

2007 September 24

## **Strengthening the Role of the UN General Assembly**

### **62nd session of the UN General Assembly opens September 18**

**PEJ News- Joan Russow (PhD)**, Global Compliance Research Project - One of the key principles of the Charter of the United Nations is the sovereign equality of states. It is the UN General Assembly not the UN Security Council that embodies this principle. Over the years there has been a call for reforming the United Nations. Three fundamental reforms are necessary: the abolition of the UN Security Council, the mandatory requirement for states to appear before the International Court of Justice, and the establishment of an International Court of Compliance for citizens to take states for non-compliance with the rule of international law.

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Over the years, member states have incurred obligations under international conventions, treaties, and covenants, have made commitments through UN Conference Action Plans, and have created expectations through UN General Assembly Resolutions and Declaration. If an obligation is incurred or a commitment is made by the preponderance of states, indicating broad geographical support as well as support from a wide range of different legal systems, these obligations and commitments are deemed to reflect peremptory norms. These norms are related to following objectives which promote true security;

- to promote and fully guarantee respect for human rights including  
labour rights, civil and political rights, social and cultural rights-  
right to food, right to housing, right to universally accessible, not  
for profit health care system , right to education and social justice
- \* to enable socially equitable and environmentally sound employment,  
and ensure the right to development [as per Convention];

## **Role of UN General Assembly (UNGA) in the de-legitimizing of War**

Written by

Saturday, 22 December 2007 01:07 - Last Updated Wednesday, 29 July 2015 07:10

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- \* to achieve a state of peace, social justice and disarmament; through reallocation of military expenses, and eradication of poverty
- \* to create a global structure that respects the rule of law ; and
- \* to ensure the preservation and protection of the environment, respect the inherent worth of nature beyond human purpose, reduce the ecological footprint and move away from the current model of overconsumptive development.

The problem is not that obligations, commitments and expectations do not exist, the problems is that states refuse to sign and ratify conventions, treaties and covenants, or if they sign and ratify they fail to enact the necessary legislation to ensure compliance, and above all there is no effective remedy for ensuring implementation and enforcement.

In addition, the strongest expression of true security lies in the decisions by the General Assembly but the decisions of the UN General Assembly are considered to be aspirational not legally binding.

### **UN SECURITY COUNCIL MUST BE ABOLISHED AND THE UN GENERAL ASSEMBLY BE EMPOWERED TO ACT**

The most pernicious aspect of the current UN Security Council is the veto. It has also not escaped the general public that the five permanent veto members of the UN Security Council are all nuclear arms states. Any proposal to remove the veto has been dismissed. Numerous suggestions to maintain the veto but extend the permanent members to represent a broader base had received support but fail to address the problem of the UN Security Council. The UN Security Council should be abolished not only because it violates a fundamental Charter principle of the sovereign equality of states but also because the notion that the UN Security Council is empowered to determine under Chapter VII whether the invasion of another state is justified, and that if the UN Security Council does decide that the invasion of another state is justified, under international law the invasion is deemed to be “legal”.

On the other hand the UN General Assembly, embodies the sovereign equality of states, and reflects in its declarations and resolutions support for “true security”

Currently, however, the resolutions and declarations of the UN General Assembly are considered to be “aspirational but not legally binding”. They are, however, an indication of international peremptory norms and should be given legal status.

### **INTERNATIONAL COURT OF JUSTICE MUST BE A MANDATORY**

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Although the international Court of Justice under article 92 of the Charter of the United Nations is “the principal judicial organ of the United Nations”, and although “all Members of the United Nations are factio parties to the Statute of the International Court of Justice”; states are not required to go to the International Court of Justice. Furthermore, if states do agree to appear before the International court of Justice, and even though under the Charter of the United Nations it is stated under Article 94 that each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party; MEMBER STATES DO NOT COMPLY WITH THE DECISION OF THE INTERNATIONAL COURT OF JUSTICE.

Also the enforcement mechanism of decisions of the International Court of Justice is given to the UN Security Council which is essentially a political body not a legal enforcement mechanism. . How bizarre, the responsibility resides in UN Security Council- a body that has a veto by a state that does not respect the Court- to enforce in some way the decisions of the International Court of Justice.

States must be required to respect the jurisdiction and decisions of the International Court of Justice. In addition, a judicial enforcement body must be established to ensure compliance with the decisions of the Court.

### **INTERNATIONAL COURT OF COMPLIANCE MUST BE ESTABLISHED**

The International Court of Justice has been set up to hear cases brought against other states, to carry out judicial reviews if requested by the UN General Assembly, or other bodies of the United Nations, it is not set up to hear complaints, about internal state non-compliance with international law, initiated by citizens.

An international Court of Compliance where citizens can take evidence of state non compliance; This court would go beyond the various human rights bodies that accept under specific circumstances such as optional protocols, complaints by individuals once the individuals have exhausted all domestic remedies.