



The Three UNs at Three Score Years and Ten

Roland Rich



Occasional Paper 1

International Policy Network

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Dr. Roland Rich is the former Executive Head of the United Nations Democracy Fund and Executive Director of the United Nations Office for Partnerships, and prior to that, the founding director of the Centre for Democratic Institutions, Australia's government funded democracy promotion institute, at the Australian National University. His latest book, *Parties and Parliaments in Southeast Asia – Non-Partisan Chambers in Indonesia, the Philippines and Thailand*, was published by Routledge in 2013. Dr. Rich is Adjunct Professor in the MA Program in Political Science - United Nations and Global Policy Studies, at Rutgers University, and Honorary Professor at the Australian National University.

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The United Nations celebrated its 70th anniversary in 2015. Having thus completed the Biblical life span¹, it is an appropriate time to assess its accomplishments and its capacity to face continuing challenges. To do so, this paper will adopt the concept of the three UNs drawn from the UN Intellectual History Project².

The First UN is the UN of Member States, all 193 of them. It is the UN of the General Assembly and the Security Council. It is the UN of foreign ministers, permanent missions and foreign ministry headquarters in capital cities. It is this UN that the public naturally sees as the UN. The Second UN is the UN of secretariats, the total number of whom around the world including those working in specialized agencies comes to about 75,000³. The Third UN is the UN of non-state actors who work with or through the UN. It includes individuals, civil society organizations, academic institutions and perhaps even private sector institutions working under the banner of corporate social responsibility.

This paper will ask how each of these UNs has weathered the last 70 years and what their interrelationships look like today. The reader is asked to excuse a certain degree of subjectivity on the part of the author. I have had the privilege to be part of each of the three United Nations. I served in the Australian foreign ministry for 23 years and represented Australia in various UN conferences and assemblies in Geneva, New York and Paris. I also served at headquarters as Assistant Secretary for International Organizations overseeing Australia's involvement in the UN. I was a member of the secretariat in New York for seven years serving as Head of the UN Democracy Fund and for the final four years concurrently as Director of the UN Office for Partnerships. And I have also been an academic, leading the Centre for Democratic Institutions at the Australian National University for seven years in which time I published a book about the UN⁴. Currently I am teaching at Rutgers University in the MA Program in Political Science – United Nations and Global Policy Studies. I will draw on some of these experiences in the course of this analysis.

The First UN

It is not difficult to be harshly critical about the first UN. Secretary-General Ban Ki-moon himself recently lashed out at the Security Council for its inaction on Syria describing it as a “shameful symbol of the international community's divisions and failure”⁵. Indeed there is a disquieting uniformity in the criticism coming from both the right and the left, though the reasoning differs. The American right accuses the UN of being ineffective and is suspicious of UN attempts to regulate American conduct. The European left accuses the UN of being ineffective and subservient to its political masters and in particular the United States. Whether the critics realize it or not, these lines of criticism are aimed at the first UN, the member states of the UN. This is the Madison Square Garden argument famously made by Richard Holbrooke in his attack on irrational criticism of the institution:

Blaming ‘the United Nations’ for what happens inside the talk palaces on the East River is like blaming Madison Square Garden for the New York Knicks⁶.

Having been a member of delegations to UN conferences and assemblies and later having witnessed the work of those delegations, it is not difficult to point to the problems. The most obvious criticism is their narrow focus on immediate national interests. There are very few climate change deniers among UN delegations (and now one fewer with the change in government in Canada) yet it took a decade to achieve a non-binding UN action agenda to deal with a problem that poses an existential threat to humanity. The reason is that delegations and the Foreign Ministries that instruct them and the governments in which those ministries form part, are motivated by narrow short-term national interests. The astounding argument I heard from a delegate

from the sub-Continent went along these lines: “the West has been polluting the planet for decades to become wealthy, now it’s our turn to pollute the planet and get rich.”

At least that argument had an (ultimately self-defeating) economic premise. Far too often, delegates at the UN take positions for the narrowest political reasons. European countries, whether EU members or simply hopeful candidates, will fall in line with EU policies regardless of what they actually think of them. Africans will oppose the application of international criminal law because an African may be prosecuted. Indeed the continued existence of the decolonization era Group of 77 and its undoubted continuing influence demonstrates the victory of politics over reality. Even Australian delegations would normally be instructed to choose national interest over international principles where these were assessed to come into conflict, the exception being those rare times when a liberal leaning government is confidently in power and gives preference to reasons of international solidarity.

Yet it is these same delegations, instructed by ministries that form part of national governments that are also largely responsible for the many achievements of the UN. Focusing on the UN normative instruments that lay down the rules of the international system that are essentially the product of the negotiations and cooperation of the First UN, allows for a glimpse at the accomplishments:

- The International Labor Organization has adopted 189 Conventions dealing with fundamental rights concerning the right to organize; the abolition of forced labor; minimum age requirements; proscribing the worst forms of child labor; and the right to equal remuneration.
- The international human rights regime which has eight major treaties dealing with civil and political rights; economic, social and cultural rights; racial discrimination; discrimination against women; rights of the child; prohibition on torture; rights of disabled people; protection against enforced disappearance; and the rights of migrant workers. It also has established an elaborate enforcement regime involving oversight committees, reporting obligations, special rapporteurs and independent investigations.
- The International Maritime Organization has adopted numerous basic conventions concerning safety of life at sea; prevention of pollution from ships; prevention of collisions at sea; maritime search and rescue; prevention of marine pollution by dumping of wastes; civil liability for oil pollution; carriage of hazardous substances by sea and removal of wrecks.
- The World Intellectual Property Organization has dozens of conventions protecting all forms of intellectual property including trademarks and patents and the intellectual property of authors, performers and artists.
- The International Civil Aviation Organization has some 25 conventions regulating all aspects of air transport and dozens of protocols to keep them up to date.
- The UN Educational, Scientific and Cultural Organization has adopted dozens of instruments globally and regionally protecting natural and cultural heritage; recognizing the international equivalence of educational qualifications; proscribing discrimination in education; as well as the International Convention against Doping in Sport.
- In addition, there is the standard-setting work of the World Health Organization and its significant achievements reducing the spread of communicable diseases, improving maternal and child health and advising on national health systems. The World Meteorological Organization focuses on weather and climate and manages the Framework Convention on Climate Change. The International Atomic Energy Agency, the World Trade Organization, the Food and Agricultural Organization and others perform indispensable tasks for the international community by setting norms and standards.

It is a sign of the success of the system that we take many of these rules and systems for granted. But it is nevertheless a significant body of work. When candidate member states join the European Union, they need to catch up to the *acquis*. The *acquis* (French for that which has been acquired) is that huge body of common rights and obligations that is binding on all the EU member states. The UN *acquis* is equally formidable.

Though difficult to measure in terms of its accomplishments beyond standard setting, as we do not have the counterfactual knowledge of what would have happened if there had been no UN activism in this field, the *acquis* includes the work of the UN in the field of peacekeeping. While it is necessary and useful to criticize UN peacekeeping, it would be untenable to make a case that the world would be a better place without it. There have been 71 peacekeeping missions of which 16 remain active and in which 125,000 people serve, the large majority of whom are soldiers⁷. An example of the reality of international solidarity is the provenance of these soldiers; they come from 122 countries⁸.

As a small cog in Australia's delegation to the Third UN Conference on the Law of the Sea in the late 1970s and early 80s, I saw the best of the First UN. Perhaps it was because of the technical nature of the subject matter and no doubt also because the tyranny of geography imposed certain positions on participating nations, but whatever the underlying reasons, the debates at UNCLOS3 were far more on point than point scoring. The conference pioneered some innovative approaches. The package deal approach meant that the whole of the text had to be accepted or rejected, reservations were not permitted thus denying countries the right to pick and choose those parts of the text to which they agreed to be bound. Taking a lead from the 1972 Stockholm conference on the environment, NGOs were invited to participate in the deliberations. It would have been easily defensible to argue that as a treaty making conference among nations, non-state actors had no place at the table. But under the astute leadership of Tommy Koh of Singapore, the decision was taken to allow them in. The conference benefitted from their expertise and from the uncomfortable knowledge that the deal-making going on was being watched by outsiders. And the conference adopted and defined a concept which may yet have a deep meaning in the future when it declared that the area of the sea beyond national jurisdiction is the common heritage of mankind. Perhaps in the years to come the international community may wish to revisit this concept and consider whether the air we breathe, the forest that generates it and the soil in which our crops are grown is also the common heritage of humankind.

I experienced the ethical discomfort that members of the First UN dread – instructions contrary to one's principles. Turning the clock forward a couple of decades from those Law of the Sea days, I found myself as head of the UN branch of the ministry. One of the issues in my in-tray concerned the (then) draft Declaration on the Rights of Indigenous Peoples (it was adopted by the UN General Assembly in 2007). Up to the election of a conservative government in 1996, Australia had been cautiously in favor of the process and open to the document but thereafter the government attitude was closer to one of hostility. I was to lead the Australian delegation to the Geneva negotiations armed with a set of instructions from the government with which I profoundly disagreed. No, I did not resign. But prior to the first session in Geneva I called for a meeting with the civil society representatives of the Australian Aboriginal community and told them the best I could do for them was to be honest and explain that the government's position had changed. During any negotiation, it is a tactical decision as to how active a delegation should be and on this occasion the Australian delegation spent much of the time quietly reviewing the issues. One of my instructions, however, was to support the position of the Australian states in our federal system and a senior official of Western Australia formed part of the delegation. It so happened that this state government had made a heartfelt apology to its indigenous people, a step the conservative federal government would refuse to contemplate for its entire decade-long time in office. Following my instructions to support our state governments, I read into the conference record in plangent tones this apology to the indigenous people. I suspect that many delegates did not quite understand the significance of the word "Western" and saw it as an apology from "Australia".

I would leave the ministry soon thereafter. Not bitter and twisted as can happen but rather chasing the opportunity to head Australia's new democracy institute at the Australian National University. Accordingly, I would in a small way become part of the Third UN before moving on to the Second UN and later returning to the Third UN.

The Second UN

In 2007, after a rigorous selection process, I eagerly took on the job of heading the UN Democracy Fund in New York and thus became a member of the Second UN. I was under no illusion as to the quality of my new colleagues, after all, during my job interview one of the panel members fell asleep! But I was delighted to encounter so many dedicated and competent men and women in the secretariat. The question that hung over all of us concerned our role. Were we the mere cyphers of the Member States forever awaiting their detailed instructions or did we have some notion of an independent obligation to advance the UN agenda and meet its goals?

Many members of the secretariat to a greater or lesser degree adopt the former posture. They are in thrall to the delegations and in particular that from their own country. They wait (mostly in vain) for clear instructions from the General Assembly. They adopt a tried and tested Soviet idea that if they never take any initiative they can't possibly get into trouble. What struck me as odd about this posture is that unless one is caught with one's hand in the cash register, the UN does not know how to discipline a poorly performing staff member and so there is no trouble to get into!

I and many others took a different approach. It flows naturally from Article 99 of the Charter:

The Secretary-General may bring to the attention of the Security Council any matter which **in his opinion** may threaten the maintenance of international peace and security. (Emphasis added)

The Charter foresees a Secretary-General with his or (hopefully soon) her own opinions. And as the staff members of that Secretary-General it also follows that we would support that Secretary-General when he exercises his opinions. Indeed Article 100 of the Charter makes it clear that the secretariat should "not seek or receive instructions from any government" and that Member States shall "not seek to influence them". While our professional loyalty must be to the Secretary-General, the ultimate loyalty of all staff members must be to "we the peoples" who bestowed the mandate on both the states and the secretariat.

This is not to downplay the fundamental role of the First UN. Acting on the mandate they have through the Charter, their job is to ratify, bring into force and enforce the international community's norms, rules and principles. The Second UN supports them in that role. The dilemma arises when a Member State ignores or does not comply with this *acquis*. Two former Secretaries-General, Boutros Boutros-Ghali and Kofi Annan, found out to their cost what happened when they called out the United States as not in conformity with the rules it had helped establish. Boutros-Ghali provides a step-by-step account of how he was denied a second term after he acted independently and thus fell out of step with the US⁹. Kofi Annan also relates how he had to withstand "a barrage of attacks against me" when he declared the invasion of Iraq to be illegal¹⁰.

I certainly did not face that level of attack when in charge of the UN Democracy Fund (UNDEF) but I take it as a sign that I was doing my job effectively that more than a few delegations were deeply displeased with my leadership. When I took over, UNDEF was under interim leadership and had made some good progress in establishing itself. But it followed a very common trait within the Second UN – risk aversion. It avoided the risk of offending Member States; it avoided the risk of supporting "unknown" entities; and it avoided the risk of getting its UN colleagues off-side by the simple expedient of directing some of the flow of funds to UN agencies. This path would clearly lead to a tame product. So we decided to manage these risks instead of simply running away from them. UNDEF became a funder of local civil society in the global South with very few projects going to the well-known NGOs from donor countries. UNDEF slowly but surely shut off

funding to other UN agencies unless this was the only way to fund an NGO on the ground. And UNDEF, while never wishing to be needlessly provocative, selected grant recipients without consulting Member States. If a delegation was unhappy with our choice, it could tell UNDEF not to fund the project on its territory and UNDEF would have no choice except to comply but, as I told each of the complaining Ambassadors in turn, that process would not be confidential and I would report it to our Board and thus it could be expected to be enter the public domain. I think it is a sign that the project selection was in fact supportive of democratization that the countries that complained included Belarus, Nicaragua and Venezuela. The UNDEF Board was dominated by its major funders and in particular the two largest funders, the United States and India. The Board supported the process UNDEF had developed allowing it to continue its work.

One of my proudest achievements at the UN was to be part of the small secretariat team that drafted the Secretary-General's Guidance Note on Democracy¹¹. While it is true that the norm making role is very much in the hands of the First UN, the Secretary-General can inject himself in the process by way of providing instructions to his staff. These guidance notes set forth the Secretary-General's perspectives on how secretariat members should deal with various issues¹². I recall, at the high-level staff meeting in which Ban Ki-moon approved the Guidance Note, clearing with him our intention to publish the text. He readily agreed, fully aware of its normative character.

The Guidance Note on democracy sets out a position on a number of issues on which Member States would never be able to reach agreement:

- It takes a position on the relationship between democracy and development by saying the latter "is more likely to take hold if people are given a genuine say in their own governance".
- It puts the emphasis on internal threats to democracy ("coups") rather than external threats.
- While privileging local ownership, it does so only within the context of internationally agreed norms and principles thus rejecting cultural relativism.
- It stakes out an important position in describing democracy as "a reflection of self-determination".
- It acknowledges the indispensable role of a free press, an active civil society and a multi-party system.

The Second UN can be an important force of international progress under the leadership of a courageous Secretary-General. But it remains a bureaucracy and it is unlikely to be the source of many new ideas and innovations. For that one must turn to the Third UN.

The Third UN

The Third UN comprises all those civil society actors, non-government organizations and individuals who interact with the UN in various ways. Weiss thinks of these groups as knowledge networks or epistemic communities¹³. Indeed the framers of the Charter already had in mind a Third UN, without adopting this terminology, when the Charter empowers the Economic and Social Council to make arrangements for consultations with non-government organizations in Article 71. The Third UN is thus an "original" part of the UN.

I wish to suggest two sub-categories within the Third UN not discussed in the original Weiss formulation: The Third UN can be in either a formal or an informal relationship with the UN. From the outset, the UN understood its own limitations. National interest would invariably drive the policy positions of the First UN and despite some occasional flashes of independence, the Second UN would normally simply service the needs of the First UN. This may be a necessary requirement of realpolitik but it is rarely a path to innovation and new ideas. For that reason, the UN from the outset accepted the need to appoint independent outside experts to think through key ideas and present recommendations for consideration by the First UN. Some of the key successes of the UN system have come through this means.

An early example of a formal association with the Third UN was the establishment of the International Comparison Program as a means of comparing the economies of UN member states. The concept of purchasing power parity (PPP) had been known for some time and incisively theorized in the early twentieth century but it only became a necessary part of the international architecture when the UN Statistical Division and the World Bank, beginning in 1967, decided to launch an ongoing economic comparison process requiring solid comparative data. A partnership was born with the University of Pennsylvania where Professor Alan Heston and his colleagues produced the necessary world PPP tables on which the UN's comparative analysis rested¹⁴.

The "outside commission" method was pioneered in 1968 by the President of the World Bank, Robert McNamara, who asked Lester Pearson, former Prime Minister of Canada and Nobel Peace Prize winner, to form a Commission to undertake a study of the consequences of twenty years of development assistance¹⁵. This was followed up in the 1980s by the Independent Commission on International Development Issues, chaired by former German Chancellor Willy Brandt, which set the goal of a 0.7% ratio of official development assistance to gross national product¹⁶.

Another telling example of a formal partnership with the Third UN is the creation of one of the UN's greatest contributions, the Human Development Index. In the late 1980s, the Administrator of UNDP sought out a noted Pakistani economist, Mahbub ul-Haq, to advise on ways of measuring progress other than through the blunt national income per capita means. Mahbub ul-Haq based his ideas on Amartya Sen's capabilities theory and invited Sen to help design the new index¹⁷. Sen initially refused arguing that any attempt to encapsulate such a vast array of issues into a single figure was "crude and inelegant"¹⁸. But he subsequently joined the design team and the result has been not only an innovation in measurement but a new way of conceptualizing development.

A good example of a continuing formal role for the Third UN can be seen in the special procedures of the Human Rights Council whereby independent human rights experts have mandates to report on thematic or country-specific human rights issues. There are currently 41 thematic and 14 country mandates as well as 5 commissions of enquiry¹⁹. The experts mandated to investigate these issues are independent and do not represent their countries of nationality or their employers (often academic bodies). They are unpaid though they receive allowances for expenses incurred. Member States usually cooperate with the experts but there have certainly been cases when experts have been refused entry to a country in question. It is their independence and expertise that lend credibility to the reports of these experts and this allows the First UN to take appropriate action based on their recommendations.

A broader and deeper iteration of the formal Third UN mechanism can be seen in the work of the Intergovernmental Panel on Climate Change. Though it is an intergovernmental panel and thus forms part of the First UN, its work draws on hundreds of scientists who draft and peer review its reports at the request of the IPCC²⁰.

The key to the distinction between the formal and informal status within the Third UN turns on whether or not the involvement of the outsider is formally requested by the UN or its entities. Where an individual Member State takes the initiative it should not be seen strictly as part of the formal Third UN. In 2000, Canada established the International Commission on Intervention and State Sovereignty chaired by my former boss Gareth Evans and his Algerian colleague Mohamed Sahnoun. It led in remarkably quick time to the UN General Assembly in 2005 adopting the doctrine of the Responsibility to Protect. It represents a leading example of the work of the Third UN and perhaps can be seen to fall into a semi-formal category as it was an initiative of a Member State aiming to contribute to the UN normative canon.

The informal Third UN includes those thousands of NGOs which are accredited to ECOSOC or cooperate with other parts of the UN system. It was my great privilege as Executive Head of UNDEF to expand the numbers in

this category through the funding of civil society projects around the world. Applications have been received from some 20,000 civil society organization the vast majority of which come from the global South and more than 500 of which have been funded. To a lesser or greater degree, they have become part of the Third UN.

The Third UN also includes thousands of academics all around the world who study, teach and publish on the UN. Various parts can be said to have formal, semi-formal and informal status. The UN University in Tokyo and the University for Peace in San José, Costa Rica, were both established by resolutions of the UN General Assembly, the former in 1972 and the latter in 1980, and thus fall into the category of “at the request” of the UN. But they must both find their own funding and they act as independent institutions. The Academic Council on the United Nations System (ACUNS) is probably best seen as a semi-formal body. It was founded in 1987 to stimulate and support research and teaching on the role of the United Nations.

The rest of the academic world teaching about and studying the UN, including the UN Intellectual History Project based at the Graduate Center of the City University of New York from which the concept of the Three UNs is borrowed, is part of the informal Third UN where I now happily find myself once again. I was first in this category in 2004 when publishing *The UN Role in Promoting Democracy: Between Ideals and Reality* with UNU press. This publication provides a strong example of the value of the Third UN. The book had thoughtful essays by noted academics such as Tom Farer, Laurence Whitehead and Edward Newman; technical contributions on UN transition authorities by Simon Chesterman, post-conflict elections by Ben Reilly and UN Security Council Mandates by Roland Rich; insider accounts of the work of the UN Electoral Assistance Division by Robin Ludwig and of UNDP by Richard Ponzio; and case studies of Namibia (Henning Melber), Cambodia (Sorpong Peou), Kosovo (Ylber Hysa), Timor Leste (Tanya Hohe) and Afghanistan (Amin Saikal). It thus provides a learned perspective that neither the First nor the Second UN have the independence or vocation to produce. With so many developments in this field in the ten years that have passed since its publication, it clearly needs a second volume!

Should the Third UN be limited to academics, civil society and engaged individuals? Are there other categories that can also shelter within its span? Weiss rejects the idea of having any for-profit entity as part of the Third UN²¹. I agree that entities acting for profit do not fit. Thus, though consultants and contractors may add heft to the work of the UN, they remain part of the market. But I am inclined to be a little more flexible than Weiss. I recently completed a consultancy for UNDP in Bhutan advising on non-state actors and philanthropy. UNDP met my expenses but I of course did not ask for any fee or honorarium. Perhaps people in that position are called consultants but are in reality not part of the market but part of the Third UN.

Which leads to a question about corporations cooperating with the UN as part of their corporate social responsibility rather than their profit making purpose. There is a vast amount of knowledge and expertise in the corporate world that the international community could surely employ to further the goals of the United Nations. Perhaps we should begin to welcome them as thought leaders in their fields of expertise. That is why in 2013, wearing my other hat as Executive Director of the UN Office for Partnerships I invited the UN Department of Economic and Social Affairs to join in hosting an ECOSOC event to discuss the Solution Revolution, a concept and book²² by Deloitte partners William Eggers and Paul Macmillan that argues that the solutions to the world’s most pressing problems will only be found through dynamic partnerships of many sectors; public, private, civil society and academic. Deloitte is clearly part of the market economy but in relation to this research it might also have a foot in the Third UN.

Conclusion

The exact boundaries of each of the three UNs may be fuzzy and their inter-relationships may resist tight classification but the concept remains valuable. Perhaps the best way of understanding those relationships is by borrowing the economic doctrine of comparative advantage. The First UN, speaking as it does for the world’s governments, clearly has the advantage of authority and legitimacy. It ratifies and enforces the world’s

normative principles. The Second UN has the advantages of continuity, proximity and occasionally expertise. As a permanent secretariat it provides a good counterweight to the First UN's delegations that are constantly changing personnel. The Second UN also acts as a bridge between the First and Third UNs. But it is the Third UN which generates innovation and new ideas and is therefore indispensable to the UN "project". Let us hope that the next big idea that will move the UN and the international community germinates from a seed of a thought we have planted in the minds of one of our students.

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 3. *Ibid* 126. Compare for example with the 100,000 employees of the US Department of Agriculture.
 4. Edward Newman and Roland Rich (2004) *The UN Role in Promoting Democracy: Between Ideals and Reality*, UNU Press, Tokyo
 5. UN News Center "At Security Council, Ban and UN special envoy outline 'way forward' on political solution for war-torn Syria", 29 July 2015, <http://www.un.org/apps/news/story.asp?NewsID=51523#.VjzRzPmrTWI>
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 9. Boutros Boutros-Ghali (1999) *Unvanquished: A US-UN Saga*, Random House, NY. It is surely not by coincidence that the title of the book can easily be misread as UN Vanquished.
 10. Kofi Annan and Nader Mousavizadeh (2012) *Interventions: A Life in War and Peace*, Penguin Press, NY, 357
 11. <http://www.un.org/democracypund/guidance-note-un-secretary-general-democracy>
 12. Apart from Democracy, other Guidance Notes deal with subjects such as Rule of Law; Transitional Justice; Statelessness; Racial Discrimination; Justice for Children; and Reparations for Conflict-Related Sexual Violence.
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 22. William D. Eggers, Paul Macmillan (2013) *The Solution Revolution: How Business, Government, and Social Enterprises Are Teaming Up to Solve Society's Toughest Problems*, Harvard Business Review Press



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