YESTERDAY'S POLITICS, TOMORROW'S PROBLEMS: A WORLD WITHOUT THE UNITED NATIONS?

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[The following text is an edited transcript of a video conference in which Sir Brian Urquhart, Professor Louis Henkin and Ambassador Richard Butler, at a United Nations studio in New York, spoke with students of International Law from the University of Melbourne. The discussion commences with the question 'What would the world have been like without the United Nations?' and moves on to discuss the normative potential of the Organisation — with particular emphasis on human rights — and the constraints imposed on it by state sovereignty and the self-interest of nation-states. It concludes with a consideration of the rhetoric and the means of the United Nations, and the problem of yesterday's politics being forced to catch up with tomorrow's problems.]

THE ROLE OF THE UNITED NATIONS

Ambassador Richard Butler:

I think the question of the day, indeed the year, is about the United Nations, its past and its future. What would the world have been, had we not had the United Nations these last 50 years?

Sir Brian Urquhart:

Well, going back 50 years, just about the last thing that was on anybody's mind was a world without the United Nations. The human race had just had six years of world war, and a lot of that disaster was attributed to the failure of governments to support the preceding international organisation, the League of Nations, which had simply been allowed to wither. So the United Nations started with a bang and with great enthusiasm. It was going to do all the things the League hadn't done. It was going to prevent threats to the peace, deal with acts of aggression by collective measures, and take measures to avoid the economic and social disasters of the 1920s and 1930s, which had contributed greatly to the Second World War.

Of course, nobody foresaw the future. Nobody foresaw the Cold War, which paralysed the United Nations for nearly 40 years. Nobody really foresaw that decolonisation would go through as quickly as it did, adding an enormous number of new countries to the UN's membership, and I don't think anybody really foresaw the technological or population revolutions. In 50 years the UN has played many roles, not all of them the roles it was supposed to play.

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Firstly, it played a very important role as a safety net during the Cold War. It was a place where even the Soviet Union and the United States could go if they found themselves on a collision course, and that was very important in terms of crises in the Middle East, in Africa and in Asia. One of the main functions of the United Nations was to keep regional conflicts out of the Cold War and prevent them from becoming the detonator of a possible nuclear exchange between East and West. One can name just a few now: the Suez crisis of 1956; the crisis in Lebanon in 1958 when the United States landed the Marines; the Congo crisis in 1960 in the heart of Africa; Cyprus in 1964; and the war between India and Pakistan in 1965. In all of these more or less regional conflicts, the UN played a role in containing them and preventing them from getting into the Cold War orbit. To do that it invented what is now called 'peacekeeping', which is the use of soldiers in a non-forceful, peaceful role.

Secondly, the United Nations acted as a catalyst. The two greatest examples of that are probably decolonisation, a process that went through extraordinarily quickly and with minimal violence and disruption, and of course, putting human rights into the international arena as a major criterion of behaviour, something that was not done before World War II.

Thirdly, I think the UN played an important role as memory and conscience, keeping important issues alive that people wanted to sweep under the rug. The Palestinians were one example of that. The whole question of apartheid in South Africa was another example, as was the question of Namibia (supposedly a trust territory of the United Nations, it never became one). In all those three cases, the UN has played a major role as the group memory and conscience.

Fourthly, the UN has been a forum for global problems. Global problems didn't exist in 1945, but they are of course problems that no government can deal with on its own, and the UN has had a series of very important meetings on the environment, women's rights, population and so on over the years. These meetings represented the first attempt by the world to get a kind of general approach to problems which are so important to billions of people.

Fifthly, the UN has provided a centre for regulation and law. More international law has been promulgated in the last 40 years than in the whole of the rest of recorded history. A lot of that has been under the influence of UN groups of which almost no one ever hears, but who work and work in this extremely important area.

I hesitate to say that the UN has been used as a dumping ground for impossible problems — but I think that that is the case. One has only to look at recent history in the former Yugoslavia and in Somalia to see that these are problems on the conscience of the world which nobody knows how to deal with. This predicament has led to the UN being a mixture of a scapegoat, a fig leaf and sometimes a screen for the unwillingness of governments to take action on their own. This is a major problem and I think a major part of the present crisis of confidence.

Let me finish by just mentioning the UN as *potential*. Everybody keeps saying it is an interdependent world, and it certainly is. As an interdependent world, we need to develop some sense of world community and in my view the UN will be the place where the public service sector of that community will take shape. In fact, I think it is already taking shape. The human race has to develop political institutions to meet the challenges that come to it. It always has done so and it will continue to do so. The UN is the main framework in which those political institutions can be developed in time.

THE UNITED NATIONS AND THE CULTURE OF HUMAN RIGHTS

Ambassador Richard Butler:

Same question, Professor: what would the world be like if we had not had the United Nations?

Professor Louis Henkin:

Sir Brian gave us a kind of overview. I would like to single out one particular subject which he mentioned. Among the many achievements of the United Nations, what it has done with human rights has a proud place. To ask yourself what human rights would be like without the United Nations, it is interesting to try and recall what human rights were before the United Nations. In fact, probably the term virtually didn't exist because, until the Second World War, how a nation treated its own inhabitants was not considered anybody else's business. And what is more, quite apart from what other states did not do about human rights in other countries, very few countries cared about human rights even inside their own countries.

Until the Second World War, few countries were committed to what we now call constitutionalism and respect for human rights. There were few constitutions and few bills of rights, and very few countries had institutions to monitor and protect human rights. There was not what you might call a *culture of human rights* in very many countries in the world. Then, on the international scene, and for the reason I have indicated, human rights were not of international concern. Even the terrible atrocities of Hitler — though receiving some kind of reprimand or disapproval — were not thought of as a subject for either international politics or for international law.

Human rights became of international concern essentially as war aims. I remind you of Franklin Delano Roosevelt's 'Four Freedoms',[1] which were articulated early in the war. Later when the war was proceeding satisfactorily and we moved toward the early peace treaties, human rights were included in them. The notion of crimes against humanity as a punishable international crime was included in the Nuremberg Charter and promotion of human rights began with the UN Charter, which is of course the major document of the United Nations system.

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[1] On 6 January 1941, the President of the United States of America, Franklin D Roosevelt (1882-1945), addressed Congress regarding the future of the world after World War II. He stated that the post-war world should be founded on 'Four Freedoms': freedom of speech and expression; freedom of every person to worship God in his or her own way; freedom from want; and freedom from fear.

The UN Charter does not include an international bill of rights, but it established respect for and promotion of human rights as two of the major purposes of the United Nations and it also established institutions to monitor and promote human rights. The United Nations General Assembly, as one of its early acts, adopted the Nuremberg principles,[2] including the principles of crimes against humanity. It also established a Human Rights Commission, which began right away to define and promote human rights.

Nineteen forty-eight — three years into the existence of the United Nations — saw two remarkable achievements: the Genocide Convention, the first binding international legal treaty on human rights after the Second World War, and, perhaps most important, the Universal Declaration of Human Rights,[3] which in my view is not only the premier instrument of the human rights movement, but one of the most important instruments of the century. The Universal Declaration, I remind you, launched two distinct though related movements. For one thing it did, as it was intended to, promote constitutionalism inside countries. Today we have almost 190 countries, almost all of them have constitutions, almost all of them have bills of rights. The Declaration also led to international binding treaties which we call covenants, conventions, protocols or any other name, all legally-binding obligations by states to respect and promote human rights.

In addition, the United Nations established institutions. It established a Human Rights Commission, and recently a UN Human Rights Commissioner. The treaties which it promoted included bodies to monitor human rights and we have a network of institutions and procedures which have contributed considerably to promoting respect for human rights around the world.

One of its many successes, and I think the UN can claim principal credit for it, is the end of apartheid.

I don't mean to suggest the UN has been an unmitigated success: the standards which it promoted and promulgated are excellent; the implementation procedures which it promoted have been declared primitive. But we are launched and the United Nations has established human rights in law as well as in international politics. They are permanently and everywhere on the international agenda. Every gross violation of human rights is noted and heard about, and very few of them pass unnoticed. If the violations are very gross they can lead to action from the United Nations, as they have on apartheid, in some cases from the United Nations Security Council which has established at least some violations of human rights as threats to international peace requiring collective action.

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[2] The Nuremberg principles are the norms of international law concerning war crimes and war criminals, formulated in the London Agreement of the Four Powers (8 August 1945) and in the Charter of International Military Tribunal annexed to it, and then repeated in the verdicts of the Nuremberg trial in 1946.

[3] GA Res 217A(III), 3 UN GAOR 135, UN Doc A/Res/217A (1948).

So human rights without the UN, I suggest to you, would be inconceivable, because it is inconceivable that there should be no UN, and as long as there is a UN, there will be a human rights movement. Thinking of it that way highlights what the UN has done in these 50 years. Were there no UN today, we might have no UN documents and no institutions. But these things having been created, I would say that part of the UN's achievement is what it has done is to make it irreversible. So if by some magic the United Nations disappeared, I would suggest to you we would still have the idea of human rights as universally accepted and deeply embedded in the culture of our times.

It is the single idea of our times which I think the UN can claim credit for and it is no doubt the idea of the next century and perhaps, I hope, the century beyond. It is now deep in our constitutional culture and it is integral to international relations. I think there is lots to do, and I hope the United Nations will continue to do it, because human rights cannot be solved once and for all. On the 50th anniversary of the UN, the United Nations is entitled to celebrate. And one of the things it can surely celebrate is what it has done in promoting respect for human rights.

A SENSE OF OPTIMISM

Dr Tim McCormack:

You mentioned, Sir Brian, that the League of Nations withered out and the United Nations started at the end of World War II with something of a bang. What was it about the UN that really created a sense of optimism that it would succeed where the League of Nations had failed?

Sir Brian Urquhart:

I think it was a number of things. In the first place, the world, with the exception of the United States, was more or less flat on its back in 1945, so anything that could be done to prevent that happening again was something that people were very enthusiastic about. Another thing was that the United States was the unquestioned leader at that time. It was by far the richest and most powerful country in the world, almost untouched by the war, except for casualties, and it was an enthusiastic leader. This had been very much the brain child of President Franklin Roosevelt and those who came after him followed up on it, and that, I think, did make a considerable difference.

Professor Louis Henkin:

Franklin Roosevelt was committed to making a new world order and with American optimism and with American belief and know-how and active 'dogoodism', we proceeded to do what we could. I think one should add that it looked as though the Allies were united and agreed on this proposal and I think it was the notion of the big powers of the world all marching in the same direction and agreeing on the same agenda, which made it look as though we really had something going.

Ambassador Richard Butler:

I must say I've thought often about the same question and the answer I give myself is that it's an example of the worst way of learning from history, that is, a catastrophe which produces a good result. It was a disaster. In the two world wars of this century there had been between 50 and 60 million people killed. There was the sheer horror of it all, which is why the Charter begins with the words in order 'to save succeeding generations from the scourge of war'. But out of that horror there was a moment of great inspiration and moral courage and it was seized, and that, I think, was a very special moment in history, and it's what motivated the creation of the United Nations.

UNITED NATION-STATES

Simon Chesterman:

Professor Henkin, one of the examples that you raised in terms of the achievements of the United Nations was the growth of constitutionalism amongst states. My question arises from the concern that, although I believe the intercourse of nations is a positive thing, I'm hesitant to embrace this as the ultimate and self-evident form of human society. Is it a problem, then, that in the promotion of human rights we are doing this only through the replication of a certain form of human association that has its roots in Western culture and history; namely, the unitary, monolithic, rational nation-state?

Professor Louis Henkin:

One can conceive of a different world not built of nation-states, but I don't expect to see that world in the foreseeable future, and no one thought of that as a serious prospect during the past half century. So in the world of nation-states, which is the world which the UN assumes, it was necessary to establish the idea that how a nation treats its own inhabitants is the concern of the rest of the world community, and to deal with the means of promoting such respect for rights and protecting them on the assumption of the continuation of the world of states. If you had something like a world government, if states were abolished, you would have to do it differently, but I don't think it's useful to speculate on what might have been.

I think in the world that we have had in the past 50 years, the UN has done remarkably well. It launched and established the idea of human rights and respect for human rights and began to build institutions for promoting it. If in fact this is a Western idea ... well, I suppose in some way it is, although I remind you that the West hasn't done so well about human rights itself — the worst offender in human rights in recent history was a Western state, Germany. Secondly, much else about the international system today is Western. We talk about states and we talk about sovereignty, we talk about treaties, we talk about territorial integrity, all those entail a particular western conception of the world. That has been a useful way of looking at the problem of human dignity, and the human rights movement has been one of its principal forces.

PROTECTING THE RIGHTS OF MINORITIES

Sarah Storey:

You all mentioned that the human rights system was brought about by a massive human rights violation. I was wondering what you would say about how the United Nations has evolved in terms of providing protection against smaller, more individual human rights violations, such as those inflicted upon women or less visible ethnic minorities?

Professor Louis Henkin:

Dealing with what you call 'the smaller' or the less dramatic violations of human rights is a quite different problem from dealing with massive genocide, or the things we have seen in the former Yugoslavia, Rwanda, Somalia, etc, and inevitably the ways of approaching the two sets of problems have to reflect the world as it is. We don't have either the ability or the desire to try and look inside every country for every small violation. The international human rights movement was built on making national systems and national constitutional institutions work, and the United Nations system is really there to monitor and to help promote the efficiency and the effectiveness of the internal national systems.

When you have a violation of the 'day-to-day' kind, which is bad enough, all the international system can do is to work with its usual weapon — which is to try to mobilise shame — and I think the world has done pretty well with that, although not well enough. When you get to the major violations like those I've mentioned, it requires a different kind of action and then you might even have to resort to sanctions of some kind, and in extreme situations, collective intervention. No one would think of collective intervention as a way of dealing with the problems of discrimination against women; That would require too massive a transformation of society.

So those things you deal with not on an emergency basis, but the way you deal with chronic diseases as distinguished from those that are terminal, and I think the UN has worked in that direction, although many people believe that it has lots more to do.

Ambassador Richard Butler:

I think Brian Urquhart in fact gave a framework for answering this question when he recalled the function the UN has played as a conscience, as a place of protest and the gathering of opinion, indeed the collective shame to which Professor Henkin has just referred. Going back to our original question, what would the world have been like without the UN, I think the answer is very, very sharp. The world presumably would still have apartheid, for example. The world would not have the same kind of consciousness that it now does of the rights of women.

Some of the achievements in human rights that have been made in the last 20 or 30 years have been in good measure fostered by the fact that the UN was there codifying law, and more particularly, giving voice to the conscience and direction in which humankind should go, of which the glittering example was the role the UN played on apartheid, a role I believe it is now playing with respect to the women of the world.

THE INSTITUTIONAL BASIS FOR WORLD COMMUNITY

Stephen Donaghue:

My question arises out of a comment made by Sir Brian towards the end of his speech when he talked about the important role the United Nations can play in fostering world community. Could the panel expand on how the UN might fulfil that role, particularly with respect to the tendency over the last 10 years — really since the *Nicaragua*[4] decision — for the General Assembly to adopt something of a quasi-legislative role. Do you see that being formalised into a more concrete international legislative forum?

Sir Brian Urquhart:

I think that one has to realise that any political institution that is going to be sound and lasting has to develop slowly, and that's particularly true of a global institution like the United Nations. It's very nice to talk about world community as I was doing, but it's much more difficult to make a reality of it, because a community after all has a number of characteristics: it has a responsibility for all its members, especially the weakest ones; it has respected rules and institutions; and it presumably has some kind of shared view of the future. Those are things that are rather slowly developing in the UN. I believe that the UN will develop, as it has done in the past 50 years, in response to particular challenges.

After all, the oldest agency of the UN, the International Telecommunications Union, is a massive infringement of sovereign rights. It allots radio frequencies.

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[4] The ICJ held that in certain circumstances United Nations General Assembly resolutions could create customary international law by forming evidence both of state practice and *opinio juris*: *Case Concerning Military and Paramilitary Activities In and Against Nicaragua* (Nicaragua v USA) [1986] ICJ Rep 14.

The reason it does that, and it has never been objected to, is because if it didn't allot radio frequencies, you wouldn't have radio communication in any orderly sense. I believe there are a whole lot of areas opening up now which are going to make that kind of regulation not only necessary, but welcome, and that is the beginning of some sort of community. Then, of course, there's the whole idea of whether the UN is responsible for all its members or not, something that has become a very difficult question with the huge number of operations the UN has undertaken, and the sudden realisation by governments that it's running out of resources.

I believe that these are the kind of debates that do push the institution on and I think that it is assuming some of these characteristics of a community already, but certainly not an all-embracing one.

Professor Louis Henkin:

I agree. It is sometimes useful to think about what didn't exist 20 or 30 or 50 years ago, and I refer of course to the technological advances to which Sir Brian referred. We can't tell what the technological advances of the next 30 or 40 years will be, and you can be quite sure they will be revolutionary and unanticipated and will require international support in order to manage life in accordance with them. Obviously, the dangers to the environment might mobilise people and require new kinds of institutions. Sometimes, unfortunately, it takes deep crises. I remind you of the prayer that we should be liberated from the need of danger to be good. But that often happens, just as it happened with World War II.

On the other hand, it is also important to keep in mind that in some respects we don't want too much internationalisation. Just as inside societies we hold on to a hard core of privacy, so societies are entitled and will want to hold on to their own cultures and to keep a sense of national privacy. But between those two poles — between the area which has to be left to internal governance and the areas which are subject to international governance — there's a wide spectrum and I think the future will see developments which I could not anticipate.

THE UNITED STATES, HUMAN RIGHTS AND CONSTITUTIONALISM

Caitlin Reiger:

My question is addressed to Professor Henkin. I was interested in the way you described constitutionalism as being a major part of the development in human rights promoted by the UN, and I was wondering about your response to what many people see as a fairly worrying sign: that the United States — which has played such a major role in the development of the United Nations generally, and has its own bill of rights — still is not party to most of the United Nations' human rights instruments.

Professor Louis Henkin:

I think there is some lack of appreciation of the significance of the Universal Declaration of Human Rights, because we think of it only as the foundation from which the covenants and the conventions grew. It *is* that, and that's very important. But I think more important is what the Universal Declaration was intended to be. If you read it carefully, it is not a treaty, it is a declaration and it says in effect, if I can paraphrase colloquially: 'now that we've all agreed on what human rights are and we all agree that they are a good idea, let's all go home and do something about promoting them.' So developing constitutionalism was really what the Universal Declaration was about and in many ways that, to me, is the larger success, or at least as large a success as developing the covenants.

Nations accepted the idea of human rights and assumed the responsibility for promoting them. This is what I call the development of constitutionalism and I see it as a result of UN action. No one country could have promoted it elsewhere. It took a universal body. It took a body dealing with an instrument that was developed with the participation of all the countries in the world at the time.

And I think it is the role of the UN, as Ambassador Butler said earlier, in acting as the conscience of the world, as the articulation of our common moral intuition at the end of the 20th century, which led to the growth of constitutionalism. It developed forces and protected forces inside countries, so that when you have all the countries that responded, for example, to Charter 77 in Eastern Europe[5] and other movements inside countries, you have the UN playing with ideas which the UN did not create, but which the UN adopted, promoted and helped develop. It is in that sense, I think, that the UN can claim large credit for the promotion of what we call constitutionalism.

The United States' behaviour in this regard is a separate subject I'm happy to address, but perhaps there are other questions which might be of more interest.

Ambassador Richard Butler:

Professor, why don't you say just a few words on that other subject? Why does the US have such difficulty with some of these pieces of UN law?

Professor Louis Henkin:

Well, I'd like to make it clear that I'm trying to explain the policy of the United States, not to justify it, but I think one can explain it by trying to understand the United States. We think that we have done pretty well with human rights, and we *have* done pretty well with human rights. We never thought that international human rights were intended for us. We thought that they were intended to promote the same ideas which the US had accepted and was working to improve, and to spread them around the world. So inevitably we somehow felt that 'this is an agenda for the rest of the world'.

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[5] Founded in Czechoslovakia in January 1977, Charter 77 is a group of human rights activists which monitored human rights abuses under the communist regime. It continues to monitor human rights and work for democracy in the Czech and Slovak Republics.

Now, that doesn't sit very well with people from other countries, and I recognise that perhaps more than some of my compatriots do. So when the United States did not want to do anything about the international human rights law, it was not because it didn't approve of what is in them, but because it did not want to participate in that process in ways which would impinge internally in the United States. Frankly, it is a continuation of an attitude which used to be called isolationism and it still is a form of isolationism in different degrees. In the past few years, perhaps something that has not been sufficiently noticed, the United States has ratified first the genocide convention,[6] then the convention against torture,[7] then the convention against racial discrimination,[8] and, not quite in chronological order, the International Covenant on Civil and Political Rights.[9] So we have now begun to move.

Ambassador Richard Butler:

And the Convention on the Rights of the Child?[10]

Professor Louis Henkin:

We have not yet ratified it, but it's in the process. And the Convention on the Elimination of Discrimination Against Women has received the approval of a Senate committee,[11] although it has not yet been acted on by the Senate — in part, I'm afraid, because of the intervening elections and intervening mood on the part of some Senators. So the United States is behaving better now. Let me be clear: we have ratified the International Covenant on Civil and Political Rights with some reservations that some people decry, but in general they're not reservations that show a bad attitude to human rights. They may show an unwillingness to accept international standards in those minor respects where they differ from ours, and one can debate whether that's desirable or not, but I think that's a different kind of complaint.

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[6] Convention on the Prevention and Punishment of the Crime of Genocide, opened for signature 9 December 1948, 78 UNTS 278 (entered into force 1951). Entered into force for the United States on 23 February 1989 with reservations and understandings.

[7] Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, opened for signature 10 December 1984, 23 ILM 1027 (draft); 24 ILM 535 (amendments) (entered into force 1987). Entered into force for the United States on 20 November 1994.

[8] Convention on the Elimination of all Forms of Racial Discrimination, opened for signature 7 March 1966, 660 UNTS 195; 6 ILM 360 (entered into force 1969). Entered into force for the United States on 20 November 1994.

[9] International Covenant on Civil and Political Rights, opened for signature 19 December 1966, 999 UNTS 171; 6 ILM 368 (entered into force 1976). Entered into force for the United States on 8 September 1992 with declarations and understandings.

[10] Convention on the Rights of the Child, opened for signature 20 November 1989, 28 ILM 1448; 29 ILM 1340 (amendments) (entered into force 1990).

[11] Convention on the Elimination of Discrimination against Women, opened for signature 1 March 1980, 19 ILM 34 (entered into force 1981).

INSTITUTIONAL REFORM

Brendan Reilly:

I'd like to follow up Professor Henkin's comment earlier about the need for new UN institutions to improve the organisation's capacity to deal with environmental concerns. International environment law is notoriously soft, and the period since Rio has shown just how difficult it is to get the international community to establish enforceable obligations. Can the United Nations as an organisation really contribute more constructively on environmental issues, or is the state-centred structure of the organisation going to doom such efforts to failure?

Professor Louis Henkin:

I would like to repeat a point which Sir Brian made and which I also want to make, and make again. The United Nations doesn't exist in some senses. Rather, it is a framework for the policies of nations and it's a catalyst for those policies, and it's designed to help nations accommodate their differences and cooperate towards things that have to be done. It is promising that the need for doing something about the environment is universally recognised. That doesn't mean that everybody's prepared to do what has to be done to do it, but they recognise the need. With that in mind, it seems to me that the United Nations is the best framework for trying to develop institutions in that regard.

We know the problems: different states are differently situated; the developed world is more concerned about environmental problems than the developing world; the developing world doesn't want to have to bear the economic costs of development. So there will have to be some accommodation, but I think the United Nations is really the only framework available for trying to reach such an accommodation.

THE DEVELOPING NOTION OF STATE SOVEREIGNTY

Ambassador Richard Butler:

The last couple of questions have touched on what I think is a very fundamental issue that's now fully exposed at the UN and that I find extremely exciting. It's the question of what's happening to the notion of state sovereignty, and it's on the basis of what you think about this notion that you start to edge towards a judgement both of what the UN has meant in the past and where it might go in the future.

There is no doubt that the fundamental unit in the Charter of the United Nations and in the world community is the sovereign, self-determined, independent nation-state. That's on the one hand. But on the other hand, there is no doubt that the rationale for the organisation, as it says in the Charter, is for states to harmonise their actions and to create areas of cooperation, agreement and law. In doing so, they exercise their sovereignty in one sense. But in the

United States and in Australia, people raise the alarm that the law-making power of the United Nations is running across national sovereignty. Well, that conflict has been there for a long time. But as we look into the future, I think it has got a whole new edge, and that edge comes from the fact that the traditional notion of sovereignty is itself, for many people and many states, becoming a fiction because of what's happened in our globalised world. We'll have to come to terms with that in the future.

Sir Brian Urquhart:

It seems to me that the truth is that governments are not what they used to be. They don't control most of the forces that are now shaping the future. In fact, nobody controls many of these forces. This is a matter of rather considerable concern and gloom. We've created this wonderful technological revolution, and we now have twice as many people as we had 50 years ago, and it's probably going to double again in the next 50 years. But nobody has really figured out how you control the forces of technology and make them serve the rather more pressing problems which the human race as a whole has in hanging on to survival on this planet.

I think it's distressing, especially in the United States now, to hear people talking as they used to talk when I was growing up in the 1920s, about all these foreigners and these international organisations and what on earth are they doing, and they're threatening our sovereignty and so on. Sovereignty is fine. As Richard Butler said, it's the biggest building block we have to build political institutions at the minute. But it doesn't function when you're dealing with AIDS, or ideas, or communications, or the new global capital markets, or the electronic transfer of money, or currency speculation, just to name a few things. So I think that we have to get a move on and take a look at what kind of international institutions can be, first of all, agreed on; secondly, financed, which is a very big problem at the minute too; and thirdly, gain the respect of the people of the world so that they really function and have their support.

And I think there's a very urgent question here of getting the voters, the people in different countries, to try to understand what this is all about. The UN is not some kind of whim of elder states-people in 1945. It's a very vital necessity and if we don't respect that necessity, we shall probably repeat, in a completely different form, something rather like the disasters and disorders of the late 30s and early 40s. And I think that would be a great mistake.

Professor Louis Henkin:

It may be time to try and abolish this mythology of sovereignty. It's used as a kind of mantra, as though it gives an answer to anything. It seems to me the issue is not sovereignty, but international governance, and what states in a state system have to agree to do so that we have a civilised world. So if we stop talking about sovereignty and try to deconstruct it and break it down into its elements, we recognise what it means. States consented to be governed in regard to war and peace when they joined the UN Charter, and they have consented to be governed in respect of human rights, and they will consent to be governed in regard to the environment because they're going to have to.

Now, sovereignty *does* mean that there are some areas which states don't want to subject to international governance, but there shouldn't be sort of a mythology that that somehow is sacred or sacrosanct. The real question is: in a decent world, what is best left to local activity and what requires international governance? I can deal with that subject without using the word 'sovereignty', which I increasingly do.

THE NORMATIVE ROLE OF THE UN AND STATE SELF-INTEREST

Cathy Williams:

Professor Henkin, your answer to an earlier question in relation to America's attitude to human rights highlights something that is considered by many people to be a great fault of the UN. A number of prominent members of the UN are violating human rights and other fundamental ideals of the UN on a regular basis. How can the UN hope to set universal standards of behaviour if its own members are actually violating them and unwilling to meet those standards? Is there any way that the UN can hope to evolve to deal with such problems and inconsistencies?

Professor Louis Henkin:

We've had human rights violations for millennia and no doubt we'll continue to have them, but until 50 years ago we didn't know they were violations because we didn't have any rules or norms about it. We now know. We are aware. Even your question tells me that you recognise that there are norms out there and that some countries have violated them. So we have to maintain the integrity of the norms and work on the means of enforcement. There is no way, in the system we have, of anybody trying to improve labour relations in a country of many millions of people, except by forms of persuasion, economic pressure and shame.

I'm often struck by how countries can be shamed into doing things and I think that we have to continue to work on that. We won't solve the human rights problem once and for all, but we will continue to work on it with the norms we've agreed on and the institutions we have, and we keep hoping and pressing for more democracy in different countries and more respect for human rights. If we don't succeed today, we hope to succeed tomorrow. I don't know any magic formula for doing this. Ambassador Butler pointed out that the UN was very much instrumental in ending apartheid, but it was easier to do it there, in a comparatively small country, and on an issue on which the world was united.

States have too many competing interests — trade, etc — which sometimes lead them to forget that they've all agreed that how they treat their own inhabitants is everybody's business. So I don't have any optimistic formula to offer you, but I am hopeful that somehow we'll continue to work at it and that in the countries to which you refer, change will come, if not sooner, then later.

Alison O'Brien:

I'm interested in the notion of global governance and particularly in the evolving definition of the threat to international peace and security including, of course, human rights violations. Is it possible to maintain this momentum when all the failures of the UN are considered and intervention is often dependent on national self-interest?

Sir Brian Urquhart:

Well, the short answer is no, you can't, though great efforts are now being made to improve that situation. Earlier on, I mentioned the debate that has arisen over the UN's responsibility for disasters at any place in the world. Some people say that the UN can't do everything, therefore it should not try to help some groups of people, particularly those whose fate doesn't really affect the national concerns of the major states. I think that every political institution has been through this phase, including the nation-state. It's taken a very long time to get a concept of national government where the government is really supposed to be responsible for all the citizens, and I think the UN is going through something of the same.

There was a brief burst of a sort of universal compassion. After the end of the Cold War, the UN went into more field operations in about four years than it had done in the whole of the rest of its history, and now we're suffering from a backlash from that. There's a feeling, particularly among the countries who have to pay large contributions, that it's all getting too much, we have to cut back, the UN must learn to say no, and so on. I think this will go to and fro for sometime.

But what is interesting, is that when I was growing up 60 years ago people really weren't concerned about terrible human disasters in distant parts of the world, and now they are. And I think this is partly due to communications, particularly the television, and partly due to a much greater sense of community than we had before, not enough, admittedly, but something. I think we'll go on going in that direction.

Of course, the next thing to do is to get the United Nations organised so that it has the capacity to deal effectively and in time with human disasters, something it does not have at the minute. But this is another subject which I know Ambassador Butler has been working on.

Ambassador Richard Butler:

There's nothing new or revealing about saying that states have their national interests and that these are at the heart of their concerns. It's a bit like saying 'you know, there's human greed out there'. By the way, one of the phenomena most evidently revealed by the end of the Cold War, in particular within Russia itself, was this shocking outburst of human greed — obviously because of the suppression of the past 70-odd years. My point is, it's hardly new or revealing to identify the existence of self-interest as a main motivation in people or in nations. The point about the United Nations system is that it provides a predictable, clear means through which those collectivities of self-interest can be channelled to wider purposes. I would argue that the United Nations has been successful in developing and increasing the extent to which all of us, with our national self-interest, have been prepared to use those channels and to broaden and increase the areas of law and cooperation.

The point about the future is that our choice on whether to do that or not has been narrowed, for the reasons that Sir Brian mentioned: the existence of the poor, the existence of widespread deprivation, unemployment and depression in the world, and the globally continuous phenomena such as the environment, and HIV/AIDS. They don't leave us a choice any longer. We must use the channels of international cooperation to an extent that we never have before. Otherwise, quite simply, we're not going to find it easy to survive.

Professor Louis Henkin:

Even when the United Nations was created, we created five permanent members and gave them power. The five permanent members must have thought it was in their self-interest to assume that police responsibility. The problem is that we draw this distinction between self-interest and international governance, when I think the right way of looking at it is that it is in our self-interest to make these laws and respect them. So we have to get a different perspective on national interest. We have to shed, as you implied a minute ago Mr Ambassador, the notion that the only self-interest we have is the narrow, greedy one, rather than in the rule of law and peace and humanitarian values.

EVALUATING THE UN

Rayner Thwaites:

If the UN is a framework for the policies of nations, how, at a conference like this, should we evaluate the UN? If it is a collectivity, how is one to evaluate what is effectively a framework for the policies of nations, as an independent body?

Sir Brian Urquhart:

That's a very difficult question. I think that the only way you can evaluate the UN is by taking a look back and seeing where it's come from and what it's done in that period of 50 years, and then taking a look at how well-equipped, or ill-equipped, it is to try to face the really enormous challenges of the future. And we all know what they are. These are huge problems which the human race has not been faced with in quite this form before. I think the challenge of the UN is to see whether the collectivity can rise, as it sometimes has done in the past, to become something a little more than the sum of all of its parts: a genuine expression of human aspiration, a genuine expression of the desire to make a success of the future, and a genuine expression of the desire to build, to develop the institution so that it's relevant to the problems of the next century.

That sounds like a lot of fine words, but I think you can see a certain amount of this actually happening. I mean, why does Australia, for example, contribute troops to peacekeeping forces? Why do a lot of countries, including Australia, pay significantly larger contributions per head of population than other richer countries? I think there is a genuine sense, not only of international responsibility, but also that we're all in the same boat now and we had better be sure it doesn't sink. It's enlightened self-interest. Some of it's idealism, some of it's self-interest and some of it's just the sheer sense of wishing to survive.

THE NEW WORLD ORDER: THE RHETORIC AND PROMISE OF THE UN

Simon Chesterman:

This goes back to something Sir Brian said in his introduction, which was that the United Nations in its increased role has become something of a scapegoat as a result of events like those in the former Yugoslavia and Somalia. This was later referred to as a backlash against increased action. My question concerns whether in fact the problem that we're facing is that the 'new world order', as it's proclaimed to be, is perhaps not that 'new', and that we still have the problems we've been identifying: the problems of state sovereignty; the problems of consent; the problem of the veto power in the Security Council; and the fact that states like the United States continue to see international rights as important, but not for them. My question, then, is whether our rhetoric has leaped ahead of our means and, if it has, what do we do about getting back to addressing the very fundamental questions that will enable us to live up to the promise of that rhetoric?

Sir Brian Urquhart:

I think you've answered your own question, if I may say so, very well. I think it is true that the rhetoric is always rather ahead of the reality, but that doesn't mean that it's all bad. I think that we do go through periods of backlash. It's only four years ago that everybody was throwing their hats in the air and saying the renaissance had arrived and that the UN was going to function as it was supposed to do. I wasn't one of these people. I didn't think it would happen and what have we got? Instead of the 'new world order', we have got the 'new world disorder' which is much more difficult to deal with. But that should be a sobering experience. There are a lot of people in the world, including, incidentally, a lot of governments, who are quite sensible enough and quite far-sighted enough to know that making this thing work is greatly in their interest, possibly even in their vital interests, and for many people it is, and I think you have to build on that.

Of course, there's the great problem of leadership, which is such an easy thing to talk about and such a difficult thing to identify. When the UN started, there were a great number of leaders in the world who were staking their whole political reputation on making the international order work better. One of them was Dr Evatt, incidentally, who was then the Foreign Minister of Australia. He was an extremely important figure in the formation of the UN and there were people like him in many countries. Somehow, that's gone out of fashion now and I hope very much that the young generation will make it come back into fashion again, because this is not only interesting, it's extremely important. You don't make institutions function without good leaders, and you don't find good leaders if the populace is apathetic about the function of the institution.

Professor Louis Henkin:

To borrow an old phrase, if the UN didn't exist we would have to create it. And it probably wouldn't be created too differently from the one we have, with all its faults. I think the key word may be the one Sir Brian suggested, which is leadership. It requires leadership not only in the UN, but inside countries. In every country, unless there's leadership, the masses of the people will probably not favour making big sacrifices for which they don't see the reason. Someone has to persuade them that the purposes are worthwhile and that the means are within their means and have to be used. If we can build up that leadership, we'll have a more successful UN. If not, we'll continue to struggle along.

Ambassador Richard Butler:

I'd like to add the last word to what Professor Henkin and Sir Brian have said. I agree very much with their concluding remarks. The profound impression I have around the UN today, is that we are witnessing a scene of yesterday's politics trying to catch up with tomorrow's problems. And in that sense, I agree with the questioner who said maybe the so-called 'new world order' has just revealed a lot of old-fashioned problems. We have seen ethnicity, nationalism and so on, come back to the surface, and the problem of the notion and role of state sovereignty in the globalised world is a very big and very serious one. But really, my profound impression is that we are witnessing a process whereby yesterday's politics perforce may be being dragged kicking and screaming into the future. But yesterday's politics *are* being obliged to catch up with tomorrow's problems. That's the task that lies ahead and the UN undoubtedly will be a place in which that will happen. Its framework of laws and conduct will be indispensable for that occurrence.