



Policy Brief

Threats to National Sovereignty: UN Entities Overstepping Their Mandates

The right of UN Member States to national sovereignty is increasingly being undermined by the actions of rogue UN agencies, Special Rapporteurs and treaty monitoring bodies that are attempting to create new rights to which UN Member States have not consensually agreed.

Examples of UN System Abuse

The following are just two of many examples of abuse of the UN system.

UN Special Rapporteurs

In 2006, 9 UN Special Rapporteurs and 21 sexual rights activists calling themselves “The International Commission of Jurists and the International Service for Human Rights” and defining themselves as “experts,” developed the Yogyakarta Principles, which, in essence, are a wish list of sexual rights relating to sexual orientation and gender identity that UN Member States would not be able to restrict or limit. The drafters claimed these Principles “*reflect the existing state of international human rights law in relation to issues of sexual orientation and gender identity*” and “*affirm binding international legal standards with which all States must comply.*” Yet the drafters failed to identify the supposed “*binding legal standards*” on which the Principles are based. At that time, “sexual orientation” and “gender identity” were not mentioned in *any* UN treaty or other consensus document. Yet UN agencies have attempted multiple times to incorporate by reference the content of the Principles in consensus documents.¹

UN Treaty Monitoring Bodies

The CEDAW Committee alone has pressured more than 65 countries to change their laws and legalize abortion even though UN consensus language clearly states: “Any measures or changes related to abortion within the health system *can only be determined at the national or local level according to the national legislative process.*”² UN consensus language also makes it clear that “*In no case should abortion be promoted as a method of family planning,*”³ but that has not stopped UN bureaucrats from undermining national sovereignty by claiming that a broad right to abortion on demand exists.⁴

¹ For more detail, see FWI Policy Brief: [The Yogyakarta Principles](#).

² ICPD, 8.25; Beijing, 106-k; ICPD+5, 63.

³ *Id.*

⁴ For more detail, see FWI Policy Brief: [The Relentless Push to Create an “International Right” to Abortion](#).

National Sovereignty: A Fundamental Principle of the UN Charter

The Purposes of the United Nations include the “development [of] friendly relations among nations *based on respect for the principle of equal rights and self-determination of peoples. . . .*”⁵ “The Organization *is based on the principle of the sovereign equality of all its Members.*”⁶

As the UN Charter was being drafted, many UN delegates expressed a concern about the UN interfering in domestic matters. The following are just a few examples:

- “The Delegate of the United Kingdom, Viscount Oranborne, said he fully realized that certain states were jealous of their rights of national jurisdiction, and he agreed that *the principle should not be infringed until and unless a question in dispute had become the cause of such serious differences that there was the threat of war.*”
- The Delegate of France reminded the other delegates that France had originally proposed an amendment to the text of paragraph 7 of Chapter VIII to make it clear that UN intervention would not be allowed “*unless the clear violation of essential liberties and of human rights constitutes in itself a threat capable of compromising peace.*”
- The Peruvian delegate, as did many others, also feared interference in domestic affairs.⁷

Based on such concerns, the final version of the UN Charter includes the following language: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit to such matters to settlement under the present Charter. . . .”⁸ The amendment was approved by a large majority (31 delegates in favor, 3 against, and 5 abstentions). Some delegates wanted to go further in safeguarding national sovereignty. The only exception to this fundamental principle concerns enforcement measures taken for “the maintenance of international peace and security.”⁹

Based on UN records, it appears many countries would not have approved the UN Charter or joined the organization if not for the specific limitation on intervention found in Article 2.7.

Remembering how the UN received its authority is critical to evaluating when this organization is fulfilling its purposes or exceeding its mandate. It is incumbent upon Member States to challenge unwarranted intervention in their domestic affairs as a violation of a key principle set forth in the UN Charter.

But these questions remain: Where should the line be drawn between matters that fall within the UN’s jurisdiction versus the jurisdiction of its Member States, and who draws that line?

⁵ UN Charter, Article 1.2.

⁶ *Id.* Article 2.1; see also Chapter II.1.

⁷ Doc. 969 I/1/39; June 14, 1945; 6 Doc. U.N. Conf. on Int’l Org. 436 1945; 10 Doc. U.N. Conf. on Int’l Org. 56 1945.

⁸ UN Charter, Article 2.7.

⁹ *Id.*; see Chapter 7, Art. 39.

Only the General Assembly Has the Authority to Develop New International Human Rights

The Charter carefully balances the rights to national sovereignty and self-determination with the need to promote international human rights and fundamental freedoms: “With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations *based on respect for the principle of equal rights and self-determination of peoples*, the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹⁰

According to the UN Charter, “The General Assembly shall initiate studies and make recommendations for the purpose of . . . assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.”¹¹

In brief, *only* the General Assembly—not outside experts, Special Rapporteurs, UN agencies, UN treaty monitoring bodies, or the Economic and Social Council (ECOSOC)—can develop new human rights by consensus with other Member States. ECOSOC can only make recommendations “for the purpose of promoting *respect* for, and *observance* of, human rights and fundamental freedoms for all,”¹² and such recommendations must be made to the General Assembly under which the ECOSOC derives its authority.¹³

If other UN bodies besides the General Assembly could develop new international human rights, the right to national sovereignty and the Charter’s prohibition on unwarranted UN interference in domestic matters would be meaningless.

Abuse of the UN System Must Not be Permitted

When a report or recommendation from a UN Special Rapporteur, committee, agency, or experts working for a UN body claims that international law requires Member States to honor commitments involving alleged human rights that are not clearly established in UN consensus language, they are operating outside of their mandate and violating the States’ rights to national sovereignty. In such cases, they should be publicly reprimanded by UN Member States.

New Rights Must be Clearly Defined

The process to establish new international human rights should be deliberate and transparent, invoking careful and thorough debate at the General Assembly level. Also, the language used in negotiations should be clear in scope and meaning to all delegates. Consider the following two examples showing the significant problems that occur if these principles are not followed:

¹⁰ UN Charter, Article 55.

¹¹ *Id.*, Article 13.

¹² *Id.*, Article 62; emphasis added.

¹³ *Id.*, Article 66.

1. Unlike the fixed characteristics of race, sex, or religion, “sexual orientation” and “gender identity” are not protected classes in either the UN Charter or in the Universal Declaration of Human Rights (UDHR) and were not terms commonly used at the time the International Covenant on Economic, Social and Cultural Rights (ICESCR) was negotiated in 1976. Moreover, “sexual orientation” provisions have been specifically rejected many times by UN Member States since 1976. Yet the ICESCR committee has unabashedly argued that the words “other status” in the ICESCR include “sexual orientation” and “gender identity” as an attempt to make them protected classes and thus international human rights.¹⁴ Note also that the rights and freedoms specified in the UDHR, which again do not include rights based on sexual orientation or gender identity, “may in no case be exercised contrary to the purposes and principles of the United Nations,”¹⁵ including the “principle of the sovereign equality of all its Members.”¹⁶
2. As another vivid example of the problems with vague language, the credibility of the UN system is severely undermined when so much time is spent arguing about whether phrases like “reproductive rights” or “reproductive health” (or similar wording) include a right to abortion. A number of UN consensus documents already make it very clear, by using the word “abortion” rather than vague terms, that there is no broad international right to abortion. The many attempts by UN bodies to introduce a right to abortion outside of General Assembly debates need to cease.

UN Member States Should Always Safeguard their Right of Sovereignty

UN consensus documents always should safeguard the right of national sovereignty in a way that makes all commitments under negotiation subject to that right, as well as to religious and ethical values and any other “*universally recognized*” human right (such as sovereignty).

One of the best examples of helpful language is from ICPD+5:

The implementation of the recommendations contained in the Programme of Action and those contained in the present document is the sovereign right of each country, consistent with national laws and development priorities, with full respect for the various religious and ethical values and cultural backgrounds of its people, and in conformity with universally recognized international human rights. – ICPD +5 (1999), Preamble

The underlined words in the above paragraph are key to protecting the right to sovereignty by prohibiting UN bodies without authority from imposing on Member States new human rights that they did not agree with and are thus not “universally recognized.”

¹⁴ For more detail, see FWI Policy Brief: [ICESCR Committee General Comment 20](#).

¹⁵ UDHR, Art. 29.

¹⁶ UN Charter, Article 2.