

INTERNATIONAL LAW

# Afghanistan: A Case for Right to Humanity to be a Human Right

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By **Abhinav Mehrotra**

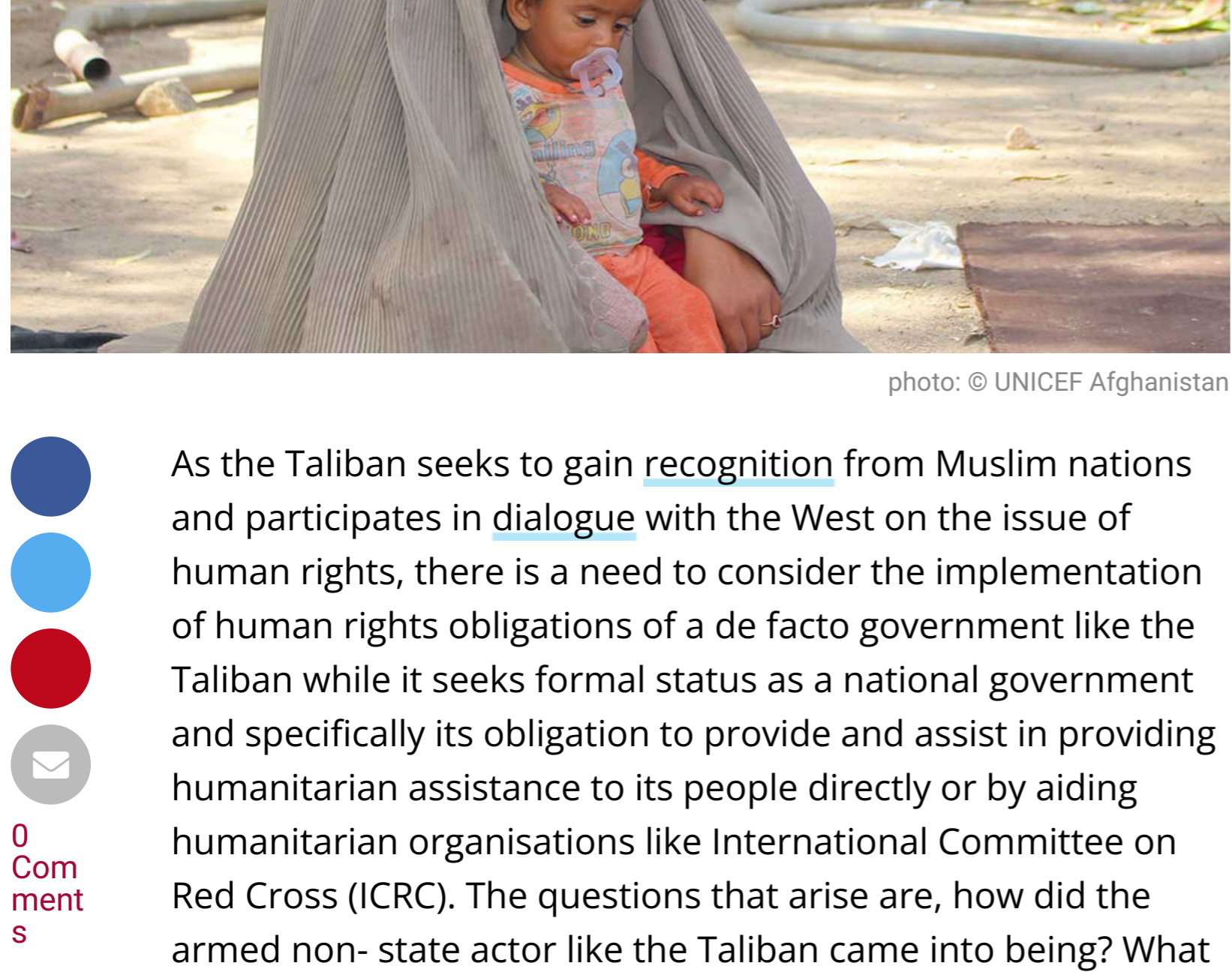


photo: © UNICEF Afghanistan

As the Taliban seeks to gain recognition from Muslim nations and participates in dialogue with the West on the issue of human rights, there is a need to consider the implementation of human rights obligations of a de facto government like the Taliban while it seeks formal status as a national government and specifically its obligation to provide and assist in providing humanitarian assistance to its people directly or by aiding humanitarian organisations like International Committee on Red Cross (ICRC). The questions that arise are, how did the armed non-state actor like the Taliban came into being? What kind of humanitarian violations is taking place at present? What is the condition of weaker sections like women, children and minorities? What exactly is the role of humanitarian agencies like ICRC? and what is the possible way forward with concerning responsibility of the de facto government of the Taliban? It was after the Soviet exit in 1989 that the political crisis transpired in Afghanistan. Sensing the political instability, the USA gave rise to the armed non-state actor called the Taliban intending to achieve stability and friendly regime in Afghanistan. In simple terms, an armed non-state actor as per the United Nations Assistance Mission in Afghanistan (UNAMA), are 'individuals and armed groups of diverse backgrounds, motivation and command structures'. With a strong religious and sectarian undertone, it would become a strategic disaster for Afghanistan whose impact continues to evade peace and stability for the people of Afghanistan.

In a recent briefing to the UN Human Rights Council, the UN Deputy High Commissioner for Human Rights, Nada Al-Nashif, highlighted the impact of the ongoing humanitarian crisis in Afghanistan that continues to violate the rights of women, girls, children and civil society at large and the people being forced to resort to measures like child labour and child marriage. She further stressed that the impact is further aggravated by the impact of sanctions and freezing of assets. Although, recently USAID announced more than \$308 Million as humanitarian assistance, for it to reach the most vulnerable there is a need to fix the responsibility of the de facto government of Taliban without whose support the life and death of the people hangs in balance. Some of the needs that are being deprived include reproductive, maternal, infant, child, adolescent health and nutrition services in areas affected by armed conflict. This is accompanied by a continued risk of child recruitment, particularly boys, by both ISIL-KP and the de facto authorities. In addition, children also continue to comprise the majority of civilians killed. At the same time, the right of women and girls like rights to education, livelihoods and participation have been affected except for some teachers, health workers and NGO staff. What needs to be highlighted is the economic loss suffered as a result i.e., estimated to be up to \$ 1 billion as per the UN Deputy High Commissioner's briefing mentioned above. In all these deliberations, the rights of minorities that include Christians, Sikhs, Hindus and Jews need to be recognised and respected. In past, the minorities have been marginalised by the Taliban through deaths of families, injuries, destruction of lives and livelihood along with the day-to-day challenges that have further deteriorated in the present scenario.

In this light, from a humanitarian perspective, the role of ICRC needs to be understood. Under Article 5(2)(c) and (d) of the Statutes of the International Red Cross and Red Crescent Movement, the ICRC has the mandate to carry to promote the application of international humanitarian law and to protect and assist civilians and military victims of armed conflict whether international or non-international as well as their direct consequences regarding the conduct of hostilities i.e. the means and methods of warfare. This is accompanied by their responsibility towards indirect consequences like death and suffering through destruction of essentials such as food, water, shelter, medical care etc. as witnessed in the ongoing crisis.

In practice, the ICRC communicates in a confidential manner with the parties to the conflict with an aim to bring change in the actions of the parties that in the past was successful when the Taliban had added international humanitarian provisions in 2009 to its Code of Conduct. To illustrate, under Article 59 of the Code, the mujahideen must behave well with people, and should try to win the normal Muslim's heart and mind. Similarly, under Article 46, the Taliban is instructed to avoid civilian casualties as well as the loss of their vehicles and other properties.

Finally, going forward to establish the human rights obligations of the de facto government of Taliban who call themselves the "Islamic Emirate of Afghanistan" and at present are exercising governmental functions and have de facto authority over the population that in essence meets the criteria of application of human rights law i.e. there exists the relationship between those who govern and are governed. Thus, the need of the hour is to hold the Taliban responsible under Article 10 of the Draft Articles on State Responsibility, which declares that 'the conduct of an insurrectional movement which becomes the new government of a State shall be considered an act of that State under international law'.

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**Abhinav Mehrotra**

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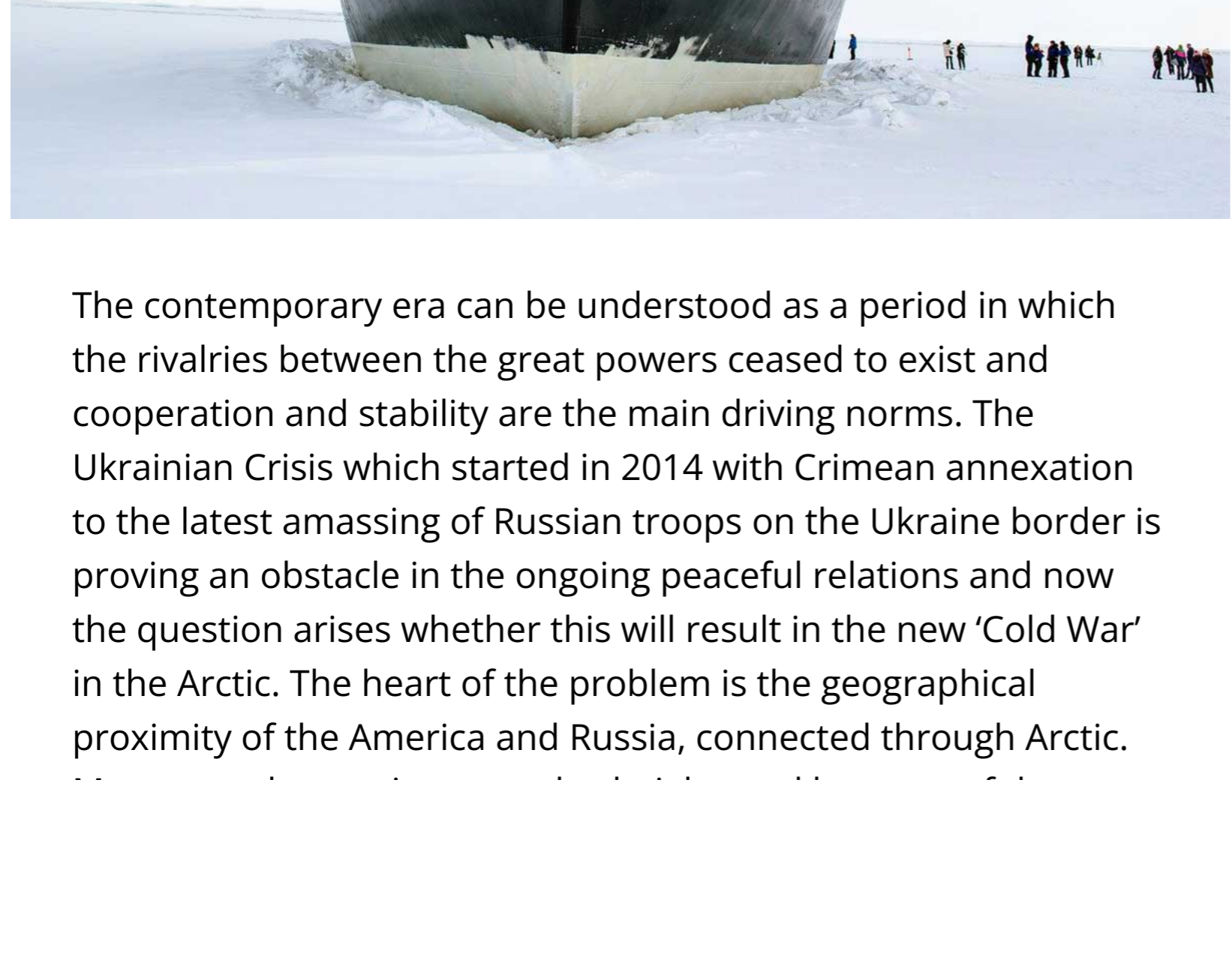
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## Is the battle for Arctic a new cold War?

Published 2 days ago on February 2, 2022  
By **Medha Bhardwaj**



The contemporary era can be understood as a period in which the rivalries between the great powers ceased to exist and cooperation and stability are the main driving norms. The Ukrainian crisis which started in 2014 with Crimean annexation to the latest amassing of Russian troops on the Ukraine border is proving an obstacle in the ongoing peaceful relations and now the question arises whether this will result in the new 'Cold War' in the Arctic. The heart of the problem is the geographical proximity of the America and Russia, connected through Arctic.

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Published 1 week ago on January 25, 2022  
By **Parul Verma**



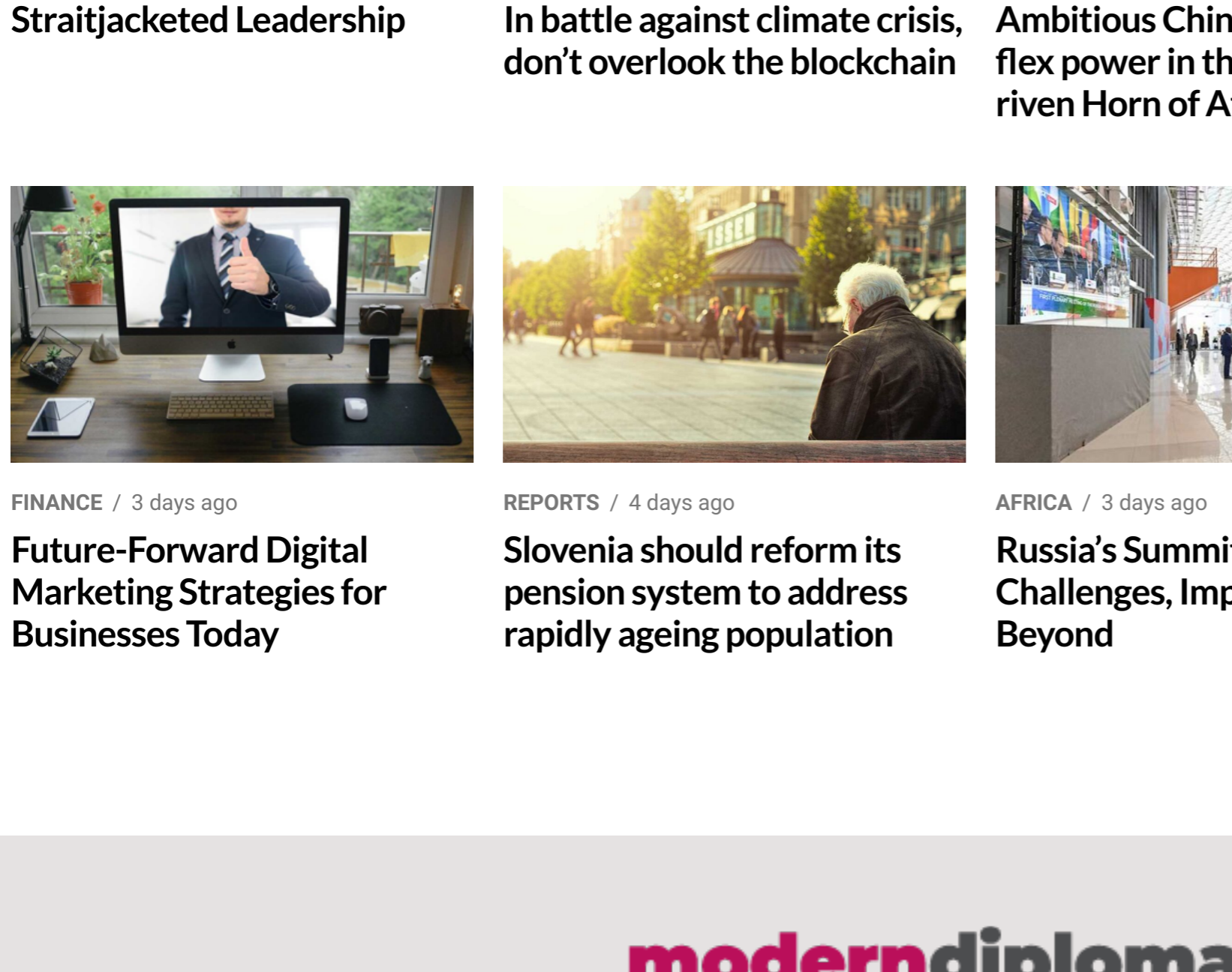
Last week I attended a conference on 'Political Power, Morality and Corruption'. A Socratic dialogue with fellow scholars led me back to one question that epistemologically haunts political theory and philosophy to date – Does power corrupt or is magnetic to the most corruptible? The cornerstone that this question posits on is antithetical to the idea of power duality as malefic or benefic. Instead, this problem statement is trying to explore and exact the fundamentals of political power. While the former part of the question is striving to deconstruct the soma of

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Published 3 weeks ago on January 16, 2022  
By **Sumaya Barsha**



In a global pandemic, "Nobody is safe until everyone is safe", – it is more of true with respect to the current globalized world system. It is said that crisis strikes the conscience and forces the 'commonality of purpose' on one another- and a major one in magnanimous scale. But the current Covid-19 crisis seems to have emerged in oddity with this very axiom, of course, due to self-serving, in WHO's words- 'self-defeating' and 'immoral', approaches to dealing the pandemic by wealthy countries.

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