



**Global
Challenges
Foundation**

Shake It Up: The Case for Reforming the United Nations (A Real Global Governance Model)

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The submission proposes to reform five specific areas of the UN, including: 1. Management, 2. Financing, 3. Human Resources, 4. Accountability, and 5. Legitimacy. On management, the submission proposes a new structure, evolving from a mere policy-making body to an executive body in charge of global governance; or from policy to management. On financing, the UN should reduce its dependence on national contributions and find alternative ways of financing, the proposal considers a tax on international financial transactions, and on the use of global public goods; additionally a court of auditors should be established with both auditing and jurisdictional functions. Regarding human resources, the submission suggests a structured career path based on other national foreign service career policies. Regarding accountability, the UN should withdraw from its privileges and immunities and be subject to national courts so as to ensure accountability. Regarding legitimacy, the next UNSG should be a former statesman, rather than an administrator. National parliaments should be allowed to propose regulations on global issues to the UNGA. The ICJ could perform the role of court of last resort to international tribunals and the UN's institutions.



1. Abstract

SHAKE IT UP: THE CASE FOR REFORMING THE UNITED NATIONS (or a real global governance model for the ideal of world peace)

They affirm, therefore, that the conservation of the world is a perpetual creation and that the verbs conserve and create, so antagonistic here below, are synonyms in Heaven.

Jorge Luis Borges, A History of Eternity

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ABSTRACT

The object of the present Global Governance Model Project is to reform and improve the United Nations System.

This Project proposes to reform five specific areas of the UN, including:

1. Management, 2. Financing, 3. Human Resources, 3. Accountability, and
5. Legitimacy. The Project puts forward that in these areas, it is politically and economically feasible to achieve an actual change that will improve the current global governance structure.

Accordingly, this is not an idealistic or revolutionary Project, proposing a completely new form of global governance. Rather, it is a reform proposal. The Project proposes to take the current global governance model embodied in the United Nations system as it currently stands and, maintaining those aspects which do work and changing what is not working.

Consequently, I would like to propose a feasible model of global governance. A



model that could actually be developed and implemented taking into account the current state of global affairs, as well as the limitations, challenges, and opposition that a change proposal will surely encounter; and I would like to propose a model that takes into consideration the actual political, economic, and bureaucratic interests that may play in favor or against the push for change in the global governance structure.

Why is reforming the United Nations so important? The world is currently facing major transnational problems and challenges that can only be solved through transnational tools and approaches. The UN comes immediately to mind as the global institution that may be able to solve these problems. However, as we can see every day in the front pages of any newspaper, the UN seems not to be up to the task. And yet, we need a global institution able and willing to face those challenges.

Why is the UN not working? The UN is no longer only a forum where countries meet to discuss policies. Now, the UN scope of work is much broader. The UN is increasingly undertaking the direct management of a wide array of operations and is being constantly called to assume the management of the so-called “global commons.” However, while the UN has assumed more and new functions over the years, the governance structure of the UN has not evolved. What the UN needs then, is a new model of global governance suitable to meet those new global challenges.

Why then has the UN not been reformed? Most studies and proposals dealing with the UN reform refer to highly political and sensitive diplomatic aspects of the UN. For example, the need to reform the Security Council is always brought up, along with the need to create, in addition to the General Assembly, another body directly representing the peoples of the world. However, as noted before, reforming these areas is not realistically feasible, as dozens of failed reform attempts over the past decades have shown.

Yet, there is plenty of room to introduce change without the necessary agreement from the five permanent members of the SC. Unfortunately and sadly, successive Secretary-Generals have been unable or unwilling to implement concrete measures to change the UN.

For that reason, while addressing those and other highly political issues, the reforms herewith proposed focus on five achievable goals: Management, Financing, Human Resources, Accountability, and Legitimacy. These areas are less politically sensitive and more technical, where a convincing case for reform may be made. Only the “Legitimacy” area may be seen as politically sensitive. While this is true, my proposal for this area concerns small and progressive steps to develop a more legitimate world governance model.

We only need to establish the need for this reform, catalyze the political will, and shake the UN to wake it up.

To sum up, this Project considers that

1. Improving UN Management would provide for a better governance of world affairs.



2. Improving UN Financing would increase UN monetary resources and thus enhance the capability to assist peoples and countries, while allowing for tighter control over fund allocation.
3. Improving the Human Resources policy would provide for better and more committed staffers and personnel, truly devoted to pursuing the UN goals.
4. Making the UN Accountable and subject to the Rule of Law, would not only bring fairness, but would also force the UN to improve its own performance.
5. Having not only a bureaucratic, but a Legitimate global governance model, would provide the world not only with a formal global framework but, what is definitely more important, would infuse the world with a global soul.

2. Description of the model

1. A NEW MANAGEMENT MODEL FOR THE UNITED NATIONS

The Charter of the UN grants the General Assembly the mandate to develop and adopt general policies, and instructs the Secretariat to actually implement these policies.(1)

Then, good management is required to reach those goals, to translate policy into concrete action, and to achieve results. However, while the UN has assumed over the years more and new functions, the managerial structure of the UN Secretariat has not evolved at the same pace.

The UN is no longer only a forum where countries meet to discuss policies.(2) It is indeed that, but the UN scope of work is much broader. Nowadays, the UN Secretariat is increasingly undertaking the direct management of a wide array of operations, prototypically in peacekeeping missions, but also in a broad variety of development programs in the field, and is being constantly called to assume the management and operation of the so-called “global commons.” In this regard, the functions of the International Seabed Authority; or, more specifically, the United Nations Platform for Space-based Information for Disaster Management and Emergency Response, could be mentioned as examples(3).

Again, the UN is no longer only an international forum, the UN is being called to provide for actual global governance. Thus, there is currently a gap between the global needs and the managerial, financial and human resources structures required to meet them.

1.1. The current management structure.

In a way, the Charter of the United Nations may be seen as its “Constitution.” Replicating -to a certain extent- national constitutions, the Charter establishes the main organs of the UN(4). Thus, the General Assembly would be a parliamentary body; and the Security-Council a sort of second chamber of the parliament with executive powers. In turn, the Secretariat may be seen, to a certain extent as an executive branch of a national government, and the International Court of Justice, resembles, well, a national judiciary. Accordingly, the General Assembly and the Security Council are the main policy making organs, while the Secretariat is



in charge of implementing those policy decisions. This governance structure may work relatively well at the *policy*-making level, but, as seen, not so much at the *managerial* level.

Still, the UN has been replicating this same scheme *ad infinitum*. Every single UN agency replicates this structure: one executive office or “Secretariat;” plus one parliamentary body called “Assembly,” “Conference,” “Commission,” “Committee,” or “Board.”(5)

For example, this is the basic administrative structure of agencies as different, and dealing with such different issues as the United Nations Office on Drugs and Crime (UNODC), the United Nations Industrial Development Organization (UNIDO), or the United Nations High Commissioner for Refugees (UNHCR).

The executive officers of these UN agencies are appointed by the Secretary-General of the UN, and the staffers are UN personnel. However, the parliamentary bodies of these agencies are composed of representatives of member states.

Although this dual setting may look interesting, since the parliamentary body may provide legitimacy and political guidance, while the executive office may provide technical expertise and executive functions, reality shows a different picture.

The first problem involves the chain of command. That is, in the case of the United Nations Office on Drugs and Crime (UNODC) it may be difficult to determine who is in charge. Is it the chairperson of the parliamentary body of UNODC, which is called the “Commission”? Or is it the Secretary-General of the UN? In other words, should the Executive Director of UNODC follow instructions from the Secretary-General or from the Commission?

In turn, should the Commission represent the “general interest of humankind”? Or does the Commission actually act on behalf of the competing national interests of its member states?

The competition among the diplomats within the Commission, and the competition between the Commission and the Executive Director of the UNODC constitute yet other layers of power struggle.

Further, the Commission is not a standing body. The Commission meets only once a year, and its representatives have other positions back in their countries. The Secretariat of UNODC, on the other hand, is a permanent bureau, a standing agency, staffed with full-time personnel. These different functions, priorities and interests are destined to clash.

This gap between the work of parliamentary and executive bodies has expanded over the years. As noted before (see Section 1), the main reason behind this is that executive bodies do not only provide secretarial or mere administrative assistance to the parliamentary bodies; executive bodies have undertaken and assumed more and more operational functions, increasing the number of its staff, its budget, and in short expanding its power. However, the organizational framework has not evolved.



1.2. How to improve the management structure.

We may now state the obvious, but sometimes this is necessary. Basically, in those areas where the UN is in charge of operations and direct management and of implementation of programs in the field, the managerial structure of the agency in charge should suit its purpose.

In what follows, put forward some simple and basic ideas on how to improve the managerial structure of the UN(6).

First, executive directors, who have become more than administrative officers and their functions are closer to that of CEOs, should -first of all- be qualified for the position.

Second, executive directors should be appointed exclusively by the Secretary-General, and report only to the Secretary-General.

Third, they should enjoy the necessary discretionary managerial powers and have the required material resources to reach the goals of their programs.

As a counterbalance, managers should be properly evaluated, and held accountable (see Section 3)

In turn, the number and composition of the different parliamentary bodies should be significantly reduced. The UN just cannot have in place hundreds of different and overlapping boards and committees (7). This is not just counterproductive, but also extremely expensive.

The General Assembly may establish one, and only one, specialized committee overseeing these specialized agencies, and the Secretary-General may have a greater control over them.

In short, the UN needs to work towards a centralization of its own structure (8). Today, on the other hand, we are witnessing how centrifugal forces are tearing the UN apart. It seems as if there is not a single UN, but many little UNs, competing among them for a small line in the UN budget.(9)

1.3. A renew coordination management function for the UN

As noted in the previous paragraph, the current global governance structure is being broken by centrifugal forces. Not only the UN seems to be being broken into dozens of small quasi-independent agencies, but at the same time dozens of new international intergovernmental organizations are being created. The work of all these agencies and international organizations usually overlaps. That is why the UN needs to undertake a more active coordination role of this universe of global institutions competing, but not cooperating, for global governance.

The UN has already taken some measures to try to harmonize its work issuing a policy called “One United Nations.” In addition, at a broader level it has established the UN System Chief Executives Board for Coordination (CEB), which is highest-level coordination forum of the United Nations system, including not only UN agencies but also a wide range of different international organizations.



Under the leadership of the UN, these two coordinating mechanisms need to be enhanced in order to produce a better coordination of international intergovernmental organizations.

2. A NEW FINANCING MODEL FOR THE UNITED NATIONS

The UN needs material and financial resources in order to perform its duties and carry out its mandates. This includes paying the cost of the ordinary expenses of the organization, such as paying salaries, maintenance of facilities, paying rents for office space, financing operational costs, buying services such as electricity, gas, travels, and the like. In addition, these financial resources are also needed to cover extraordinary expenses such as financing peacekeeping operations.(10)

The budget of the UN has grown exponentially over the years, as mentioned earlier (see Section 1), due to the assumption by the UN of an increasing number of competences at the international level.

2.1. The current financing structure

Currently, the UN is financed through two main sources: the assessed contributions, and the extra-budgetary contributions. This is never enough to meet increasingly demanding global needs; and it is not always easy to find and collect these funds as member states (the contributors) may be reluctant to make their contributions.

In accordance with article 17 of the Charter, the Secretary-General is in charge of the preparation of the budget of the organization, which then has to be approved by the General Assembly. Once the budget of the UN is approved, it is up to the Secretary-General to manage and allocate the financial resources among the different offices and departments of the UN(11).

The decision of the GA approving the UN budget is mandatory for its member states, and these assessed contributions constitute the regular budget of the UN. Over time, the GA has established a set of criteria that must be taken into account in order to prepare the budget of the organization.

Due to the increase in the UN budget, there is also an interest by member states to control how these financial resources are spent. In the past, the UN Secretariat enjoyed a broader discretionary power over the allocation of financial resources contributed by member states. Currently, due to the increase in the budget, and to some serious cases of mismanagement and even corruption within the Secretariat, member states have introduced a set of control mechanisms, including earmarked budgets, and rigid budgetary rules.(12)

However, while helping in assessing the way in which financial resources are allocated, these control measures have made the budgetary structure too rigid, not allowing for any degree of flexibility to adjust the budget to new circumstances.

In addition, regular financial contributions by member states to the UN budget, or voluntary contributions to specific projects, have granted the contributing country greater influence over the UN, contradicting the independence principle set up in the Charter.(13)



If one single member state such as United States contributes almost 22% of the budget of the UN, it is clear that this member state can significantly influence the decisions made by the beneficiary of those funds.(14)

That is why, one of the key questions for the future of the UN, and for the future of global governance in general, consists in solving the dilemma between getting funded by member states and at the same time maintaining independence from them.

2.2. How to increase the funding (and control the spending)

One of the possible solutions to this puzzle is to lower the maximum cap contribution to only 10% of the budget, so no single country can have too much weight on the UN decision making process. This will of course require that other members fill the gap. Accordingly, the new emergent powers such as Brazil, India, China, South Africa, Mexico, and Russia, as well as middle income countries should be ready to increase their contribution to the UN budget.

If this gap is filled collectively, the increase in contributions from each country would be negligible. Then, a dual goal would have been achieved: First, the UN would have gained “autonomy,” as it would not depend on contributions from a single country. Second: the UN would no longer be a “burden” for any single country.

A second alternative would be to establish a transnational tax, such as the so called “Tobin Tax,” to international financial transactions.

A third and related option consists in charging a special contribution or tax to member states for the administration of “global public goods,” such as the deep ocean, or outer space.

Necessarily, the second and third options will require a much more complex and sophisticated UN structure (Section 1), subject to proper checks and balances (Section 3), and the political will of member states to grant such a power to the UN (Section 5).

A fourth option for the various UN agencies and programs is to raise their own money. This is also problematic because any given UN agency managing its own budget may become quasi-independent from the Secretariat, fueling the centrifugal force that may tear the UN apart (Section 1.3). In addition, an important (public or private) donor may gain (again) too much influence over the recipient agency.

3. MAKING THE UNITED NATIONS ACCOUNTABLE

The UN is particularly paradoxical on this matter. On the one hand, one of the UN main goals is to promote the rule of law. However, the UN itself is, somehow, above the law. For example, the decisions of the Security Council are not subject to any judicial control (unlike executive orders of the president of a country, which is subject to judicial scrutiny). More generally, the work of the UN is “protected” by privileges and immunities, so the UN cannot be brought before any national court of justice, nor be subjected to any national law. Thus, in practice, nobody oversees the work of the UN.(15)



This lack of accountability has a double negative effect. First, it leaves people affected by UN decisions without any kind of remedy. Second, it promotes a “culture of carelessness.” That is, managers know that they are almost untouchable no matter what, so they do not consider the possible consequences of their decisions, because if something goes wrong, they will not be held accountable. (see Section 1)

This lack of accountability is unthinkable in the case of public officers from national governments, who are subject not only to judicial control but also to regular elections.

The increasing need for accountability is directly linked to the increasing assumption of more responsibilities by the UN Secretariat (Section 1). As noted, the UN is no longer only a policy making body, and the UN Secretariat is no longer only a clerical office. Nowadays, the UN, through its Secretariat, is developing and implementing policies, programs and projects in the field, and in doing so, the UN performs concrete actions, manages financial resources, hires employees, and concludes contracts with third parties and contractors. In a word, the UN enters into a variety of relations from which rights, but also obligations and responsibilities arise.

Accordingly, apart from updating its management and financing structures to adapt to current responsibilities, both the UN and its Secretariat must be subject to *external* control. If one of the most significant roles of the UN over the past years has been to -or try to-, bring governments under the rule of law, now is perhaps the turn for the UN to subject itself to the rule of law.

3.1. Privileges and immunities

To understand what immunities are, we need first to first to briefly explore the concept of immunity of nation states, and then try to find the similarities and differences of this same idea of “immunity” when applied to international organizations.(16)

The immunity of nation states is based on the principle of sovereignty. During the late Middle Ages, the incipient modern state was embodied in the person of the monarch. The monarch did not only embody the concept of “state” but also claimed to have received his authority directly from God. Therefore, given its origin, the king’s authority had to be necessarily benign. The idea of bringing a claim against a king for any wrongdoing was, then, logically impossible. This idea was expressed under the maxim: “the King cannot do harm.” It was only after the separation of the “ruler,” as a concrete human person, from the “state,” as an abstract organization, that the concept of state responsibility and the subjection of the state to the rule of law started to unfold.

At the international level, the immunity of states is based on the same principle. National states enjoy immunity of jurisdiction because states are sovereign organizations, and as such, they cannot be subject to the authority (of the courts) of another state. States are equals among them, so, from a formal legal point of view at least, no single state is allowed to impose its own will over the other. As the Roman maxim goes “par in parem non habet imperium.”



Nation states enjoyed the so-called “absolute immunity” for a long time. In a nutshell, this implies that the state can never be sued in a foreign court. Over the years, however, a distinction between *acta iure imperii* and *acta iure gestionis* was established. This differentiation implies that when the state is performing functions involving its public capacity, i.e., *iure imperii*, it enjoys immunity. However, when the state is performing functions involving its private capacity, i.e. *iure gestionis*, it is no longer protected by immunity, since, in these cases, the principle of sovereignty does not longer apply. This dual criterion was established by case law, and then formalized in most national legislations on the matter.

This dual criterion of immunity has not been transferred to international organizations. The main reasons for this is that the Convention on Privileges and Immunities of the UN does not make any distinction, so the UN still enjoys “absolute immunity” regardless of the private or public nature of its acts. It may be argued that the UN does not have “imperium” since the UN is not a state and cannot “enforce” decisions or pass binding rules. However, the Security Council does have the power to impose binding decisions, and there are a small number of IOs that also enjoy supranational authority.

Regardless, it is still possible to distinguish between the “policy making” and the “policy implementation” spheres of competences of the UN. When the UN issuing a resolution or establishing rules and regulations, these functions may be characterized as “public functions.” Whereas when the UN is procuring goods or services from private contractors these functions should fall under the “implementing function” category.

Accordingly, international organizations, and among them, the UN, should be subject to national courts when acting in their implementing capacity, that is, when performing functions which are not linked to its policy making mandates. It goes directly against any idea of justice, and the concept of rule of law, that the UN may not be held responsible if it does not pay the rent for an office, when a worker is fired, or if someone gets hurt when building a facility in the field.(17)

3.2. The Board of Auditors

Accountability and financing meet at the office of the Board of Auditors.(18)

The current UN Board of Auditors (BoA), which mandate is to audit the accounts of the UN organization and its funds and programs, and to report its findings and recommendations to the General Assembly, is not the proper organ to actually control how the UN spend national tax payers moneys. This is mainly because the BoA is entitled only to make *recommendations* to the General Assembly. That is, the BoA does not have power to implement or enforce them. So, even if the BoA establishes a serious case of mismanagement of financial resources, the GA may completely ignore that.

What the organization needs is a sort of “Court of Auditors” with both auditing and jurisdictional functions. That is, a Court with competence to hear and decide on cases potentially involving the liability of UN officers in the management of the UN public funds, and, more importantly, with power to actually enforce these decisions. Every single country in the world, and even the European Union, has some kind of court of auditors, but not the UN.



4. A NEW HUMAN RESOURCES POLICY FOR THE UNITED NATIONS

Whatever is to be done, it has to be done by people, individuals, workers, staffers: they have to be ready to do so, prepared and willing to act. Whatever strategy, policy, programme, plan, or project developed within the UN, it has to be necessarily carried out by UN staffers. If a brilliant policy is badly executed that policy will fail, it may be even contra productive. Accordingly, there is a need for highly qualified and motivated staffers. Currently, this is not happening.(19)

4.1. The current human resources policy

Presently, the selection and promotion of staffers is almost in its entirety in the hands of hiring managers, who has almost absolute discretion to choose whomever he or she wants. This situation leads to cronyism, nepotism, and trading in influences.(20)

In most countries, developed and developing alike, the foreign service (and in many cases the judiciary, and the civil service) is very well organized and structured. After passing a competitive entry exam, successful candidates have the chance to follow a more or less structured career path. They will work at their home countries for some time, then they will be sent abroad, after gaining experience abroad they will come back home, they may need to pass second exam to get further promotions, and so on. As a result, countries create a *cadre* of experienced and qualified civil servants, devoted to their countries, and to their careers.

The UN has nothing like that. There is no career structure or path in the UN, staffers have to find their ways on their own. The UN does not have cadre of long term professionals fully devoted to the UN goals, neither to their careers.(21)

Worse, generally diplomats from member states regularly “jump” for a while to the UN and then go back to their governments. That is, career diplomats from member states usually take a leave from their national position to undertake a position with the UN. In doing so, they displace other possible internal candidates, and their use their political influence to get the post. But the worst part is that these diplomats would keep a foot on their governments and the other on the UN, making any idea of “autonomy” of the UN a complete illusion.

4.2. How to improve the human resources policies

As it was the case when analyzing the problems of the managerial structure of the UN, we need to state the obvious, again: If the UN is going to pursue and achieve its goals, the UN needs professional and motivated people.

For this, the UN has to develop a structured career path based upon the foreign services careers of its own member-states. Simple but very effective measures may be taken right away. The selection and promotion of staffers should be improved by including mechanism to ensure transparency in the selection process.

For example, the introduction written examinations anonymously assessed by the human resources office but not by the hiring manager, followed by oral and public interviews, would definitely improve the personnel selection process.

Thousands of highly qualified and motivated staffers would contribute with their own ideas, develop their own plans and projects, and try to make a difference.



Thousands of qualified and motivated staffers will push from the “bottom up” for the required change, on a daily basis, from their own offices, while performing their everyday work. Having a good Human Resources policy will liberate the energy and creativity of thousands of staffer, push the morale up, and create a critical mass for change.

5. INFUSING LEGITIMACY INTO THE UNITED NATIONS

As we know, the world is currently facing new serious *transnational* problems and major *transnational* challenges that can only be solved through *transnational* tools. The UN comes immediately to mind as the global institution that should be able to solve these problems and face those challenges. Is the UN up to the task? It should, as the world needs a global institution able and willing to undertake global governance.

However, it seems that currently, the UN is not fully responding. Those transnational problems are still out there and multiplying, and we are only putting patches here and there. To go to the roots of the problems, to address these challenges in a comprehensive, systematic, legitimate and efficient manner, the UN has to reform and improve itself.

However, any serious reform will be possible only if UN member states are willing to do so. Thus far, the will to reform seems not to be there. Why?

The great dilemma of our times is perhaps the existing gap between the traditional national politics and the new transnational challenges. Logically, as said, those transnational problems cannot be solved by national policies; they can only be solved through transnational tools.

Yet, the required legitimate power to solve them can only be found in national democratic governments.

Thus, until there is a transfer of legitimate power from the national level to the transnational one, from nation states to international organizations, the UN will never be and efficient, strong and legitimate organization providing governance to the world; and, worse, all those transnational problems will remain open.

In other words, no matter how sophisticated the proposed model for global governance is, if it is not a legitimate model, it is destined to fail. This is because a governance model *cannot* only be built on formal procedural structures. A governance model role must provide the frame to catalyze and channelize power, legitimate power. A governance model structure without power is like bones without flesh, like a body without a soul.

Because of this, in addition to the formal governance formats proposed here, it is still required to provide a way to develop a substantive governance model able to catalyze and channelize legitimate power.

5.1. A more legitimate Secretary-General: A world leader wanted

One of the key problems facing the UN is the lack of legitimacy and leadership. Although the goals of the UN are clearly set forth in the Charter of the UN, successive Secretary-Generals have not been able or willing to build an organization completely able to achieve its goals.(22)



It is true that SGs are chosen by the member states of the UN. Member-states prefer relatively weak bureaucrats to strong political leaders; otherwise, a UN SG might become a problem, a contender in case of a conflict of interests between the UN and a member-state.(23)

On the other hand, it is understandable that member states do not want a competitor, or even worse, a judge over them. This is understandable from a *realpolitik* point of view, but is also understandable from a *legitimacy* point of view.

That is, a president or a prime minister of a member state of the UN is, generally speaking, democratically elected. The SG of the UN is not. So, why should a president, fully legitimated by the vote of the people, have to follow orders from a non-elected official?

True and real leadership is built from below, from the bottom-up; moreover, a legitimate leader is chosen by the people, is a democratic leader, who represents the people and acts on their behalf. These two key elements are completely missed in the case of the SG of the UN.

This tension, or better, this gap between the nature of the source of the power of the UN SG and the nature source of the power of its member states is present in every instance of the work of the UN.

However, realistically, the world is not ready yet for an actual “world government”, and will not be for a long time. Thus, the international community is neither yet prepared nor willing to have anything close to a “world president.”

Yet, with the purpose to overcome one of the important weaknesses that successive Secretary-Generals of the UN have been facing, which is the lack of legitimacy, we propose that the next SG be a former president of a country. That is, the next SG should follow the precedent just set by the current SG, who is himself a former president.

The next Secretary General should not be a diplomat or a former minister of foreign affairs. As we have demonstrated in this Project proposal, the UN is no longer only a diplomatic forum, but an organization undertaking global governance responsibilities. Accordingly, the next Secretary-General could not be only a diplomat. He or she should have, of course, diplomatic skills, but also managerial skills, and, overall political skills. In addition, the next Secretary-General should enjoy the legitimacy and gravitas that only elected chiefs of the executive branches of governments have.

5.2. A more legitimate General Assembly

Ideally, a truly legitimate global governance model would require some sort of democratic parliament. Some international intergovernmental organizations such as the European Union, the Comunidad Andina de Naciones (CAN) the Mercado Comun de Sud America (Mercosur), and the Economic Community of Western African States (ECOWAS) have established democratic international parliaments. These democratic international parliaments are composed of representatives directly elected by the people, and have competence over a wide range of regional international matters. These democratic international parliaments are unique, and are showing the way for a democratic model of global governance.



Yet, bringing those regional models to a global stage would not be possible yet. Ideally, the world should have a sort of “world parliament” composed of representatives from the peoples directly elected. And perhaps also composed of representative from the parliaments of nation states. Thus, this would bring the global “*demos*” and the global “*demoi*” to the world parliament. But this would not be possible yet.(24)

Nevertheless, we would like to propose an alternative. As we know, the General Assembly adopts “resolutions” and even adopts “treaties”. These resolutions lack legal force, unless they are incorporated as “laws” into the national legal systems by an act of the national parliaments. The same is true for the adopted treaties, which have yet to be ratified by national parliaments to become legally binding. Accordingly, there is a sort of communication channel from the GA towards national parliaments.(25)

We propose to have a two-way channel. That is to establish a mechanism whereby national (democratic) parliaments can propose regulations to the GA. That is, whenever a national parliament considers that a global issue requiring a global regulation exists, that parliament should be allowed to forward a proposal for a regulation to be considered by GA.

This mechanism would not only open up the GA to the rest of the parliaments of the world, but would also enhance the role of the GA as a sort of world chamber, where all the voices would be heard. Moreover, it would infuse the GA with (although indirectly) some of the democratic legitimacy of national parliaments.

5.3. A new legitimating role for the International Court of Justice

Unlike the case of national governments, there is not actual separation of powers in the United Nations. There is no proper system of check and balances, and the resolutions of the Security Council and the resolutions of the General Assembly are not subject to judicial review; the General Assembly has no overseeing power over the Security Council, and the decisions of the International Court of Justice (ICJ) are not revisable.(26)

As shown before, (section 3), the UN, and the rest of the international intergovernmental organizations competing for global governance are immune to national courts and national judges. Thus, the current global governance structure not only fails to be democratic, but also fails to be republican.

Further, there is not only a multiplication of international organizations, fragmenting any idea of a harmonized global governance model, but in parallel, a dozen international tribunals have been established, also fragmenting the idea of a common rule of law.

Then, there is a need for coordination and harmonization, as the world governance requires some common, shared, unfragmented principles to follow (see Chapter 3 of this presentation: Assessment Criteria. Core Values).

Would the ICJ be willing to undertake this challenge? For example, would the Court perform the role of Common Supreme Court for all of those international tribunals, in the sense of acting as a last resort appeal chamber, and also unifying the possible contradictory decisions of all these tribunals? This role would



definitely contribute to the harmonization of international law and to the incipient institutionalization of global governance.(27)

From another perspective, the competence of the Court should also be expressly extended over the United Nations organs: The General Assembly, the Secretariat and the Security Council.

Not only should the United Nations, a subject with international personality, be able to bring cases before the Court, but it should also, and more importantly, subject itself to the jurisdiction of the Court, and to the rule of law.

Can the Court reinvigorate its role as a proper judicial branch, and assert the separation of powers at the international level?

In this instance, if the Court became the supreme comptroller, who would control the Court? And this is the final question we would like to pose. The mechanism to elect and remove the judges of the Court should also be reviewed, and the Court itself should be subject to checks and balances.

3. Motivation

1. CORE VALUES

As proposed and developed along this Project, this is a reform proposal aiming at changing and improving five key and specific areas of the United Nations System, including: Management, Financing, Human Resources, Accountability, and Legitimacy.

I am not proposing to completely change the whole international system, and to start anew in every aspect of world affairs. Proposing a reform implies a plan to change those aspects which do not work, maintaining those which do.

Among the aspects that work well, the standard setting and rule making role of the United Nations System may be included. The Preamble of the United Nations Charter has established the fundamental standards and the basic principles that should rule governments and peoples alike.

The peoples of the United Nations are determined to “save future generations from the scourge of war,” have reaffirmed their faith in human rights, in the dignity and worth of the human person, in the equal rights of men and women, in the equal rights of nations large and small. The peoples of the United Nations are determined to promote justice, to strengthen the rule of law, to promote social progress and better standards of life “in larger freedom.” The peoples of the United Nations are further determined to practice tolerance, to maintain international peace and security, and to use armed forces only in common interests.

These basic principles set forth in the Charter, and further developed by the Universal Declaration of Human Rights and the core human rights treaties constitute a set of principles and at the same time goals, that epitomizes one of the finest moments in human history. After centuries of disagreements, we, the peoples of the United Nations, have reached a basic agreement on our basic



common and shared rights and obligations, and on how to try to secure them and protect them, and on how to try to achieve and implement them.

However, it is no longer a matter of standard setting. These standards are already clearly established. Now, the problem is that we, as humankind, have not reached those standards. We have missed the goals. We have not protected our human rights, we have not implemented them. We have not “employed the international machinery for the promotion... and advancement of all peoples.”

The problem lies then at the implementing stage, since the “international machinery” is malfunctioning. This Project proposes a feasible way to fix it.

2. DECISION MAKING CAPACITY, EFFECTIVENESS, AND COORDINATION

One of the key problems addressed by this Project is the poor decision making process of the current global governance structure, which is further hampered by the lack of coordination of global policies. Even when a good policy is developed, then it is usually extremely difficult to actually implement that policy. In a word, the current international decision-making process is a labyrinth.

One key reason for the current weakness of the global governance structure is the lack of understanding, or the lack of interest in recognizing that the world needs to actually *manage* global issues. That is, it is no longer enough to develop rules and policies, these policies also need to be implemented. It is not longer enough to describe and analyze global problems, we need to solve them.

As emphasized before, the UN is no longer only a forum where countries meet to discuss policies. It is indeed that, but the UN scope of work is much broader. Nowadays, the UN is increasingly undertaking the direct management of a wide array of operations, prototypically in peacekeeping missions, but also in a broad variety of development programs in the field, and is being constantly called to assume the management and operation of the so-called “global commons” or “global public goods.”

Thus, with a view to provide the UN with a new management model, this Project proposes concrete reforms in five key areas of the United Nations System, including Management, Financing, Human Resources, Accountability, and Legitimacy, aiming at improving and smoothing the decision making process. Then, these proposed changes will facilitate the actual implementation of those decisions. And finally, these changes will enable to measure the extent to which these decisions have actually achieved their goals, and how this has been attained.

The five key aspects requiring reform are interlinked. As explained in detail in Section b) “Description of the Model,” I propose a centralization in the management structure of the UN, granting more power to the executive directors (CEOs) of the UN, and to the SG. But as counterbalance, I would make the executive directors directly accountable to the SG. In addition, I would make both the decision makers and the decisions made subject to internal control and external judicial scrutiny. That is, the UN executive directors would be accountable for the decisions made. And the quality and effectiveness of the decision made would be also checked by a proposed Court of Auditors.



At the same time, I propose to improve the UN Human Resources policies. Since whatever strategy, policy, program, plan, or project developed within the UN must be necessarily designed and carried out by UN staffers, there is a need for highly qualified and motivated personnel. Competent and committed personnel will develop better policies and will better implement them.

Additionally, and as explained before, the current global governance structure is being broken by centrifugal forces. Not only the UN seems to be breaking into dozens of small quasi-independent agencies, but at the same time dozens of new international intergovernmental organizations are being created. The work of all these agencies and international organizations usually overlaps. That is why the UN needs to assume a coordination role of this universe of global institutions competing, but not cooperating, for global governance.

3. RESOURCES AND FINANCING

Currently, the financial resources of the UN are never enough to meet increasingly demanding global needs.

In addition to the existing financial methods, I propose three strategies to increase UN funding and financing. These strategies would also guarantee the UN autonomy, and at the same time would set a control mechanism on how these monies are spent.

It may sound counterintuitive, but first, the UN should lower the maximum cap contribution to only 10% of the UN budget per country, so no single country can have too much weight on the UN decision making process. This would of course require that other members fill the gap. Accordingly, the new emergent powers such as Brazil, India, China, South Africa, Mexico, and Russia, as well as middle income countries should be ready to increase their contribution to the UN budget. Lowering the cap contribution up to 10% of the UN budget per country would not only make the UN more autonomous, but would also generate a balance of power within the UN.

Secondly, a new transnational tax, such as the so called “Tobin Tax,” to international financial transactions should be established.

Thirdly, a special contribution or tax should also be imposed on member states for the administration of “global commons,” such as the deep ocean, or outer space.

Of course, this requires a much more complex and sophisticated UN structure, subject to proper checks and balances, and the political will of member states to grant such a power to the UN.

As said before, more funding for the UN requires better management to better invest that money, it requires better human resources to better administer it. More funding requires better accountability and transparency to check how the money is spent. And overall, more funding requires trust in a legitimate leadership that will provide for the “promotion... and advancement of all peoples.”

4. PROTECTION AGAINST ABUSE OF POWER (ACCOUNTABILITY)

The increasing need for accountability is directly linked to the increasing assumption of more responsibilities by the UN. As noted, the UN is no longer



only a policy making body, and the UN Secretariat is no longer only a clerical office. Nowadays, the UN is developing and implementing policies, programs and projects in the field, and in doing so, the UN performs concrete actions, manages financial resources, hires employees, and concludes contracts with third parties and contractors. In a word, the UN enters into a variety of relations from which rights, but also obligations and responsibilities arise.

Accordingly, in addition to updating its management and financing structures to adapt them to current responsibilities, both the UN and its Secretariat must be subject to *external* and *internal* control. If one of the most significant roles of the UN over the past years has been to -or try to-, bring governments under the rule of law, now is perhaps the turn for the UN to subject itself to the rule of law.

Regarding external control, the UN, should be subject to national courts when acting at the implementing level. That is, the UN should be subject to national judicial control when performing functions that are not linked to its policy making role. It goes directly against any idea of justice, and the concept of rule of law, that the UN may not be held responsible if it does not pay the rent for an office, when it fires an employee, or if someone gets hurt when building a facility in the field.

Regarding internal control, the function of the current Board of Auditors (BoA) needs to be reviewed. The BoA, which mandate is to audit the accounts of the UN organization and its funds and programs, and to report its findings and recommendations to the General Assembly, is not the proper organ to actually control how the UN spends national tax payers' moneys. This is mainly because the BoA is entitled only to make *recommendations* to the General Assembly. That is, the BoA does not have power to implement or enforce them. So, even if the BoA establishes a serious case of mismanagement of financial resources, the GA may completely ignore that.

What the organization needs is a sort of "Court of Auditors" with both auditing and jurisdictional functions. That is, a Court with competence to hear and decide on cases potentially involving the liability of UN officers in the management of the UN public funds, and, more importantly, with power to actually enforce these decisions. Every single country in the world, and even the European Union, has some kind of court of auditors, but not the UN. (For the accountability of the political organs of the UN see next section.)

5. TRUST AND INSIGHT

No matter how sophisticated a proposed model for global governance is; if it is not a legitimate model it is destined to fail. This is because a governance model can not only be built on formal procedural structures. A governance model role should provide the frame to catalyze and channelize power, legitimate power. A governance model structure without power is like bones without flesh, like a body without a soul.

In other words, peoples need to trust in their government. Peoples need to feel that the government is theirs. In short, peoples need to govern themselves. But this is only possible in a full democratic government, where the people through their vote, elect their representatives in the government. Sadly enough, a full democratic government if not feasible at the global level, at least not right now.



Yet, one of the key components of the Global Governance Model we are advancing here is the quest for legitimacy. Again, there will be no global democratic government in the near future, as perhaps we have not yet developed a global *demos*. Still, let us gradually and tentatively, propose a feasible way to infuse legitimate power into the UN.

As mentioned before, legitimacy is not an optional component of the governance model, but a necessary requirement for a realistic governance model.

Therefore, we propose the legitimization of the three key aspects of global governance: 1. A more legitimate Secretary General, 2. A more legitimate General Assembly, and 3. A legitimizing role for the International Court of Justice.

1. A more legitimate Secretary General (SG): To legitimize the SG, he or she needs to be, as is the case now, a former national president or national prime minister. Thus, although the SG would not be elected by the peoples of the world, she or he would still bring into the UN the legitimacy, stature, charisma and gravitas, that only democratic leaders pose.
2. A more democratic General Assembly (GA): To legitimize the GA, we need to open the GA to a legal dialogue with the rest of the world national parliaments. So far, only GA resolutions may be taken into account by national parliaments for their incorporation into national legislation. We hereby propose to open this communication channel the other way around, allowing these national parliaments to propose rules and regulations addressing global issues to the GA, and that the GA be required to address them. This two-way channel would not only open up the GA to the rest of the parliaments of the world, but it would also enhance the role of the GA as a sort of world chamber, where all the voices would be heard. Moreover, it would infuse the GA with (although indirectly) some of the democratic legitimacy of national parliaments.
3. A legitimizing role for the International Court of Justice (ICJ): The ICJ can play a legitimizing role as the watchdog of the rest of the UN organs: overseeing the General Assembly, the UN Secretariat and the Security Council, as the UN needs to subject itself to the judicial review, and to the rule of law. In a word, the ICJ should reinvigorate its role as a proper judicial branch, and assert the separation of powers at the international level.

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