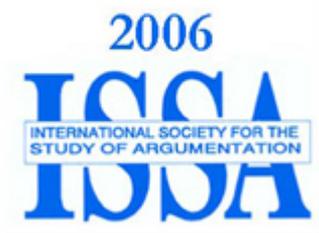


ISSA Proceedings 2006 - On Taking The UN Seriously As A Site For Public Arguments: Does The UN Have A Role In The 21st Century?



In a series of essays we have examined the challenges to democracy and to deliberative political participation posed by globalization. We have considered the declining power of nation states, the changing patterns of media production and consumption and the impact of new communication technologies on argumentation theories and practices (Hollihan, Riley & Klumpp, 2003; Klumpp, Hollihan & Riley, 2002; Klumpp, Riley & Hollihan, 2000; Hollihan, Klumpp & Riley, 1999). In this research we have been interested in understanding how new forms of social and political networks have created powerful opportunities for social organization and political action. These changes have empowered people in unique ways, some of which may be socially beneficial (e.g., increasing the power of environmental movements), while others may have led to enhanced opportunities for the angry, alienated, and dispossessed to feed each other's rage (e.g., the use of the Web by racist hate groups) (Hollihan, Riley & Klumpp, 2003; Riley, Hollihan & Klumpp, 1998). We have also focused on various institutions in the globalized world: some local democratic sites, some new structures within the altered global power distributions, some in between. We have focused explicitly on the role of NGOs in this process, and most recently we explored the challenges toward winning public consensus and governmental adherence to the United Nations' (UN) principles of human rights (Hollihan & Riley, 2006).

This paper expands upon this earlier work and returns our attention to the UN. We want to examine the UN as an argumentative site within the altered democratic landscape of the 21st century. We will argue that the UN faces unique challenges as a site for deliberation in this era of globalization but that it also provides an essential contribution to democracy and civil society. The paper

discusses the dual purposes of the UN as a site for the development of values and moral arguments and as a political actor on the world stage. We identify the challenges to the UN as a forum for arguments that would legitimate actions and identify the procedural conditions for argumentative practices and structural changes that would strengthen the UN as a site for democratic renewal.

1. The Place of the UN in a Globalized World

The structural and institutional challenges faced by the UN are readily apparent. The UN was created in a world that had just fought a World War based on nationalistic interests. The temporary allies that had won that war were dividing into bipolar camps in which the national interests of two powers dominated the interests of others, even as the UN's birth was being consummated. The institution's first half century was shaped by this bipolar reality and the efforts of smaller, formerly colonial powers, to respond to their own nationalisms and carve out a place within that bipolar world. The largely peaceful revolution that ended the bipolar Cold War left a changed world. The initial response to this change promised a more diverse and decentralized world with the opportunities and dangers posed by these transformations. The attack of September 11, 2001, and particularly the invasion of Iraq two years later, triggered a reasserted nationalism in which the dominance of the United States as a military power presented a very old pattern of empire.

At the beginning of the 21st century the United Nations remains organized around the six major organs that it was given at birth. Three of these dominate public awareness. The Security Council is an organ of the powerful. It is a deliberative body that through extended diplomacy often takes action to impose order on a disorderly world. It functions best in peacekeeping roles. The Security Council is no match for the nationalistic interests of powerful nations and is often simply ignored by them, unless the interests of the powerful coincide. Debates in the Security Council do not so much decide the choice of action as they legitimate actions. Success in the Security Council provides international legitimacy; failure often simply shifts the terms of legitimacy to national interest.

The Secretariat is, in reality, the coordinator of a decentralized plethora of agencies, including the Economic and Social Council and the Trusteeship Council, that address many of the problems of the social, economic, and political world. The International Court of Justice brings international law to disputes among nations. The Court has recently acquired new importance because of its war

crimes trials. The various minor councils, agencies of the Secretariat, and non-subsidary agencies reporting to the UN, from UNESCO to the International Atomic Energy Commission, provide a decentralized administrative structure that struggles to expand international cooperation by marshaling cross-national resources of personnel and knowledge. Although the Secretary General is responsible for coordinating these ancillary functions, he enters public consciousness most effectively as a voice of the UN's power to shape the legitimacy of member actions. Thus, he is publicly more an extension of the General Assembly than of the other parts of the UN.

The one place where all 191 nations of the UN come together, the General Assembly, has been ridiculed as the worst sort of debating society. But this characterization misconstrues its purpose and sees it as a site for traditional policy deliberation. In fact, it is a legitimation body. The Assembly provides a venue for the development of international humanitarian values and a place where at its best, the powerful feel the opportunity, and occasionally the compulsion, to come to justify their actions. The power of the General Assembly is moral suasion and its most important work is developing values and framing institutional policy legitimation.

Our interest today is primarily in the General Assembly. The Assembly is caught in a contradiction. It is not democratic in composition, being organized around the nation-state and granting a seat and a voice to those nation-states. Yet, it is democratic in argumentative design, planned as a place for debate and focused on the creative power of hearing all perspectives.

Argumentation requires that prior commonalities and agreements be converted into broader understandings. In an argumentative milieu like the General Assembly, the interests of many different nations with unique histories and problems must be addressed in a manner that gives all confidence in the moral power of their participation. An effective international organization requires that the participating nations "buy into" the principles and rules that guide the deliberations. Small, weak, and powerless nations must be convinced that they can find their voice by expressing views that other nations may also come to share and in this spirit they may bind together to have greater power and influence. The UN is perhaps the starkest example in the world today of the dialectic between power and morality. Powerful nations, in many ways, may feel that they have less to gain by agreeing to abide by rules that may in some particular circumstances

come to work against their national interests. One of the most effective ways to urge full and meaningful participation within the rules and principles of international cooperation is to assert that on some issues and at some point in time, the strong may in fact become weak and may then demand the protection of law. In this rationale, it is the “uncertainty of their condition” that may prompt the strong to consent to play by the rules (Glennon, 2003, p. 29). If the powerful are confident that they will retain their power, however, their commitment and their incentive to consent to play by the rules are diminished. Hegemony and the presence of a single military “hyperpower” thus dramatically undermine the very principles embedded in an authentic rule of international law (Glennon, 2003, p. 30).

The creation and nurturance of an effective system of international dialogue thus demands structures and argumentative practices that genuinely assure a commitment to shared principles and an acceptance of argumentative risk. It is not enough for nations to loosely “buy into” abstract notions of values, a position that we have explicitly argued in an earlier essay focused on the possibilities for enforcement of the UN Universal Declaration of Human Rights (Hollihan and Riley, 2006). Instead, nations must accept the fact that they may be unable to convince their hearers of the wisdom or the justice of their argumentative positions and as a result, they may be forced to surrender their own interests to a more general will. From its inception the UN was built around an assumption that individual nation states would be willing to accept restraints on their own short term goals, interests, or policies as they were required to concede to the will of other nations in the pursuit of a broader commitment to the norms of international law (Tharoor, 2003).

In some ways, this process should be easier in a globalized world. But in the early 21st century, we live in a world that struggles between nationalism and global humanitarian interests. Our existing global international political institutions, including the UN, have been slow to adapt to these changing conditions. Maintaining stability and peace with the instruments of authority and power, in an era of fragmentation of authority and power, will prove increasingly difficult. Although corporations and investment capital can react very quickly to altered risks and opportunities, civil society and deliberative democratic political institutions react slowly because there are so many messy interests and demands that must be balanced (Edwards, 2000). A strong institutional infrastructure is clearly helpful if we are to develop the kind of social capital that will lead to a

values consensus about human rights, protecting the environment, and avoiding military conflict. As Edwards (2000) argued:

It is already clear that governance in the next millennium is unlikely to mean a single framework of international law applied through a unified global authority. More likely is a multi-layered process of interaction between different forms of authority (states, citizens and markets) and different forms of regulation (laws, conventions, and social norms), working together to pursue common goals, resolve disputes, and negotiate new tradeoffs between conflicting interests. (p. 3)

The United Nations has an important role to play in nurturing these kinds of social interactions, and thus its structures, mechanisms, and argumentative culture must be carefully nourished to achieve these goals. This culture of deliberation will require opportunities for large and small, strong and weak, rich and poor nations to participate in public deliberations in which their voices are heard and respected. This may also entail opportunities for direct citizen deliberation that transcend the nation-state as a point of authority. Most importantly, however, it means the kind of rule governed interaction that reflects sound argumentative practices.

2. The UN as a Site for Democratic Argumentation and as an Agent of Action

As we have already observed, the UN is an important site for public argumentation. It is, as Tharoor (2003) argued, “a stage on which its member states declaim their differences and their convergences” (p. 75). As an argumentative site, the UN serves multiple purposes. First, the UN serves as a place for the articulation and exploration of alternative political perspectives and interests. The diplomats of their respective nations are challenged to offer coherent and rational explanations for their positions, interests, and actions. In the UN, those explanations are subjected to argumentative challenge by those who would construct their worlds differently. The UN functions as an agreed upon forum for the interaction of public arguments. By engaging in rule governed arguments, participants germinate and develop common perspectives within a shared normative framework (Risse, 2000). Arguers develop their positions in accordance with their identities, self-perceptions, interests, shared narratives of history, and hopes and fears for the future. The UN forum is one of the few places where these alternative perspectives are subjected to potential falsification through exposure to argumentative analysis and risk.

Perhaps the most important and unique product of this public argument is the

development through argumentative processes of a baseline of humanitarian values that set limits on the moral behavior of nations and individuals and that thereby shape the legitimation of international actions. A notion of legitimacy, of the rightness of actions, must emerge from a careful and extended process of debate that develops a consensus across global difference. In the complexity of the world of the 21st century, not even the UN can declare a morality. Rather, a discursive pattern of valuing must develop norms of behavior that lead to praise and condemnation. If morality is to confront power, it must do so with a structure of argument made possible by a body like the UN.

Another way to express this argument is to observe that institutions such as the UN might serve to provide a common lifeworld for international deliberations (Habermas, 1981/1987; Risse, 2000). Such a lifeworld does not promise agreement on complex issues, but it does at least help the arguers to identify their shared interests, common concerns, and points of divergent interests. These interactions also help participating nations to attach a “face” to the positions developed by alternative arguers in the hope that diplomats come to better understand each other’s ideological commitments, passions, prejudices, goals, visions, and blind spots.

Second, because so many of the arguments in the UN move into the press and public discussion, the UN debates help shape the public agenda and give life to arguments in other public spheres. Certainly the attitudes and opinions of the public at large may have an uneven and varied impact on the actions of nation states. In the Iraq war, Britain, Spain, and Italy were committed to the conflict by their governments despite high levels of public opposition. Nonetheless public debates in forums such as the UN are critical to helping democratize foreign policy actions. Because citizens in individual nations may be too readily susceptible to domestic arguments that make villains of others while celebrating one’s own virtues and values, it is especially critical that there be forums for the presentation of arguments that challenge these perceptions. It is in this context that actions such as the UN’s recent condemnation of the United States’ detention of suspected terrorists without access to courts may have the greatest impact. In the era of globalization individual nation states find their own power and authority diminished. This situation makes it even more difficult to create opportunities for informed global citizens to come to understand and deliberate together about complex problems and appropriate courses of action.

Third, the UN offers at least the promise or potential for collective action. UN sponsored health and welfare, economic development, and refugee relief programs have provided assistance and succor to the world's neediest citizens. The International Court of Justice has played a central role in the adjudication of minor disputes to divert potential tensions into lawful solution, and has been increasingly important as an adjudicator of human rights abuses. These actions are founded in legitimacy rather than brute power. This principle has also been a mark of the UN's peace keeping missions. Only in the case of Korea, has the UN been a combatant. Rather, as a direct actor it can create multinational forces to monitor and enforce settlements reached by combatants through negotiation. Often these peace keeping forces have played a vital role in resolving conflicts precisely because the troops were drawn from nations that were not perceived as having a stake in the outcome. Thus, even with its many difficulties, the UN as an agent capable of direct action can act on behalf of shared interests in a way that gives credibility and attention to the resolution of common problems in a way that individual nations cannot. Admittedly, the UN has often proven to be an imperfect agency for the administration of these different projects and programs. At times the personnel have been insufficiently trained, supervised, or compensated and financial corruption and most recently sexual exploitation and abuse have been charged against UN representatives. But are these same charges not also leveled against other NGOs or national forces who take on similar responsibilities? In short, the UN has a form of authority that is profoundly rare and thus should be carefully nurtured and protected, for there are no real alternatives at the present time (Ruggie, 2003).

These three functions, although often closely related, are also in some ways independent and equally significant and important. In every case, however, the UN as an institution can only be truly effective and assert authority - both normative authority and the authority to mobilize shame - if it maintains legitimacy in the eyes of participating nations and the public (Johnstone, 2003). Maintaining such legitimacy, we will argue, demands argumentative practices and rules for deliberative engagement that are understood, shared, and accepted by participants.

3. The Legitimation Crisis in the UN

Legitimacy refers to the sense that something is perceived as lawful, right, and justified as a reasonable course of action. In a membership society legitimacy may be claimed through democratic processes of elections, rational discussions,

procedural rules for entering into discussions, criteria and rules for addressing inequalities in power and influence, and norms that demonstrate that the institution is accountable to its constituents. Few NGOs can boast institutional structures that are genuinely democratic or that address such issues as power inequalities among members (Edwards, 2000). Although the UN is far from ideal and has, as we have observed, failed to be as responsive to changing world conditions as it might have been, it has nonetheless been more responsive than any other international body. As Barnett (1997) observed: "The UN is the only organization that approximates universality and is invested by states as having some degree of moral authority. Most simply, it has this legitimacy and authority by virtue of the fact that member states invest legitimacy in it." (p. 541)

The maintenance of organizational legitimacy demands that the playing field for civic engagement be leveled to the greatest extent possible. This entails encouraging participation from those in smaller, weaker, and/or less developed nations. It also means expanding the number of global forums that are accessible to citizens. Conducting business only in the General Assembly or the Security Council fails to reach out to broader communities of citizens. As a result, the UN must find ways through networks of engaged and concerned citizen actors to clarify the rights of citizens to participate in deliberations.

Legitimacy is also, of course, tied closely to power. To maintain legitimacy the powerful must agree to play by the rules and in accordance with the underlying principles that embody the institutional values of the organization. Thus, as Barnett (1997) argues: "Power and legitimacy, in short, are not conflicting concepts but rather complementary ones. The powerful, too, want their actions to be viewed as legitimate, if only to maintain their power and further their interests. Even the powerful, in this view, cannot act in an expedient and narrowly self-interested manner and must observe international society's underlying rules and norms" (p. 543).

Even as it challenges the legitimacy of the UN by taking unilateral action, the current Bush administration demonstrates the growing power of legitimacy in supporting international actions. The administration went to the UN to attempt to win support for its war against Saddam Hussein's regime in Iraq because domestic political audiences in the United States demanded UN approval for any military action. Although the Bush administration failed to win the full and unconditional approval that it sought, it is noteworthy that before the UN Bush claimed legitimacy for US actions on the basis that Iraq was in violation of UN

Resolution 1441, which called for a new inspections regime to assure that Iraq was not producing weapons of mass destruction. Although France and Germany refused to support immediate military action, there was substantial agreement within the UN of the underlying finding that Iraq was in “material breach” of prior UN resolutions (Glennon, 2003). As Tharoor (2003, p. 68) noted: “Acting in the name of international law is always preferable to acting in the name of national security. Everyone has a stake in the former, and so couching US action in terms of international law universalizes American interests and comforts potential allies.”

Processes of open debate are crucial to restraining nationalism and enhancing the legitimacy of actions. Although politicians and right wing radio talk show hosts in the United States complained mightily that the UN permitted the “cowardly” French, “dastardly” Germans and “powerless” governments of Angola, Guinea, and Cameroon to pass judgment on the ability of the United States to take military action against Iraq in the name of the UN, the ability of those nations to participate and vote on the Security Council clearly bolstered the legitimacy of the organization. It is the assurance that such nations are entitled to participate in UN deliberations that assures that the UN can truly function as a meaningful site for argumentative debates that reflect a breadth of global opinions (Tharoor, 2003). US diplomats who urge disdainfully that other participants should not have the right to serve as a brake on the US getting its way in the UN undermine the legitimacy of the very institution that they are seeking to claim to legitimize their actions. It is, in short, a self-inflicted wound.

4. Procedural Rules, Argument Practices and Structural Changes to Improve the UN

The emerging theory of the argumentative rules and practices as a key to civil and humanitarian resolution of disputes has provided a structure to think through problems like those facing the UN (Habermas, 1981/1984, 1981/1987). The many challenges to the creation of conditions for effective argument exchanges in a forum such as the UN are readily apparent. The participating nations have dramatic differences in power. They experience widely different economic circumstances. They are pursuing their own foreign policy goals as they seek to resolve their own problems. And they bring to the table very different cultural backgrounds that influence the starting points for their constructed world views. Principles and rules of equal access to the forum are of course necessary and

have already been created in the foundational documents of the UN. Likewise, the commitment to surrender one's position to the will of the collective body, which has been the focus of much of the discussion in this paper, is an essential condition for reasoned argumentation. Theories of public argumentation are often developed precisely around these very principles. For example, it is a commonplace that argument must entail both respect for one's counter-arguer and the risk that one might be proven wrong (Brockriede, 1972; 1982). But there are special rules and principles that apply particularly, or with greater emphasis, in the United Nations.

First, the argumentative processes in the UN should, to the greatest extent possible, be transparent and conducted in the open. The important function of the UN in shaping public attitudes and values justifies debates before public and press. Secret negotiations and behind-the-scene machinations increase skepticism about the process and diminish public confidence and trust. Likewise, it is wrong to buy support for one's positions with generous financial enticements or aid packages, or by willingly ignoring some violations of agreed upon principles in exchange for support on other issues (e.g., when the human rights violations in China are overlooked so that the Chinese can be won over to support actions against North Korea). Arguers should be required to regularly and routinely justify and explain their positions and their actions. The retreat to secrecy works against the principles of normative value construction that lie at the heart of the international argumentative process. Too often the Security Council has violated this principle by negotiating the texts of resolutions away from the public eye. The General Assembly follows this rule more clearly. It is, in fact, the ratio of moral to military power in the General Assembly that makes that forum important to the argumentative function at the UN.

Second, a productive argumentative practice in the UN demands that arguers be challenged to fully articulate their arguments within the generalized public good. For all of the reasons identified above, including the demand that domestic audiences be satisfied for regimes to hang on to political power, nations have a tendency to focus on narrow self-interests. While the expression of distinct interests is important, the standards for argument in the UN should always demand that arguers explicitly explain how their positions are grounded in recognized humanitarian values. Likewise, productive argument demands that counter-arguers flaw arguments that fail to attend to this obligation. Claims and counter-claims about what constitutes the "public good" produce the texture of

discursive understanding through which people come to transcend differences and achieve shared worldviews.

Third, argument will be most open when diplomats and the nations they represent argue in a non-hierarchical voice. This means that ethos should rest in humanitarian and pan-national values rather than in rank or special status. Nor should arguments demean the status or rank of others except in the framework of the norms of international behavior (Risse, 2000). Self-references to one's role as an organizational founder, as the host nation, as the largest contributor of dues to organizational income, or as a powerful nation that should not have to submit to organizational constraints, clearly violate such conditions for argument (Urquhart, 2006).

Fourth, effective legitimation arguments focus attention on principles of behavior and values of international conduct. Most often, what is at stake in the UN forum is not a selection of conduct, but the values, rules, and principles that structure international norms. Argument often develops a texture of values through its praise and blame of specific actions. Social actors learn behaviors and strategies in the process of watching others and engaging in the everyday praxis of communicative interaction over issues of rightness and propriety (Giddens, 1984). This process enforces its moral power by forcing issues of legitimacy into the broader public debate.

If we use human rights arguments in the UN as an example, we might discover how this process develops in a specific context. Risse (2000) noted the way arguments in the UN force violators of international norms to confront their behavior:

The more norm-violating governments accept the validity of international norms, the more they start arguing with their critics over specific accusations. If the transnational and domestic pressure increases, norm-violating governments start engaging in a public dialogue with their critics, and the logic of arguing incrementally takes over. (pp. 29-30)

Risse (2000) elaborates the process:

When norm-violating governments find it necessary to make rhetorical concessions and cease denying the validity of human rights norms, a discursive opening is created for critics to challenge them further: If you say that you accept human rights, then why do you systematically violate them? The usual response is that such violations either did not occur or are marginal developments. The

discourse then shifts toward the issue of whether norm violations constitute isolated incidents or are systematic in character. At this point during the tactical concession phase, the arguments of both sides become more detailed and also more legalistic. It is no longer a discourse on the validity of the norm, but on the interpretation of the law of the land. At the same time, the two sides gradually accept each other as valid interlocutors. They no longer denounce each other as ignorant foreigners or pariah states. Arguments that would not have been acceptable in earlier stages of the debate are now treated as valid points. (p. 32)

Our call here is for a rather dramatic rethinking of argumentative debate processes. The Aristotelian emphasis on deliberation to select action is supplanted by a moral deliberation that is productive of common values that can guide behavior. Different principles of argumentation follow from the altered goal of deliberation. The process is a texture of argument that shares, in Aristotelian terms, epideictic and even some forensic characteristics. We wish to affirm, however, that an argument is productive that generates a basis for judgments of legitimacy and will become increasingly powerful as legitimacy of action is affirmed as an expectation of international behavior.

Fifth, arguers in these debates have an obligation to connect their value positions with their own behavior, to avoid hypocrisy. One cannot condemn in others those actions that it engages in one's self. Condemnations of other nations for their violations of human rights while simultaneously dismissing one's own refusal to acknowledge such fundamental rights certainly violates this standard. For example, President Bush has gone so far as to sign legislation that authorizes a president to use military force to secure the release of any US service member detained by the International Criminal Court. Such legislation, coming at the same time that the US has been accused of abuse of Iraqi citizens in the Abu Ghraib prison, or in the recent massacre in Haditha, suggests that the US sees itself as above international law. The failure to demand argumentative consistency diminishes the quality of discourse and creates the perception that the more powerful nations are less committed to the rationality of the deliberative process than they are in achieving their own preferred policy outcomes. Certainly, this situation diminishes the legitimacy of the institution and the respect for the international rule of law.

These five principles would provide a texture of argument that stresses the UN's moral power to bring nations of the world together in consensus that isolates the

more odious violations of human rights and violent pursuit of self-interest. Globalization offers a consciousness that transcends nationalistic interest. The UN is an institution where the argumentative texture necessary to achieve this power of legitimacy is its strongest contribution.

Although we believe the five conditions for argumentation listed above would markedly improve deliberations at the UN, we have not provided solutions to all of the institutional issues that confront the organization as it must evolve in response to globalization. The most vexing challenge for the UN in this era of diminished national sovereignty is to create more opportunities for citizens to deliberate without having their opinions recast by their nation's diplomats. Small baby-steps toward such direct deliberation are now being taken in the form of cyber-space discussion groups that engage citizens in conversations issues such as capital assistance projects, drought relief, Internet regulations and women's rights issues in advance of scheduled UN meetings. These electronic discussion groups can be found on the official Website of the United Nations (<http://www.un.org>). Although it is too early to determine how effective such meetings may be, they do have the potential to spark expanded opportunities for citizen deliberations.

Some international relations scholars have proposed a far more dramatic restructuring of the UN. For example, Falk and Strauss (2001) proposed the creation of a "People's Assembly" as a third chamber in the UN. They suggest that the General Assembly become a bi-cameral legislative body and that citizens from around the world be permitted to vote for delegates who would not merely reflect the policy positions of their nations, but who would represent public opinion in a broader sense.

There are practical problems with such processes, to be sure. Although the Web can be an important site for networking and political deliberation there remain serious if not debilitating disparities in access to cyberspace. Likewise, these electronic sites will no doubt come to be dominated by those few whose interests are most acutely served by participation to the detriment of others who have less at stake in specific policy outcomes. With regard to the "People's Assembly," it is difficult to imagine how the election of delegates might be conducted in a manner that would facilitate an informed vote for representation to such a council. It is also likely that the citizens from developing nations who lack the material resources to gather information or to become well-known outside of their local

areas and communities might be especially disadvantaged in such elections. Yet we do think it is time to consider formalizing opportunities for various types of direct citizen interactions in the UN. Representation could be provided, for example, through the identification of universally contested interests. Environmentalists, human rights activists, consumer activists, labor interest groups, immigrant rights groups, etc., could all be more directly engaged in formal UN deliberations via face-to-face and virtual communication networks. Continued tinkering with the apparatus of UN structures will be essential if the organization is to be genuinely representative and relevant in the years ahead.

5. Conclusion

We have argued that the UN plays a critical role in the establishment of an international system of respect for laws and human rights. Through a focus on argument strategies and practices that can enhance the legitimacy of UN deliberations the organization might be rehabilitated. As Claude (1996) argued: "While the voice of the United Nations may not be the authentic voice of mankind, it is clearly the best available facsimile thereof, and statesmen have by general consent treated the United Nations as the most impressive and authoritative instrument for the expression of a global version of the general will" (p. 372).

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