

# *Great Expectations: The United Nations at 50*

## INTRODUCTION

In 1945 when the United Nations was established there were great expectations for the new Organisation — for world peace through law, for a new level of international cooperation, for the social and economic advancement of peoples. Five decades later it is appropriate to consider the Organisation again — its past, its present and its future. The UN has functioned for 50 years and there are no signs of an imminent demise. The Cold War is over and new opportunities for international cooperation exist. Many of the problems facing the international community are too complex and too great for single countries to deal with, and global technological advances have facilitated an unprecedented level of international interdependence. In selecting the Conference title '*Great Expectations: The United Nations at 50*' we were conscious not only of the circumstances in which the UN came into existence but also of the opportunities that exist for the next stage of the Organisation's history. The Conference was an outstanding success and, as these proceedings show, a number of recurrent themes emerged from the presentations of various speakers and from the discussion their contributions provoked.

## MAJOR ACHIEVEMENTS

In a video link-up between an expert panel in UN studios in New York and a group of International Law students from Melbourne University in the United States Information Service studio in Melbourne, Sir Brian Urquhart, Professor Louis Henkin and Ambassador Richard Butler addressed the question 'What would the world have been like without the UN?' The panellists and the students engaged in a question and answer session about the UN's successes and deficiencies. While acknowledging that the UN has its shortcomings, all three panellists made telling observations about the UN's valuable achievements in areas such as the development of Human Rights Law, the resolution of international disputes and the provision of a forum for international discourse.

Subsequent speakers reflected on other UN achievements. Executive Deputy President Thabo Mbeki and his inspiring entourage embodied the benefits of UN efforts to encourage the end of apartheid in South Africa, and Mr Mbeki also spoke of other UN efforts to promote and strengthen human rights. Lieutenant General John Sanderson and Professor Ove Bring spoke of the benefits of various UN peacekeeping operations, while Professors Patricia Birnie and Ben Boer identified major UN achievements in the protection of the environment. Dr Pierre-Michel Fontaine discussed UN efforts to protect and

provide for the growing number of refugees. Overall, there was a very real sense of acclaim at the positive achievements of the UN.

#### AUSTRALIA AND THE UN

In accepting the invitation to come to Melbourne University to open the Conference, the Secretary-General of the United Nations, Dr Boutros Boutros-Ghali, indicated that he was keen to participate as a way of acknowledging Australia's significant contributions to the life and work of the UN. In his opening address the Secretary-General praised Australian involvement in the UN and set the scene for further acknowledgments throughout the Conference proceedings. Both the Secretary-General and Senator Gareth Evans referred in particular to the efforts of Australian officials at the San Francisco conference in 1945 establishing the UN.

Participants also discussed Australia's role in the UN since its establishment. For example, there were a number of reminders of the significance of Australian contributions to various UN peacekeeping operations. In particular, Australia's recent involvement in Somalia, Cambodia and Rwanda was highlighted through a variety of media including an Australian Defence Force audiovisual presentation, personal testimony from two ADF peacekeepers and Lieutenant General Sanderson's paper on UN Peacekeeping and Peacemaking.

Senator Evans' paper 'Future Directions for the UN' (the inaugural Sir Kenneth Bailey Memorial Lecture on 'Australia in the International Legal Order') both described and was indicative of Australian participation in and contribution to the debate about reform of the United Nations Organisation. This was also acknowledged by the Secretary-General.

A corollary of the identification of some of Australia's contributions to the UN throughout the history of the Organisation was the recognition of the importance to Australia of an effective global multilateral body (a theme particularly identified by the Australian Ambassador to the United Nations, Richard Butler). There is, perhaps, a temptation on the part of some Australians to view many of the nation's contributions to the UN as magnanimous gestures beyond the scope of our obligations, indicative of greater generosity than other member countries and, therefore, justifying self-congratulatory sentiment. A more cynical view is that the primary motivation for 'better than average' involvement is to attract international praise. However, a number of speakers explained Australian commitment to the UN in the light of the benefits to Australia of a vibrant world body. Australia lacks the political, military and economic power to influence international affairs on a unilateral basis and is dependent upon the multilateral system to achieve its foreign policy objectives. Just as this reliance explains Australian engagement in the activities of the Organisation, it also underscores the importance of continued Australian involvement in, support for and commitment to the future of the UN.

### CHANGING CONCEPTS OF SOVEREIGNTY

Certain challenges to traditional concepts of state sovereignty also became apparent through a number of the papers. Sir Brian Urquhart and Ambassador Richard Butler squarely addressed this issue, pointing out that a large number of the world's problems are beyond the control or capacities of individual states, and that the human race must continue to develop institutions capable of dealing with new problems. The real question, as Professor Henkin put it, is what is best left to local activity and what requires international governance? The answer to this question appears to be gradually changing.

This change becomes clear when it is recognised that the major problems currently confronting the UN are of an intrastate nature. The UN, as initially conceived, was not to deal with problems of this kind (see, for example, the domestic jurisdiction provision in Article 2(7) of the UN Charter). Now, however, the main threats to international peace and security arise from within states. UN efforts to protect the peace through peacekeeping and peace-enforcement can therefore interact uneasily with state sovereignty. For this reason speakers such as Senator Evans, Lieutenant General Sanderson and Professor Bring stressed the importance of clearly distinguishing consensual peacekeeping operations from non-consensual peacemaking. The UN must know when it is respecting and when it is overriding state sovereignty.

Other areas of UN concern have also developed an intrastate focus. The world's main refugee problems now often involve internally displaced persons, although, as Dr Fontaine points out, the world community has not yet granted a clear mandate for UN involvement in this area. More general human rights issues, such as the problem of feeding the world's growing population discussed by Mr Ingram, also have their primary impact upon the domestic policies of individual states. The overall picture is one of growing UN involvement in areas traditionally within the domain of states. The papers indicate that the boundary between these areas is likely to continue to shift. This changing conception of state sovereignty is, as Ambassador Butler put it, an extremely exciting issue in the current development of the United Nations.

### MAJOR WEAKNESSES

Amid the accolades, some speakers were also critical of major weaknesses in both UN processes and structures. Professor James Crawford, in a paper that was not available for publication in this symposium (but which may be published in edition 20.2), exposed several inadequacies in Security Council responses to situations constituting threats to or breaches of international peace and security, and discussed the justiciability of assertions of jurisdiction by the Security Council. He was particularly critical of the Security Council's inability to adjust to the realities of the post-Cold War world and to the increasing incidence of intrastate conflict. Mr James Ingram suggested that some of the most crucial issues facing the UN, including the challenge of feeding the

world's population, are often not taken seriously unless or until there is a crisis. At the crisis stage, unfortunately, the problem is often too difficult to deal with effectively.

Both Ms Julie Chater and Senator Gareth Evans lamented the lack of resources, human and financial, for key aspects of the UN's mandate. Senator Evans made the telling observation that, contrary to popular belief, the total number of UN staff (including all the specialised agencies) is less than one quarter of the number of employees of the Victorian State Public Service! This deficiency is exacerbated by a problem that Professor Ben Boer identified in the excessive number of UN treaty bodies and of the tendency to create a new administrative organisation each time a new treaty is concluded. This practice often replicates administrative bureaucracy and has led to an unwieldy, inefficient conglomeration of bodies within the system.

Professor Hilary Charlesworth (in an unpublished panel discussion) presented the stark realities of gender imbalances in the UN system, particularly at senior levels. Quite apart from the lack of women in senior positions in New York and Geneva, in 50 years of practice since the establishment of the International Court of Justice there has only been one woman *ad hoc* judge and not a single woman appointed for a full nine year term. The recent announcement of the nomination of Professor Roslyn Higgins to replace the late Sir Robert Jennings on the Court provides a source of some hope that this inequality may gradually be removed.

#### PROPOSALS FOR REFORM

It is now well accepted that some reform is essential if the UN is to respond effectively to the issues that will confront it in the next stage of its history. Proposals for reform are being examined and discussed all around the world and the debate has progressed to a more substantive level than previously. Throughout the Conference several suggestions were made about future reforms to the Organisation and the way it operates.

Senator Evans squarely confronted the issue of reform of the UN, and he raised a number of important proposals. He avoided the temptation to repeat much of what he has already contributed to the debate and focussed on two fundamental areas for reform — the administration and management of the Organisation and its funding. In the area of administration and management Senator Evans argued for substantial restructuring of senior decision-making in the UN Secretariat, for the introduction of modern personnel practices throughout the entire UN system and for the development of appropriate skills for new functions (for example, preventive diplomacy). Senator Evans also referred to the perennial cash crisis faced by UN headquarters because of overdue payments by Member States, stressing that talk of reform and restructuring the Organisation is meaningless unless Member States change their past practices in failing to meet their financial obligations on time. However, even if all dues are paid on time, the international community may need to think more creatively about

additional revenue sources. Senator Evans again raised the possibility of a tax on international transactions that depend upon a 'minimum degree of international peace and stability' (such as air travel or foreign exchange dealings).<sup>7</sup> Such imposts could produce very substantial contributions relative to the UN's other revenue sources. Lieutenant General Sanderson also made a number of concrete suggestions for improving the effectiveness of UN peacekeeping operations, drawing heavily on his experience as the Commander of the United Nations Transitional Authority in Cambodia.

#### OPTIMISM FOR THE FUTURE OF THE UNITED NATIONS

Despite the obvious obstacles to reform, the mood of the Conference about the future of the UN was largely optimistic. It was particularly noteworthy to have Mr Steven Kanai, the Director of the Bureau of Foreign Affairs in Palau, presenting his country's reasons for joining the UN thus becoming the 185th and newest Member State. The UN is here to stay, at least for the foreseeable future. The challenge presented by the Secretary-General at the opening of the Conference is pertinent:

There is a new world to be constructed. Every hand and mind will be needed for the task ... I ask for your support and ideas. The United Nations is your instrument — you decide how it will be used.

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## SPEAKER PROFILES

### *Dr Boutros Boutros-Ghali*

Dr Boutros Boutros-Ghali became the Secretary-General of the United Nations in 1992, and has presided over one of the most dynamic and difficult periods in the organisation's history. Prior to becoming Secretary-General, he was the Deputy Prime Minister of Egypt, and for many years before that the Minister of State for Foreign Affairs. He is a distinguished scholar, holding a PhD in International Law from Paris University and Diplomas in Political Science, Economics and Public Law. He was Professor of International Law and International Relations at Cairo University for almost 30 years, and he has written over 20 books.

### *Mr Steven Kanai*

Mr Steven Kanai is Director of the Bureau of Foreign Affairs for Palau. He has overseen Palau's independence from the USA and its admission as the 185th and most recent member of the United Nations.

### *Sir Brian Urquhart*

Sir Brian Urquhart is Scholar-in-Residence at the International Affairs Program of the Ford Foundation. He was a member of the UN Secretariat between 1945 and 1986, and Under Secretary-General for Special Political Affairs 1974-86. He has served under every United Nations Secretary-General except Dr Boutros Boutros-Ghali and is now a leading commentator on the United Nations Organisation.

### *Professor Louis Henkin*

Professor Louis Henkin is University Professor Emeritus and Special Services Professor at Columbia University of Law. He has taught international law for nearly 40 years. Prior to entering academe, Professor Henkin served with the United States Department of State and as an adviser to US delegations to the United Nations. He also served as a Consultant to the UN Legal Department. Professor Henkin has served as a US member of the Permanent Court of Arbitration, and was President of the American Society of International Law. He has published numerous books and articles in the areas of international law and theory, human rights, law of the sea, and constitutional law.

### *Ambassador Richard Butler AM*

His Excellency Richard Butler was appointed as Australia's Ambassador and Permanent Representative to the United Nations in New York in 1992. He has had a distinguished and varied diplomatic career since joining the Department of Foreign

Affairs and Trade in 1965. His positions have included several years spent working with the United Nations on disarmament matters, and as Deputy Permanent Representative to the International Atomic Energy Agency in Vienna.

*Lieutenant General John Sanderson AC*

Lieutenant General John Sanderson was the Military Commander of the United Nations Transitional Authority in Cambodia, and so has first-hand experience of one of the largest and most challenging United Nations peacekeeping operations ever undertaken. He was made a Companion of the Order of Australia (Military Division) for his distinction in carrying out this operation. He is currently Commander, Joint Forces Australia and is engaged extensively in teaching and writing about peacekeeping.

*Professor Ove Bring*

Professor Ove Bring is currently Professor of International Law at Uppsala University, Sweden. Prior to his appointment in 1993 he had acted as Legal Adviser to the Foreign Ministry of Sweden for 20 years. During that time Professor Bring represented Sweden in various multilateral treaty negotiations. He has written extensively in areas such as peacekeeping, arms control and disarmament, and international humanitarian law.

*Professor Patricia Birnie*

Professor Patricia Birnie is currently Visiting Professor at Queen Mary College, London and Visiting Fellow at the London School of Economics. She recently retired after serving as Director of the International Maritime Organisation's International Maritime Law Institute in Malta for several years. She is a member of the UK delegation to the International Whaling Commission and also chairs the Legal Committee of the Advisory Committee on Pollution of the Sea.

*Professor Ben Boer*

Professor Ben Boer is the Corrs Chambers Westgarth Professor of Environmental Law at the University of Sydney Faculty of Law. He is also a Director of the Australian Centre for Environmental Law. Professor Boer has contributed to a number of texts and has published numerous articles on environmental law. He is interested in the development of environmental law in the Asia Pacific region and has assisted in the drafting of environmental legislation for the Solomon Islands and Nepal.

*Mr James Ingram AO*

James Ingram was Executive Director of the United Nations World Food Programme, with the rank of Under Secretary-General, for 10 years until 1992. He was also the Director-General of Australia's international development assistance organisation (now AUSAID) and a career diplomat, whose posts included a period at

the Australian Mission to the United Nations in New York. He is now on the Board of several international agencies, including the US based International Food Policy Research Institute.

*Dr Pierre-Michel Fontaine*

Dr Pierre-Michel Fontaine is currently the Regional Representative for Australia, New Zealand and the South Pacific for the United Nations High Commission for Refugees. He has a PhD in international studies and has studied widely in international law. Prior to joining the UNHCR he held academic posts at several universities in the United States.

*Julie Chater*

Julie Chater has served in the Australian High Commission in Harare and as acting Director of the Trade and Investment Promotions Service in Sydney. She is presently an Executive Officer in the UN Political and Commonwealth Section of the Department of Foreign Affairs and Trade, and recently was sponsored to attend a UNITAR Fellowship Programme in Peacemaking and Preventive Diplomacy

*Executive Deputy President Thabo Mbeki*

Mr Thabo Mbeki is an Executive Deputy President in the South African Government of National Unity. He holds a Masters of Economics degree from the University of Sussex. In 1993 he was elected Chairperson of the African National Congress, and prior to this had been an active participant in the discussions which eventually led to the unbanning of the ANC and the release of political prisoners. He participated in the negotiations that eventually led to the adoption of the interim Constitution for the new South Africa. He has been an active opponent of apartheid for almost forty years, and mobilised opposition to apartheid in a range of different countries, particularly within Africa.

*Senator Gareth Evans*

Senator Evans is the Australian Minister for Foreign Affairs and the Leader of the Government in the Senate. He has held a number of other senior ministerial portfolios, including that of Attorney-General. Senator Evans has written widely, mainly in the areas of constitutional and labour law. He also has considerable experience working with the United Nations and played an important role in relation to United Nations' activities in Cambodia. In 1993 he published *Cooperating For Peace: The Global Agenda for the 1990s and Beyond*.