(UN)MAKING INTERNATIONAL NORMS: THE UNITED NATIONS AND GLOBAL GOVERNANCE

Introduction

The UN's record as a key institution in the promotion of global governance is somewhat mixed. From one perspective, the UN has probably done more than any other international organization. The UN has published and endorsed some of the most explicit calls for the establishment of new norms of global governance based on liberal conceptions of the best way of constructing a peaceful and prosperous global order. But this vision of the UN as a definer and promoter of global governance sits in stark contrast to visions of the UN as an ineffective and/or unwilling actor in war ravaged societies. When millions die in civil wars in Africa, and major powers ignore the UN if it gets in the way of their agendas, where is the evidence that the UN does anything at all in practical terms to establish new forms of global governance.

These conflicting perspectives largely reflect the distinction between the UN as a generator of ideas relating to global governance, and the way in which the member states of the UN have differential power to establish and impose norms through UN sanctioned actions. It also reflects a distinction between different norms. Many member states fiercely defend the principle of sovereignty, and the practice of non-interference in the domestic affairs of sovereign states which they believe should be the bottom line in all UN activity. But this traditional norm is increasingly being challenged by emerging norms of global governance promoted by UN commissions, agencies, programmes and some member states. At the heart of this challenge to sovereignty is the argument in 'Our Global Neighborhood' that 'Although states are sovereign, they are not free individually to do whatever they want' (UN, 1995). For proponents of this view, the UN not only has a right to intervene to prevent

bloodshed, but in fact has a duty to protect all of the citizens of the world from tyranny. Although this contradiction has been at the heart of much of the thinking and debates within the UN since its inception, in the post-Cold War era there has been a key shift in understandings of not only the relationship between sovereignty and intervention, but also what is the best (perhaps only) path to development, and appropriate forms of national (as well as global) governance.

This chapter focuses on the impact of this dual contradiction – between agents of power in the UN and between different conceptions of the limits of state sovereignty – on the UN's position as an instrument of global governance. It suggests that the national interest of member states – particularly those with veto power in the UN Security Council (UNSC) – normally prevent emerging norms of intervention and new conceptions of the limits of state sovereignty from being transferred into UN sanctioned policy. Put another way, the existing power structure of the UN gives key sovereign states the power to define what privileges are provided to sovereign states in the international system. Furthermore, this structure of power and the actions (and inactions) of UNSC members threatens to undermine the legitimacy of the UN as a whole, and as a guarantor of security for all the peoples of the world in particular. Nevertheless, this Chapter also starts from the assumption that ideas are important. The ideational changes promoted by proponents of global governance in the UN system reinforce the dominance of the hegemonic liberal ideas and ideals. And crucially, in terms of developmental ideas at least, the UN has been transformed from a site ideational conflict and competition to one where the neoliberal orthodoxy is increasingly unchallenged and unchecked.

Power and interest in the UN system

In writing about the UN system, the question of 'who' is involved can become rather complex. Although the UN is a state based system over 1,500 NGOs are formally affiliated to the UN represented by the Conference on Non-Governmental Organizations in Consultative Status with the Economic and Social Council. Otto (1996: 109) argues that:

> 'There is no doubt that the extent of NGO involvement in UN activities has vastly exceeded the expectations of those who drafted the Charter and dramatically outstripped the scope of these legal provisions [in the original charter]'

In terms of establishing norms, organizations such as the Amnesty International do have influence in setting agendas and as 'standard bearers' - not least because of the specialist technical knowledge that they possess (Martens, 2004). Nevertheless, the primacy of states in the UN means that such influence is only on an 'ad hoc basis' and proposals to formalize NGO participation in decision making processes remain yet to be realized (Barnett, 1997: 538-9)[1].

Even putting NGOs to one side, who or what leads in the UN in relation to establishing norms and modes of global governance remains a complicated issue. International Organizations are much more than just a community of member states and an arena in which competing national interests are played out. As a wide number of observers from often competing perspectives have observed, international organizations can become 'independent actors with their own agendas, but they may embody multiple agendas and contain multiple sources of agency' (Barnett and

Finnemore, 1999: 705). As will be argued below, there is an internal conflict (or at least potential for conflict) between the promoters of ideas, and the authorizers of action within the UN system. There is also conflict between different parts of the UN structure – some of it linked to this division between promoters and actors, and some of it based on the differential power of member states in the UN's organizational structure. Most clearly, those who hold veto power in the Security Council (UNSC) have the ultimate power to decide when to act and on what grounds – and some even have the power to ignore the UN altogether if it gets in the way of the promotion of national interests.

There are six peak organizations at the apex of the UN organizational structure; the Secretariat, the General Assembly, the UNSC, the Economic and Social Council, the Trusteeship Council and the International Court of Justice (ICJ). This chapter focuses on the first four with the focus in the Secretariat on the Office of the General Secretary, and in the Economic and Social Council and its programmes and funds such as the United Nations Conference on Trade and Development (UNCTAD), and its functional agencies such as the Commission on Human Rights (UNCHR).

The Trusteeship Council (which controlled territories liberated from enemy states at end of WWII to oversees their transition to liberation) is ignored as it was suspended in 1994 with full independence of the last trusteeship territory, Palau, and Kofi Annan has proposed that it now be removed from the UN Charter. The International Court of Justice in the Hague is responsible for providing advisory opinions on legal questions that are referred to it by member states, selected UN organs and agencies. The Court

[1] As Barnett also points out, formalising a role for NGOs in the decision making process was

does play an important role in not only providing opinion on whether international laws have been breached, but also in defining what International Law actually is.

The ICJ partly defines[2] international law in terms of the binding treaties and conventions that states have formally accepted by signing and ratifying. Even here there is room for ambiguity as the court has the right to interpret what the treaty really meant, and also to decide whether 'at the time of the interpretation', the original meaning of the treaty needs to be reconsidered. The ICJ also has the power to put aside international law, and 'settle a dispute without strict regard for the existing rules of international law, but in the light of the justice and merits of the case' if both parties agree – something that has yet to happen since 1946.

More important for this chapter, the ICJ also defines international law as 'international custom, as evidence of a general practice accepted as law' and/or 'the general principles of law recognized by civilized nations'. In these cases, 'a State which relies on an alleged international custom practised by States must, generally speaking, demonstrate to the ICJ's satisfaction that this custom has become so established as to be legally binding on the other party'. Perhaps not surprisingly, the ICJ has been reluctant to impose its judgement on when custom becomes legally binding, and has tended to respect state sovereignty in such cases. But there have been cases when, notwithstanding the lack of legality defined by treaties, the ICJ has attempted to define what customary law actually is. In 1986, the US was condemned for training, arming, equipping and financing Contra activity in Nicaragua and for attacks on Nicaraguan territory. It found that the US had 'acted, against the Republic

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one of the proposals of the Commission on Global Governance.

of Nicaragua, in breach of its obligation under customary international law not to use force against another State'[3]. Even here, the decision was only taken on a majority (12 to 3) with one Judge arguing that the court did not have jurisdiction to decide on matters 'in lieu of the relevant multilateral treaties'. And as the decisions of the ICJ are not binding in any way, findings based on customary law in one case do not force the defendant (nor anybody else) to modify current or future behaviour accordingly.

The Security Council, the General Assembly and changing conceptions of sovereignty

In many of the cases brought before it, the key question is whether one state has abrogated the sovereignty of another. And for many of the UN's member states, the norm of state sovereignty is, or at least should be, at the heart of the UN system. To be sure, individual states might find it impossible to have total autonomy over domestic affairs[4]. But for states that take a hard line on sovereignty like China, neither the UN nor individual states have any right whatsoever to interfere in the domestic politics of sovereign states no matter what is happening within that state's borders[5]. A less absolutist position considers the infringement of sovereignty as tolerable only when international security is threatened by events in a sovereign state under the principle of "collective security" (Cuellar, 2004). For adherents of both positions, state sovereignty overrides any proposal to intervene when the domestic affairs of a sovereign state are abhorrent and/or uncivilized.

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2 In Article 38, paragraph 1, of the Statute of the Court.

3 Case Concerning the Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America) Judgment of 27 June 1986 http://www.icj-cij.org/icjwww/icases/inus/inus_isummaries/inus_isummary_19860627.htm

4 Strange (1999) argued that the sovereign state system had failed – failed to provide global financial stability and failed to manage transnational environmental governance.

5 Though note that this position is not always maintained by the Chinese who supported intervention in Afghanistan after 9-11. But the principle that China's own state sovereignty should never be impinged remains firm.

It is oft stated that the conception of sovereignty was embedded in international relations with the Treaty of Westphalia in 1648. In reality, Westphalia was more important as a symbol of change. Quite apart from the fact that many of the modern nation states of Europe were still some time away from being created, the creation of mechanisms to manage diplomatic relations between sovereign states did not really occur until the end of the Napoleonic Wars with the 1815 Congress of Vienna[6].

Furthermore, sovereignty was a principle that was largely reserved for European states. The Berlin conference of 1884-5 that divided the conference into different spheres of influence saw participation only from the major Western powers[7], and the resulting cartography of Africa owed everything to the interests of the great powers, and nothing to concerns for sovereignty. China was forced to accept Western norms of statehood and sovereignty in the nineteenth century through the superior military force of first the British and later other western powers. And notwithstanding the importance of Woodrow Wilson's fourteen points for establishing the principle of self-determination, negotiations at the Treaty of Versailles still managed to ignore Chinese sovereignty in delivering former German territories in China to the Japanese. It is slightly ironic that China, which was in many ways forced to accept externally defined universal norms of statehood and sovereignty is now one of the strongest defenders of those norms in opposition to attempts to establish new externally defined universal norms.

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6 And the subsequent Congresses that codified the post-Napoleonic peace - Aix-la-Chapelle (1818), Troppau (1820), Laibach (1821) and Verona (1822).

7 Great Britain, Austria-Hungary, France, Germany, Russia, U.S.A., Portugal, Denmark, Spain, Italy, the Netherlands, Sweden, Belgium and Turkey.

Perhaps not surprisingly, attempts to establish a new forum for ensuring international peace have typically followed war. This is partly out of the need to redraw boundaries at the end of war – for example, the redrawing of Europe at Westphalia at the end of the 80 and 30 years wars. But it also is partly a 'never again' phenomenon – for example, the congresses of the nineteenth century to stop the likes of the Napoleonic war ever happening again. And there is also an extent to which new treaties and organizations are inspired by a desire to ensure that the failings of previous treaties and organizations are not repeated. The League of Nations sought to overcome the failing of the 1899 International Peace Conference[8] to prevent WWI, and the United Nations sought to overcome the League of Nation's failure to prevent WWII.

It is not just history that is written by the winners – so too are treaties and the constitutions of international institutions. In 1814, all representatives of all European countries were called to attend a congress in Vienna to negotiate a new peace for Europe in the wake of the defeat of the Napoleonic armies. According to de Ligne '*Le congres ne marche pas, il danse'* – hence, 'the dancing congress' – as the majority of participants found ways to fill their time while representatives of the five major powers[9] engaged in the real business of negotiation. Although negotiations at the congress of Vienna were strictly limited to the major powers, they explicitly and deliberately drew the defeated French back into diplomatic activity. By contrast, while the negotiations to establish the League of Nations were primarily dominated by the victorious powers[10] they explicitly and deliberately not only kept the defeated powers out of the negotiations, but also constructed a punitive peace.

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8 Which established The Hague Convention for the Pacific Settlement of International Disputes and the Permanent Court of Arbitration (1902).

9 England, Austria, Prussia, Russia and France.

10 Italy, the US, France and the UK.

So the creation of the UN has many historical precedents. Indeed, the term 'United Nations' was first used by Roosevelt as shorthand for the Allied Powers in the 'Declaration of United Nations' in January 1942. As with the League of Nations, the UN was negotiated by the victors with the Charter of the 'United Nations' signed by victorious powers of WWII on 26th June 1945 in San Francisco.

Despite much talk about fundamental principles and state sovereignty, even in its inception, the construction of the UN entailed elements of political fudge based on great power rivalries. For example, Stalin's concerns that the UN would be weighted towards the interests of the US and the UK had much to do with the establishment of the type of veto powers that are still enjoyed by the permanent members of the Security Council[11]. Even fundamental conceptions of statehood were subject to political fudge. Stalin's argument that there should be a seat for each of the separate Soviet Republics (if each state of the British Empire was to have one each) eventually resulting in one seat for the USSR and one each for the Ukraine and Byelorussia, but not for the other Soviet Republics. As a result, it is not just the states that have a veto that is largely a consequence of the great power rivalries and the emerging Cold War politics at the end of WWII, but the extent to which veto power can be used.

It is also worth noting that the current permanent membership of the Security Council is in some ways accidental. The Chinese seat was created for the nationalist Guomindang on the understanding that they would be returned to power in China after the defeat of the Japanese. While the Guomindang did indeed occupy the seat

supposedly representing all of China even after defeat in the Chinese civil war, the switch from ROC to the PRC in 1971 gave a permanent seat and veto power to another communist party state – something that had not been envisaged when the UN was being drawn up at the end of WWII. In addition, the seat currently occupied by the Russian federation was created for the Soviet Union. Bourantonis and Panagiotou (2004) argue that the ease at which Russia simply assumed the SU seat was because the UK and France in particular were opposed to a wide ranging and open debate in the General Assembly as it would bring back to the fore attention on the legitimacy of the constitution of the UNSC and their privileged role within it.

And it is this question of the legitimacy of the UNSC that occupies much attention in considerations of leadership in the UN. The current makeup of the UNSC is widely considered to be unrepresentative no matter which calculation of representation is used. Simply in terms of size, five permanent members in 1945 represented 10 per cent of the original 1945 membership of 51 states as opposed to 191 members today. In terms of global powers, whilst all five members are nuclear powers, they do not have sole control over global nuclear weapons, and the conception of France and Britain as global powers above non-members looks increasingly anomalous. Taking economics as an indicator, then the absence of Japan and Germany and perhaps increasingly India looks unfair. After the United States, Japan is the leading provider of funds for the UN, but has no final say in the Security Council. Geographically, three European states out of five with no representative from Africa or Latin America is widely considered to be iniquitous. And with Chinese economic growth, the lack of representation for developing countries is increasingly marked. Suggested criteria to

[11] For details on how different conceptions of how the veto should work were argued through in

be used for considering new UNSC members include a wide range including 'peacekeeping contributions; contribution to the United Nations budget; population; size; political and economic power and potential; stability of economic system; military force; reduction of military expenditures; eradication of poverty; promotion of education; and influence of civilization' (UN, 2004: 25).

As Featherston (2004: 202) argues:

> 'The Security Council is a relic of the geopolitics of 1945. To be legitimate today it must reflect contemporary realities. It needs to accommodate today's powers that are currently excluded—Japan and Germany, and contemplate the accommodation of tomorrow's big states—India and Brazil. It must also address the extraordinary powers inherent in the veto. Legitimacy is not to be found in the uneven distribution of such clout. As the many failed attempts at reform instruct us, positive change is not easy.'

Schlichtmann (1999: 5-8_goes further than most arguing that the composition of the UNSC actually breaches the UNs own charter in respect to principle of equal rights for all member states, the principle of equal sovereignty, and the principle of equal representation of all geographic regions. This view was echoed by a General Assembly report on the UNSC, which noted that:

> 'Numerous delegations expressed the view that the veto was anachronistic, discriminatory and undemocratic. They maintained that the actual use and threat of using the veto represented a complete erosion of the principles of transparency and accountability in the working methods and procedures of the Security Council. It was considered by many speakers that the use of the veto

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the creation of the UN, see Gowan (2003).

> created two categories of membership in the Security Council, despite the principle of sovereign equality contained in Article 2.1 of the Charter. The view was expressed that in no other United Nations body was the principle of sovereign equality violated'. (UN, 2004: 30)

At the very least, the use of the veto in support of national interests, rather than in support of 'collective interests' undermines the legitimacy of not just the UNSC itself, but the entire UN system and the UN's Millennium Declaration in 2000 noted the need to intensify activity 'to achieve a comprehensive reform of the Security Council in all its aspects'[12].

Ironically, the legitimacy of the UNSC is also undermined when the veto is not allowed to be used in those cases where major powers choose to go outside the UN system to pursue policy – as was the case with the use of force by NATO in Yugoslavia without UNSC endorsement, and the decision not to hold a second UNSC vote before the invasion of Iraq. But as Wheeler argues, while ignoring the UNSC might be considered an emasculation of the UN by the great powers, an alternative argument is that the UNSC (or permanent members of the UNSC) has emasculated the UN. There is no agreed framework in the UNSC for defining when intervention is justified, and the national interest, rather than principle, often results in action being vetoed:

> 'Security Council inaction in cases where atrocities shock the conscience of humankind equally undermines the authority of the UN.… having willed the ends of policy, the Security Council was failing in its duty by not willing the

[12] General Assembly resolution 55/2, para. 30. Available on-line at: http://www.ohchr.org/english/law/millennium.htm

> military means to implement its demands in the face of persistent non-compliance.' (Wheeler, 2001: 119)

Without reform of the SC, and perhaps even with it, there is significant differential ability for member states to decide on norms – and most importantly, to decide when intervention should be sanctioned notwithstanding the principle of state sovereignty. Schabas (2004: 719) argues that in designing the UN, Roosevelt deliberately constructed the UNSC as the real site of authority, leaving that General Assembly as 'a place for the majority of small states to 'let off steam''. Even if this is apocrophal, the lack of binding authority for General Assembly resolutions is juxtaposed against the authority of the UNSC in general, the ability of the permanent members to exercize the veto, and the ability of the hegemon to go beyond the UN system when the national interest dictates.

Changing Conceptions of Sovereignty

From the outset, the UN has played an important role in establishing global norms with claims to universal applicability. The adoption of the Universal declaration of Human Rights in December 1948 being perhaps the highest profile case of the General Assembly attempting to establish a norm of basic freedoms 'as a common standard of achievement for all peoples and all nations'[13]. But since the end of the Cold War the agenda has changed. Not only has previous reticence about impinging on sovereignty been overcome, but there is also a move towards establishing liberal ideals as the basis for UN policy (Barnett, 1997: 536).

[13] Though of course not all states have ratified the declaration.

Doyle (2001) argues that Agenda for Peace in 1992 and reformulation of UN Charter fundamentally changed traditional conceptions of sovereignty. It is now up to the UNSC to decide what a 'threat to peace' actually means, and when such a threat to peace justifies the abrogation of sovereignty and intervention. Events that take place entirely within a sovereign state – be they civil war or violations of rights – can lead to them losing the 'protection afforded them by the rules of sovereignty and non-intervention'(Wheeler, 2001: 127), with the only obstacle to the UNSC endorsing intervention being the veto power of the five permanent members.

Following Reisman and Held, Paris (2003: 450-1) suggests that it is not so much that the legitimate sovereignty of states has been relegated below other concerns/issues, but that the fundamental understanding of what actually constitutes legitimate statehood has been redefined. Increasingly, for states to be granted freedom from external interference in their sovereign domestic affairs, they have to be liberal democracies. Clearly, many of the UN's members would not meet these criteria, and the mere lack of democratic institutions is not enough on its own to justify intervention. But rather than simply talk about respect for human freedom, UN statements on what these standards should be are now much more explicit in asserting that 'governance should be underpinned by democracy at all levels'. For Paul Taylor (1999: 540), this 'proactive cosmopolitanism' entails 'a deliberate attempt to create a consensus about values and behaviour' based on 'the civil and political values of Western liberal states'. As Barnett (1997: 529) argues, the UN has become, through its official reports at least, 'an agent of normative integration that can increase the number of actors who identify with and uphold the values of a liberal international order'. Furthermore, he suggests that the UN commissions are aware that many states

– particularly developing states – do not buy into these principles and pose serious challenges to the universal adoption of these values and norms. As such, while the UN might have been characterized by East-West conflict during the Cold War, it has increasingly become an arena in which North-South issues are now played out (Barnett, 1997: 545-6).

It is not just that democracy is the best form of government for ensuring the protection of basic human rights. But alongside the economic prescriptions outlined above, democracy is also portrayed as the basis for development (Forsythe, 1997). Where the right to development may stay firmly embedded in the UN (Pace, 1998), increasingly developmental/socio-economic rights are not seen as being separate from human/political rights, but establishing human/political rights and democratic institutions is seen as the prerequisite for assuring developmental/socio-economic rights. Such an understanding has been at the heart of the agenda of both Boutros Boutros-Ghali[14] and Kofi Annan (2005). Indeed, for Forsythe (1997), a key sea change in UN thinking on global governance occurred with the election of Boutros Boutros-Ghali to Secretary General of the UN. Boutros-Ghali, the UN also had a general secretary who identified himself (and thus the UN) with new thinking on how best to establish GG and indeed what the guiding principles of GG should be – not least by explicitly linking democracy with development - in 'Agenda for Peace'[15] and the 1995 publication of the Commission on Global Governance's 'Our Global Neighbourhood'. Although the commission on global governance is not an official

[14] Perhaps most clearly enunciated in Boutros-Ghali (1995). See also Forsythe (1997).

[15] The 1995 publication of Agenda for Peace was officially the supplement to his original report adopted by the Security Council in January 1992.

UN organization[16], it carried the endorsement of Boutros-Ghali and secured part funding from UNDP trust funds. If anything Kofi Annan's 2005 report, 'In Larger Freedom' (Annan, 2005) goes even further in establishing a normative position that undermines the principle of state sovereignty, and explicitly promotes democracy and free market capitalism as the correct form of governance, the best guarantors of international peace, and the basis of economic development.

Whilst recognising that Sovereign states are the 'basic and indispensable building blocks of the international system', Annan argued that states alone can no longer provide the stability and economic development that they should promote for their people without the active participation of both civil society and the private sector which now occupy 'the space formerly reserved for States alone' (Annan, 2005: 6). Furthermore, neither norms or legal principles of sovereignty should ever prevent the UN from intervening to stop severe abuses of human rights and suffering in sovereign states. Crucially, such a need to intervene is no longer simply couched in terms of intervention to ensure international peace and collective security, but instead is based on an 'emerging norm that there is a collective responsibility to protect'[17], which should not be subject to arbitrary and selective application in the UNSC.

Although Annan (like Boutros-Ghali before him) talks in terms of a growing 'consensus', the consensus if far from total. China, Mexico, Pakistan, Peru, Russia, South Africa and Tunisia have all consistently rejected the establishment of peace-keeping operations built on notions of humanitarian intervention (Pugh, 2004: 45).

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16 It is funded by national governments, educational foundations, and nine individual national governments and was established with a membership of 28 selected (ie: non-elected) individuals

The former Russian PM and Foreign Minister, Yevgeny Primakov (2004: 49), is explicit in rejecting any move towards a duty of care to global citizens as being anything to do with the UN:

> 'The UN charter limits the use of force to protect or restore international peace; it does not condone the interference in the internal affairs of a state'

Indeed, for representatives of many (primarily developing) states, the promotion of a norm of humanitarian intervention even when international peace and stability is not threatened smacks of an attempt to use the UN as an agent of Western cultural imperialism (Wheeler, 2001: 127-8). Attempts to construct new mechanisms of global governance – not just through the UN - are often perceived as a means of imposing Western preferences to ensure the continued privileged position of Western states in the global order (Held *et al*, 1999: 6).

As such, the formal position of the Secretary General of the UN conflicts with the position of a number of the UN's member states. And no matter what the Secretary General or any of his endorsed reports say, it is the member states that ultimately decide on whether action should be taken and under what conditions. As Russia and China are both resistant to emerging new norms, and both have veto power as permanent UNSC members, then there are sizeable obstacles to translating ideas into policies. As such, the apparent contradiction between principles of sovereignty and intervention are in many respects replicated by the division between the UN as a generator of ideas and ideals on one hand, and the practical actions of the UN in UNSC mandated actions on the other.

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[17] Annan was quoting here the High-level Panel on Threats, Challenges and Change's report on

Developmental norms and neoliberalism

Most of the focus on the UN as a promoter of norms focuses on political issues. And quite clearly, the UN is far less important in terms of global economic governance than the World Bank, the IMF and the WTO. Nevertheless, the UN does play a role – albeit a minimal one, in reinforcing if not establishing global economic norms. On one level, the UN has taken a number of steps to embody principles of human rights within international economic activity. In 2003, the Commission on Human Rights published a draft 'Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' (UN, 2003). Vagts (2003) argues that the 'Norms' simply call for corporations to adhere to existing treaties covering labour standards, the environment and broadly defined human rights in their overseas operations, and therefore makes little concrete difference. Perhaps at best, the Norms have symbolic importance, in establishing the right of the UNCHR to concern itself with the economic activity of private economic actors, and in recognising that notwithstanding the principle that states remains ultimately responsible for ensuring that TNCs don't abrogate basic rights, it is not always that easy for states to exercise this responsibility in a globalized economy[18].

On another level, the UN reinforces at least the hegemony of neoliberal economics as not so much the best as the only economic strategy that will deliver countries from underdevelopment. As Annan (2005: 7) put it, there is 'an unprecedented consensus on how to promote global economic and social development'. This consensus – the 2002 Monterrey Consensus – recognizes that the international economic order contains important structural constraints on developing countries; not least amongst

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'A more secure world: our shared responsibility' (UN, 2004).

them lack of access to the most lucrative potential markets as a result of protectionist trade policies. But at its heart is a commitment to the promotion of:

> 'sound macroeconomic policies aimed at sustaining high rates of economic growth, full employment, poverty eradication, price stability and sustainable fiscal and external balances to ensure that the benefits of growth reach all people, especially the poor. Governments should attach priority to avoiding inflationary distortions and abrupt economic fluctuations that negatively affect income distribution and resource allocation. Along with prudent fiscal and monetary policies, an appropriate exchange rate regime is required.' (UN, 2002: 4)

The Monterrey Consensus also emphasizes the importance of private capital flows through FDI as a means of generating development:

> Foreign direct investment contributes toward financing sustained economic growth over the long term. It is especially important for its potential to transfer knowledge and technology, create jobs, boost overall productivity, enhance competitiveness and entrepreneurship, and ultimately eradicate poverty through economic growth and development.' A central challenge, therefore, is to create the necessary domestic and international conditions to facilitate direct investment flows, conducive to achieving national development …. To attract and enhance inflows of productive capital, countries need to continue their efforts to achieve a transparent, stable and predictable investment climate, with proper contract enforcement and respect for property rights, embedded in sound macroeconomic policies and institutions that allow businesses, both domestic and international, to operate efficiently and profitably and with

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[18] This argument was made by Felice (1999) in his discussion of the Maastricht guidelines on

> maximum development impact. Special efforts are required in such priority areas as economic policy and regulatory frameworks for promoting and protecting investments' (UN, 2002: 5)

The importance of policy adjustments to allow the private sector to flourish was also at the heart of The Commission on the Private Sector and Development's 2004 report, 'Unleashing Entrepreneurship: Making Business Work for the Poor' (and echoed in Kofi Annan's 2005 report). It is important to note that while these various reports all argue that developed countries need to make changes to domestic and multilateral policy to ensure equity, the bottom line is that free market capitalism is the only road to development: and 'the primary responsibility for achieving growth and equitable development lies with developing countries' (UN, 2004b: 1), and is not the fault of the international economic order.

How important is all this? Given the recommendations of these various reports, there is very little that the UN can do to effect change. The responsibility for change is primarily in the hands of governments in developing states. And where the international order might need attention to ensure equity, the onus falls primarily on the WTO and to lesser extents the WB and the IMF. But the very fact that these reports emanate from the UN and not the WTO, IMF or WB in many ways increases their significance. As they are not tied to the organs of economic governance which are largely expected to promote neoliberalism, their policy prescriptions carry an air of neutrality. It is particularly notable that the Commission on the Private Sector and Development was jointly chaired by Canadian PM Paul Martin , and the former

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violations of economic social and cultural rights, but also holds true here.

Mexican President, Ernesto Zedillo, and notwithstanding three US based commissioners, was dominated by representatives from the South. It might not be the authentic voice of the South, but neither does it appear to be the voice of the developed North alone. As such, the UN can be seen as promoting what Gosovic (2000) calls the 'Global Intellectual Hegemony' designed to influence and homogenize world public opinion. Ideational promotion by the UN increasingly reflects the interests and agendas of developed states with the UN development agenda no longer reflecting either the ideas or the interests of the South. Selected words and terminologies from the old development agenda have been co-opted and given new meanings to support the neoliberal hegemony (Gosovic, 2000: 450), while other terms and concepts have 'virtually disappeared from public usage (Gosovic, 2000: 451).

In many respects, it is what is not said in UN developmental discourse that is as important as what is said. For example, although Lavelle (2001) acknowledges the many differences of opinion within the diversity in the G-77, and the lack of Southern unity within UNCTAD, she argues that at the very least both provided an essential alternative (or alternatives) to neoliberal development discourses. The G-77 used UNCTAD as a means of promoting an alternative ideology emphasising the structural failings of the global trading system and the capitalist global economy which perpetuated the exploitation of poorer countries by the rich. Whilst current UN thinking on development places the onus for change on the developing countries themselves, the call for a New International Economic Order required a root and branch reform of the system itself. But for this study, perhaps more important than

specific policy prescriptions was simply that alternative models and ideas were on the UN agenda:

> 'The key ideological feature which cemented a strikingly heterogeneous institutional alliance was not a point of theory upon which all agreed, but rather one upon which all agreed not to agree. The third world institutional alliance was grounded in developing countries' refusal from the start to accept a universal model of development' (Lavelle, 2001: 31)

Although there may not have been a clear, distinct and coherent G-77 approach before, the disbanding of the coalition marked the end of the 'African input into the discourse on development' (Lavelle, 2001: 27).

Whilst Ian Taylor (2003: 410) shares this view of the decline of UNCTAD as a source of alternative developmental discourses, he follows Augelli and Murphy (1988) by placing a much stronger emphasis on its deliberate emasculation by governments in the North, and by the US and the UK in particular under Reagan and Thatcher. The resulting re-invention of UNCTAD as a proponent of neo-liberal economic reform in developing states (as epitomized by the 2004 São Paulo Consensus (UNCTAD, 2004)) represents a retreat from demands for structural change, the near abandonment of alternative developmental discourses and an:

> 'Acceptance of the hegemonic discourse while (at best) attempting to ameliorate the worst aspects of the established order …. This was a remarkable sea-change in UNCTAD's normative posture' (Ian Taylor, 2003: 412)

In short, the development discourse in the UN has moved to one of ideational competition (if not conflict) to one of unanimity and consensus. While the UN may

not be **that** important as a promoter of economic and developmental norms when compared to the other agencies of global economic governance, crucially, it is no longer the arena for alternative ideas and norms that it once was, and which Gosovic (2000) argues were part and parcel of the original developmental objectives of the UN charter. For Otto (1996), this leaves the task of promoting 'postliberal' approaches within the UN to NGOs.

Between theory and practice

So much for ideas. As noted below, the extent to which these ideas are put into practice within the UN system is, however, a different matter. There are some areas in which the ideas promoted by or through the UN are supported by specific action. On one level, Kofi Annan (2005: 39) has committed himself to providing more concrete support through the UN system to promote democratization:

> 'The United Nations should not restrict its role to norm-setting but should expand its help to its members to further broaden and deepen democratic trends throughout the world. *To that end, I support the creation of a democracy fund at the United Nations to provide assistance to countries seeking to establish or strengthen their democracy. Furthermore, I intend to ensure that our activities in this area are more closely coordinated by establishing a more explicit link between the democratic governance work of the United Nations Development Programme and the Electoral Assistance Division of the Department of Political Affairs.*' (original emphasis)

On another level, there is evidence that in its peacekeeping activities, the UN is implementing policies designed to construct new post-conflict orders as liberal democracies. For Richmond (2004: 92):

> 'the creation of the liberal peace requires an agreement on method, which can be found in a peacebuilding consensus framed by the notion of peace-as-governance. This occurs in the context of peace operations in which peacebuilding recreates the state-centric order, territorial integrity and basic human rights, while also attempting to institutionalize political, social and economic reform according to the precepts of the democratic peace, which have been widely accepted in the post-Cold War environment.'

Pugh (2004) similarly argues that in promotion of Peacebuilding and Peace Support Operations, UN actions promote the preferred policy preferences of hegemonic powers built on liberal ideas of both state construction and economic paradigms. Indeed, holding successful elections has become a measure of the success of UN peacekeeping operations (Barnett and Finnemre, 1999: 720). Moreover, in establishing new orders, ideational principles can override local interests and practicalities. There is a strong literature that warns against the 'dangers of hasty democratization in deeply divided countries'[19], and if the new order is built by and largely dependent on external forces with weak local support (Richmond, 2004: 93), then there is a danger that it can create instability and violence rather than build peace. For example, Barnett and Finnemore (1999: 720) argue that the result of pushing for quick elections in Bosnia and parts of Africa was the very ethnic cleansing and exacerbated ethic tensions that the operations were designed to prevent in the first place.

[19] This literature is summarised in Paris (2003).

Given that 'The UN's peacekeepers derive part of their authority from the claim that they are independent, objective, neutral actors who simply implement Security Council resolutions' Barnett and Finnemore (1999: 709), at the very least, there is concern about whether the UN's dual role as a promoter of norms and a hands-on actor can be reconciled (Kent, 2004), and the legitimacy of UN peace-keeping actions maintained. At worst, for Mégret and Hoffmann (2003), if the local populations are forced to accept democratic structures against their wishes, then the UN itself might violate, rather than protect, the rights of those that it is trying to build a democratic peace for[20].

Notwithstanding the apparent increasing imposition of democratic norms in peace-keeping and peace-building operations, while many of the pronouncements associated with the UN are built on liberal principles, in action, realist principles of national interest and hard-nosed power balancing often trump idealistic ideals. For example, Forsythe argues that notwithstanding the rhetorical commitment to linking development aid to democratization, there is no evidence that this has actually occurred in any of the 150 countries where the UNDP is involved in development programmes. Furthermore, when the UNDP did attempt to implement a democracy criterion in 1990, it had to backtrack in the face of opposition from developing country members of the UN (Forsythe, 1997: 343). When principle and pragmatism collided, pragmatism and the power of sovereign member states within the UN won out.

Perhaps a better example is the actual promotion of a universal conception of Human Rights that should be protected and promoted by the international community through the UN. On one level, the UN's ability to enforce change on recalcitrant states is limited. On another, and perhaps more significant, the UN system has, to say the least, been partial in exposing and criticising abuses of Human Rights in member states. Although a 1995 censure of China's human rights record failed by only one vote, Chinese diplomatic efforts have subsequently resulted in other critical resolutions not even being discussed on the floor of the UNHRC. In 2004 the commission adopted resolutions critical of North Korea, Cuba, Belarus and Turkmenistan – but rejected resolutions against China and Russian action in Chechnya as well as Zimbabwe.

At the time, Zimbabwe was one of the 53 member states that form the membership of the UNHRC in its annual meeting. Each year, a country is elected to Chair this meeting – in practice, this means that each of the five regional groupings[21] nominate a country to act on their behalf for that session, and no vote was needed from the founding of the commission in 1997 until 2003. In 2003, it was the turn of the African grouping to elect a chair and they nominated Libya, a country that was still under some international sanctions after the Lockerbie bombing, and which was accused of breaching a wide range of human rights by international NGOs at the time.

Not surprisingly, Libya's nomination generated considerable opposition from human rights NGOs, with Human Rights Watch arguing that it not only undermined the legitimacy of the UNHRC, but also of NEPADs commitments to promoting and

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20 Furthermore, the UN is not subject even to its own treaties – these only bind the UN's member states and not the UN itself.

21 Africa, Asia, Latin American and Caribbean states, Central and Eastern Europe, and Western European and Other States which includes Australisia, Canada and the US.

monitoring human rights in Africa[22]. It also generated opposition from developed countries, most notably the United States who for the first time in the UNHCR's history forced a vote (which Libya won 33-3 with 17 abstentions). Notably, the decision to force a vote in itself generated condemnation of the US for violating the norm that allowed regional groupings to nominate their own representative. The established modus operandi within the UN was, for some, much more important than the legitimacy of the UNHRC.

And the fact that it was the United States that had forced a vote, and that the US consistently vetoes resolutions that are critical of Israel, was crucially important here. Indeed, in the same 2003 session, the US was the only member of the UNHRC to vote against a resolution condemning the treatment of Lebanese detainees in Israel. So on one side there is the accusation that human rights abusers, not least through their participation on the UNHRC itself, can avoid criticism and emasculate the objectives of the UNHRC in particular and the UN in general, as a promoter of universal human rights norms. On the other side, there is the feeling that the permanent members of the SC, and the US in particular, use their privileged position to protect allies and decide who should be subject to these norms, when, and with what consequences.

Criticism of US actions in the UN abound. The US has withheld funding for the UN when policy has been unpopular at home, and though both Afghanistan and the USA have failed to make their required payments to the UN in the past, but Afghanistan suffered a loss of voting rights as a result and it was not the United States. The US also vetoed the reappointment of Boutros Boutros-Ghali as secretary general in a 14-

[22] http://hrw.org/press/2002/08/libya080902.htm

0-1 vote in 1996 (Chollet and Orr, 2001). Cannon (2004) even argues that the US is trying to undermine the WHO strategy on diet and health because of the relationship between the Bush Presidency and US sugar producers.

Perhaps most important of all for the legitimacy of the UN as a promoter of global norms is the US refusal to adhere to the International Criminal Court (ICC) which, according to Lavalle (2003: 195) 'set off, in June and July 2002, a crisis so severe that it threatened the survival of all United Nations peace operations'. Although Clinton was supportive of the ICC, and in the process of negotiating the terms of the treaty a number of concessions were made to the US that some argue diluted its original intentions (Weller, 2002: 696), it was not ratified in the US Senate and the Bush administration informed the UN that it was not a party to the treaty in May 2002. The US administration argued that it was not prepared to allow its citizens to be subject to extra-national law in the ICC – partly as a matter of absolute principle, partly because of fears that other nations would use the ICC as a way of 'getting back' at the US, and partly because as the US carries most weight in military activities either within or without the UN and is therefore more likely to be subject to potential charges than other countries.

For Schabas (2004), these arguments are largely unconvincing as the same questions arise when considering myriad other treaties and conventions that the US has signed and ratified, and the US was for a long time the main champion of international criminal justice. The key is that the original draft for the ICC conceived as the security council having the final authority, while the final agreement gave the court considerable independence. While the US is prepared to subject itself to the

jurisdication of international organizations such as the UN, this is conditional on its ability to influence if not control those international organizations – and in the case of the UN, to ultimately be able to veto unfavourable outcomes. The sole superpower is only prepared to accept new norms of global governance when it does not infringe on its own sovereignty – a privilege that it is not prepared to extend to all other states.

The US is not alone in refusing to ratify the ICC – neither have Russia, China, Israel and Turkey. And the US is far from the only power that defends its sovereignty and national interest in the UN system. But Cronin (2001) argues that the US is different, and that US actions are much more likely to undermine the legitimacy of the UN system than similar actions by other states. The UN, along with other international organizations, was largely constructed by the hegemon to promote a hegemonic world order. Indeed, the hegemon relies on these international organizations as a means of legitimating its interests through the creation of legally binding treaties. Having done more than most to establish a norm – in this case built around conceptions of rights and the need to hold states to account if they abrogate rights – not submitting themselves to the norm not only undermines the institution itself, but the liberal principles that underpin the hegemonic world order *per se*:

> ‘When a hegemon fails to act within the boundaries established by its role, the credibility of the institutions and rules it helped to establish weakens. IOs act as the chief legitimizing agents of global politics. When these organizations are undermined, the legitimacy of the international order itself is threatened.’ (Cronin, 2001: 113)

Conclusions

The US does not ratify the convention of the ICC because it considers it an illegitimate infringement of its sovereignty. Other states consider the US's and other states' decisions to abandon the UNSC to use force against other sovereign states as undermining the legitimacy of the UN. When permanent members veto action, this is taken as also undermining UN legitimacy through the selective application of principles based solely on national interest – indeed, for many the use of veto in the UNSC in itself is illegitimate and in contravention of the UN's own charter. For some, it is the failure to apply principles of humanitarianism that reduces legitimacy – for others it is simply illegitimate for the UN to abrogate sovereignty and concern itself with the domestic affairs of sovereign member states. No wonder that there is a general consensus that the UN needs to be reformed – and no wonder that there is little consensus on how it should be reformed.

The latest in a relatively long list of calls to reform the UNSC came in Kofi Annan's 2005 report proposing an expanded UNSC (one model proposing extra permanent seats and another proposing four year renewable seats). But the immediate responses to the proposals indicate that while there might be wide agreement that the UNSC needs to be reformed, how, and who should join, remains an area of contention. For example, during the debates over reform proposals in 1993 and 1995, Non Aligned Movement states expressed concern over another advanced industrialized country joining the SC. If Japan and/or Germany were to join, then three other developing nations should also join to provide balance – one each for Africa, Latin America and Asia. But even then there were severe divisions over whether new permanent members should have the same veto powers as the existing powers, and which

country should get the extra seats from each region (Bourantonis and Panagiotou, 2004).

Even prior to the publication of Annan's report in 2005 calling for UNSC reform, Brazil, Germany, Japan and India indicated their claims to UNSC membership, and mutual support for each others bids[23]. Pakistan was reported to be hostile to the idea of an Indian seat, Italy about a German seat, Argentina and Mexico about Brazil, and China and both Korea's expressed immediate opposition to Japan. Popular opinion in both countries remains highly hostile towards Japan, and Annan's report resulted in a number of Japanese owned shops and companies in China coming under attack from rioters in April 2005. As existing UNSC members have the ultimate right to veto any proposals for change, and given China's reticence and at times downright hostility to Japan's UNSC pretensions, it remains unlikely (at the very least) that China would allow a permanent veto power seat for Japan. It is perhaps not surprising, then, that the Security Council reforms quietly slipped off the agenda, and were not even discussed in the General Assembly.

Given all this, it is tempting to argue that by promoting norms of global governance through official reports and commissions that it cannot deliver upon or are even blocked by its member states, the UN not only fails to promote, but actually undermines attempts to establish global governance. Manifestations of hostility to the promotion of liberal norms by some states, and the failure of others to always act according to either their own avowed principles, or the principles established by the

[23] After a meeting in New York on 21 September 2004.

secretary general, simply point to the futility of trying to build global orders that will not simply be ignored when they conflict with perceived national interests.

But the importance of ideational promotion should not be wholly dismissed. Despite opposition from some states, and the uneven (at best) transformation of principle into practice, the post-Cold War era has seen the UN change. Whether the UN was ever conceived as being an organization solely designed to promote international peace is debateable. But in the recent era, it has become much more clearly an organization concerned with promoting ideas on how best to achieve development, and how best to organize national governance and governmental structures. It has also become an arena in which liberal political and developmental ideas are promoted.

Returning to Gosovic's (2000) conception of the homogenization of global public opinion noted in the discussion of developmental paradigms above – an idea that echoes Gramsci's conception of the 'common sense'[24]. By common sense, Gramsci meant 'the folklore of the future, a relatively rigidified phase of popular knowledge in a given time and place' (Gramsci, 1985: 421) – the promotion of a single idea that becomes accepted as obvious as not to be contested (or if it is, for that contestation to be considered as irrelevant, absurd or counter-intuitive). It is going far too far to suggest that liberal ideals inform action in the UN system; but the UN system has become a vehicle through which a distinctive set of liberal norms are promoted, even though they are not yet universally accepted, nor universally applied.

[24] Many thanks to Ian Taylor for pointing this out to me.

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Abbreviations and Acronyms Used

G-77	The Group of 77 at the United Nations
ICC	International Criminal Court
ICJ	International Court of Justice
IMF	International Monetary Fund
NGO	Non-Governmental Organization
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNSC	United Nations Security Council
WB	World Bank
WTO	World Trade Organization