

# New World



News and comment on the UN & UNA-UK

Summer 2013 // £3.00

## Rule of law

*The will of the  
people?*



**WITH** [Jan Eliasson](#) on the UN and the rule of law / [Richard Dictus](#) on the UN's volunteers / [Malcolm Evans](#) on torture and rendition / [Miša Zgonec-Rožej](#) on the International Court of Justice / The United Nations' legal immunity status



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- Connect people in the UK and beyond with the work and values of the UN
- Influence decision-makers and opinion-shapers to promote UN goals
- Stimulate debate and action on ways to make the UN more effective

**United Nations Relief and Works Agency Summer Fun Weeks 2013 for Gaza children**  
© UN Photo/Shareef Sarhan



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**Cover photo:** Timor-Leste holds second round of presidential election, April 2012. © UN Photo/ Bernadino Soares

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© UN Photo/Martine Perret

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### *In pursuit of justice*

#### **Hayley Richardson on the UN's rule of law mission**

Ever since the UN Charter and the Universal Declaration of Human Rights, the United Nations has been at the heart of shaping and defining the rule of law. More recently, the concept has seemingly become a regular feature on the international community's agenda.

In 2000, member states signed the landmark Millennium Declaration, which stated that the promotion of democracy and strengthening of the rule of law was crucial to achieving the UN's lofty aims. This year's report of the High-Level Panel on the Post-2015 Development Agenda has placed renewed emphasis on these themes as a key facet of sustainable development.

### ***The UN remains central not only to efforts to promote the principles of good governance, but also to putting them into practice***

But what do we really mean by the rule of law and who is responsible for its implementation? As Sir Jeremy sets out opposite, there is no easy answer to these questions. One of the most high profile examples of efforts on the global level to uphold the rule of law is the International Criminal Court (ICC).

Created 15 years ago to hold individuals to account for genocide, war crimes and crimes against humanity, the Court continues to face difficulties. In *New World online*, Mark Kersten looks at the Court's cases surrounding the post-election violence in Kenya in 2007/8, and its troubled relationship with other African states.

It is important to remember that the ICC operates under the principle of 'complementarity', which means that the primary responsibility for the pursuit of justice lies with the state. How best to do this is not merely the concern of conflict-affected or developing countries; Western governments also grapple with rule of



law issues. Observers in the UK will have noted the heated debates in recent months over the Ministry of Justice's proposed changes to legal aid, the government's so-called 'secret courts', and the UK's often testy relationship with the European Court of Human Rights.

The UN too faces its own accountability questions. As our feature explores on page 16, although the UN has made some headway in how it deals with individual staff members who have committed offences, much more remains to be done to address the challenges raised by accusations against the UN as an institution.

Despite this, the UN remains central not only to efforts to promote the principles of good governance, rule of law and democracy, but also to putting them into practice. This issue of *New World*

seeks to cover just some of the many ways in which the UN does this.

The essay from Deputy Secretary-General Jan Eliasson (page 12) provides a broad overview of the UN's role, whilst pages 10–11 provide a closer look at the International Court of Justice, better known as the 'World Court'. On page 8, Malcolm Evans explains why upholding the absolute ban on torture is so important, and on page 9, Richard Dictus shares the experiences of the UN Volunteers paving the way to democracy all over the world.


As Jan Eliasson says in his essay, "every organisation and actor has a role". At UNA-UK we campaign for effective international laws and institutions. On page 24, Trevor Evans reports on the passing of the Arms Trade Treaty in April: a success story for civil society and international law alike. ●



Anonymous mask and goggles for protection against tear gas sold during Taksim Gezi Park protests, Istanbul, Turkey ©Ali Kabas / Alamy

## New World online

UNA-UK now has a dedicated mini-site featuring all the content from the print issue as well as a host of web-exclusive articles and opportunities for readers to engage with us.

 Web content is flagged in the magazine with this symbol.

As always, we welcome your thoughts, comments and suggestions. Email the editor at richardson@una.org.uk

*New World – required reading for global citizens from all walks of life.*

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## Whose rule and whose law?

**Sir Jeremy Greenstock, UNA-UK's Chairman, on the difficulty of putting rule of law principles into practice**

The rule of law is a good thing to put at the heart of the promotion of democracy, sustainable development and human rights. But it is as hard to realise in practice as the other central mantras of 21st century progress, because of the key question: whose rule and whose law?

At the national level, the law is part of a constitutional system of rights and responsibilities that apply both to government and the governed. There is hardly a single society that shows unanimous support for that system, because it reflects the prejudices of the group in power when it was established. The rule of law and natural justice can be perceived as two different things.

At the international level, the structure is even more uncertain, because the compromises underlying the establishment of new institutions are closely related to contemporary power holdings and paper over a wider set of stakeholder preferences than in a national setting. The upholding of international law then becomes a competition between perceptions of order viewed through a prism of national interest. It is extraordinary to witness in this present era, for instance, the contrast between the image of the US as the great champion of democracy and its reputation as a subjective and unilateral authority on the international stage.

The law needs three things: good statutes, good police and good courts. It most especially needs good courts, because the wisdom of judges can sometimes make up for deficiencies in law-making or policing, just as their corruption or foolishness can ruin the other two. In our international institutions we have an excellent set of principles, conventions and treaties, but barely any form of international policing beyond the ad hoc, and only the beginnings of a court system dedicated to holding contraveners to account. There is no recognised appeal process or supreme legal authority, except possibly in the hands of the Security Council if it proves capable of acting

steadily in the global interest. That hope is not supported by the empirical record.


## People power is starting to bear down on what constitutes natural justice

The rule of law is anyway beginning to be tested in new ways. The second decade of the 21st century is turning into the decade of protest. Turkey, Brazil and Egypt, each in their own rather different circumstances, have experienced explosions of popular feeling that are all the more surprising for the degree of progress each has recently made in establishing political systems that respond to the will of the people. In all three places, the authorities have sought to keep order through firm police action where they see the law as having been broken, or security threatened, by protestors. Yet international sympathy has for the most part lain with the demonstrators. We come back to the question: whose rule and whose law? Are we moving into an era where right is seen to lie with the people just because they want better government?

Every government makes mistakes. Power breeds arrogance. Yet people need government. So what we really mean by the rule of law is the good rule of good law; and what is 'good' becomes subjective. This is where I sense the continuing, even the growing, importance of the United Nations, in not only setting the standards of good government through its collection of global norms, principles and rights, but also in working with governments, if necessary through the application of a Security Council resolution in a particular conflict or post-conflict situation, to implement those principles. People power is starting to bear on what constitutes natural justice, and changes in the law, both domestic and international, are liable to follow. For the moment, the onus is on governments to listen. ●

### ● Two years on in South Sudan

South Sudan marked two years as a sovereign nation in July. Despite the initial progress it made after formally gaining independence from Sudan in 2011, the country continues to face serious challenges. On 24 July, South Sudan's President Salva Kiir sacked his entire cabinet and UN personnel have experienced a number of recent attacks, some including fatalities. The Security Council has extended the UN Mission in South Sudan by a further year.

 Visit [www.una.org.uk/magazine](http://www.una.org.uk/magazine) for a web exclusive on peacebuilding in South Sudan

*“It is impossible to look at democracy in isolation from the rule of law and human rights”*

*UN High Commissioner for Human Rights Navi Pillay at a Human Rights Council panel discussion on the rule of law*

### ● A 20th anniversary in Vienna ...

In June the UN marked the 20th anniversary of the Vienna Declaration. The landmark declaration was adopted at the World Conference on Human Rights in 1993, which established the Office of the High Commissioner for Human Rights and set out a common agenda for the realisation of human rights around the world. Current High Commissioner Navi Pillay said that, despite progress, “human rights are still not universally available”.

### ● ... and in the Hague

June was also the 20th anniversary of the International Criminal Tribunal for the former Yugoslavia (ICTY). The ICTY was tasked with trying those accused of war



crimes committed during the conflicts that resulted from the break-up of the Balkan state during the 1990s. Established by the UN Security Council in 2010, the Hague branch of the Mechanism for International Criminal Tribunals officially took over the functioning of the ICTY on 1 July, ahead of the Tribunal's expected completion in 2014.

### ● UN peacekeeping mission in Mali

On 1 July, the African-led International Support Mission in Mali was replaced by a UN peacekeeping mission. Mali experienced civil unrest when, in 2012, Tuareg rebels took control of the north of the country. With a peace agreement in place, elections were held on 28 July. The UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) will eventually comprise over 12,000 troops, making it the organisation's third largest mission. MINUSMA is mandated to maintain security, protect civilians and support the political process.

### ● New political mission in Somalia

In June a UN political mission was launched in Somalia to support the federal government's peace and reconciliation process. Just weeks into the new mission, however, the UN's compound in Mogadishu was attacked, reportedly killing up to 15 people. The Special Representative of the Secretary-General in Somalia, British diplomat Nicholas Kay, described the attack as “a desperate attempt to knock Somalia off its path of recovery and peace building”.

### ● Milestone for African Justice

Senegal has charged former Chadian leader Hissène Habré, with war crimes, crimes against humanity and torture. Mr Habré is accused of the killing and torture of thousands during his 1982–90 presidency. The trial will take place in the Extraordinary African Chambers, a court that sits within Senegal's legal system but will consider international criminal law, and was specially created for the case through an agreement with the African Union.



MINUSTAH peacekeepers patrol rock and debris littered streets near the National Palace, Haiti, following three days of protest against escalating food prices in 2008 © UN Photo/Logan Abassi

● **Kenyan elections pass peacefully**

In March, Kenyan voters elected Uhuru Kenyatta as president in what was a largely peaceful election. Utilising the Responsibility to Protect framework, the lead-up to the election saw increased national and international efforts to improve inter-ethnic relations in order to prevent a repeat of the violence experienced in the country after the 2007 election. President Kenyatta was indicted by the International Criminal Court (ICC) on charges of crimes against humanity for his alleged involvement in fuelling the 2007 violence. His trial is currently scheduled for November 2013.

W Visit [www.una.org.uk/magazine](http://www.una.org.uk/magazine) for a web exclusive on the ICC and Kenya

● **Calls for accountability in Sri Lanka**

At a session earlier this year, the UN Human Rights Council passed a resolution calling for reconciliation and accountability in Sri Lanka. Although

the civil war officially ended in 2009, Sri Lanka has yet to fully implement the recommendations of its Lessons Learnt and Reconciliation Commission. The resolution also expressed concern over “threats to judicial independence and the rule of law”. In January the Sri Lankan Chief Justice Shirani Bandaranayake was impeached by the government, a move which was widely denounced.

● **Progress for domestic workers**

Italy has ratified the ILO Domestic Workers Convention, becoming the first EU state to do so and bringing the total ratifications to nine. The convention, which will come into force in September, aims to improve working conditions for the estimated 53 million domestic workers worldwide. UNA-UK has previously called on the UK to ratify the Convention.

W For more information visit, [www.una.org.uk](http://www.una.org.uk)

● **Morsi ousted in Egypt**

In response to anti-government protests which saw millions take to the streets, on 3 July, Egypt’s President Mohammed Morsi was removed from office by the country’s armed forces. A number of protesters have been killed in the subsequent unrest. The constitution has been suspended and an interim government sworn in with parliamentary elections scheduled for 2014.

● **UNDP’s rule of law assistance**

In July, the United Nations Development Programme (UNDP) held its annual meeting on the rule of law, which focused on support for crisis-affected and fragile situations. UNDP recently released its annual report on this area of its work, which assesses the justice and security assistance it provides to more than 37 countries worldwide.

W Visit [www.una.org.uk/magazine](http://www.una.org.uk/magazine) for a web exclusive on the UNDP’s rule of law work

In 2012, UNDP in Pakistan provided

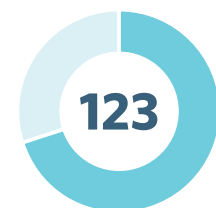


mobile legal aid clinics



people attended these clinics, 37% of whom were women.

Legal representation was provided for



community members, 70% of whom were women.

Source: *Strengthening the Rule of Law in Crisis-Affected and Fragile Situations, UNDP 2012*



## **Malcolm Evans** on the challenges posed by torture to the rule of law and principles of democracy

Lawyers often think in terms of cases, and cases are often seen in terms of pitching one set of arguments against another. In truth, sometimes this can be very misleading. There are often considerable areas of agreement between parties and the points that divide them, though critical, can be very fine ones indeed, requiring compromise between the competing interests.

But this is not always so. Some cases involve a clash of ideas which are simply diametrically opposed to each other. When it comes to issues of torture, and of rendition to face torture in other countries, it is vital to be clear that we are dealing with ideas which are fundamentally incompatible with democracy and the rule of law – and there is no room for compromise.

Democracy is, at heart, about living under a system of participative governance – where “we, the people” take centre stage. To live under the rule of law is to live within a system in which laws are applied consistently, openly and impartially. Torture and rendition represent the very opposite of this. Human rights, in many ways, attempt to define the boundary between what the state may and may not do in the common interest, and there is no doubt that one of the foremost principles

of human rights law is that which is established in the UN’s Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Since torture represents the most extreme form of subordinating the individual to the purposes of the state, it is not surprising that it is prohibited in so absolute a fashion. To permit a state to torture an individual is to cross every boundary that the rule of law is intended to protect.

When put in this way, the idea that these problems can be avoided by the simple expedient of sending people abroad to be tortured by others elsewhere – extraordinary rendition – instantly appears for what it is: a shameful attempt to avoid the rule of law, which merely compounds this fundamental incompatibility. What is most worrying, it seems to me, is that those states who claim to be dedicated to democratic governance seemed to have been able to convince themselves otherwise.

And there still remains a degree of ambivalence towards prohibiting the use of evidence which might have been acquired through torture in court proceedings, and a degree of sympathy for the use of such information in the security context.

Some, however, argue that this incompatibility need not be so, and that

it is possible to reconcile democracy and the rule of law with such practices. Why not “legalise” torture, if this is what the majority wish – thus making it both “democratic” and a reflection of the rule of law, rather than a violation of it? Even setting aside the point that such domestic laws would violate the international law of absolute prohibition, is it really possible for democracies to legislate to deliberately inflict intolerable pain on people and still have democratic legitimacy? Although we legislate to punish those who break the law, we have long ago abandoned punishing people in such ways as this.

Moreover, if a system permits you to torture a suspect, who is to decide if a person is to be tortured? A judge? A prosecutor? An interrogator? On what basis? According to what procedure? And would there be an appeal? To whom? And how? All of this is hardly realistic.

In any case, such thinking flows from too much time having been spent in recent years discussing so called “ticking-bomb scenarios” and the ethics of torturing to save the lives of others. No one should belittle the very real and very human dilemmas that can arise. But what is forgotten is that most torture, in most places, most of the time, does not even come close to such scenarios. The truth is that information acquired through torture could almost always have been acquired through other, legitimate, means. More worryingly still, it can be used as a tool for the powerful to overwhelm and intimidate the vulnerable, and thus a tool which democracy not only does not need but that it cannot afford to countenance. ●

*Professor Malcolm Evans is Chairman of the UN’s Subcommittee on Prevention of Torture and Chair of UNA Gloucestershire County branch*

*Nimba county prison inmate looks through a window of a cell during a tour of the overcrowded facility by Henrietta Mensa-Bonsu, Deputy Special Representative of the Secretary-General for the United Nations Mission in Liberia (UNMIL) for Rule of Law*  
© UN Photo/Christopher Herwig







## *Richard Dictus on the role that UN Volunteers play in paving the way to democracy*

**The United Nations Volunteers (UNV) programme has played a key role in supporting the planning, organisation, supervision and observance of elections in nearly every major UN-supported election since the early 1990s.**

Highly skilled UN Volunteers assigned to UN peace and development missions encourage civic participation in elections throughout communities by raising awareness of the value, impact and responsibility of voting. The efforts of countless UN Volunteers have been crucial to raising people's confidence and trust in the process and ensuring elections are truly participative. Longer term, this is part of a strategy to sustainably consolidate democratic values.

By organising outreach campaigns in close coordination with religious and village leaders, women's and youth associations and rural radio stations, UN Volunteers carry out registration exercises, the main prerequisite for people to participate in elections. These campaigns and civic education programmes – particularly those that take place in remote areas – can have impressive results. For example, 213 UN Volunteers serving with the United Nations Integrated Referendum and Electoral Division assisted with the 2011 Southern Sudan referendum, called for in the 2005 Comprehensive Peace Agreement that ended two decades of war between Sudan's north and south. In this closely watched election, just under 99% of voters chose independence, which led to the birth of South Sudan.

During the first national elections of Timor-Leste in April 2002, more than 960 UN Volunteers supported the electoral process, by far the largest mission of volunteers ever in the 40-year history of the UNV programme. On election day, voters in the mountain village of Dare in central Timor-Leste stood patiently in line. "I'm voting for the first time" said Vitorino Da Silva, a villager. "We will finally choose – ourselves – the leader of the nation."

UNV continued to provide volunteer electoral expertise in the run-up to the



presidential and parliamentary elections in 2012, with 142 UN Volunteers assigned to the United Nations Integrated Mission in Timor-Leste (UNMIT). Yustina Salensia Jelita, a national UNV Electoral Facilitator from Timor-Leste, was enthusiastic about contributing to the electoral process taking place in her home country that year. "The experience gave me the confidence needed to face the future," she said. Like Yustina, electoral volunteers in Timor-Leste have been strong advocates of voluntary action in a country slowly reviving its deep-rooted tradition of volunteerism.

***UN Volunteers have to respond creatively to what can be constantly changing and sometimes dangerous conditions on the ground***

In 2010, in Côte d'Ivoire, more than 200 UN Volunteers supported the presidential elections through the United Nations Operation in Côte d'Ivoire (UNOCI), acting as election supervisors, data entry operators and data collectors during the transportation of ballots to the local independent electoral commissions.

Due to the post-election violence which erupted in the country, aid workers and volunteers were evacuated. However,

***UN Volunteers in Juba (then in Sudan), receive security training in preparation for their deployment to Referendum Support Bases*** © UN Photo/Paul Banks

a team of 70 dedicated UN Volunteers stayed behind to keep on supporting UNOCI. Among them, 25 volunteers ran a 24-hour call centre for people to report cases of human rights violations.

Crescentia Dingah Sonseh, an Electoral Adviser from Cameroon, was one of the UN Volunteers who helped run the call centre. "Flash announcements were sent out directly about individuals in distress, particularly where lives were at stake," she reported. "Then escorts and patrols could be sent to specific areas in a bid to dissuade attacks on the civilian population."

Throughout the electoral cycle, UN Volunteers have to respond creatively to what can be constantly changing and sometimes dangerous conditions on the ground. Thanks to their hard work and dedication, voter mobilisation has, in most cases, been a UN success story. Through their actions, they have helped change perceptions and taught citizens how to build trust, something which is fundamental to the recovery of countries in the aftermath of conflict. ●

***Richard Dictus is Executive Coordinator of the United Nations Volunteers programme***



## **Miša Zgonec-Rožej on** *the enduring relevance of the* *International Court of Justice*

**The International Court of Justice (ICJ) – the principal judicial organ of the United Nations – has played a prominent role in international law since it received its first case in 1947. Established at the same time as the UN to replace the League of Nations’ Permanent Court for International Justice, the ICJ settles, in accordance with international law, legal disputes between states.**

In recent years, as a result of decades of increasing interest among the international community in international criminal justice, the ICJ appears to have been overshadowed by the much newer and arguably more high-profile International Criminal Court (ICC).

In the aftermath of the Nuremberg and Tokyo war crimes trials that followed the Second World War, and then particularly during the conflicts in Rwanda and the former Yugoslavia, the international community recognised a need to create a permanent international criminal court to try individuals responsible for international crimes. Driven by the determination to end impunity for these crimes, the Rome Statute of the ICC was adopted in 1998.

Since then, some have come to question whether the ICJ, which was for many years one of the few players on the international judicial stage, continues to play an important role as the leading adjudicator in the international community.

In international law there exists various mechanisms for peaceful settlement of disputes, including both legal and

In accordance with article 33 of the UN Charter, if a dispute endangers international peace and security there are two categories of peaceful dispute settlement:

1. By legal means, such as judicial settlement at the ICJ, or impartial arbitration
2. By diplomatic means, such as negotiation or mediation by a third party

diplomatic means (see box), but despite this, the ICJ’s caseload seems to be increasing rather than diminishing. The most common subject matter of contentious cases brought before the Court concern territorial sovereignty, particularly land and maritime boundaries. Currently, the ICJ is deliberating upon:

- a dispute between Peru and Chile regarding a maritime boundary delimitation;
- a dispute between Australia and Japan regarding whaling in the Antarctic; and
- a Cambodian request for the interpretation of an ICJ judgment in 1962 on a dispute between Cambodia and Thailand concerning sovereignty over the region of the Temple of Preah Vihear.

An important recent example of the ICJ’s successful resolution of a dispute is the case between Belgium and Senegal concerning questions on the obligation to prosecute or extradite. In this case, Belgium claimed that Senegal failed to comply with its obligation under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to either prosecute or extradite Hissène Habré. The former president of Chad, who is accused of committing war crimes during his 1982–90 presidency, fled to Senegal in 1990.

In 2012, the ICJ, whose rulings are binding on the disputing parties, ruled that Senegal must either prosecute or extradite Habré “without further delay”. Senegal, on the basis of an agreement with the African Union, established Extraordinary African Chambers within its domestic judicial system and on 30 June 2013, arrested Habré, who has since been charged with war crimes, crimes against humanity and torture.

The ICJ remains a very useful mechanism for the settlement of disputes for a number of reasons. For example, the ICJ considers its primary task to be resolving disputes and finding compromises, thus encouraging parties to comply with its judgments. At the same time, the ICJ’s judgments carry with them



**The inaugural session of the International Court of Justice on 18 April 1946, at the Peace Palace in The Hague** © UN Photo/ICJ

significant weight: under the UN Charter, if a state party fails to comply with an ICJ ruling, the Security Council may take measures to give effect to and enforce that ruling.

The ICJ also gives advisory opinions requested by the UN’s principal organs and specialised agencies. Recent notable examples include the ICJ’s 2004 opinion that construction by Israel of a wall in the Occupied Palestinian Territory, and its associated regime, were contrary to international law. In 2010, the ICJ produced an opinion that the adoption of the unilateral declaration of independence in respect of Kosovo in 2008 did not violate any applicable rule of international law.

Although these advisory opinions are not legally binding, they are considered to be the authoritative pronouncements on legal issues of the principal judicial body of the UN.

With its leading authority as the “world court” and its rich jurisprudence it seems likely that the ICJ will remain the appropriate forum for the peaceful settlement of inter-state disputes and will continue to provide the UN with an important advisory function. ●

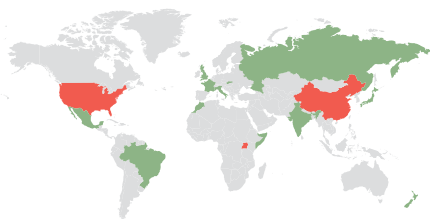
*Dr Miša Zgonec-Rožej is an associate fellow at Chatham House and a teaching fellow at the School of Oriental and African Studies, University of London. She was formerly a legal assistant at the International Court of Justice*



The ICJ comprises 15 judges, elected for a 9 year term by the UN General Assembly and the Security Council

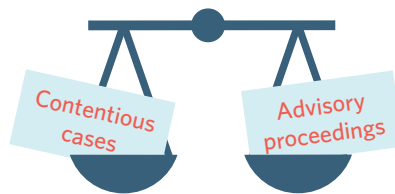


The current composition of judges includes members from:



Brazil | China | France | Italy | India  
 Japan | Mexico | Morocco  
 New Zealand | Russia | Slovakia  
 Somalia | Uganda | UK | US

The ICJ adjudicates on two types of cases:



**Contentious cases**

are legal disputes between states and may only be brought by those states that are:

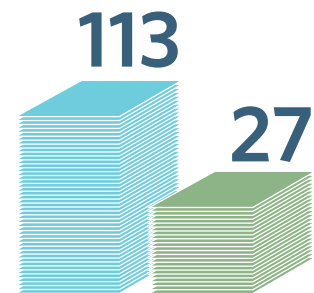
- members of the UN or
- parties to the Statute of the ICJ or
- have accepted the jurisdiction of the ICJ

The decisions of such cases are binding, though the interpretation or revision of decisions can occur.

Requests for **advisory proceedings** can be instituted by the UN's principal organs and specialised agencies.

The General Assembly and Security Council may request advisory opinions on "any legal question", whereas the other organs and agencies may only request opinions on "legal questions arising within the scope of their activities". These opinions are non-binding.

The ICJ has delivered 113 judgments and 27 advisory opinions since 1946



There are currently



pending cases at the Court

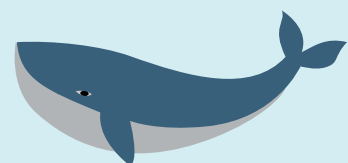
currently being heard

One of the cases currently being heard:

**Australia v. Japan:**



concerning Japanese whaling activities in the Antarctic



# The United Nations and the rule of law

*Deputy Secretary-General Jan Eliasson discusses this shared challenge*



*Jan Eliasson is Deputy Secretary-General of the United Nations*

I am a diplomat, not a lawyer. However, throughout my career in my country's foreign service and especially in the United Nations, I have seen at first hand the importance of the rule of law; be it in conflict resolution or treaty making, humanitarian assistance or economic development. The yearnings of people for peace and opportunity all intersect, one way or another, with the rule of law.

On 24 September 2012, the General Assembly of the United Nations held its first ever High-level Meeting on the rule of law. Attended by more than 65 presidents and government ministers, the meeting unanimously adopted a historic declaration that addresses issues like judicial systems, informal justice mechanisms, transitional justice, transnational organised crime and terrorism, corruption and international trade.

For the first time, the full membership of the United Nations agreed that "all persons, institutions and entities, public and private, including the state itself, are accountable to just, fair and equitable laws and are entitled without any discrimination, to equal protection of the law". The rule of law can thus be seen as a principle of governance and essential to the proper administration of national affairs.

The declaration reaffirms that the rule of law is indispensable for maintaining peace and security, achieving sustainable development and protecting human rights – the three pillars on which the United Nations is built.

For this reason, the declaration states that "respect for and promotion of the rule of law and justice" should guide all of the activities of the United Nations.

*The rule of law is indispensable for maintaining peace and security, achieving sustainable development and protecting human rights*

All member states have an obligation to abide by the UN Charter and the wider body of international law. The United Nations itself has been the main forum where many of these laws have been developed, including through the International Law Commission, which promotes the progressive development of international law. Striving to ensure the application of these principles is at the heart of our work to promote the rule of law at the international level.

Where disputes arise between states, article 33 of the Charter offers tools for peacefully resolving them. The International Court of Justice, a principal organ of the United Nations, is one such possibility. The United Nations also promotes non-judicial means such as negotiation, mediation and enquiry, and regularly offers its good offices.



The United Nations also promotes the rule of law within member states, through the development of norms and practices that are intended to ensure the integrity of governance. Through institutions, political leaders are to be subject to processes that curb the arbitrary exercise of political power – especially important in post-conflict situations. The Security Council is placing increasing emphasis on the rule of law; there are now 19 United Nations field missions mandated to undertake rule of law activities. These activities include constitution-making and legislative reform, strengthening of police and justice systems, as well as support to transitional justice processes.

By promoting the rule of law, equally applicable to all, political and economic opportunities are made available to all members of society. It empowers people by providing right of access to public services, making state entities accountable for their delivery. For this reason, the declaration specifically highlights the interrelationship between the rule of law and development, calling for consideration of the rule of law in the post-2015 development agenda. The rule of law features prominently in the recent report of the Secretary-General's High-Level Panel of Eminent Persons on the Post-2015 Development Agenda, and I will use every opportunity to urge states to consider this issue in their coming discussions.

The rule of law also strengthens mechanisms that enforce and protect human rights. As the preamble

to the Universal Declaration of Human Rights states: "It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law." A strong rule of law framework provides the means and channels through which people can challenge injustice. Human rights commissions, ombudspersons and, most of all, properly functioning courts enable all persons to seek redress for violations of their rights.

By highlighting the strong interlinkages between the rule of law and peace and security, development and human rights, the declaration builds on the fundamental formula of the UN World Summit in September 2005. There is no peace without development; there is no development without peace; and there is no lasting peace and sustainable development without respect for human rights and the rule of law.

The United Nations family is determined to mainstream the rule of law across its work. The landmark declaration is a far-reaching reaffirmation of an international commitment in this direction. Our shared challenge – for the United Nations and its member states, but also for civil society and a wide range of partners – is to translate the declaration's aspirations into concrete action.

Every organisation and actor has a role. Nobody can do everything – but everybody can do something. ●

**A UN helicopter drops off election day materials for polling centres in remote areas of Timor-Leste**

© UN Photo/Martine Perret

# DO SOMETHING

UNA-UK's new supporters programme gives everyone with an interest in the UN or global affairs the chance to participate in our campaigns, come to local and national events and hear more about our work

Launched on UN Day 2012, this programme has already increased the Association's reach and profile nationwide. It has also strengthened our grassroots network with those who opt in being put in touch with local branches and regions.

Over 9,000 people have already signed up, taking UNA-UK's vision of a safer, fairer and more sustainable world to new audiences across the UK. Now we need your help to smash our target of more than 10,000 supporters by the end of this year.

If every UNA-UK member signed up just one person, we would hit our target easily. Anyone with an email address can become a supporter by simply going to [www.una.org.uk/interest](http://www.una.org.uk/interest) or filling out a postcard (call 020 7766 3454 to order).

**Who will you recruit?**

***Palestinian children fly kites on the anniversary of Japan's 2011 Tohoku earthquake and tsunami. The memorial event was organised by the United Nations Relief and Works Agency at the Khan Younis refugee camp in the southern Gaza Strip***

© UN Photo/Shareef Sarhan







# UN immunity: who guards the guardians?

*New World explores the complex issue of the UN's legal immunity status, looking at both its origins and recent examples of its application*

**A**t its inception in 1945, the framers of the UN Charter created an international organisation entrusted with maintaining peace and security, protecting human rights and the rule of law, and promoting better living standards for the world's poorest people. Throughout its history, the UN has operated in some of the most troubled regions in the world and under the most difficult of circumstances, where rule of law institutions are often weak or absent altogether. It was clear to member states from the outset that in order to work effectively – and, crucially, free from outside interference – the UN would require legal protection. Venturing into what was then uncharted territory, the General Assembly set out to establish the UN's legal immunity from the national courts of host states.

The issue of UN accountability has long been regarded as a political hot potato. In recent years, cases have emerged involving UN personnel who have violated international and domestic law, including criminal law, as well as their duties under the UN's Standards of Conduct. This has led to concerted action on perhaps the most widely-known

category of cases – incidents of sexual abuse perpetrated by UN peacekeepers. Although peacekeeping troops still remain under the sole criminal jurisdiction of their sending states, the UN now has a comprehensive strategy for the prevention of sexual abuse by its personnel and the organisation reports that the number of allegations of this nature have more than halved since 2007.

An issue which has received far less attention, though of equal importance, is that of allegations made against not individuals but the UN as an institution, and the important questions of accountability which they pose.

In 1945 it was not possible to envisage just how far-reaching the UN's work would become. Today, the organisation's remit includes monitoring cyber security, tackling international terrorism and, in some cases, acting as an interim territorial administration, as it did in Timor-Leste and Kosovo from the late 1990s.

Meanwhile, there has also been a huge expansion in international human rights law. But, while these instruments set out in increasing detail states' obligations to the individual, and individuals' obligations to one

**A UN peacekeeper provides security as a group of approximately forty protesters gathers outside the base of the UN Stabilization Mission in Haiti** © UN Photo/Logan Abassi



another, few set out those of international organisations. Typically, only states can be parties to the core human rights treaties, such as the Convention Against Torture, but does that mean that an international organisation, like the UN, should not be bound by the laws that it promotes? Or should an international organisation be held to the same standards as a state?

This briefing describes the legal framework for the UN's immunity, looking specifically at two recent instances where the UN has invoked this status.

## Legal framework

The issue of immunity was first addressed in the UN Charter. Article 105 states:

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

Under paragraph 3, the General Assembly adopted the Convention on Privileges and Immunities of the United Nations (hereafter 'the Convention'), which endows the UN with "legal personality" – understood as the ability to enter into contracts and institute legal proceedings. On the issue of immunity, article 2 of the Convention states:

The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any particular case it has expressly waived its immunity.

Given the risks faced by the UN in the operation of its peacekeeping missions – where it is often situated in the middle of hostile forces – the UN's status of immunity from all legal processes, as set out in the Convention, is also embedded within every status of forces agreement (SOFA). This is the document that sets out the legal relationship between the UN and the host state of every peacekeeping mission.

## Ambiguities

There are, however, a number of ambiguities both within these definitions and in their practical implementation.

### Scope:

First, there has been much disagreement over the scope of the UN's immunity, arising from the apparent disparities between the Charter and the Convention:

- The Charter grants immunity when "necessary for the fulfilment of its purposes", or what has come to be known as "functional immunity".
- The Convention endows the UN with "immunity from every form of legal process", unless expressly waived by the Secretary-General, widely interpreted as de facto "absolute immunity".

Numerous judicial decisions on the matter have not provided any further clarification: cases that have required consideration of the UN's institutional immunity have invoked both interpretations.

### Access to justice:

The "absolute immunity" set out in article 2 of the Convention is later mitigated by article 8, section 29:

The United Nations shall make provisions for appropriate modes of settlement of:

- a. Disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;
- b. Disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

This provision reflects the legal principle that all people should enjoy the right of access to justice, but in practice the UN's immunity and exclusion from national courts has limited the options of individuals seeking redress. In the "Mothers of Srebrenica" case recently heard at the European Court of Human Rights, the Court considered whether the UN's immunity in national courts was a violation of individuals' right to justice and ruled that "international law does not support the position that a civil claim should override immunity from suit".

### Definition of private law:

Further difficulty arises with article 8, paragraph 29 of the Convention, which states that claims of a "private law character" attributable to the UN can be considered for settlement. These would typically include property damage, illness or injury, and may be pursued through the UN's general third-party claims process. However, this usually then excludes from consideration any claim deemed to be of a "public nature": those which, due to the wider political and policy issues they raise, may require a systemic response.

### The UN as the state:

The issue becomes especially complicated in situations where the UN has acted as the interim administration of a territory. In such cases, despite assuming the role of state, the UN is still protected by its immunity status. It has been argued that upon assuming this role, even temporarily, the UN should be subject to the same restraints and legal obligations of any other state. Furthermore, the rationale for the immunity afforded by the Convention was largely to seek protection for the UN from the interference of a host state. This argument is clearly undermined when the state is the UN itself.

Below are two examples of where the UN has invoked its immunity and how the organisation has responded to subsequent calls for accountability.

## Examples

### Haiti

The United Nations Stabilization Mission in Haiti (MINUSTAH) was first established in 2004 when 20,000 peacekeeping troops were deployed to stabilise the country after years of armed conflict. In 2010, a catastrophic earthquake killed over 220,000 people, including 102 UN personnel. The devastation >>

- >> exacerbated Haiti's already ailing infrastructure and limited state capacity, requiring emergency relief and long-term reconstruction.

Ten months after the earthquake, a cholera epidemic broke out, which has killed over 8,000 people. Until then, the country had been free of cholera for almost a century. Blame for the outbreak centred on a MINUSTAH site where peacekeepers from Nepal, which had recently experienced its own outbreak of the disease, were based.

*Given the likelihood that the UN will continue to operate in extremely complex situations, and the possibility it could again act as an interim administration, it is vital we look to possible future models of accountability*

In response to the epidemic, the UN Secretary-General commissioned an Independent Panel of Experts to determine the source of the outbreak. The Panel's report at the time asserted that it was due to the contamination of a major water supply with a South Asian strain of the cholera virus, as well as the dire state of Haitian sanitation systems, and that the outbreak "was not the fault of, or deliberate action of, a group or individual". In July 2013, the Panel released another report which stated that although "the most likely source of introduction of cholera into Haiti" was the MINUSTAH base, "based on the evidence we feel that the introduction of cholera was an accidental and unfortunate confluence of events".

The Institute for Justice & Democracy in Haiti (IJDH), a US-based NGO, filed claims with the UN in 2011 on behalf of 5,000 victims, blaming the organisation for failing to appropriately screen the Nepalese peacekeepers for cholera prior to deployment and not providing adequate sanitation facilities at the base. IJDH has called for the UN to establish new water and sanitation systems in Haiti, provide compensation for the victims and issue a public apology.

The UN Under-Secretary-General for Legal Affairs responded to the claims in February 2013 and emphasised the organisation's efforts to tackle the virus, citing \$118m spent on treatment and prevention and the launch in December 2012 of the Secretary-General's Initiative for the Elimination of Cholera in Haiti, to which the UN has committed a further \$23.5m. The claims, however, were considered not to be receivable under article 8, section 29 of the Convention, as they were not considered of a private law nature and would "necessarily include a review of political and policy matters".

IJDH has since requested that the UN supply further clarification as to why the claims were not considered of a private law nature and to provide the complainants with "appropriate modes of settlement" for their dispute. Though the UN's SOFA with the Haitian government includes the standard requirement of a Standing Claims Commission to settle third-party disputes, this has never been established in Haiti, nor in any other mission.

#### **Kosovo**

In the aftermath of the Kosovo War in 1999, Security Council resolution 1244 authorised a UN interim administration in Kosovo with the aim of establishing security, reconstructing Kosovo's infrastructure and promoting human rights and self-governance.

In accordance with this resolution, the Special Representative of the Secretary-General (SRSG) was granted broad legislative, judicial and executive powers, and the UN Mission in Kosovo (UNMIK) was granted immunity "from any legal process". In assuming the role of the state, the UN had significant control over the civilian population. Tensions surfaced with accusations that the SRSG used executive orders to conduct arbitrary detention and other human rights abuses. In light of these accusations, and under pressure from the Council of Europe, UNMIK established the Human Rights Advisory Panel in 2006.

The Panel (which is still in operation) is mandated to consider individuals' complaints of human rights violations committed by UNMIK since 2005, though this was not extended to allegations against the NATO-led Kosovo Force. The Panel's structure reflects that of the UN's Human Rights Treaty Bodies: three independent experts (one of whom, Professor Christine Chinkin, is a UNA-UK Policy Advisory Group member) meet to consider the complaints and submit advisory (non-binding) recommendations to the SRSG. In its considerations, the Panel can call upon a wide body of human rights law, and is currently the only accountability mechanism dealing with allegations of human rights violations committed by or attributable to a UN field mission.

To date, the Panel has closed 257 of the 527 cases it received, and found human rights violations in 88 cases. In its opinion on case 'S.C., 02/09', the Panel found that there was a human rights violation committed by UNMIK due to the "ineffectiveness of its investigation into the abduction and killing of the complainants' relatives". The Panel recommended UNMIK provide adequate compensation to the complainants and publicly apologise.

One of the weaknesses of the Panel, however, is the advisory nature of its opinions. It is down to the discretion of the SRSG as to whether recommendations are acted upon. In the case of 'S.C., 02/09', the SRSG issued a statement expressing regret over the violations, but was unclear on the issue of compensation. UNMIK's previous position has been stated as "United Nations General Assembly instructions on compensations do not permit the United Nations Organization and its missions to pay compensation other than for material damage or physical harm. Consequently, UNMIK is not in a position to pay any compensation for human rights violations that may have occurred in these matters". As such, no compensation has yet been awarded.

The Panel's work continues to make a valuable contribution towards furthering our understanding of the applicability of international law in relation to international organisations. Given the likelihood that the UN will continue to operate in extremely complex situations, and the possibility it could again act as an interim administration, it is vital we look to possible future models of accountability. Some look to an adapted version of the Panel which could be replicated elsewhere in the UN system, or even an independent tribunal mechanism, empowered to make binding decisions and award compensation.

Clearly there is still a long way to go for the UN to address these issues. Lessons may be learnt, but perhaps not as quickly or as transparently as many would hope. Almost 70 years on from its creation, however, few would disagree that the organisation and its work still necessitates legal protection. Given its role as the standard bearer of international law, the UN must do much more to balance this necessity with individuals' right to justice. ●

# 10

## conventions you may not have heard of

*Since 1945, a host of treaties, conventions and agreements have been created under international law. The UN has registered over 200,000 international agreements and oversees more than 550 multilateral treaties. Given the UN's wide-ranging remit, these conventions are incredibly diverse: from providing life-saving assistance to the governance of celestial bodies. See how many you know of the ten examples below:*

### 1 Food Assistance Convention

*Entry into force 2013, eight states parties*  
The Convention's stated objectives are "to save lives, to reduce hunger, improve food security and improve the nutritional status of the most vulnerable populations". States parties also agree to make a minimum annual commitment.

the only treaty governing shared freshwater resources that is of universal applicability.

### 4 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages

*Entry into force 1964, 55 states parties*  
This Convention states that marriage requires the free and full consent of both parties and that each is entitled to equal rights during marriage and at its dissolution.

### 2 Convention against Corruption

*Entry into force 2005, 167 states parties*  
This Convention sets out to improve domestic measures and international coordination in tackling corruption and organised crime.

### 5 Agreement on the Importation of Educational, Scientific and Cultural Materials

*Entry into force 1952, 100 states parties*  
This Agreement promotes the free exchange of ideas and knowledge through the free circulation of publications, art works, educational, scientific and cultural material.



### 3 Convention on the Law of the Non-Navigational Uses of International Watercourses

*Not yet in force, 30 states parties*  
Establishing rules and basic standards on the use, management, and protection of international watercourses, this is

### 6 Protocol IV on Blinding Laser Weapons to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects

*Entry into force 1998, 101 states parties*



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Prohibits the use of laser weapons specifically designed to cause permanent blindness "as a method of warfare" and the transfer of such weapons to any state or non-state entity.

### 9 Agreement governing the activities of states on the moon and other celestial bodies

*Entry into force 1984, 15 states parties*  
Also known as the 'Moon Treaty', the Agreement states that all activities taking place on the moon should be governed by international law. None of the states parties have yet been in space.



### 7 Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or otherwise Print Disabled

*Not yet in force, 51 signatories*  
Adopted on 27 June 2013, this Treaty seeks to improve access to books for millions of people who are blind or visually impaired. Currently less than 5% are made available in accessible formats.



### 8 Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity

*Entry into force 1970, 54 states parties*  
Article 1 of the Convention provides that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of when the acts occurred.

### 10 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances

*Entry into force 1990, 188 states parties*  
Setting out measures for international efforts to tackle drug trafficking, the Convention includes provisions against money laundering.

## The UN & the UK

*This section features an update on UN-related developments in the UK and on UNA-UK's work with British policy-makers*

### Arms Trade Treaty - next steps

On 3 June, the UK signed the landmark Arms Trade Treaty at the UN in New York. At the time of writing, the treaty has been signed by a total of 80 states. It will come into force 90 days after the 50th ratification.

The treaty will make it illegal for a state to authorise arms transfers where there is a significant risk that the arms will be used to commit human rights abuses or crimes against humanity. The UK, a major arms exporter, was joined by several of the world's other top exporters in signing the treaty on its opening day.

After a hard-fought campaign to achieve the treaty, UNA-UK's focus now turns to ensuring that it enters into force as soon as possible, and that states parties use the highest possible standards in implementing its provisions. UNA-UK welcomes the UK government's indication that they will ratify the treaty before the end of the year, and calls on those states that have yet to endorse the treaty to prioritise signing and ratifying as soon as possible.

### UK support for international justice

UK Foreign Secretary William Hague reported to Parliament that in 2012 the UK gave the International Criminal Court (ICC) and the International Criminal Tribunals a total of £20m in assessed contributions, and a further £6m in voluntary contributions.


### Post-2015 panel releases report

The Secretary-General's High-Level Panel on the Post-2015 Development Agenda submitted its report in May on a possible successor to the Millennium Development Goals (MDGs). Entitled "A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development", the report:



- Calls for an end to extreme poverty (defined as anyone earning less than \$1.25 a day) by 2030;
- Recommends that the post-2015 framework is incorporated with the sustainable development agenda;
- Specifies 12 possible goals for inclusion;
- Recommends that any future framework establish both universal goals and national targets.

UK Prime Minister David Cameron, a Panel co-chair, said that the report "sets out a clear roadmap" for eradicating poverty. Member states now look to the General Assembly, which in September will be holding a one-day event on the MDGs and a possible future framework.

 To read the Panel's report and UNA-UK's reaction, visit [www.una.org.uk](http://www.una.org.uk)

### UK presides over Security Council ...

June saw the UK take over the rotating presidency of the UN Security Council. The Council's programme of work included debates on conflict prevention and natural resources, the *ad hoc* international criminal tribunals and children and armed conflict, as well as briefings on various situations of concern, including Libya, the Sahel and Syria.

On 24 June, the Council held a day-long debate on women, peace and security, chaired by UK Foreign Secretary William Hague and focused on sexual violence in conflict. Building on a number of previous Security Council resolutions on the issue, the Council unanimously passed resolution 2106, which aims to tackle impunity for sexual violence crimes. The resolution also affirmed the G8's action on this issue. Through its G8 presidency, the UK convened Foreign Ministers in April to sign the G8 Declaration on Preventing Sexual Violence.

*"It is time to say that rape and sexual violence used as a weapon of war is unacceptable, that we know it can be prevented, and that we will act now to eradicate it: shouldering our responsibilities as national governments, and collectively as the United Nations Security Council"*

*William Hague, UK Foreign Secretary, at UN debate on sexual violence in conflict*



UN Secretary-General Ban Ki-moon and UK Foreign Secretary William Hague, address the Security Council debate on women, peace and security  
© UN Photo/Rick Bajornas

### ... and G8 Summit in Northern Ireland

The Group of Eight (G8) held a high level summit in Northern Ireland on 17–18 June. Tax, trade and transparency were top of the official agenda. Ahead of the summit, over 300 members and supporters signed UNA-UK's letter calling on the G8 leaders to ratify the Convention on Mutual Administrative Assistance in Tax Matters, to develop voluntary guidelines to promote higher standards of transparency among multinational corporations and to work with developing countries to support better tax infrastructure and governance.

The final G8 communiqué marked a step in the right direction, including a commitment to “establish the automatic exchange of information between tax authorities as the new global standard” and to support the development of a “multilateral model”, but much more remains to be done on this complex issue.

Syria also dominated the agenda, though little progress was made beyond a repeat of previous calls for an international peace conference.

### UK reviewed by human rights treaty bodies

The UK has recently undergone two periodic reviews by the UN's human rights treaty bodies: by the Committee Against Torture (CAT) and the Committee on

the Elimination of Discrimination against Women (CEDAW). CAT's concluding observations on the UK's compliance with the Torture Convention included a request for further information on areas of particular concern by 2014. CEDAW repeated its 2008 request for the UK to remove its reservations to six of the Convention's articles, and called for all of the provisions to be incorporated in relevant equality legislation.

### Concern over UK torture allegations

Shortly following the UK's review by the Committee Against Torture, UNA-UK's Chairman, Sir Jeremy Greenstock, wrote to Andrew Tyrie MP conveying the Association's concerns regarding allegations of the UK's involvement in torture and rendition. Mr Tyrie has been outspoken on the issue in Parliament and chairs the All-Party Parliamentary Group on extraordinary rendition.

To read the letter, visit [www.una.org.uk](http://www.una.org.uk)

### UNA-UK holds Policy Conference

The UNA-UK Policy Conference was held in April, with over 150 members from across the UK in attendance.

Participants enjoyed a day of lively debate (which continues on pages 22–24) on a wide range of topics which will feed into the Association's programme of work. The Procedure Committee is currently producing an outcome document for the event.

### International Day of UN Peacekeepers

In May, UNA-UK held its tenth annual peacekeeping conference, jointly organised with the Royal United Services Institute and UNA Westminster branch. The theme of this year's conference was 'After the soldiers leave', and included speeches from Douglas Brand OBE, Chief Police Advisor to the Ministry of the Interior, Iraq and Ann-Marie Orlor, former Police Adviser, UN Department of Peacekeeping Operations.

To coincide with the event, UNA-UK launched its 'Thank a Peacekeeper' campaign. An open letter to UN peacekeepers thanking them for their efforts to maintain international peace and security was signed by over 200 UNA-UK members and supporters, including more than 50 personalised messages. These have been transmitted to Hervé Ladsous, Head of UN Peacekeeping, and to veterans of UN peacekeeping in the UK.

### Sir John Holmes at Ferguson Memorial Lecture

In June UNA-UK held the second biennial John & Elnora Ferguson Memorial Lecture. Hosted by the University of Birmingham, the event was established to honour the Fergusons, both of whom were respected philanthropists and humanitarians, as well as dedicated supporters of the UN. This year's keynote speech was given by Sir John Holmes, who served as Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator from 2007 to 2010.





Sir John's speech can be read in full at [www.una.org.uk](http://www.una.org.uk)

### New UNA-UK publications

UNA-UK has published a number of publications in recent months, including the first commissioned report of the Responsibility to Protect programme, written by Alex Bellamy, Professor of International Security at Griffith University, Australia, as well as three *Towards Zero* reports covering a range of nuclear issues.

These reports are available at [www.una.org.uk/media/publications](http://www.una.org.uk/media/publications)

### Round up of UNA-UK monthly actions

- 
**Call for an Arms Trade Treaty**  
 UNA-UK members and supporters contributed to a Twitter 'thunderclap', where 715 tweets were synchronised for release at the opening of the treaty negotiations.
- 
**Thank a Peacekeeper**  
 Over 200 people signed our open letter to thank a Peacekeeper, more than 50 of which included a personalised message.
- 
**Take action on tax dodging**  
 More than 300 people co-signed UNA-UK's letter to the G8 Heads of State calling on them to tackle the critical issue of tax dodging.
- 
**Press for Syria peace talks**  
 For our July action, UNA-UK and its partners have produced a petition pushing for President Obama, President Putin and Joint Special Envoy Brahimi to set a clear timeframe for Syrian peace talks. So far over 22,000 have signed the petition. To add your name, go to [www.una.org.uk](http://www.una.org.uk)

### UNA-UK Policy Conference: the debates continue

I have become concerned by the tendency of some to deplore, unduly, as it seems to me, the growth in global population. Populations grow, and sometimes shrink, for many and complex reasons. Whatever the final figure for world population, we can do little about it without the undesirable interference in the internal policies of other countries.

From our own experience, when populations achieve a higher standard of living the numbers tend to flatten out. So let us hold our nerve and continue to work for social and economic justice for less 'developed' nations, and remember that population is just one issue amongst plenty of others we should be concerning ourselves with.

Bruce A Smith  
Brighton and Hove

The international community regards Israel as the illegal occupier of Palestinian land, and has repeatedly called for the two-state division of the contested territory. Israel wants to be a Jewish, democratic state on all the territory of Mandate Palestine, and to be in good international standing. Clearly only one of these can be achieved.

Though it will be difficult, by restoring the Occupied Territories to Palestine, the Israeli state could be both Jewish and democratic, and would regain the world's respect for doing so. UNA-UK Chairman, Sir Jeremy Greenstock's recent letter to Baroness Ashton calling for a more active EU role in securing this two-state solution was most welcome.

Liz Sim  
Edinburgh

The UNA Youth article in the Spring issue of *New World* on nuclear disarmament might well have come straight from the British Foreign & Commonwealth Office. The issue is not what difference unilateral nuclear disarmament would bring to



### UNA-UK mourns former director Malcolm Harper

UNA-UK was deeply saddened by the death in May of Malcolm Harper, who served as Director of the Association from 1982 to 2004. A truly global citizen, Malcolm dedicated his life to the values of the UN Charter and the ultimate goal of the United Nations: achieving life in larger freedom for all the peoples of the world.

In his own account of his 22 years with the Association, he gave particular prominence to UNA-UK's work on arms control and disarmament, support for UNESCO after the UK's withdrawal from the body in 1985 (the UK rejoined in 1997), engaging local communities in the UN's sustainable development action plan Agenda 21 and campaigning for the International Criminal Court.

The Association's work on conflict prevention and peacebuilding took him to troubled regions, from Afghanistan to Somalia, where he met with UN and NGO staff, as well as local community representatives. He also gave over two decades of dedicated service to the Executive Committee of the World Federation of UNAs, which he chaired in 1995–2000.



Further tributes, including an obituary published in the *Guardian*, can be found at [www.una.org.uk](http://www.una.org.uk)

global efforts to achieve a world without nuclear weapons, but if there are any such efforts at all.

The real question is what is the sense of spending huge sums, at a time of drastic financial cuts, on a new generation of nuclear weapons and their running costs? To replace the current Trident system is to keep this country nuclear-armed for another 50 years.

Please let's have a different perspective in *New World* on this issue.

Bruce Kent  
London

*Editor's note: last year UNA-UK submitted evidence to the BASIC Trident Commission on the issue of Trident renewal, and in July published the findings of a survey of UK public perceptions regarding nuclear weapons. Both reports are available at [www.una.org.uk](http://www.una.org.uk)*

How are we interpreting the Responsibility to Protect in respect to current concerns about arming Syrian rebels? Supporters and critics have rehearsed their positions, based on the need to protect civilians and our responsibility to prevent sectarian strife from becoming national and regional war.

The uncertainty surrounding notions of responsibility and protection has been acknowledged by the British government by its pledge to allow a Parliamentary free vote before any decision is made about sending arms to Syria. The media seem to have quietened about 'intervention', and Tony Blair, in a recent *Observer* article, recommended the UK 'engage' with the situation. The language we use can mean 'all things to all men', confusing rather than clarifying the matter, when really we need critical analysis and action in promoting peace, whether in the Middle East or elsewhere.

My plea is for *New World* to continue its excellent exploration of these current crises through the Responsibility to Protect principle, in more knowledgeable and substantive ways than I can. Meanwhile, I focus on trying to support the positive impact of humanitarian initiatives whilst highlighting the negative impact of unloading vast stocks of armaments.

Yvonne Craig  
London

## Snowden 'affair' raises important questions

At our recent meeting, the Brighton & Hove branch discussed the issues arising from the Edward Snowden 'affair', which point to a situation which has far greater implications than even the injustice of his treatment.

These recent events have shone a light on the expanding array of surveillance measures justified by the fight against terrorism. This seems to have gone truly global and is used by governments against other states or against their own citizens, all of which undermine societies and ultimately threatens world peace.

The UN Human Rights Council debated these issues in 2010, and called for a global declaration on data privacy. We would be glad to know where this issue is now and how UNA-UK members can be active in pursuing this issue.

Joyce Edmond-Smith  
Secretary, Brighton & Hove branch

### **Send your letters to:**

Hayley Richardson, Editor  
UNA-UK, 3 Whitehall Court  
London, SW1A 2EL  
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### **UNA-UK holds AGMs**

On 20 June, UNA-UK held two AGMs, marking the transition from the old company to the new charity. Over 50 members attended and discussed finance and governance issues. Participants heard from Sir Jeremy Greenstock, UNA-UK's Chairman, and Natalie Samarasinghe, who was appointed as Executive Director after the AGM (see box). The meeting concluded with the presentation of three Distinguished Service Awards to Neville Grant, Malcolm Hill and David Oliver.

 For a full report, visit [www.una.org.uk](http://www.una.org.uk)

Photos: © UNA-UK



## **We the people** Natalie Samarasinghe on UNA-UK's role in public life

It seems apt that this issue of *New World*, the first since my appointment as UNA-UK Executive Director, focuses on the will of the people. As the Association approaches its 70th birthday in 2015, I am keen for us to reflect collectively on our role as a 'people's movement' for the United Nations.

The creation of the UN in 1945 offered war-weary publics hope for a better future. In the UK, UNA-UK gave people the opportunity to engage with this promise. Today, we are no longer the only group working in support of the UN's ideals. Many organisations in this country promote peace, development and human rights. Several partner with the UN in the field.

What, then, is our purpose? The answer relates to the wider role of civil society in public life. In his editorial, UNA-UK's Chairman, Sir Jeremy Greenstock, looks at the difficulties of implementing the rule of law given the changing relationships of people and governments. These challenges are all the greater as the number of voices claiming to represent 'the people' grows.

Across the world, claims of representation are being played out, often violently. In Egypt, for instance, both the military and the Muslim Brotherhood portray themselves as handmaidens of the popular will. Meanwhile global trust in political representatives appears to have reached a new low. Polling by Pew Research indicates a dramatic fall in support for democracy in Eastern Europe: in 2009 just 42% of Ukrainians said they preferred democracy to a strong leader, compared to 79% in 1991. Countries with long democratic traditions are not immune. In the UK, Ipsos MORI polling in 2013 found that people trust estate agents and bankers more than politicians. In the US, approval ratings for Congress fell to 10% last year.

It is therefore not surprising that civil society groups have become a means to bridge the disconnect between people and their representatives, particularly those from minority or marginalised communities. Increasingly, they are vital partners for the UN and governments in the delivery of services and public consultations.

This development is not without controversy. To what extent can such groups legitimately claim to speak on behalf of the public? Let's take ourselves as an example. Most of our members believe that the UN should play a significant role internationally, and that the British public is largely supportive of this. However, a poll we commissioned from Ipsos MORI last year revealed great differences in public opinion as to what form that role should take. A sixth of respondents felt the UN should confine itself to international development work. Six per cent thought it should not play a major global role at all.

To continue to serve as a people's movement for the UN, we must not shy away from debating difficult questions about the UN's effectiveness. Nor should we limit ourselves to received wisdoms on peace, development and human rights. Our unique value stems from recognising the complexity and interconnectedness of global challenges, and in promoting joined-up thinking and action to tackle them.

As a collection of groups jostling for support and influence, civil society is limited. It becomes powerful as a creator of public space, with organisations like UNA-UK serving as facilitators of people power rather than representatives. In this regard, we are already ahead of the curve: the promotion of debate, whether between states at the UN, or local communities, has always been fundamental to our role. It is up to us to capitalise on this.

Comments and questions to: [samarasinghe@una.org.uk](mailto:samarasinghe@una.org.uk) or @Natalie\_UNA



### *Trevor Evans from UNA Harpenden branch on the UN's newly-agreed Arms Trade Treaty*

UNA Harpenden branch's annual UN Day service includes a reading of the preamble to the UN charter which begins with those well-known words – "We the peoples of the United Nations, determined to save succeeding generations from the scourge of war". I suspect that this grand aim is shared by many of UNA-UK's members. Sadly the conflicts that continue to erupt in many parts of the world – such as in Sudan, Libya and of course Syria – suggest that this is still a long way from being achieved. The preamble goes on to express the determination "to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained". Given that the proliferation of arms is one of the main causes of the escalation of conflicts, the recent Arms Trade Treaty (ATT) as agreed at the UN in April, offers the opportunity to pursue both these objectives.

*"The adoption of this treaty demonstrates the great things that can be achieved when governments and civil society work together through the United Nations"*

UN Secretary-General Ban Ki-moon

As a member of the Control Arms Coalition which campaigned intensively for an effective treaty, UNA-UK was represented at the final ATT conference by Ben Donaldson, Communications & Campaigns Officer. Although compromises were made, the Coalition supported the final agreed text. When Iran, North Korea and Syria blocked an agreed consensus at the conference, a vital clause in the conference's mandate ensured the vote was transferred to the UN General Assembly where it achieved an overwhelming show of support (154 'yes' votes, three 'no' votes and 23

abstentions). For the treaty to come into force, it needs to be ratified by at least 50 states, and we were pleased to see the UK sign the treaty on the first day that it was open for signature. In April, the UNA-UK Policy Conference supported UNA Harpenden's proposal which called on the UK government to implement a strong interpretation of the treaty with a robust regulatory framework, thereby setting a good example to other states. UNA-UK members have an important role to play in calling for this, particularly as the UK plans to ratify the treaty by the end of the year.

Whilst developments in international law attempt to reduce the danger of armed conflict, the UN also needs to be more effective in promoting peaceful reconciliation between warring parties. The UN Peacebuilding Commission, established at the World Summit in 2005, works with numerous UN bodies and NGOs involved in conflict prevention and reconciliation activities. The World Summit also adopted the Responsibility to Protect (R2P) principle, which sets out a state's duty to protect its civilian population, and the international community's responsibility to intervene should it be unwilling or unable to do so. The concept also calls on the international community to assist states in carrying out this obligation. UNA-UK's R2P programme is working to raise awareness and galvanise support for the concept, both amongst its wider membership and within the UK government. UNA Harpenden branch's R2P topic submission to the Policy Conference urged the UN and its member states to put more effort and resources into this important area of conflict prevention.

Let us hope that by these means the UN and its supporters will move closer to the goal of saving succeeding generations from the scourge of war. ●

**Trevor Evans is chair of UNA Harpenden branch and UNA Eastern Region. Trevor presented on a number of topics for discussion at UNA-UK's 2013 Policy Conference**

### **Civil society impact on the Arms Trade Treaty**

The UN's work on the Arms Trade Treaty (ATT) began in earnest in 2006. However, the journey started long before this for NGOs such as UNA-UK who have campaigned for over a decade for international action on the unregulated arms trade. In 2003, NGOs, academics, faith groups and legal experts, came together from across the world to form the Control Arms Coalition.

By the time of the final ATT negotiations in 2013, the Coalition's New York-based secretariat had marshalled its 100-plus member organisations into a well-oiled campaigning machine. Many of these organisations, including UNA-UK, sent representatives to the final conference. On the first day of negotiations, the Coalition succeeded in getting a joint statement endorsed by 108 states, which called for a much stronger draft text.

Throughout the rest of the conference, the Coalition worked closely with states to identify and close loopholes, held press conferences, performed publicity-grabbing media stunts, made speeches during plenary, ran side events, provided support to smaller state delegations and used social media to utilise the voices of millions of activists watching worldwide.

This joined-up effort from civil society had an unquestionable impact on the final Arms Trade Treaty adopted by the General Assembly on 2 April 2013.





## The new **UNA Youth council** reflect on recent achievements and upcoming challenges for UNA Youth



UN Secretary-General Ban Ki-moon recently declared that “the UN needs young people now more than ever”. Such a statement, combined with the fact that there are over five million 18-26 year olds in the UK, reflects UNA Youth’s mission to get young people involved in the United Nations.

UNA Youth is led by a Youth Council that is elected annually and supported by a Youth Intern based at UNA-UK’s Whitehall offices. This year, we, the Youth Council, have also co-opted two additional members: Kate Jamieson will help us with our campaigning work and Adam McLaren will contribute his Model UN expertise.

Stephen Vanson, Edward Sainsbury and Natalie Chindipha (last year’s President, Vice President and Intern respectively) worked hard to introduce and improve more consistent communications and popular events like the sell-out UNA Youth Conference, ‘New Nuclear Realities’. They helped build a firmer foundation and UNA Youth is now in a much stronger position.

### **The sold-out 2013 UNA Youth Conference** © UNA-UK

We have big plans for the coming academic year which will start with the UNA Youth Freshers’ Fairs. We will resource our UNA Youth branches with flags, balloons and all the material they will need to festoon their stall in order to stand out and tempt people to join their university’s society. A quick quiz at each stand will act as a conversation-starter and will also be available online to make sure everyone can get involved.

Our flagship UNA Youth Conference will next be held in early 2014. This major event, supported by UNA-UK, will be the best opportunity of the year for UNA Youth members to meet each other and hear expert speakers. The last Youth Council set the bar high with New Nuclear Realities, attracting a big audience and excellent speakers, but we already have lots of ideas about next year’s event.

If you know UNA Youth you will know that we are avid Model UNers! This year

### **2012/13 highlights**

- UNA Youth Edinburgh launched a fantastic online campaign ‘Link Arms against Arms’ in favour of the Arms Trade Treaty which received excellent youth support.
- This year’s UNA Youth Council elections received the highest turnout in recent years, providing UNA-UK with over 600 new supporters!
- UNA Youth Reading was successful in getting a Model UN module introduced at Reading University Politics Department, providing students with public speaking and negotiation skills.
- There are currently over 40 active UNA Youth branches, with links being established with a number of institutions with a view to further affiliations in the future.

we want to expand and develop our MUN activities by working with UNA-UK and the London International Model UN (LIMUN). LIMUN is Europe’s biggest university MUN drawing youth activists from all over the world, and we see huge potential for partnership.

Through this work we hope to unite more and more young people in working together towards our common aim of a safer, fairer and more sustainable world.

In another recent speech, Mr Ban called for support for young people so that the whole world benefits from “more generations of productive and powerful leaders”. We will be sharing our news throughout the year and hope that we can rely on the help and support of all of UNA-UK’s members. ●

**Apurv Gupta (President), Gabriela Lomeu (Vice President) and Ewa Szczepanska (UNA Youth Intern)**

# UNA-UK Young Professionals



*UNA-UK Young Professional  
Jardena Guttman spoke to New World  
about working for an Embassy*



## **What led you to work at the Swiss Embassy in London?**

Diplomacy as a profession captured my interest early on in my studies. During my travels to Latin America and South East Asia, I became aware of the importance of human rights and poverty reduction. This led to the involvement of human rights in my academic studies and it was during these studies that I became aware of the positive impact diplomacy can have. I was eager to gain experience within the diplomatic field and, with a particular interest in UK politics, I found the Swiss Embassy in London to be the perfect fit.

## **What is the role of the embassy's Political and Legal Team?**

As part of the Political and Legal Team I follow UK politics and topics of interest to the Swiss Foreign Office. To this end, we are in contact with various UK government departments, in particular the Foreign & Commonwealth Office, and also engage with several NGOs and think tanks. We then report relevant policy developments to the departments in the capital. Furthermore, we organise visits for Swiss diplomatic delegations and address legal concerns of both Swiss and British nationals who contact the embassy with enquiries regarding the Swiss or UK legal systems.

## **Jardena representing Switzerland at the UN**

© J. Guttman

## **What do you enjoy most about your job?**

I particularly enjoy how varied the work is - no two days are ever the same. As a trainee at the embassy I benefit from being given broad insight into all aspects of embassy work. I have previously spent time in the visa and consular section and have also helped with cultural events. My day usually starts with a briefing in the office of the Ambassador where the day's tasks are distributed, providing the opportunity to fully understand the priorities and working methods of the embassy.

## **You recently had the opportunity to go to the UN in New York, tell us about the experience.**

As part of the Legal Team at the Swiss Delegation to the UN in New York, I helped negotiate resolutions on behalf of Switzerland in the Third Committee of the General Assembly, which deals with human rights issues. I was also fortunate enough to participate in a number of UN conferences, as well as attend Security Council and General Assembly debates which were addressed by heads of state.

## **What did you learn from the experience?**

During my time at the UN I gained valuable negotiating skills. Negotiating resolutions was a new experience for me and I was able to see for myself the impact that national policies can have on the outcome. Attending a range of conferences, I gained a deeper understanding of the various working methods employed at the UN.

## **Switzerland, a traditionally neutral country, only joined the UN as a member state in 2002. What are its priorities at the UN?**

The UN is a platform where global challenges are discussed and solutions constructed. In that sense, issues of global governance are of particular importance to Switzerland. Traditional Swiss topics and priorities at the UN include: conflict prevention, poverty reduction, sustainable development and environment, development co-operation, human rights, humanitarian activities and protection of civilians, rule of law, peace and security and non-proliferation.

Another crucial priority for Switzerland is reform of UN working methods, particularly in the Security Council, for which it brought forward an initiative in early 2012 together with Costa Rica, Jordan, Liechtenstein and Singapore.

## **What advice would you have for someone considering a diplomatic career?**

An embassy's work is multifaceted and someone considering a diplomatic career should first research the different departments in order to evaluate which would be of most interest to them. Moreover, I would highly recommend considering embassies abroad, as learning about the political systems of other countries, and observing the way your own country conducts its foreign affairs is, in my view, fascinating. ●

**Jardena Guttman is an assistant in the political and legal team at the Embassy of Switzerland in the UK**

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