame, were identified. Then, these cases were discussed within the framework of 'international society's institutions' as defined by the English School.

This article begins with a brief explanation of the English School and its concept of international society and instruments. Then, with a GRPR framework, it analyzes the impact of the pandemic on the instruments individually: international law, balance of power, diplomacy, and great power (management). Finally, it identifies major elements explaining why and how international society becomes ineffective during times of crisis through questioning the institutions of international society and referring to the Solidarism / Pluralism Debate in English School.

## **International Society, Its Institutions and the Solidarism / Pluralism Debate**

### ***Institutions of International Society***

International society is one of the central concepts of the English School, and is defined by Bull and Watson as:

“A group of states (or, more generally, a group of independent political communities) which not merely form a system, in the sense that the behavior of each is a necessary factor in the calculations of the others, but also have established by dialogue and consent common rules and institutions for the conduct of their relations, and recognize their common interest in maintaining these arrangements.”<sup>2</sup>

Shared interests and common values are considered the core elements that develop international society within the framework of a common set of rules, which govern the relations between states.<sup>3</sup> According to Bull, if the purpose is to understand order in world politics, one should analyze the international society, also referred to as the 'society of states,' and its institutions together rather than separately. He states that all norms are derived from international society.<sup>4</sup>

Concepts of international society differs from that of the international system and world society by the will of states to obey a set of norms and rules (in Grotian terms), which developed based on their common interests and the institutionalization of those interests.<sup>5</sup> Bull claims that this insti-

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2 Adam Watson and Hedley Bull, *The Expansion of International Society*, New York, Oxford University Press, 1984, p.1.

3 Balkan Devlen, Patrick James, Özgür Özdamar, “The English School, International Relations, and Progress”, *International Studies Review*, Vol. 7, No 2, 2005, p. 171-197.

4 Hedley Bull, *The Anarchical Society: A Study of Order In World Politics*, London, Macmillan International Higher Education, 2012, p.37.

5 Barry Buzan, “The English School: An Underexploited Resource In IR”, *Review of International Studies*, Vol.27, No 3, 2001, p. 475.

tutionalization reveals itself through five major institutions (i.e. the ‘institutions of English School’). He lists these institutions as, international law (i), the balance of power (ii), diplomacy (iii), the great powers management (iv), and war (v).<sup>6</sup>

A good starting point, as it provides a general framework, is international law. Bull considers international law the fundamental institution of international society.<sup>7</sup> While proposing international law as one of the institutions, he does not ignore the role of states, and refers to the “centralized enforcement mechanism in collective security”, which highlights that international law might be only implemented due to the ‘enforcing institutions’.<sup>8</sup> However, because there is no central authority capable of governing at a global scale, enforcement largely depends upon self-help, which maintains states as the central actors.

The second institution within this categorization, and a well-established International Relations concept, balance of power is discussed by Bull along with how it relates to the other major institutions.<sup>9</sup> Bull breaks down this concept into ‘general balance of power’ and ‘local balance of power’ and claims that overall it accounts for the fundamental dynamics of the other four institutions.<sup>10</sup> Accordingly, the interaction between balance of power and international society yields the empowerment of international society based on ‘shared understandings’. Since one state cannot dominate the whole system in an order based on the balance of power, finding a shared platform surrounding common interests would likely become a rule within inter-state relations.

The third institution is diplomacy and, according to Bull, it is an arena in which international organizations are as much the active players as states. The diplomatic profession functions as a sort of watchdog for the idea of international society by both protecting and empowering it.

Great powers (management), the fourth institution of the English School, is worth noting in Bull’s conceptualization as it considers state leadership potential and dominance when determining the route for international society. Hence, some issues are viewed as only being able to be solved via intervention into these states.

Finally, war is listed as an institution of international society, and it is described by Bull as an ‘order protection tool’. Perhaps, war may influence the global order by posing a threat to international society and destroying it. On the other hand, international society might instrumentalize war in order to protect itself along with its common interest, norms, and other institutions.<sup>11</sup>

### ***Solidarism / Pluralism Debate***

The functions of international society and its institutions have been the subject of debate in the English School. One debate, which is one of the essential features of the English School, examines two alternate paths when discussing world order in regard to the concept of international society.<sup>12</sup> These

6 Bull, *The Anarchical Society*, p. 68.

7 Ibid., p. 124.

8 Ibid., p. 126.

9 Ibid., p. 95.

10 Bull, *The Anarchical Society*, p. 102.

11 Ibid., p. 182.

12 Ibid.

paths are approximately presented as the Solidarist/Grotian approach and the Pluralist/Conservative approach to international society.

On the one hand, the Pluralist/Conservative approach is defined as an approach which relies on the “realist side of rationalism” and promotes instrumental characteristics of international society.<sup>13</sup> The sovereignty of states is essential to the interpretation, as there is a comprehensive recognition of the independence of states in their decision-making, particularly for internal affairs. The room to maneuver within international society is limited by the sovereignty and independence of states, while the limits of international society are identified through the shared concerns and wills of states.<sup>14</sup>

On the other hand, within the Solidarist/Grotian approach, the primary assumption is that solidarity is the fundamental element that upholds the “collective will of the international society” and promotes recognition of common objectives.<sup>15</sup> Consequently, this solidarity ensures the survival of international society by guaranteeing continuous cooperation among states. It is worth noting that sovereignty is not underestimated within the Solidarist approach, and remains central to the debate. However, it is postulated that the behaviors of states regarding sovereignty may be re-defined or reshaped by the impact of common norms and interests. As a result, three major and distinctive elements of the Solidarist approach are a robust emphasis on human rights, responsibility to protect, and polity.

The tension between these two approaches provides for of the most popular debates in the English School. We assert that this debate and tension are relevant in explaining the tides of implementation of GRPR and the vulnerability of international society’s norms on this issue, particularly during times of crises. Similarly, Bull admits to the limitations and shortcomings of international society by stating that “the order provided within modern international society is precarious and imperfect.”<sup>16</sup> In particular, “competition with the elements of a state of war and of transnational solidarity or conflict” is proposed as being an essential reason for the limited effectiveness of international society.<sup>17</sup>

In order to empirically substantiate this debate, we will analyze the policies and practices of the international society on GRPR through its institutions during the COVID-19 pandemic. Considering their relevancy within our discussion, we structure our arguments around the four major institutions of international society: international law, balance of powers, diplomacy, and great powers (management).

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13 Barry Buzan, “The English School: An Underexploited Resource in IR”, *Review of International Studies*, Vol. 27, Issue 3, 2001, p. 471-488.

14 Balkan Devlen and Özgür Özdamar, “English School Theory of International Relations: Its Origins, Concepts, and Debates”, *Uluslararası İlişkiler*, Vol.7, No:25, 2010, p. 43-68; Also see, Ali Onur Tepeciklioğlu and Elem Eyrice Tepeciklioğlu, “Teoriden Pratiğe: Suriye Krizi ve Uluslararası Toplum”, *Ankara Üniversitesi SBF Dergisi*, Vol. 70, No 1, p.163-193

15 Bull, *The Anarchical Society*, p. 230.

16 *Ibid.*, p. 50 .

17 *Ibid.*, p. 49.

**Table 1:** Equivalents of International Society's Institutions in Global Refugee Protection Regime (classified by authors)

	<b>Institutions of International Society</b>	<b>The Instruments of Global Refugee Protection Regime</b>	<b>Actors</b>
(i)	International Law	Implementation of International Law on refugee protection	States
(ii)	Balance of Power	Regional and international organizations' refugee protection policies / practices / procedures	International organizations, regional organizations and states
(iii)	Diplomacy	Diplomacy and communication about refugee protection	International organizations, regional organizations and states
(iv)	Great Power Management	Roles and responsibilities of leading countries (GPM) on refugee protection	States

## Impact of the COVID-19 Pandemic on Refugee Protection Instruments of International Society

### 'International Law' on *Global Refugee Protection Regime* and Its Implementation by States

International law is an essential framework for and, as stated, seen by many as the fundamental institution of international society. While there are significant and relevant discussions of its scope, sources, functions, and limitations;<sup>18</sup> the analysis here will focus on, arguably, the most crucial aspect in practice: efficacy. More precisely, when and how it is implemented and under which conditions it is disregarded. One of the most important criticisms leveled against the very concept of international law, from a variety of realist and other theoretical standpoints, is that states merely abide by the requirements of the international law only when they align with their interests. When they do not, states will refuse to carry out their obligations under international law.

One common observation is that, during the COVID-19 pandemic, many states demonstrably refrained from honoring their commitments under the international law, or rather, they did not abide by its rules and requirements. This is certainly the case with the protection of asylum-seekers and refugee law, which is the field of international law examined in this study. How does this non-implementation fit into the framework of the English School and its conception of international law as a major instrument of international society? Before engaging with this theoretical question, the assumption that the implementation of international law concerning asylum-seekers and refugees has taken a significant hit during the COVID-19 pandemic first needs to be based on some empirical evidence.

In fact, there are an abundance of examples from which to choose. These include: Canada's announcement in late March that they will 'temporarily' turn back asylum seekers attempting to en-

18 See, for example, Bull, *The Anarchical Society*, p. 122-155; Lassa Oppenheim, *The Future Of International Law*, Oxford, Clarendon Press, 2010, p.9-22; and H. L. A. Hart, *The Concept Of Law*, Oxford, Clarendon Press, 1994, p.227-231

ter the country outside official border points;<sup>19</sup> the Netherlands' decision on March 16 to stop the identification, registration, and interview processes by immigration officials for asylum-seekers;<sup>20</sup> the shutting down of reception centers and suspension of interviews by Belgium on March 18;<sup>21</sup> Uganda's suspension of the reception of new refugees and asylum seekers for 30 days starting March 25;<sup>22</sup> Italy's closure of some ports assigned to rescue ships carrying asylum-seekers;<sup>23</sup> and the U.S.'s multiple postponements of court hearings for asylum-seekers;<sup>24</sup> its expulsion of children and young irregular migrants without giving them due process or the chance to apply for asylum;<sup>25</sup> as well as, together with Mexico, its blocking children from seeking asylum.<sup>26</sup> All of these examples were done in the name of taking precautions against the COVID-19 pandemic and protecting public health.

The above examples include clear violations of international law such as the principle of non-refoulement and the right of asylum by not receiving and processing applications. However, even these cannot fully exemplify how the lives of asylum-seekers and refugees have been negatively affected by the actions of receiving states during the pandemic, for which there is also a multitude of examples: Greece's curbing of refugee movements in its camps;<sup>27</sup> Bangladesh's suspension of all services within the refugee camps, except for emergency ones;<sup>28</sup> reported cases of increased discrimination against asylum-seekers in Quebec;<sup>29</sup> and the deteriorating conditions of asylum-seekers in Israel.<sup>30</sup>

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- 19 Deborah Amos, "Canada To Turn Back Asylum Seekers In Effort To Stop Coronavirus Spread", 20 March 2020, <https://www.npr.org/sections/coronavirus-live-updates/2020/03/20/819072183/canada-to-turn-back-asylum-seekers-in-effort-to-stop-coronavirus-spread> (Accessed 28 June 2020)
- 20 "New asylum seekers won't be admitted to refugee centers because of coronavirus", 16 March 2020, <https://www.dutchnews.nl/news/2020/03/new-asylum-seekers-wont-be-admitted-to-refugee-centres-because-of-coronavirus/> (Accessed 28 June 2020)
- 21 Gabriela Galindo, "Coronavirus: Belgium begins shutting down services for asylum seekers", 17 March 2020, <https://www.brusselstimes.com/belgium/100794/coronavirus-belgium-begins-turning-away-asylum-seekers-brussels-refugees-belgium/> (Accessed 28 June 2020)
- 22 Samuel Okiror, "Uganda suspends refugee arrivals as coronavirus cases rise", 25 March 2020, <https://www.thenewhumanitarian.org/news/2020/03/25/uganda-coronavirus-refugees-asylum-seekers> (Accessed 28 June 2020)
- 23 "EU/Italy: Port Closures Cut Migrant and Refugee Lines", 9 April 2020, <https://www.hrw.org/news/2020/04/09/eu/italy-port-closures-cut-migrant-and-refugee-lifeline> (Accessed 28 June 2020)
- 24 Camilo Montoya-Galvez, "U.S. postponed court hearings for asylum-seekers in Mexico over coronavirus", 23 March 2020, <https://www.cbsnews.com/news/u-s-postpones-court-hearings-for-asylum-seekers-in-mexico-over-coronavirus/>; Ted Hesson, "U.S. again postpones immigration hearings for migrants in Mexico due to coronavirus", 01 April 2020, <https://www.reuters.com/article/us-health-coronavirus-usa-immigration/u-s-again-postpones-immigration-hearings-for-migrants-in-mexico-due-to-coronavirus-idUSKBN21J62J> (Accessed 28 June 2020)
- 25 "Citing coronavirus, Trump ramps up expulsions of migrant youth", 13 May 2020, <https://www.aljazeera.com/news/2020/05/citing-coronavirus-trump-ramps-expulsions-migrant-youth-200513190122320.html> (Accessed 28 June 2020)
- 26 Emily Green, "U.S. and Mexico are Blocking Kids From Asking For Asylum Because of Coronavirus", 16 April 2020, <https://theintercept.com/2020/04/16/coronavirus-mexico-border-children-asylum/> (Accessed 28 June 2020)
- 27 "Greece curbs refugee movement in camps over coronavirus fears", 18 March 2020, <https://www.aljazeera.com/news/2020/03/greece-curbs-refugee-movement-camps-coronavirus-fears-200318162208279.html> (Accessed 28 June 2020)
- 28 "Coronavirus: Critical Services only in Rohingya Camps since Wednesday", 24 March 2020, <https://www.dhakatribune.com/bangladesh/rohingya-crisis/2020/03/24/all-activities-to-be-suspended-at-cox-s-bazar-rohingya-camps-from-wednesday> (Accessed 28 June 2020)
- 29 Lital Khaikin, "Covid-19 is exacerbating discrimination against asylum seekers in Québec", 27 April 2020, <https://canadiandimension.com/articles/view/no-detention-is-humane-covid-19-exacerbates-discrimination-against-asylum-seekers-in-quebec> (Accessed 28 June 2020)
- 30 Lee Yaron, "Asylum Seekers In Israel Forced to Fend for Themselves During Coronavirus Crisis", 24 June 2020, <https://www.haaretz.com/israel-news/.premium.MAGAZINE-asylum-seekers-in-israel-forced-to-fend-for-themselves-during-coronavirus-crisis-1.8706176> (Accessed 28 June 2020)

How can the English School explain all of these developments? First, the aforementioned violations of international law, no matter how widespread, do not prove that international law is wholly ‘inefficient,’ save some dissenting opinions. According to Bull:

“violation or disregard of rules of international law don’t in themselves provide evidence that international law is without efficacy. Because, violation of a particular rule usually takes place against the background of conformity to other rules of international law and where a violation takes place the offending state usually goes out of its way to demonstrate that it still considers itself bound by the rule in question. ... What is a clearer sign of the inefficacy of a set of rules is the case where there is (...) a failure to accept the validity or binding quality of the obligations themselves.”<sup>31</sup>

It is important to note that, while many states suspended their implementation of the rules and norms of international law regarding asylum-seekers and refugees during the pandemic, in most cases this suspension has been partial and temporary. This is the case in both discourse and practice. When states announced that they would suspend honoring some of their commitments under the international law, they specifically defined which commitments were included and usually mentioned that it was a temporary precaution which would not change the country’s position vis-à-vis international law in the long run. Further, it is apparent from the tone of the announcements that the states do not question the underlying validity, rationale and necessity of the laws. Rather, because of the ‘extraordinary conditions’ of the recent pandemic, they have temporarily chosen to suspend ‘some’ of their commitments while signaling that they still consider themselves bound by the rules and laws in question.

According to Bull, states conformity to international law is a result of three different types of motive:

“First, obedience may be the consequence of the fact that the action enjoined by the law is thought to be valuable, mandatory or obligatory, either as an end in itself or as part of, or a means to, some wider set of values. Second, obedience may result from coercion, or the threat of it, by some superior power bent on enforcing the agreement. Third, obedience may result from the interest a state perceives in reciprocal action by another state or states.”<sup>32</sup>

When each motive is examined, it can be suggested that the international society, through its institution of international law, acts as is predicted by the English School. The first motive is only partly present, and present in varying degrees depending on the state. Because, although the will to uphold the international refugee regime might be considered ‘morally valuable,’ during a perceived global public health crisis, the value and/or necessity of protecting the health of citizens justifiably gains primacy. The second motive is not present since there does not appear to be a ‘superior power’ which is so determined to ensure compliance with international refugee law that it will use or threaten coercion to ensure enforcement. This point will be further elaborated on in the section on ‘Great Powers,’ yet it suffices to say that by far the greatest number of examples of violations of international law requirements comes from the United States, which might have been the primary candidate for a liberal ‘superior power.’ Lastly, the presence of the third motive can also be argued as being only partial. States can be expected to calculate whether other states’ conformity with international laws

31 Bull, *The Anarchical Society*, p. 132-133.

32 Ibid., p. 134.

concerning asylum-seekers and refugees is in their interest, as this would potentially mean less pressure of conformity on them. However, this consideration is weighed against the potential costs and risks associated with the state's own conformity in a given context. This would then explain why, in the context of crisis, some states temporarily suspend their conformity to international law as it is still preferable despite the risk of reciprocal action. As a result, for many states, this example of other states not implementing international law would be perceived and even cited as justification for their own disregard for the law.

Overall, even when states openly disregard or violate international law regarding asylum-seekers and refugees in the context of a global public health crisis, which in most cases brings implicit or explicit consent of the majority of citizens for 'extraordinary measures' to be taken, they do this only partially, temporarily, and without questioning the validity or necessity of the laws themselves. Additionally, they do so without implying that they now consider themselves free from the rules and laws in question. It appears that the English School's conceptualization of international law, which does not necessarily have to be enforced by a central sovereign authority, exists because members of the international society believe in its value, are committed to its maintenance, and are socialized in similar systems of international rules and norms.

### ***'Balance of Power' and Implementation of GRPR by International Organizations***

To reiterate, in the framework of this study, 'balance of power' is taken to mean "a state of affairs such that no one power is in a position where it is preponderant and can lay down the law to others."<sup>33</sup> Hence, the balance of power refers to the distribution of power and capabilities of states.

According to the English School, the 'institutions' of the international society had arisen before the international organizations were established and also will continue to operate even if these organizations do not exist.<sup>34</sup> That is why, when referring to international organizations, the English School uses the terms 'pseudo-institutions' or 'secondary institutions' in order to connote that the effectiveness of international organizations depends on the function of an international society's primary institutions. Nonetheless, there is still the challenge of balancing the needs, imperatives and interests of states with the needs and interests of humankind. These are generally in conflict with one another, especially during times of crisis. As a result, the main objective of international organizations is to balance both 'interests' via its own instruments.

The question of how much the 'balance of power' has contributed to guaranteeing the norms of the international society on refugee protection during the COVID-19 crisis is important to our study. We seek the answer to this question through an analysis of the effectiveness of international organizations as they undertook a more active role in this process. This analysis will consist of the policies and practices of three major organizations and their agencies: the European Union (EU); the United Nations (UN); and the Council of Europe (CoE), particularly in relation to their interactions with states to protect the 'balance of power' for the GRPR.

Firstly, the EU adopted a set of 'guidelines' which called for states to respect the requirement of proportionality and implement border closures in line with the principle of solidarity following

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33 Bull, *The Anarchical Society*, p. 97.

34 Ibid.

this decision on March 16.<sup>35</sup> In order to stop the spread of the virus, the EU Commission also invited member states to enact a temporary restriction on non-essential travel from third countries into the European Union area.<sup>36</sup> Consequently, the EU's external borders were closed in March, with restrictions that extended until June 30. Border controls and travel restrictions imposed by EU Member States also affected the ability to conduct Dublin transfers. Several asylum seekers in French custody set to be sent to Italy are currently stuck in detention as the coronavirus-related lockdown overrides the EU rules requiring them to be sent back. Courts of appeals in parts of France are dismissing challenges brought by asylum seekers regarding the extension of their detentions after their transfers to Italy were canceled. The rulings all cite an EU regulation known as Dublin III, which requires asylum requests to be handled by the country where they were made.<sup>37</sup> There are also steps being taken by other organizations in order to strengthen the asylum and return procedures during the pandemic. In April the European Commission, in coordination with the European Asylum Support Office (EASO) and The European Border and Coast Guard Agency (FRONTEX), presented guidance on the implementation of relevant EU rules on asylum, return procedures, and resettlement in the context of the COVID-19 pandemic. These guidelines aimed to ensure the continuity of procedures and, at least a minimum, respect for basic rights.<sup>38</sup> In order to achieve this aim, the guidelines proposed some flexibility in the implementation of EU rules.<sup>39</sup> These and similar guidelines indicate that international organizations, along with the impact of the 'soft law' principle, may render their existing arrangements more flexible in times of crisis. Thereby ensuring the operation of the system and rules.

The UN and its agencies played a prominent role in this process of balancing the restrictive policies of states. The International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR) announced on March 17, the temporary suspension of resettlement travel for refugees, also to the prevent of the exposure of refugees to the novel coronavirus. As resettlement is a crucial tool of international protection and part of the durable solution for refugees under the UNHCR's mandate,<sup>40</sup> both organizations urged states to ensure the application of restrictions only during the most critical emergency cases.<sup>41</sup>

35 Guidelines for Border Management Measures to Protect Health and Ensure The Availability of Goods and Essential Services, 16 March 2020, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316\\_covid-19-guidelines-for-border-management.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200316_covid-19-guidelines-for-border-management.pdf) (Accessed 23 June 2020)

36 See the EU Commission's decision, "Covid-19: Temporary Restriction on Non-Essential Travel to the EU", 16 March 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:115:FIN>; This restriction exempted nationals of all EU Member States and Schengen Associated States, also third-country nationals who are long-term residents in EU countries. In 1st of July, EU decided to re-open its borders by approving a list of 15 countries considered as safe due to their situation of Coronavirus. See, "EU agrees to reopen borders to 14 countries, extend travel ban for US tourists, 30 June 2020, <https://www.dw.com/en/eu-agrees-to-reopen-borders-to-14-countries-extends-travel-ban-for-us-tourists/a-53986435> (Accessed 30 June 2020)

37 Gaspard Sebag and Hugo Miller, "Asylum Seekers Stuck in French Detention as EU Courts Slow", 17 March 2020, <https://www.bloomberg.com/news/articles/2020-03-17/asylum-seekers-stuck-in-french-detention-as-eu-justice-slows> (Accessed 24 June 2020)

38 "Coronavirus: Commission presents guidance on implementing EU rules on asylum and return procedures and on resettlement, 16 April 2020, [https://ec.europa.eu/commission/presscorner/detail/en/ip\\_20\\_666](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_666) (Accessed 24 June 2020)

39 Ibid.

40 "UNHCR Resettlement Handbook", July 2011, <https://www.unhcr.org/46f7c0ee2.pdf> (Accessed 24 June 2020)

41 "IOM, UNHCR announce temporary suspension of resettlement travel for refugees", 13 March 2020, [https://www.iom.int/news/iom-unhcr-announce-temporary-suspension-resettlement-travel-refugees?utm\\_source=IOM+External+Mailing+List&utm\\_campaign=7088d71512-EMAIL\\_CAMPAIGN\\_2020\\_03\\_17\\_03\\_46&utm\\_medium=email&utm\\_term=0\\_9968056566-7088d71512-43619265](https://www.iom.int/news/iom-unhcr-announce-temporary-suspension-resettlement-travel-refugees?utm_source=IOM+External+Mailing+List&utm_campaign=7088d71512-EMAIL_CAMPAIGN_2020_03_17_03_46&utm_medium=email&utm_term=0_9968056566-7088d71512-43619265) (Accessed 24 June 2020)

Concerning the deportation of the irregular migrants, the UNHCR called on governments to suspend forced returns during the pandemic.<sup>42</sup> Many European countries also imposed a de facto moratorium on deportations amid other travel restrictions and released people from immigration detention.<sup>43</sup>

The public health measures taken by countries to fight against coronavirus have also raised the question of protection for the rights of children and the impacts of the pandemic measures on such rights. This question can be seen in action with the UN Children's Fund (UNICEF), which, in March, appealed for 133 million dollars to shield vulnerable children and their families in the region from the impact of the pandemic.<sup>44</sup> Also, in May, 1.6 billion dollars was requested to support UNICEF's humanitarian response for children impacted by the pandemic.<sup>45</sup>

Additional cooperation can be seen between international organizations during the pandemic in order to share the burden and benefit from the capacity of each. An example of this, the UNHCR joined the COVID-19 Solidarity Response Fund<sup>46</sup> in mid-March in order to cooperate with the WHO on the ground to better ensure the public health of refugees and to give refugees the benefit of additional funds/aid.<sup>47</sup> The WHO Eastern Mediterranean Regional Office (WHOEMRO) also collaborated with the International Organization of Migration (IOM) and the International Labour Organization (ILO) to establish a Regional Taskforce on COVID-19 with regard to migration and mobility.

Another significant actor was the Council of Europe (CoE). While governments are fighting against the spread of COVID-19, it is clear that the enjoyment of the human rights, i.e., health, economic, social rights, etc., is affected by the pandemic because of the strong measures adopted to counter it. In this regard, the CoE Commissioner on Human Rights called on other member states to follow this decision by giving priority to the most vulnerable, such as children and unaccompanied minors. The CoE also urged states to refrain from new detentions.<sup>48</sup>

In order to fight against the novel coronavirus, nine CoE member states (Albania, Armenia, Georgia, Estonia, Romania, Latvia, Moldova, Serbia, North Macedonia) submitted their derogation to protect public health via the European Convention on Human Rights (ECHR) under

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42 UN Network on Migration, "Forced Returns of Migrants Must Be Suspended In Times of Covid-19, 13 May 2020, [https://migrationnetwork.un.org/sites/default/files/network\\_statement\\_forced\\_returns\\_-\\_13\\_may\\_2020.pdf](https://migrationnetwork.un.org/sites/default/files/network_statement_forced_returns_-_13_may_2020.pdf) (Accessed 24 June 2020)

43 Covid-19 Global Immigration Detention Platform <https://www.globaldetentionproject.org/covid-19-immigration-detention-platform> (Accessed 24 June 2020)

44 "UNICEF responds to the Covid-19 pandemic in Europe and Central Asia", <https://www.unicef.org/eca/unicef-responds-covid-19-pandemic-europe-and-central-asia> (Accessed 24 June 2020)

45 "UNICEF appeals for 1.6 billion dollars to meet growing needs of children impacted by Covid-19 pandemic", 11 May 2020, <https://www.unicef.org/press-releases/unicef-appeals-16-billion-meet-growing-needs-children-impacted-covid-19-pandemic> (Accessed 24 June 2020); Jennifer Rankin, "Cities lobby EU to offer shelter to migrant children from Greece", 24 April 2020, <https://www.theguardian.com/world/2020/apr/24/cities-lobby-eu-to-offer-shelter-to-migrant-children-from-greece> (Accessed 24 June 2020)

46 For more information on the Fund, <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/donate>

47 "WHO and UNHCR join forces to improve health services for refugees, displaced and stateless people", 21 May 2020, <https://www.who.int/news-room/detail/21-05-2020-who-and-unhcr-join-forces-to-improve-health-services-for-refugees-displaced-and-stateless-people> (Accessed 24 June 2020)

48 "Commissioner calls for release of immigration detainees while Covid-19 crisis continues", 26 March 2020, <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-release-of-immigration-detainees-while-covid-19-crisis-continues> (Accessed 24 June 2020)

Article 15, which allows contracting parties to derogate in times of emergency. Even if it is the right of a country to do so, the CoE responded saying that these measures are already covered by the ECHR. The CoE emphasized that they do not encourage member states to submit such notifications, as it is unnecessary.<sup>49</sup> The CoE interpreted these notifications as “a sign of respect to the Convention;”<sup>50</sup> however, derogations can also lead to fear and criticism. This is because of the potential for abuse and misuse of the derogation, as some states could take advantage of the crisis to undermine the rule of law.<sup>51</sup> Following the derogation, the CoE launched a toolkit for the governments of Member States regarding respecting for human rights, rule of law, and democracy during the pandemic. In addition to this, the CoE and UNHCR are encouraging states to benefit from the support, through the European Qualifications Passport (EQPR),<sup>52</sup> that refugee health professionals can provide to their national health systems during the pandemic. Also, the CoE’s Special Representative on Migration and Refugees and the EU Fundamental Rights Agency (FRA) jointly published a note in order to support the Member States in their duties when taking protective measures during the pandemic, especially underlining the responsibility of states to maintain fundamental rights while protecting their external borders.<sup>53</sup>

Consequently, the international organizations played a dominant role in the protection of norms related to GRPR during the COVID-19 pandemic crisis. In terms of balance of power, this is an interesting example which demonstrates that the balance in the system regarding GRPR is possible with the involvement of international organizations behaving in accordance with international values and norms and states which behave with short term interests and preservationist motives in mind. In this framework of the measures taken and restrictions imposed under the state of emergency, these arrangements are restricted, *nolens volens*, and bottlenecks emerge within the system. Although, at a first glance this creates the perception that international organizations are facing difficulties in managing this process, organizations are trying to keep the states under the system through more new flexible arrangements and continued monitoring. Further, these efforts are important in terms of safeguarding the fundamental principles of global refugee protection in crisis periods.

49 Vlagyiszlav Makszimov, “Coronavirus derogations from human rights send wrong signal, says MEPs”, 24 March 2020, <https://www.euractiv.com/section/justice-home-affairs/news/coronavirus-derogations-from-human-rights-send-wrong-signal-say-meps/> (Accessed 24 June 2020)

50 Ibid.

51 For such examples; “Slovakia to track coronavirus victims through telecoms data”, <https://www.ft.com/content/64539a44-6e87-11ea-89df-41bea055720b>; “Coronavirus: Rule of Law under attack in Southeast Europe”, 24 March 2020, <https://www.dw.com/en/coronavirus-rule-of-law-under-attack-in-southeast-europe/a-52905150>; “Secretary General writes to Victor Orban regarding Covid-19 state of emergency in Hungary, 24 March 2020, <https://www.coe.int/en/web/portal/-/secretary-general-writes-to-victor-orban-regarding-covid-19-state-of-emergency-in-hungary> (Accessed 24 June 2020)

52 The EQPR was launched in 2017 by the Council of Europe to help states assess refugees’ qualifications and facilitate their integration. It involves recognition centers from 10 countries (Armenia, Bosnia and Herzegovina, Canada, France, Germany, Greece, Italy, the Netherlands, Norway, the United Kingdom) as well as public authorities and the UNHCR and receives financial support from Belgium (Flemish government), Georgia, Greece, Italy, Monaco, and Norway. For more info about EQPR; <https://www.coe.int/en/web/education/recognition-of-refugees-qualifications> (Accessed 24 June 2020)

53 “Fundamental rights of refugees and migrants at European borders”, 27 March 2020, <https://www.coe.int/en/web/portal/-/fundamental-rights-of-refugees-and-migrants-at-european-borders> (Accessed 24 June 2020)

## **'Diplomacy' and Global Refugee Protection Regime**

Diplomacy is framed by the English School as a prominent institution of the international society which defines common interests or negotiates them. In time of conflict and ambiguity when defining these common interests, which are the foundation of the international society, diplomacy might also function to clarify meaning. Consistently, diplomacy is analyzed as a tool and institution of the international society in line with the English School's attempt to explain the functioning of relations between states and the establishment of order in world politics.

In the same vein, Buzan describes diplomacy as a component of a 'harmonious set,' which includes sovereignty, territoriality, and balance of power. Accordingly, he believes that this set cannot guarantee peace, but its components complete each other.<sup>54</sup> We might expect the intensive functionality of diplomacy to protect the order when international society experiences a crisis.<sup>55</sup> However, the experience of the international society during the COVID-19 pandemic, in particular during the three months after the first cases were revealed, casts doubt on the use of diplomacy as an effective tool for protecting the GRPR. Concomitantly, states did not demonstrate adequate performance in providing sustainability for the regime, as they did not obey the norms of international society regarding refugee protection. Conversely, international organizations and agencies have been more visible than the states in diplomacy, since states' communication channels have been overshadowed by concerns of border sovereignty and the anxiety of pandemic.

Diplomacy has played a vital role in the emergence of the GRPR, as states agreed on and encoded the norms and rules of this regime. However, diplomacy is not only a tool for development, but for the protection of these norms. The most prominent cases of diplomacy protecting the norms of the GRPR and its principles were presented mostly by international organizations rather than states. For instance, during the initial phases of the pandemic, in March 2020, the IOM, UNHCR, WHO and UN's Office of the High Commissioner for Human Rights (OHCHR) published a joint press release, which outlines that "the rights and health of refugees, migrants and the stateless must be protected in COVID-19 response".<sup>56</sup> The target audience of the press release was states, and it was a timely attempt to warn them about attaching particular importance to refugees and asylum seekers as vulnerable groups in their societies. Moreover, it urged states to respect international norms regarding the refugee protection regime and human rights.

As another example, the UNHCR offered a list of practical recommendations, which was prepared for the European countries with the purpose of ensuring they continue to grant access to asylum.<sup>57</sup> The recommendations of the UNHCR were also a call to European countries not to only safeguard people seeking international protection but also the global protection regime itself. The

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54 Barry Buzan, "The Primary Institutions of International Society", Barry Buzan (ed.), *From International to World Society? English School Theory And The Social Structure of Globalization*, Cambridge, Cambridge University Press, 2004, p. 161-204.

55 Ali Onur Tepeciklioğlu and Murat Demirel, "İngiliz Okulu Kuramı Perspektifinden Uluslararası Çevre Sorunları", *Alternatif Politika*, Climate Change and Energy Special Issue, December 2017, p.70-106

56 "OHCHR, IOM, UNHCR, WHO Joint press release: the rights and health of refugees, migrants, and stateless must be protected in Covid-19 response", 31 March 2020, <https://www.who.int/news-room/detail/31-03-2020-ohchr-iom-unhcr-and-who-joint-press-release-the-rights-and-health-of-refugees-migrants-and-stateless-must-be-protected-in-response> (Accessed 24 June 2020)

57 "Coronavirus: UNHCR offers practical recommendations in support of European Countries to ensure access to asylum and safe reception", 27 April 2020, <https://www.unhcr.org/news/press/2020/4/5ea68bde4/coronavirus-unhcr-offers-practical-recommendations-support-european-countries.html> (Accessed 24 June 2020)

recommendations included: providing access to health services, preventing exclusion and discrimination, resuming asylum processes, and moving asylum-seekers to safer reception centers to protect them from the pandemic. Overall, it is a communicative initiative aimed at states to remind them of their responsibilities in the context of international protection norms and the global refugee regime.

On 16 March 2020, the UNHCR released a “key legal considerations paper,” which is also a significant reminder to states about their obligations regarding international norms for refugee protection. The document acknowledges that states might implement new restrictions due to the COVID-19 pandemic, including placing people seeking international protection into quarantine or subjecting them to health screening processes. Nonetheless, it also emphasizes that these measures should not result in the violation of human rights and international norms, such as suspending the right to seek asylum or non-refoulement.<sup>58</sup> The paper attempts to be balanced, as it acknowledges the sovereignty of states in their decisions about borders during the times of pandemic. It notes in its first article that “under international law, states have the sovereign power to regulate the entry of non-nationals.” Subsequently, the article warns states “not to prevent people who seek asylum from persecution.”<sup>59</sup> This paper exemplifies employing diplomatic messaging in order to guarantee institutions of international society and international law be upheld during a crisis.

Another interesting example of these diplomatic initiatives, which emphasize the common interests and shared values of the international society in terms of refugee protection during the COVID-19 pandemic, was a letter from several members of the European Parliament to the European Commission on March 25, 2020.<sup>60</sup> The letter calls for the European Commission to prevent EU member states from instrumentalizing the COVID-19 pandemic in order to justify extreme and discriminatory measures at the borders, which might violate human rights and international law and go against EU objectives. The message is multifaceted covering the violations of law both by states, organizations, and agencies such as FRONTEX.

COVID-19 resulted in a decrease in the level of diplomatic relations among states and brought new organizational challenges.<sup>61</sup> Videoconferencing and other distanced communication channels replaced traditional in-person meetings. Through these new channels, diplomatic communications were observed among states about refugee-centric issues within the first four months of the pandemic. For instance, the leaders of Turkey, Germany, France, and Great Britain came together for a videoconference in March 2020.<sup>62</sup> However, according to the press, the debates during this meeting primarily centered around the future of the EU’s borders and the externalization policies and relations of the EU, particularly with Turkey, with the purpose of preventing the flow of asylum seekers to its border. Similarly, diplomatic communication between Turkey, Germany, and France within the same period, often addressed the concerns for the revision of the EU-Turkey March 2016 Statement rather than

58 UNHCR, “Key Legal Considerations on access to territory for persons in need of international protection in the context of Covid-19 response”, 16 March 2020, <https://www.refworld.org/docid/5e7132834.html> (Accessed 24 June 2020)

59 Ibid.

60 European Parliament members’ letter to the European Commission, 25 March 2020, [https://www.guengl.eu/content/uploads/2020/03/Letter\\_Fundamental\\_Rights\\_Violations-March-2020\\_FINAL.pdf](https://www.guengl.eu/content/uploads/2020/03/Letter_Fundamental_Rights_Violations-March-2020_FINAL.pdf) (Accessed 24 June 2020)

61 Stephanie Liechtenstein, “How COVID-19 Has Transformed Multilateral Diplomacy?” 1 June 2020, <https://www.worldpoliticsreview.com/articles/28801/how-covid-19-has-transformed-multilateral-diplomacy> (Accessed 24 June 2020)

62 Dorian Jones, “European Leaders Videoconference Over Refugee Crisis, Coronavirus”, 17 March 2020, <https://www.voanews.com/europe/european-leaders-videoconference-over-refugee-crisis-coronavirus> (Accessed 24 June 2020)

the fate of the GRPR.<sup>63</sup> Therefore, although the primary topic was migration and refugees, the states' sporadic diplomatic communication was about the state-centered policy aspect of these issues rather than protecting and strengthening the global refugee protection system during the pandemic.

Overall, during the pandemic states were not able to take the lead in conducting proper diplomacy in order to protect the norms and principles of the international society regarding refugee protection. Conversely, most states applied emergency measures and restrictions on the existing regime and created a threat to the order on this issue. However, international organizations and agencies undertook a more active role during this process as messenger, watchdog, and reminder of the norms through different channels of communication and diplomacy.

### **'Great Powers' and Global Refugee Protection Regime**

In the preceding sections, we have provided a number of examples in which the crisis or emergency mentality that has set in during the COVID-19 pandemic has caused significant disruptions to the international order and possibly 'weakened' various institutions of international society as theorized by the English School. Another significant institution of the international society within this framework is the Great Powers and their presumed 'managerial' role to protect and uphold the international order. So, what have the current Great Powers been doing concerning the GRPR during this recent global crisis?

A detailed discussion of what makes a state a Great Power or which countries currently can or should be seen as Great Powers is not necessary for this study.<sup>64</sup> Briefly, the Great Powers are defined as those powerful actors in the international society who, almost being formally equal to all the other sovereign states, have "certain special rights and duties" that are recognized by other actors as well as themselves.<sup>65</sup> These rights and duties are not encoded in any agreement or convention, yet they are recognized by most actors in the international society by virtue of their status as Great Power status. In summation, they are Great Powers if and as long as they are recognized as having a special position among other states. Having emerged as Great Powers in the international order, these actors have a significant degree of vested interest in the maintenance of their elevated status. Therefore, they act as "custodians and guarantors"<sup>66</sup> of the international order and commit to not only preserving but steering it.

During the Cold War, the two Great Powers were clearly the U.S. and the Soviet Union with their undeniable military dominance, economic supremacy, and political influence. Today, the picture is much less clear with several emerging Great Powers, declining ones, and actors that do not look like the traditional Great Powers, which used to be exclusively states. For the purposes of this paper, concerning the issue area of the GRPR only one Great Power, namely the U.S., is examined. This is because the other most likely candidate for this Great Power status, China, while being party to the

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63 Dilara Aslan Erdoğan, "Merkel, Macron to Discuss EU Refugee Crisis, 2016 Deal", 16 March 2020, <https://www.dailysabah.com/politics/erdogan-merkel-macron-to-discuss-eu-refugee-crisis-2016-deal/news> (Accessed 24 June 2020)

64 For such detailed discussion on these questions, see Carsten Holbraad, *Super Powers And International Conflict*, London: Macmillan, 1979; Paul Kennedy, *The Rise And Fall Of The Great Powers: Economic Change And Military Conflict From 1500 to 2000*, UK, First Vintage Books, 1989; Jakub J. Grygiel, *Great Powers And Geopolitical Change*, Johns Hopkins University Press, 2006; and, Barry Buzan, *The United States And The Great Powers: World Politics In The Twenty-first Century*, Cambridge, Polity, 2004.

65 Bull, *The Anarchical Society*, 2012, p. 196.

66 *Ibid.*, p. 221.

Geneva Convention since early 1980s, cannot be considered a major actor who would be expected to act as a 'custodian and guarantor' of the GRPR. This is because of China's political standing and past performance on refugee protection.<sup>67</sup> The EU, an unusual actor at this level which lacks unitary political authority and direction, can still be considered a relevant Great Power in this context as it has acquired a considerable degree of influence over the implementation of the global refugee protection regime in Europe and the national policies of its member states. However, since the EU's actions have been examined in some detail in the preceding two sections, to prevent repetition, it will not be included further in this analysis.

The U.S. has long maintained its Great Power status in terms of military, economic, cultural, and political dominance on a global scale, despite occasional arguments regarding its decline. The U.S. has existed not only as the 'leader of the free world' and the 'champion of liberal democracies' for around 80 years, but as one of the institutional architects of the post-World War II liberal international order. As a result, the U.S. can certainly be expected to be committed to the current liberal order of global refugee protection. Moreover, immigration and refugee-relations have played a unique role in the national identity of the U.S., which was founded by immigrants and refugees fleeing religious persecution in Europe, and which presently has consistently had the greatest number of international immigrants. Therefore, the U.S. being 'a', if not 'the', Great Power would be expected to assume a leading role in the protection of the international order and the GRPR in a time of global crisis.

The U.S. position under the leadership of President Trump; however, has been entirely different. Rather than taking a leadership role in the process of defending the international order in the face of a pandemic, the U.S., for a relatively long time, has refused its existence. Subsequently, using the pandemic as justification, the Trump administration introduced stricter border controls including: giving the authority to Border Patrol agents to immediately deport anyone who did not enter the country through legal ports of entry;<sup>68</sup> its Department of Justice requesting broad new powers, including putting someone in detention indefinitely, during times of emergencies;<sup>69</sup> and announcing its intention to suspend immigration entirely.<sup>70</sup> Consequently, by relinquishing its leadership role to uphold the existing international order by ensuring its implementation by individual states, either through incentives and support or threat of coercion, the U.S. has topped the list of countries which have violated international law and contributed to the disruption of the international order. As stated above, most other states explicitly announced

67 For a recent analysis on China's engagement with GRPR, see Lili Song, *China and The International Refugee Protection Regime: Past, Present, and Potentials*, Refugee Survey Quarterly, Vol.37, No 2, 2018, p. 139-161.

68 Zolan Kanno-Youngs, Michael D. Shear, Maggie Haberman, "Citing Coronavirus, Trump Will Announce Strict New Border Controls", 17 March 2020, <https://www.nytimes.com/2020/03/17/us/politics/trump-coronavirus-mexican-border.html?referringSource=articleShare> (Accessed 24 June 2020)

69 Betsy Woodruff Swan, "DOJ Seeks New Emergency Powers Amid Coronavirus Pandemic", 21 March 2020 <https://www.politico.com/news/2020/03/21/doj-coronavirus-emergency-powers-140023> (Accessed 24 June 2020) While the COVID-19 pandemic was cited as justification of the request, if granted, the DOJ would keep such authority for any upcoming emergencies, the definition of which is quite subjective. It shouldn't be forgotten, for example, President Trump declared a State of Emergency in 2018 in the face of a Caravan of a few thousand immigrants from Central American countries. See, "Trump declares national emergency over US-bound migrant caravan", 24 October 2018, <https://news.sky.com/story/trump-declares-national-emergency-over-us-bound-migrant-caravan-11532480> (Accessed 24 June 2020)

70 Katie Rogers, Michael D. Shear, Zolan Kanno-Youngs, "Trump's Plan To Suspend Immigration to US", 20 April 2020, [https://www.nytimes.com/2020/04/20/us/politics/trump-immigration.html?campaign\\_id=9](https://www.nytimes.com/2020/04/20/us/politics/trump-immigration.html?campaign_id=9) (Accessed 24 June 2020)

that their transgressions concerning international law during the pandemic were temporary and ‘unfortunate’ but necessary because of the extreme conditions of the global pandemic. In summation, in most cases, such failure to implement international law and respect the international order was accompanied by assurances from states that their position remain unchanged vis-à-vis the international society. However, in the case of the U.S., there is a strong suspicion that what the U.S. is attempting at is a re-negotiation of its position within the international society where it no longer seeks the role of ‘custodian and guarantor’.<sup>71</sup>

## Conclusion

This analysis of the practices and policies regarding the GRPR through the institutions of international society during the four months after the outbreak of the COVID-19 pandemic gives us significant clues as to areas of weakness of the regime.

Firstly, the vulnerability of the international society regarding the global refugee protection regime is highly dependent to the system’s fundamental tiers, which rely on ‘shared interests’ and ‘common values’. Since the states are more ‘self-interest oriented’ during times of significant crises, common interests and values are often replaced with protectionist precautions, which leads to the suspension of related mechanisms. However, it should be noted that in following with the insights of the English School, the present analysis confirmed that such suspensions are explicitly temporary and therefore do not amount to an existential threat to the affected international mechanisms, norms, and regimes. In other words, while the states do in fact prioritize their national interests at the expense of their commitment and obligations under international law, they do not question or challenge the validity of the laws themselves. Nor does this signal any fundamental change in their position vis-à-vis international society.

Secondly, our analysis clearly demonstrates that this temporary withdrawal of states from supporting or contributing to the international society’s institutions, necessitates more active engagement of international and regional organizations. Therefore, these organizations become prominent advocates for refugee protection values and norms during the COVID-19 crisis. This reminds us of Andrew Linklater’s criticisms of the English School regarding the dominance of the pluralist approach. Linklater claims that “solidarist principles that are embedded within global arrangements are ‘pluralist’ at core”.<sup>72</sup> However, amidst this remarkably increased activity and visibility, assessing to what extent the power and effectiveness of these international and regional organizations grows in such contexts of international crises requires deeper and more contextualized further studies.

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71 There is a growing literature that reads Trump’s “America First” or “Make America Great Again” policies as an attempt for a historical turning point in the country’s position *vis a vis* international society. See, for instance, Hilde Eliassen Restad, “Whither The “City Upon a Hill”? Donald Trump, America First, and American Exceptionalism”, *Texas National Security Review*, Vol. 3, Issue. 1, 2020; Henna-Riikka Pennanen and Anna Kronlund, “Imagining the West in the Era of America First”, Marco Lehti, Henna-Riikka Pennanen, Jukka Jouhki (eds.), *Contestations of Liberal Order*, London, Palgrave Macmillan, 2020; and particularly in relation to immigration, see Erica Lee, “America First, Immigrants Last: American Xenophobia Then and Now”, *The Journal of the Gilded Age and Progressive Era*, Vol. 19, No 1, 2020, p. 3-18

72 Andrew Linklater, “Prudence and Principle in International Society: Reflections on Vincent’s Approach to Human Rights”, *International Affairs*, Vol. 87, No. 5, 2011, p. 1191.

Thirdly, it is important to note that this activeness of the international and regional organizations might only be possible through the existence of international norms as well as states' acceptance of and respect for those norms, even when they are unable or unwilling to abide by them themselves. This confirms Bull's argument on the interaction between international law and enforcing institutions for a successful international society. Overall, our analysis shows that the balance between the solidarist and pluralist approaches is damaged during crisis in favor of the pluralist perspective because of the protectionist and sovereignty-based precautions of the states. Nevertheless, the solidarist values and norms are preserved by international organizations and agencies.

Another notable observation is the frequent references of international organizations and agencies to 'human rights' while they try to preserve the norms of the international society regarding GRPR. Although 'international protection' (and/or the refugee regime) has not often been a case study for the English School and international society, 'human rights' may be accepted as a central concept that develops at the nexus between the concept of international society and GRPR. Moreover, Clark claims that "compared to other issues, there has been 'astonishingly little pressure' to hold state activities to any international account".<sup>73</sup> In this regard, 'human rights' and 'international law' may be the principles which keep states responsible for sustaining the global refugee protection regime.

The analysis reveals the 'Great Power management' as having been the weakest institution of international society for refugee protection during the COVID-19. However, this is more related to the structural-historical factors of the system and the political stance of the current administration of the top Great Power, rather than the crisis itself. As was made evident by this study, while theoretically the primary Great Power is expected to act as a 'custodian and guarantor' of the international system, the U.S. acts completely differently, using emergency conditions created by the global health crisis as a pretext for dodging its responsibilities as a Great Power. More significantly, while other states explicitly preserve their commitments to international society by stating that their violations of international law are only temporary, there is considerable suspicion that the U.S. is pushing for a re-negotiation of its role as 'custodian and guarantor' within the international society with its 'America First' policy.

Overall, this study confirms that in the context of a global COVID-19 crisis, all of the instruments of international society as defined by the English School were weakened, except for the role and significance of international and regional organizations as political actors. It has been argued and made evident that the two main reasons for this are: (i) the prioritization of national interests and self-help during times of crises over shared interests and common values and (ii) the failure of the Great Powers, especially the U.S., in the particular context of refugee protection, to assume the role of the custodian and guarantor, steering and protecting the international society. International and regional organizations, in turn, attempted to fill in the gaps created by the withdrawing states and the absent Great Powers in an effort to protect refugees by warning, encouraging, and otherwise inviting states to uphold their commitments under GRPR.

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73 Ian Clark, *The Vulnerable in International Society*, Oxford, Oxford University Press, 2013.