Former head of Amnesty International in Europe on migration: Activists often confuse human rights with their own views

5 April 2024

The Polish original of this article was published in Gazeta Wyborcza [Były szef Amnesty International w Europie o migracji: Aktywiści często mieszają prawa człowieka z własnymi poglądami](#)

By [Małgorzata Tomczak](#)

In a 2018 interview, you posited these theses: Europe is failing to cope with irregular migration; the public is demanding border control, and politicians must ensure this; humanitarian organisations are making impossible demands, ignoring political realities.

And these predictions: if it goes on like this: refugee rights will be eroded; humanitarian organisations will be left on the margins of the debate; Europe will take a sharp turn to the right.

Was I very wrong? Even then, the scale of irregular migration was a huge concern for most voters in Europe. And a fuel for the far right, whose broader agendas were dangerous for human rights. I feared that if something didn't change, populists would penetrate the mainstream with a domino effect in the system of human rights, the rule of law and democracy. Of course, there are different trends – in Poland it has just reversed – but the success of the far right is already a fact.

I was also thinking about the role of human rights organisations. Do they acknowledge how challenging mass migration is, the fear of it and its political consequences? Do they understand that the majority of voters – in Europe, in the US, around the world – when confronted with the choice: "humane and porous borders or controlled and cruel borders", will always choose the latter? Already in 2018, I had the feeling that if activists did not acknowledge this, they would achieve nothing more. Or worse, they would lose what we have already achieved. We would end up with even worse solutions.

You said at the time: "if you don't compromise, you lose". You defended the 2016 EU-Turkey deal, which humanitarian organisations have heavily criticised.

They criticized the deal, but refused to acknowledge that the alternative was something much worse. And this is precisely what happened in 2020, when Erdogan decided to tear up the agreement and triggered a crisis on the border with Greece. The reaction of Greece and the EU

was not "oh, the deal is off, let's welcome everyone and distribute them evenly across Europe". Rather it was: let's push them back, as violently as necessary. Von der Leyen flew to Greece and called it "the shield of Europe". And in the following years it only got worse. If organisations still believe that the migration crisis will be solved by European "solidarity", then basically every government will disagree with them. Poland, Italy, Greece, Croatia: it's just a question of whether they do push-backs on land or obstruct boats at sea.

In Poland, the government has changed, the pushbacks have stayed. NGOs are fighting, meeting with politicians. Some even promise them something, just the less important ones.

Tusk is in an identical situation to Biden and will do exactly the same thing: he will not risk losing power due to irregular migration. Both will implement versions of the policies of their predecessors. Being in opposition, they could criticise them, at least in conversations with friendly organisations. And now they have no choice but to continue them. Well, unless they find an alternative – one that allows them to control the borders and not break the law at the same time.

Does anyone actually care about that? Isn't it easier to just break the law?

Well, most centrist politicians would rather not. It's a values thing. The Tusks, Scholzes and Macrons of this world like to obey the law, not least because it distinguishes them from the Orbans and Kaczynskis. Even Sunak would prefer to respect the rule of law. But what they like the most is winning the elections. And to achieve that today, they need to show they control their borders and irregular migration. So, if the demands of humanitarian organisations boil down to "no borders", it is unrealistic to expect them to be supported by politicians with any ambition to govern.

The organisations always say: "No one is saying to 'take everyone'. Let's treat them humanely, accept applications, grant asylum to those who qualify and deport the rest."

The consequence of such demands is an open borders policy, even if it is not explicitly stated. Assuming that anyone can come to Europe in this way, we must also accept that almost anyone can stay. This is how it ends, because deportations are difficult, expensive, often unfeasible and will include only a handful of those who do not get asylum. Except maybe migrants from Georgia or Albania, with whom repatriation agreements are in place. But already from Italy, for example, less than 1% are returned to sub-Saharan African countries. These seemingly reasonable demands skate over this reality.

Yes, the issue of the impossibility of deportation is most often overlooked. It would be fair to say: "Let's let everyone in. A percentage will get protection and the majority won't and should be deported, but they probably won't and will stay with us too. But don't worry, they will go to Germany anyway. Yes, that's why Germany has reintroduced controls and won't lift them until we reduce migration. But what to do..." I understand why organisations obfuscate because the situation is hopeless. Otherwise, these demands will hardly be supported by anyone. Besides, organisations do not specifically call for improvements in deportations. Most often they keep quiet about them or criticise them, sometimes blocking them.

Rights organisations need to think about what a law-abiding border policy might look like. A humane one, that nonetheless strongly limits irregular migration. Activists avoid such questions for various ideological reasons, but chiefly because they are guided by the strong moral intuition that "people should be able to get shelter where they want". This intuition in fact often goes further: "that place should be with us". These intuitions find an echo in asylum law – everyone should, indeed, be able to cross borders in search of protection. But if one goes too far with this intuition, one ends up championing an anarchic, neo-liberal conception of migration that sees any restrictions as problematic. And when these moral intuitions are held very strongly, they often result in dishonest interpretations of international law.

In what sense dishonest?

Saying, for instance that "agreements with third countries are per se unlawful", or that "transfers of asylum seekers to Rwanda will always be illegal". These statements falsely equate the law with the moral intuition that "everyone should be able to get asylum in Europe if they come here". But the law says no such thing.

Take the discussion around the Rwanda agreement. The British courts – at every instance – have clearly ruled that moving asylum seekers to other countries does not break the law, provided that they are indeed safe countries. "Safe" is defined not by one's associations and impressions, but as fair asylum procedures, conditions for a dignified life and protection from being sent back or on to a dangerous place. If these conditions are met in Rwanda, then returning asylum seekers there does not violate either the European Convention on Human Rights or the Geneva Refugee Convention. However, 99% of the discussion is taken up by NGOs who reject the whole idea and argue against it dishonestly. They bend the interpretation of the law to their moral principles and political demands.

Agreements with third countries have a very bad name. In the discussion, we lump everything together: Rwanda with Albania and Turkey; Morocco and Tunisia with Libya.

Because the migration debate is a big mess. Many proponents of very liberal solutions – even the UNHCR – reduce everything to "externalisation". It has become a catch-all term of abuse for all cooperation that obstructs migrants: any "externalisation" is cruel, unethical and so on. It simply rejects all solutions that prevent the NGOs' actual demand: that migrants should be able to claim asylum where they want. Agreements with third countries prevent precisely that. I understand that they may not like them, but that does not entitle one to call them "unlawful".

One Polish columnist called the idea of sending people back to Rwanda "a nightmare for a Europe that is feverish and no longer knows what it is saying".

As I say, one may not like it. Rwanda is a less optimal place than Germany, Italy or the UK. It is very easy to demonise it and, of course, it would be foolish to advertise it as a paradise on earth.

The UK's current agreement with Rwanda seeks to ensure good asylum standards there. There are already refugees arriving in Rwanda, such as those transferred by the UN from Libya. A well-known Afghan school relocated there after Kabul fell to the Taliban. Clearly, it is a place where people can get protection and live in dignity. I can perfectly understand why someone

would prefer to live in the UK or Germany. However, you have to think about migration policy in a broader perspective.

Removing millions of people from Europe that we don't want. This raises very scary associations.

But the aim is not to build a giant refugee colony in Rwanda. The objective is to close the route. Who's going to pay $5,000 to $10,000 to get to France and another $4,000 to cross the Channel only to end up in Rwanda? It's pointless. After a few months the route would dry up closes and few people would need to be transferred.

I will respond with the well-known slogan: "irregular migration cannot be stopped".

Of course it can. And effectively if cruel solutions are applied. Australia has stopped irregular migration. Israel has reduced it almost to zero. Orban has dealt with it. Greece, following an agreement with Turkey, has significantly reduced it. The are two ways to do this: ruthless brutality or making the journey lose any sense. Australia's success was that no one could get there, everyone ended up in Nauru. Europe's success would be to create a system that is not, like Nauru, a hell on earth. And Rwanda is not.

For Britain there are other options: it could also make a deal with France and promptly return all arrivals there. In return, the UK might relocate a significant number of refugees from France to itself legally. Of course, it is easier to close routes that are difficult to cross undetected. It is difficult to cross the Channel or the Mediterranean undetected – most are intercepted, rescued or pulled back. Controlling land routes is more difficult, but not impossible.

I would comment on the closing of sea lanes with another slogan: "It's a road to nowhere. One route closes, another opens."

Yes, this is the ballon theory, that when compressed in one place, bulges in another. It is advanced as an obvious truth, but really it reduces the debate to helplessness. Of course, when control increases along one route, and there is an opportunity to exploit another, some traffic will redirect there. But firstly, specific countries have managed to close specific routes, or at least significantly restrict them. And while restricted migration in one EU country does not solve the problem of the whole EU, it does solve the problem of that particular country. It will ease the burden a little, reassure people and politicians.

Secondly, closing routes is a gradual and scalable process. The argument that it "doesn't work at all" because 20,000 people arrived when it was 200,000 before is silly. "Migration can't be controlled" is platitude often used to criticise any attempt to do it. Those who don't like border controls, will criticise them with every argument going. Unfortunately, this one doesn't prompt the conclusion "ok, right, since we can't fully control borders anyway, let's take down our walls and let everyone in". Rather, it leads to fear and a sense powerlessness, and often enough the search for even more radical solutions.

Let me repeat: sea routes are easier to control than land routes. Ensuring control over multiple borders is a process, but not necessarily a zero-sum process. Success does not mean that crises will not arise from time to time. Solutions will be refined and may change over time.

So let's talk about ways of closing routes. Other than pushbacks.

There are three main options: return agreements with countries of origin, return of migrants to a transit country, transfer to safe third countries.

Firstly, individual countries must conclude deportation agreements. The most important are those with countries with the highest percentage of migrants with low recognition rates for their asylum claims. To be enforceable, these countries must cooperate. This will not be achieved with a "stick" strategy alone – e.g. threats to stop existing cooperation. Something has to be offered to these countries: visa liberalisation and more legal migration pathways, such as visas for students or seasonal workers; various investment programmes. We need to look for agreements that respond to the needs of the country in question, as Germany is currently trying to with Morocco or Georgia. Now, for instance, a lot of people come to the EU from the Gambia and most of them do not get protection – we need to think about how to get small countries like the Gambia to want to cooperate on returns.

Secondly, there are return agreements to transit countries, like the EU agreement with Turkey. Thirdly, there is the idea of transfer agreements, with Rwanda, for example. These two models also require the willing cooperation of these countries to become secure.

The agreement with Rwanda is not working yet, the one with Turkey has been in place on and off for 8 years. And there are a lot of objections to it – discrimination against refugees, the fact that many are at risk of deportation, for example to Syria.

This is the direction we should be taking the debate, to make it constructive. There is a problem in country X – for example, discrimination against ethnic group Y, or the risk of deportation of citizens from country Z, even though the war in their country is still going on. In that case, X is clearly not a safe country for Y. Can it be made safe for citizens of Z? Can it be induced to stop deportations, to respect the standards to which it has committed itself?

Here there is a big role for humanitarian organisations – to reinforce standards and assistance in third countries, cooperating with various actors, state and non-state. This is, in other contexts, what many are doing on a large scale all over the world. It would be good if organisations in Europe, instead of rejecting all ideas "because it's hell everywhere" or "because it's immoral", focussed instead on: "what specifically needs to be done, and where, to make a cooperating country safe." And: "let's look for more safe countries and act there."

Which safe countries can we talk about?

This is a process, and it will not always be black or white. I can imagine, if not yet today, but sometime in the future, that Tunisia could be such a country. Already today, for a fairly wide range of refugees, it could be Morocco. Not for everyone – not for LBGT people, perhaps, and those who want to be very politically active, but for many looking for a safe place, yes. The Balkan countries could be it. I can also imagine such a system in many South American countries – Paraguay, say, to pick one possibility, could offer to take in people illegally crossing the border from the US. Indeed, solutions along these lines are already being discussed in the US.

It is more useful to replace outrage and instinctive ideological resistance with concrete questions. How do we improve standards in Rwanda so that the ECtHR finds them adequate? Then, let's define standards: what guarantees of treatment will asylum seekers have upon arrival? How are asylum applications processed; how long does it take; are the criteria for

recognition fair and based on an analysis of the situation in the countries of origin? How do we ensure that people are not turned back from Rwanda to dangerous places? What are the employment opportunities and social benefits, education and integration programmes there; where are the gaps and what institutions do we need to work with to improve this? It won't be easy or cheap, but this is the debate that UNHCR and organisations should sit down to. To work on making acceptable systems better and better, while at the same time being politically pragmatic – discouraging irregular migration to Europe, closing the routes here.

And Italy's new policy of returning all arrivals to centres in Albania?

That's yet another model – offshore processing of asylum applications, outsourcing the procedure itself, but not relocating people permanently. Perhaps this will have some deterrent effect – the conditions in Albania may be worse, the chance of getting protection a little lower, because asylum seekers will have less access to legal aid. NGOs are right to fear a cut-price system that will lower standards. And it also seems to me to be not very effective in discouraging migrants and closing the route. Because ultimately, the asylum seekers are under Italian jurisdiction, and Italy will have to accept those who get protection or deport the rest. Or, if they don't, Albania will let them go and they will eventually end up in EU countries anyway.

This "discouragement" does not sound good. Fortress Europe is closing in, we will deter and resettle.

You are not moving millions to Rwanda; you are stopping them from reaching Europe illegally. You remove the incentive – the goal of settling in the country of choice becomes unattainable. You are doing what Australia has succeeded in doing, but creating a system in a place in which it is possible to live, unlike Nauru. It is necessary and morally justifiable: today, in 2024, the alternative to such systems is a whack on the head, a kick in the stomach and a push-back. Widespread acquiescence to this will no longer be reversed, it will grow.

It's also a question of how we frame our moral choices. The classic NGO idealist thinks in deontological terms: what action do I take in relation to this person in this particular situation? What is the best outcome for this person? This is to think, like Kant, in terms of categorial imperatives. But one can also take a utilitarian point of view. How do we ensure the best possible outcomes for as many people as possible? There are tens of millions of refugees in the world, many of them in terrible conditions. Only the few who can afford to travel illegally break out of them. And at the same time, tens of thousands of irregular migrants arrive in Europe who are in a much better situation than the refugees in camps in Lebanon or Somalia. They do not get asylum, but they stay here for years because they cannot be deported. They are seen as a burden on the welfare system, and the scale and illegality of this immigration means that no one even wants to hear about helping other refugees – for example those in UN camps.

This is exactly what activists are saying – "we need safe and legal migration routes".

Exactly. But they want both new legal paths for refugees and for these irregular routes to become "legal and safe". This is impossible; legal paths must replace illegal ones, not be created alongside them. To be able to win over the public to more legal, safe migration routes for refugees, politicians must first show that they have been able to reduce irregular routes. . In the current situation, no one even wants to listen about some additional migratory routes.

Legal and safe pathways do exist, of course – UNHCR runs resettlement programmes from UN camps, there are private and community sponsorship programmes, and many countries have specific programmes dedicated to specific countries, such as Afghanistan. Their scale is ridiculously small today, and the entire European asylum system is predicated on irregular migration. But if irregular migration numbers could be significantly reduced, then the number of refugees admitted – people who meet criteria of international protection, not those simply looking for work in Europe – could be significantly *increased*. In the last decade, an average of 370,000 people a year have received protection in the EU. In the UK, over the last 25 years – on average 15,000. If we deal with uncontrolled migration and the inability to deport thousands of people who don't qualify for international protection, then we make room for a serious discussion about legal pathways. Why not, for example, seek to *double* the number of people we give protection to annually, but through resettlement and other schemes. But first you have to close down illegal routes.

If this is such a good scenario, why do humanitarian organisations reject it?

When you present it this way, in terms of maximizing outcomes, many people actually agree. But "in public they can't say that" – is something I often hear in conversations. There's a moral radicalism in this environment – zero compromise, we're going for everything, we won't back down an inch. And at the same time, huge peer pressure and conformity. It's very right, let me stress, that rights activists don't want to compromise on human rights standards. But in defending "the right of people to seek refuge in the country of their choice" they are not defending human rights, because international human rights standards require no such thing. They are, rather, defending their moral intuitions, private views and political agenda.

These views are inevitably influenced by the context in which most European activists have been operating for years. The migrant communities they work with in Europe mostly arrived here illegally. In order to help them, to support them, to empower them and to strengthen public support for them, organisations build up an image of irregular migration as something necessary, inevitable but also positive. They want the public to accept this, they appeal to European, humanitarian values to do so. They postulate: "Let's keep this system, people must be able to come to Europe and apply for asylum here."

Well, yes, because "we won't help everyone." So "we have to help at least those who are on our borders." This is a strong moral demand – whoever opposes it is inferior, immoral.

It's not so much morality, as it is proximity bias – supporting migration systems that have proven to benefit your stakeholders. You hear their voice because they have been able to come to Europe thanks to relative privilege. You won't hear the women who have been in a refugee camp in Uganda or South Sudan for 15 years with their children and would also like to get out and can't afford to travel with a smuggler. You are reinforcing a system that privileges smuggling, trafficking, exploitation, violence, misery and a very specific group of people. Not necessarily the most needy, but the most resourceful, the wealthiest, the youngest, the fittest; mostly men. Would it not be better to work on a system that prioritised the most needy, significantly reduced the problems of irregular migration, and was at the same time compatible with human rights?

Perhaps no one believes it can be created? Are they trying to save at least the current one?

Many organisations still cling to the hope that sophisticated, hope-infused, emotional communications strategies will somehow radically alter human psychology or uncover buried depths of societal empathy. This is a beautiful and laudable goal. But it is also wishful thinking and a refusal to accept reality.

The moral intuitions of activists are good. It's not that I don't share them. It's just that we have hit a wall, and we can't make progress without making strategic political calculations. It is going to get worse. Activists need to say to themselves: scenario A, where everyone gets to a chosen place and stays there, is unattainable. It has already happened, we have lost. So what is plan B? What would be an acceptable compromise for us?

Compromises on these issues are presented as "dirty deals". To make concessions is to embark on a dangerous path, at the end of which is something utterly terrible. The European Union is evil, Frontex is criminal, the whole management of migration is a new Holocaust.

If you want to argue this, that's your right. But then you must accept that you will drop out of the debate and become completely irrelevant. Of course, you can still call yourself an idealist. But you are no longer an activist. Because you are no longer seriously trying to change the world. If you really want to change the world for the better, you maximise the benefits for the largest possible group. You accept political realities and work within them. There are things you don't compromise on. It is very reasonable to be uncompromising on human rights. But intransigence on one's own views and moral intuitions is madness.

Many activists today put their own ideology before the welfare of other people. This can be indulged, on a philosophical level, in cafes in Warsaw. But to help refugees, you have to come down to earth. The baseline requirement here – the *sine qua non* – is control of borders. This is simply the minimum acceptable policy that any government must implement. Given this reality, the challenge is how do you provide the highest degree of protection to the greatest number of people?

As I said, everyone is free to pick their own battles. And of all the things to fight for, a world in which every refugee can get protection where they want it, is hardly the worst. These good people with good motives. But these motives have also led many to make false claims – sometimes consciously, often unintentionally. They adopt intuitive, emotional interpretations of international law, broadcast these widely – in the official communications of their organisations – and then block solutions that are far better than the brutal status quo. Agreements like the EU's deal with Turkey are not ideal. But they can be legal and they are much better than violence and barbed wire.

It is difficult to engage with the political realities because interests are nonetheless conflicting. Voters don't want refugees; politicians are competing to see who is better at not to letting them in. How to compromise here?

This is the challenge for the European humanitarian scene, and the Polish one too. You now have a government that maybe not everyone loves, but it is much better on these questions than PiS, right? It doesn't say terrible things about migrants. It respects international law and prefers to abide by it. What can be offered to them? Is there a project that will be better than the status quo and at the same time acceptable to a public that wants a controlled border?

There was no point in having such talks with PiS, was there? But now a window has opened – ideas that are compatible with human rights, politically pragmatic and address a serious European problem can be put forward. The Tusks, Macrons and Scholzes like this sort of thing. But if all you propose to them is "Let people in. Treat them well and integrate them into society", then they can't do anything about it. Because that's not advice or a strategy, just a moralising lecture. Nobody needs that. The advice could be: the push-backs must stop, people must be able to cross borders and seek asylum. So, we need to create a mechanism to move them to other countries. Let's look for those countries.

Its worth noting that the solutions I am talking about are more expensive and more difficult than pushbacks. If done properly, they would also result in *more* people getting protection in Europe. There are drawbacks here, but also advantages. They offer centrist politicians the opportunity to differentiate themselves from the likes of PiS. They went for the easy way out, were cruel and were happy to flaunt it. The alternatives I am proposing upholds international the norms, reassures nervous majorities, and has a moral core. They would show that the "European centre is not dead", that the migration crisis can be controlled at that it will not surrender Europe to populists with dangerous agendas. That there is a reasonable alternative to crude and cruel policies.

I can't imagine that organisations just drop their existing demands and going for much, much less.

No, they would be going for more. It's a strategic choice: to help to solve a big problem, to respond to the appeal of the far right. But also asking for something in return: accepting more refugees from other countries through legal and safe pathways. In a fully controlled way. How can this be done? As far as Poland is concerned, one would have to acknowledge that Poland is already showing considerable solidarity. It is not as if Poland is doing nothing for the global refugee population right now. Its share is significant, both relative to its population and GDP per capita. So we can talk about resettlement from camps, but maybe not 30,000 a year, right now, but closer to five thousand, say. Organisations have to ask themselves: do they go for solutions that they may not like, but are humane and legal? Do they engage with the political centre, trying to win them over a little, but accepting the political realities as they are? Or do they lump together everyone who does not implement their preferred solutions: Tusk, Kaczynski, Ziobro, the European Union – they are all equally bad.

Activists present it this way. They ridicule any new ideas as "manipulation", they call the new and previous government a "push-back coalition".

This is how human rights systems end. Influential organisations too, by the way. They have been rejecting all compromise for years, despite repeated evidence that this ends in worse results. They don't try to work with centrist politicians like Tusk or Macron, they don't offer them humane, legal solutions that will still enable them to win elections. They reject everything they don't like – even if it would be much better than what we currently see, and at the same time, more complicated for politicians. So the Tusks of this world think: "ah, even if I bust a gut trying to implement a kinder policy, all these organisations are going to criticise me anyway. But how many voters will I lose if I build a wall and don't let anyone in?" Are push-backs costing Tusk many votes?

I think they may gain him votes from the right. Under the previous government I saw a lot of "PiS we don't support, but they did the right thing on the border" votes.

Exactly, this is the case all over Europe. So why sweat over some policy that will be more expensive, more difficult and perhaps less popular than the pushbacks themselves, when a group of self-appointed moral guardians will criticise it anyway, decrying: "it's unethical, its illegal!"? I am not advocating for policies that violate human rights. But these rights must be understood correctly.

These statements about "illegality", even if only the Rwanda agreement, don't come out of thin air, do they?

The migration debate is terribly polarised. Ideologies, groupthink, falsehoods and platitudes abound. The right is particularly adept at pedalling these. But emotions cloud the debate on all sides, where increasingly radical ideas have come to dominate. People can only admit you are right if you are "on the same side". These are ideal conditions for the production of myths: "migration can't be stopped", "walls don't work", "agreements with third countries will make you dependent on dictators", "Europe is facing an invasion …" "Rescue operations in the Mediterranean do not increase migration". There are dozens of such received ideas. These are all untrue, but they chime with a priori attitudes and gain credibility through repetition.

It's the same with claims that safe third country transfers are "unlawful". It is impossible to read the British Supreme Court judgment and conclude from it that the Rwanda agreement is *per se* illegal. Of course, most just unthinkingly repeat what others write, because they agree with it. But there are plenty experts who have studied the judgment carefully, because it is very important. So why do they insist that it says something different? Why does the UNHCR do it in its public communication, in tweets? In their detailed analyses they show all the nuances, but to the public they will just throw: "unlawful" – because this is what they want publics to believe.

I have the impression that 90% of the solutions are dismissed as "illegal". In addition to pushbacks, I often hear about "unlawful detention," "illegal deportation," "law-breaking agreements with third countries."

Groupthink and peer pressure play a big role here. Moral maximalism shapes the policies, demands and narrative of official communications of rights organisations. You gain access to this community by championing its dogmas. Tribalism blocks criticism, few dare to risk ostracism. But it's up to each individual to ask: whether they care more about belonging to a nice community of humanitarians or really safeguarding human rights. pushing the human rights agenda.

International refugee law is often criticised by the right, but really its fine. It has some pretty obvious principles: everyone should be able to cross borders and apply for asylum; they should not be sent back to a place of persecution. Everyone should be able to settle in a safe place, though not necessarily the one of their choice. These are very reasonable standards. They do not require impossible things or prevent reasonable ones. What is radical are the loose interpretations of them that NGOs often push in their narratives. They often mix human rights with their own political views – about open borders, social justice, or economic inequality. These views are perfectly legitimate, some are very compelling. But not all of them have a solid basis in human rights law. But they are very keenly felt: if you take the strength of your moral conviction and add a dose of wishful thinking it is very easy to end up with something you can call the "the law". This is then repeated in 100 tweets, 50 articles and speeches, and Lo! a colloquial, discursive definition of international law is produced.

But parroting false statements about what the law forbids is short-sighted and dangerous. Because then the public says: "Wait a minute, wait a minute, it's these conventions that require us to accept everyone, indefinitely? These are clearly insane and need to be changed quickly."

Is this already happening? Many Tory MPs have been pushing for the denunciation of the European Convention on Human Rights so that it won't block their deal with Rwanda. Tusk also mentioned recently that "international law must be respected, so it must be changed, because it is inadequate."

Today, almost every country on the EU's external border violates a number of human rights. Even "polite" pushbacks are unlawful, but they often also involve hefty amounts of brutality. This is already a widely accepted practice, at a completely systemic level. Some tend not to brag about it; for others, like PiS in their day, or Orban, it's a point of pride. For politicians who generally like the rule of law, this contradiction with the law and the resulting tension at some point becomes too onerous. People don't like to live with the constant feeling that they are doing something wrong, violating something, having someone admonishing them. It's tiring. There comes a point when they say ok, this doesn't make sense, you need to eliminate this tension.

One big mistake human rights advocates make is believing that practice always follows the law. They think that since there are norms, sooner or later they will start to be obeyed. In many spheres of life this will often obtain, but in others it is the law that follows practice. There are too many violations of the system, so eventually you codify them to make them legal. And legalization will gradually be followed by social acceptance. And so, unfortunately, some things come to an end.

But no one is changing the conventions. And in the end, no one has yet denounced them, they're just threatening.

There is a lot of inertia around international law, a general reluctance to change it or withdraw from agreements. But that won't last forever, if there is a growing consensus that this law is nonsense. Parts of the UK Conservative Party are already close to that point. Because, you know, they ultimately quite like the rule of law. They would prefer not to violate international obligations all the time. But since this law doesn't allow them to do what they think they have to do, they will eventually try to change it. And if it can't be changed – well, then, if necessary, they will abandon it.

Let's remember that ultimately the law is a product of political will. Even the European Court of Human Rights is much more flexible than people think. It has "allowed" pushbacks at the Spanish enclaves in North Africa. These it argues are not illegal because there is one crossing where you can theoretically ask for protection. This is basically a complete fiction. But it goes to show: even the ECtHR is already carefully juggling between law, practice and reality.

In 2018, I think you predicted quite accurately where we will end up. Do you have any updated predictions?

I see two scenarios: either the political centre will eventually settle on effective, rule of law respecting border control policies – essentially varieties of agreements with third countries – or the rights of refugees will be increasingly violated. I think Europe will move toward these

agreements. The question is whether it will be done in a good, but difficult way, or in an easy and cynical way.

Politicians will be tempted to take the line of least resistance. The people who could correct this direction and fight for the best standards are the same ones who are currently outraged and reject everything. One would like to see the likes of Amnesty International getting involved, showing what could be done better, offering constructive criticism, not outright rejection. Because if we don't find a way of securing borders legally and humanely, there is also a third scenario: the legalization of what is illegal today.

Of course, there are many other factors. But it is not difficult to imagine a new set of political players in Paris and Berlin and a much more radical direction. If voters see that nothing they care about ever changes, eventually they will vote for someone they think will deliver results.

There will be a new EU asylum pact.

The one the EU has been debating for seven years? Everyone will sign on to it, congratulating themselves for having done something important. But we know this is a phantom debate, right? Nothing will change. With the current scale of illegal migration, there won't be any meaningful relocation of asylum seekers between EU member states. We've already been through this many times. Besides, after relocations, people will still move.

Poland rejected this pact, considering it insufficient in the situation with Belarus.

Because it won't help Poland in any way either. It will allow Poland to suspend procedures for a while, to hold migrants in detention a little longer, to lower standards a little. In the end, though, people have to be allowed into the country and released from detention anyway. What happens in the meantime is irrelevant. The basic dynamics don't change.

Isn't the scenario with third countries too optimistic? You say it is more difficult and more expensive than pushbacks. Does anyone care?

I believe in reason and the power of good arguments. I believe Europe could really establish truly controlled and humane borders. This debate would move forward faster if the people who cared the most about refugee protection were also constructively involved. Their support – and criticism – would really come in handy, because without it, politics will be less humane and more cynical. But if they refuse to do so, refuse to accept political realities, they will be completely out of the game.

And where are they in that game today?

Let's look at some of ECRE's [European Committee for Refugees and Exiles] recent tweets about the EU's migration pact. Here's one: "How could this happen? First, the Commission proposed bad solutions. Second, the Council made them even worse. Third, Parliament caved in. Refugee rights advocates, including ECRE, had little influence. Years of work, thousands of meetings, hundreds of pages of analysis. The results are appalling." Here's another tweet: "Earlier this year, decisions were made to reform EU asylum laws. (...) Not much can change anymore. It happened, we lost."

See? "We lost." In every debate about migration in the last eight years – Italy's deal with Libya, the rescue operations in the Mediterranean, the Greek and Polish pushbacks, the asylum pact, Hungary's hiding behind walls – NGO influence was marginal. Their voice did not count.

However, this voice is very much heard in the media, among opinion leaders. NGOs are now meeting with important politicians in Poland.

Organizations meet with politicians and other important people all the time. People listen to them, quote them, take pictures with them. But it's easy to confuse access with influence. They still have access, but they have ceased to have influence. And if they don't have influence for a long time, they will also eventually lose access also.

By far the most important thing, however, is not to convince NGOs that they have no influence. It is to convince mainstream politicians – those still in power, or aspiring to it, who claim to be so fond of the rule of law – to make some effort. Violating many norms and pretending that nothing is happening is easy. The alternative will be harder, but much better in the long run. It will be better still if influential human rights organisations are there to scrutinise such policies.

Have human rights movements always been so unwilling to compromise?

No. The human rights movement grew up on compromises. International conventions were not perfect, the framework of rights was created gradually. The Convention Against Torture, for instance, did not contain everything NGOs wanted. Did they stand up in the middle of the work and shout "it's not enough, we withdraw"? No, because it was a step forward. Human rights activism is no longer as pragmatic and legalistic as it used to be. It's largely a moral-ideological industry today, in which bad decisions are made for beautiful reasons. And in which too few realise how much is really at stake.