



**DEMOCRACY
WITHOUT
BORDERS**

POLICY REVIEW

THE CASE FOR A UN PARLIAMENTARY ASSEMBLY AND THE INTER-PARLIAMENTARY UNION

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ABSTRACT

This paper looks into the relationship between the Inter-Parliamentary Union (IPU) and the proposed United Nations Parliamentary Assembly (UNPA). It outlines the characteristics of these two bodies and provides an assessment of their similarities and differences with special consideration of the IPU's ongoing collaboration with the UN and its capacity to address the UN's democratic deficit.

The study outlines the IPU as an umbrella organization of national parliaments that is independent and separate from the UN. Its primary role in terms of its collaboration with the UN is to assist and coordinate national parliaments in the implementation of globally agreed policy and to strengthen their involvement in matters of global concern.

The UNPA, on the other hand, would be a formal UN body composed of individual parliamentarians representing the world's citizens vested with an oversight function vis-à-vis the UN. A primary goal of the UNPA would be to consider matters of UN governance and the development of the international system. The UNPA is presented as a first step in the long-term development of a democratically elected world parliament (WP).

The study identifies important differences, in particular in terms of functions, powers, institutional design and legal characteristics. It concludes that the relationship between the

IPU and the UNPA is a complementary one and that the UNPA would take over a role that the IPU currently does not have.

The complementary nature of the IPU and the envisaged UNPA is corroborated by the analogous coexistence at the regional level of the European Parliament (EP) and the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU (COSAC) as well as the Pan-African Parliament (PAP) and the African Parliamentary Union (APU).

The paper argues that notions of transforming the IPU into a UNPA or a WP should be dismissed because a body bringing together and coordinating national parliaments will continue to be needed in parallel to a UNPA. Indeed, it is explained that the IPU's relevance as an organization of national parliaments will increase from the long-term perspective of a future world legislative system.

Finally, the paper examines the proposal of a United Nations Parliamentary Network (UNPN) and confirms that this network may represent a pragmatic and useful precursor of a UNPA.

It is emphasized that restoring trust in democracy will only be possible if democratic representation and participation is extended to global decision-making through a body of elected global representatives.



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THE CASE FOR A UN PARLIAMENTARY ASSEMBLY AND THE INTER-PARLIAMENTARY UNION

INTRODUCTION

The United Nations (UN) is of immeasurable value for advancing international peace and security, human rights and development. The organization's democratic deficit, however, limits its legitimacy and hence capability for dealing with the global challenges of our time. The deficits of democracy in global governance were prominently pinpointed in the 2004 report of the Panel of Eminent Persons on United Nations–Civil Society Relations (Cardoso Panel) established by then UN Secretary General (UNSG) Kofi Annan:

Elected legislators and parliaments seem to have little impact on decisions made intergovernmentally or in the supervision and regulation of international markets. And the traditional separation of powers — having a legislative body of elected representatives to supervise and oversee the executive function — does not apply so clearly in international intergovernmental institutions.²

In response to this, the Campaign for a United Nations Parliamentary Assembly (CUNPA) was formed in 2007 and since then has been advocating democratic representation of the world's citizens at the UN and the institutions

of global governance. A United Nations Parliamentary Assembly (UNPA) would be a pragmatic step towards the long-term goal of a world parliament (WP) and for the first time give popularly elected representatives a formal role at the UN. As an additional UN body, the assembly would directly represent the world's citizens rather than governments.

Many who are not familiar with this proposal wonder how a UNPA would relate to the existing Inter-Parliamentary Union (IPU). Primary concerns in this regard have to do with potential overlaps and duplications. Another question is whether the IPU may be a suitable starting point to develop a UNPA. The purpose of this paper is to clarify the different functions and purposes of the IPU and a UNPA. Are they mutually exclusive or could they reinforce each other?

The outline of this paper is as follows: After presenting the IPU and the proposed UNPA, the two are compared, and the possibility of a UN Parliamentary Network (UNPN) as a precursor of a UNPA is explored. Finally, key conclusions are summarized.

I. THE IPU: AN ORGANIZATION OF NATIONAL PARLIAMENTS

BASIC CHARACTERISTICS

Established in 1889, the IPU is one of the oldest international organizations. The IPU today is an umbrella organization of 178 national parliaments. The only major parliament that by now is not a member is the United States Congress which terminated its membership in 1999. In addition, 12 regional international parliamentary institutions (IPIs) are associate members and around 70 organizations have

observer status, among them 20 UN entities, 30 IPIs, and five NGOs.

According to Article 1 of its Statutes, the IPU considers itself an international organisation "of the Parliaments of sovereign States." The IPU's goals include fostering contacts, coordination and the exchange of experience among parliaments and parliamentarians, considering questions of international interest, expressing its views on such issues with



the aim of bringing about parliamentary action, contributing to the promotion of human rights, improving knowledge of the working of representative institutions and strengthening their means of action.

Delegations of member parliaments come together at bi-annual meetings of the IPU's Assembly and the Governing Council. IPU members have full discretion as to how to organize their involvement. Article 6 (2) of the IPU Statutes says that "it is the sovereign right of each Member of the IPU to decide on the manner in which it organizes its participation in the IPU". Thus, there is no fixed roster of IPU delegates for the Assembly or the Governing Council and member parliaments may send different delegates to different meetings, the selection of which is often *ad hoc*. By contrast, the membership of IPU Standing Committees set up and elected by the Governing Council is firmly established with clear terms.

In addition to national delegations, there are regional geopolitical groups. Six are currently in existence. Depending on population size each member parliament designates a number of eight or ten delegates for the IPU assembly and receives a different number of votes according to a sliding scale stipulated in Article 15 of the Statutes. At the Governing Council, which elects the IPU's Executive Committee, each member is represented equally by three delegates.

THE "PARLIAMENTARY DIMENSION" TO INTERNATIONAL COOPERATION

The interaction between the UN and the IPU as a convener of national parliaments started to develop in the 1990s when the IPU determined as a goal the provision of a "parliamentary dimension to international cooperation".

According to the UN, working with parliaments can help bring the work of the world organization closer to the people and, conversely, bring their voices into the decision-making process at the UN. Parliaments play a crucial role in most UN member states in terms of legislation, budget, oversight and representation. Forging a relationship be-

tween the UN and parliaments is increasingly recognized as an important element to facilitate and support the implementation of UN policy. With regard to the implementation of the 2030 Agenda, for instance, the UN maintains that parliamentarians will have an "extremely important role" to play.³ However, in the UN's bodies, UN member states are represented by the executive branch of national governments only, and the legislative branches are excluded. As a small step towards better interaction with parliaments the Cardoso Panel in 2004 recommended the creation of an Elected Representatives Liaison Unit, but so far no action has been taken.⁴

More recently, the Parliamentary Assembly of the Mediterranean (PAM), a Permanent Observer at the UN General Assembly (UNGA) which is led by a UN Executive Officer, argued in favour of establishing a UN Office for Parliamentary Relations to support cooperation between parliamentary institutions and the UN system, pointing out that ongoing processes "are at best *ad hoc*" and "disparate and without a common strategic vision or internal coordination or cohesion within the UN system".⁵

In 1996, the UN and the IPU concluded an agreement to facilitate the establishment of direct lines of communication. Based on similar agreements or working relationships the IPU has subsequently partnered with various UN specialized agencies in implementing common policy objectives. In 2002, the UNGA adopted a resolution granting permanent observer status to the IPU. Since then, the IPU has been allowed to circulate official documents and organize hearings and specialized meetings at the UN. In 2016, a new cooperation agreement was concluded. The IPU may now also be invited to participate (rather than observe), under certain conditions, in the main committees and subsidiary organs of the UNGA, as well as in any conference affiliated with the UN. Furthermore, joint actions and programs may be undertaken by both the UN and IPU, on issues of mutual interest, to boost cooperation in developing parliamentary functions. The agreement foresees consultations "as and when appropriate".⁶ The process and



validation for such consultations remain unclear at this time.

As a matter of routine, the UNGA now passes an annual resolution in each session on the interaction between the UN, national parliaments and the IPU, and the UNSG regularly presents a report on this topic. In 2000, 2005, 2010, and 2015 the IPU convened a World Conference of Speakers of Parliaments, and these Conferences made various statements refining the UN-IPU relationship.

Formed in 2007, the IPU's Committee on UN Affairs evolved from the Millennium Declaration of 2000 in which the UN welcomed strengthened cooperation between the UN and national parliaments through the IPU. The Committee is now assisted by an 18-member bureau and is open to all IPU members. It aims to enable parliaments to form connections with UN activities and goals by engaging with UN officials and implementing both global commitments and oversight mechanisms to ensure countries honor those commitments. To this end, it is no longer solely an advisory group. The Committee attempts to monitor, report, and investigate the efforts of *national parliaments* to collaborate on UN activities in certain sectors, such as sustainable development, UN budgets and reform, peace building, and reconciliation. The expansion of the role the Committee plays in connecting the UN and the IPU was acknowledged when the Committee was established as the fourth permanent committee of the IPU in 2013. The UNSG's 2018 report on the UN-IPU relationship points out that the Committee represents "the central structure designed to enhance the UN-IPU partnership."⁷

Furthermore, the IPU has been organizing annual "parliamentary hearings" at the UN since 2001 with two goals: to bring parliamentarians into the loop concerning negotiations and decisions by the UN, and for those parliamentarians to convey concerns on issues discussed at the UN by exchanging views with UN diplomats and academics. Conceived at its inception as a briefing on selected topics, the event has become, in

recent years, a forum for broad debate on pertinent issues on the international agenda.

THE ISSUE OF GLOBAL IMPACT AND OVERSIGHT

Despite the lack of formality, the extent to which the IPU has exercised influence and change in its relationship with the UN has continued to evolve in recent years. The 2016 annual report of the UNSG on the UN-IPU relationship characterized this as being the result of the growing realization of national parliaments' key roles. Discussion of the UN-IPU relationship continues to be a recurrent item on the UNGA's agenda. While this suggests interest in closer collaboration, the impact of national parliaments' voices on UN decision-making, intermediated through the IPU, is arguably nominal. Although the UNSG's 2018 report points out that the IPU "connects national parliaments in order to promote greater transparency, accountability and participation at the global level," the report demonstrates that efforts are mainly focused at the national level.⁸ It does not elaborate on mechanisms through which the IPU might have exercised an oversight function in order to promote global transparency and accountability of UN decision-making and the UN's bureaucracy itself.

Instead, the collaboration between the UN and the IPU is primarily aiming at strengthening the supporting role of national parliaments in the implementation of UN policy. The 2016 UN-IPU agreement makes reference to the 2030 Agenda, and the IPU has increasingly framed its activities and involvement with the progression of the Sustainable Development Goals (SDGs).

Of note are side events that the IPU organized in the margins of the High-Level Political Forum (HLPF), which is responsible for the UN's policy on sustainable development.

The IPU is working with an increasing number of UN bodies, but solely in the capacity of engaging national parliaments within the UN. Another example is the IPU's efforts towards the adoption of a resolution in 2017 in the Human Rights Council (HRC) encouraging



involvement of national parliaments in the Universal Periodic Review.

The IPU's annual "parliamentary hearings" at the UN are simple conference panels that facilitate information exchange and discussion. Despite their name, they should not be mistaken for a formal global instrument applied in the context of actual parliamentary proceedings, let alone investigations. The IPU does not possess an oversight function vis-à-vis the UN.

THE LIMITS OF A STAND-ALONE INSTITUTION

The IPU's limited understanding of the "parliamentary dimension to international cooperation" was expressed when the European Parliament (EP) pushed for the creation of a Parliamentary Assembly of the World Trade Organization (WTO). The IPU opposed this goal and eventually the EP and the IPU agreed to jointly launch the Parliamentary Conference on the WTO which met for the first time in 2003. The conference has had no obvious influence on the WTO's governance, deliberations, agenda-setting or decision-making. It is an informal forum that facilitates the exchange of knowledge and perceptions of international trade and the WTO's activities. The EP kept reiterating the goal of a WTO Parliamentary Assembly to address the WTO's "lack of democratic accountability and legitimacy" even after the creation of the parliamentary conference.⁹

The explanation for the IPU's opposition that was provided by then IPU Secretary-General Anders Johnsson illustrates a fundamental misconception of the role IPIs can and do play in intergovernmental organizations (IGOs). According to Johnsson,

A parliament has two fundamental functions: to legislate, and to oversee the executive and hold it to account. The legislative function at the WTO is undertaken by government negotiators who are held to account in their national governments and parliaments. Providing a parliamentary dimension to the WTO that seeks to mirror the constitutional role that parliaments play at the national level does not make sense.¹⁰

This logic ignores the fact that IGOs and member states are distinct institutions that operate in different frameworks at different levels. As existing parliamentary bodies of IGOs illustrate, IPIs have an important role to play in terms of deliberation, accountability and oversight. In case of the EP, this function by now extends to co-legislation. By contrast, national parliaments as such are not in a position to hold an IGO accountable.

Currently it seems that a majority of IPU officials and member parliaments are content with the UN-IPU cooperation agreement concluded in 2016. Efforts to strengthen cooperation do not include proposals to develop oversight functions vis-à-vis the UN system. Instead, the IPU's position remains that the parliamentary dimension to international cooperation must be provided "by parliaments themselves first of all at the national level"¹¹ and that the IPU provides support to parliaments "with the aim of increasing their capacity to carry out, *at the national level*, their legislative and oversight functions with regard to matters which are subject to international cooperation at the United Nations"¹² (italics added).

In a comparative study of 22 IPIs, Andrea Cofelice, a researcher at the Centro Studi sul Federalismo, writes that the IPU

is a stand-alone institution, currently disconnected from any multi-actor complex governance system – a factor that irremediably hinders its capacity to develop the set of core functions dealing with international policymaking and accountability.¹³

On its website, the IPU emphasizes that it is "committed to increasing parliaments' role in global affairs, helping to overcome the democratic deficit in international relations, and ensuring that international commitments are translated into national realities." Of these three commitments, the first and the third fit well with the work that the IPU is doing, but whether it can achieve the second is questionable.



II. THE UNPA: A PATHWAY TO GLOBAL DEMOCRACY

ORIGINS, SUPPORT & KEY IDEAS

The proposal for a UNPA was first put forward in 1949 by US-American lawyer and diplomat Louis Sohn, based on the example of the Parliamentary Assembly of the Council of Europe (PACE), which was established as a treaty body of the new post-war European IGO. The creation of an international parliament was even discussed at the Versailles Peace talks on the League of Nations after the First World War. A fuller history of the idea and its development, from the French Revolution to the present day, is provided in the first part of the book *A World Parliament: Governance and Democracy in the 21st Century* by Jo Leinen and Andreas Bummel (the author of this paper).¹⁴

Numerous institutions and individuals have expressed their support for a UNPA.¹⁵ The most recent endorsement by the EP, for instance, was adopted in 2018 when the EP called on the EU Council to advocate the establishment of a UNPA

*within the UN system in order to increase the democratic character, the democratic accountability and the transparency of global governance and to allow for better citizen participation in the activities of the UN and, in particular, to contribute to the successful implementation of the UN's Agenda 2030 and the SDGs.*¹⁶

Other institutions that have expressed support include the Latin-American Parliament, the Pan African Parliament (PAP) and the East African Legislative Assembly (EALA), as well as the Green World Congress, the Liberal International (LI), the Socialist International (SI) and the World Federation of United Nations Associations. Individual signatories include numerous former UN officials and over 1,500 current and former members of parliament, many of whom themselves served as delegates to the IPU and other IPIs.

The late former UNSG Boutros Boutros-Ghali was a patron and supporter of CUNPA. In

1996, in the last month of his tenure as UNSG, he presented *An Agenda for Democratization* that outlined key considerations which are now more valid than ever.¹⁷ He pointed out that decision-making at the global level is going to become ever more important “because the problems which can only be solved globally are going to multiply.” He explained that decision-making on global matters has far-reaching domestic consequences. For this reason, he wrote, “unrepresentative decisions on global issues can run counter to democratization within a State and undermine a people's commitment to it.” He foresaw that democracy would come under pressure if the process of democratization wasn't moved forward to the international level

*if a State today is to acquire or retain the capacity to provide an enabling environment for its citizens, it must extend its influence to those factors beyond its unilateral control which help to determine the conditions of life within it. Such an extension of sovereignty will be possible and legitimate only to the extent that it rests upon mechanisms of democratic accountability. For all States, democratization at the international level has become an indispensable mechanism for global problem-solving in a way that is accountable and acceptable to all and with the participation of all concerned.*¹⁸

On the occasion of the launch of CUNPA in 2007, he summed up that the establishment of a UNPA has become “an indispensable step to achieve democratic control of globalization.” This new body “would foster global democracy beyond states, giving the citizens a genuine voice in world affairs.”¹⁹

AN EVOLUTIONARY PROCESS

The best way to understand the UNPA proposal is to recognize that a UNPA is not perceived as a static body but as the starting point of an ongoing evolutionary process towards the long-term goal of a world parliament. In rough terms it is possible to distinguish three institutional stages.²⁰



1. a largely consultative UNPA attached to the UNGA and whose powers cannot be extended beyond those of the UNGA itself;
2. a Global Parliamentary Assembly (GPA) based on treaty or cooperation agreements whose scope extends to all major institutions of global governance including the International Monetary Fund (IMF), the World Bank Group and the WTO; and
3. a WP that is a component of a global legislative system with limited power to adopt globally binding regulations.²¹

Each of these stages is linked to specific concepts and prerequisites and they should not be confused. Letting the new institution prove itself and grow over time is a cautious and sensible approach, following the example of the development of the EP over several decades.

In principle, a UNPA is conceived of as a formal UN body that represents the world's citizens rather than governments of UN member states. As an integral part of the UN it is vested with distinctive rights vis-à-vis other UN bodies and the UN's administration. Representation of the world's citizens and oversight of the UN are key functions.

Initially, UN member states could choose whether their UNPA members would be elected from national or regional parliaments or whether they would be directly elected. In the first case, the selected delegates should reflect the political spectrum of the respective parliamentary body, thus providing seats to majority and opposition representatives alike. In the latter case, a system of proportional representation should be used to achieve this. Eventually, the goal is to have all members of a UNPA directly elected (this is a prerequisite of the third stage above). The number of seats would be determined by country but they would be held by independent delegates.²²

A UNPA represents a modest and pragmatic step towards the long-term goal of creating a global bicameral legislature. The rights and powers of the UNPA could be expanded over time as its democratic legitimacy increases. The assembly will act as an independent watchdog in the UN system and as a demo-

cratic reflection of the diversity of world citizens.

There are two ways in which a UNPA could be created. First, by a decision of the UNGA under Article 22 in the UN Charter. According to this provision, the UNGA "may establish such subsidiary organs as it deems necessary for the performance of its functions." The UNGA would instigate a preparatory process and then adopt the UNPA's Statutes. Limited only by the scope of its own powers, the UNGA would be able to vest the UNPA with distinct rights and functions.

Alternatively the UNPA could be created through a new international treaty. This treaty would consist of the UNPA's Statutes and would be negotiated by a group of like-minded governments. To enter into force, the treaty would have to be ratified by a certain number of countries as stipulated in the Statutes. Rights and functions vis-à-vis the UN would have to be confirmed by a cooperation agreement adopted by the UNGA. Again, the UNPA's rights could not exceed those of the UNGA.²³ Nonetheless, the legal possibilities should not be underestimated. Functions and rights for a UNPA which have been proposed for further discussion include, among others:

- readings of draft resolutions of the UNGA and of ECOSOC with the right to submit suggestions for amendments;
- the right to submit to the UNGA and to ECOSOC draft resolutions for further negotiation and adoption;
- co-decision with regard to the adoption of the UN budget;
- co-decision with regard to the election of the UNSG;
- the right to submit legal questions to the International Court of Justice;
- the right to question UN officials;
- the right to pursue internal investigations and obtain relevant information.

Members of a UNPA would cast their votes individually, irrespective of their national origin, which allows for cross-border alliances and majorities that are not based on na-



tional or geopolitical considerations. Thus, unlike in the UNGA, parliamentary business would be based on political groups of UNPA delegates established according to their political affiliations, rather than national origins.

CUNPA suggests that a UNPA has to provide for strong and efficient ways to include civil society, in particular NGOs, and local administrations in its work²⁴ and that representatives of parliamentary networks and institu-

tions should be able to participate. Furthermore, the campaign suggests that local authorities and representatives of indigenous peoples and nations may also be involved.²⁵

A UNPA and its later manifestations as GPA and WPA would conduct its work in the framework of portfolio committees and sub-committees. These would be related to overarching global subjects and/or specific institutions of global governance.

III. UNPA AND IPU: COMPLEMENTARY BODIES

IMPORTANT DIFFERENCES

The main difference between a UNPA and the IPU is that the former would be a UN body that exercises parliamentary functions directly at the international level vis-à-vis the UN and other IGOs, a responsibility vested in the body itself rather than in any national jurisdiction, whereas the latter is primarily an international facilitator for the work of national parliaments at the national level.

A major function of a UNPA would be to scrutinize UN activities and policies and to hold UN executive bodies accountable. While the IPU's UN Committee deals with UN matters, its scope and capacity is limited and, like the IPU as a whole, it has no legal mandate to exercise oversight.

Members of a UNPA would be chosen for a fixed tenure, resulting in stable membership, whereas delegates to IPU meetings may be selected *ad hoc* at the discretion of IPU member parliaments.

Members of a UNPA would have the mandate to serve the interest of the world as a whole, and would be called upon to take action and consider policies from a global perspective. Their official oath upon taking office as UNPA members would make them accountable to all world citizens, instead of a limited national constituency. To support this global perspective, the work of the UNPA should be based

on transnational political groups that members establish independent from their national origin, according to their shared political outlook and interests. The IPU, by contrast, is based on national delegations and geopolitical groups, a structure that – at least in a subliminal way – supports thinking in national or geopolitical terms. As pointed out earlier, the IPU's members are “parliaments of sovereign states” and not individual delegates.

The prominent reference to sovereignty in the IPU's Statutes, and the IPU's emphasis of national representation, seem to confirm that the organization's general outlook is tied to a Westphalian understanding of international politics, a concept that we believe needs to be superseded to meet the challenges of the 21st century. Global challenges, requiring global solutions, necessitate the development of effective, democratic and accountable global institutions based on pooled sovereignty.

Beyond its parliamentary membership, a UNPA would represent a platform for civil society and other major groups to have access to and influence the UN. For instance, NGO representatives should have access to meetings of UNPA Committees, participate in an advisory capacity, and be consulted at hearings. At the IPU civil society involvement is of minor importance and is not well developed.

Whereas providing a connection to national parliaments is the defining purpose of the



IPU, for the UNPA the selection of its individual members by national (or regional) parliaments is only an interim step. The long-term goal is to introduce direct elections. However, with partial or complete introduction of direct elections of the delegates in a later development stage the immediate personal connection to the national parliaments would get lost.²⁶ At this point the substantially different nature of a UNPA and the IPU would also be reflected in the manner by which members (respectively delegates) are chosen.

REGIONAL PRECEDENTS

In both cases, whether a UNPA's members are selected by national parliaments or popularly elected, there are regional precedents that underline the complementary character of parliamentary bodies of IGOs, and inter-parliamentary IPIs operating in parallel.

The first example relates to the EU's EP and the Conference of Parliamentary Committees for Union Affairs of Parliaments of the EU (COSAC). COSAC shows that the involvement of national parliaments remains an important consideration with regard to IGOs that include a body allowing for direct parliamentary representation (such as the EU). COSAC was established twenty years after direct elections to the EP were introduced in 1979, as a means of involving national parliaments in the work of the EU. In the early years of the EP, delegations to the EP were appointed by national parliaments, thus being at the same time members of the national parliaments and the EP. Following the introduction of direct elections, one of the reasons for COSAC's creation was concern that national parliaments felt detached from the EU's policies and lawmaking.

At COSAC, each national parliament of an EU member state is represented by a maximum of six members of its respective Committee on European Affairs at bi-annual meetings, and member parliaments may also send three observers. The meetings take place in the member state that holds the rotating Presidency of the Council of the EU to facilitate interaction between national MPs and MEPs. COSAC was formally established by the Trea-

ty of Amsterdam in 1997. After the Treaty of Lisbon entered into force in 2009, the role of COSAC was expanded. According to Article 10 of the Protocol on the Role of National Parliaments in the EU, in the Lisbon Treaty, COSAC may

submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission . . . [and] promote the exchange of information and best practice between national parliaments and the European Parliament, including special committees.

COSAC ensures that national parliaments remain connected to EU policy while the EP provides direct representation of EU citizens. Analogously, at the global level, the IPU would continue in its role of connecting national parliaments to global policy, while the UNPA would evolve to provide direct representation of world citizens.

The second example to be highlighted here relates to the African Union's (AU) Pan-African Parliament (PAP) and the African Parliamentary Union (APU). The PAP, established in 2001, is the parliamentary body of the AU, consisting of delegates appointed by national parliaments, initially in a consultative capacity only; it is supposed to evolve into a directly elected body vested with parliamentary legislative powers.

PAP was not perceived as a challenge to the APU, established in 1976, which is an association of national parliaments of AU member states, who send between three and 15 national parliamentary delegates to the meetings of the APU's highest-level institution, the Conference of the Speakers. The existence of the APU, an inter-parliamentary organization, was certainly not considered an obstacle to the creation of PAP – which, incidentally, was also supported by the IPU.²⁷

Once a sufficient number of ratifications is achieved, the Protocol to the Constitutive Act of the AU relating to the PAP (Malabo Protocol) adopted in 2014 will bring about substantial changes for the PAP. Among other things, PAP members, elected by national parlia-



ments, will no longer be able to hold both offices at the same time.

New paragraphs highlight PAP's coordination with the national parliaments. Objectives K and L state that the PAP should cooperate with and encourage national and regional parliaments to ratify and integrate AU treaties. The PAP must, according to Article 20(2), submit reports on its work to national parliaments.

THE IPU & A GLOBAL LEGISLATIVE SYSTEM

Although the UN's main structure has been frozen in time, as any change of the Charter requires the agreement of two thirds of its membership including the permanent five members of the UNSC, it is unquestionable that this situation cannot continue forever. A Charter revision conference, based on Article 109, will have to be convened at some point, and fundamental change considered.

A UNPA would be an important driver for constitutionalization of the UN and international law. A key role of a UNPA would be to develop and support proposals for reform, strengthening and transformation of the UN and the system of global governance. A UNPA has the potential to create a global public sphere on this subject and help overcome the decades of impasse experienced in intergovernmental debates and negotiations.

The IPU will continue to be needed and would, in fact, play a more important role than today in a global governance structure following a successful Charter revision process and the establishment of a WP. In a discussion paper outlining proposals and possible elements of a *Renewed World Organization for the 21st Century*, the author suggested that a decision-making mechanism for binding global regulation should rest on two pillars: a body similar to today's UNGA that represents states and a popularly elected WP that represents the world's population.²⁸ In a global constitutional framework these two chambers, acting concurrently, would be able to adopt universally binding regulations in areas of global concern based on different levels of qualified majority.

At the same time, however, as pointed out in the paper, to provide for an additional connection between global law-making and the electorate, national parliaments should be involved in the process as well.

One possibility would be that binding global regulation only comes into force if a specified number of national parliaments do not raise an objection within a specified time period. Using this blocking minority, however, would only be viable if there were valid legal grounds based on the new world organization's charter. Whether global legislation or other decisions or actions by any body are in accordance with this charter, in particular its human rights provisions and the principle of subsidiarity, should be subject to judicial review carried out by an international constitutional court.²⁹

Whatever an eventual global legislative system may look like, ways need to be found to include national parliaments, and the IPU would be the natural institution to do this – otherwise another global body similar to COSAC would have to be set up.

THE IPU'S POSITION SO FAR

In view of the institutional knowledge and experience which the IPU acquired over more than 100 years, and its growing cooperation with the UN, it is sometimes suggested that the IPU may be transformed into a UNPA and thus already represents the first stage in the evolution towards a WP. A report adopted by the XXIInd Congress of the SI in 2003, for instance, stated that at "some point, contemplation of a UN Parliamentary Assembly will be needed" and that the "principal starting point could be in the assemblies of the IPU".³⁰ In 1992 the LI suggested that as a long term goal, consideration should be given to "a second chamber" of the UNGA "whose members would be directly elected by peoples of the member states."³¹ In a resolution adopted in 2005 the LI then endorsed a UNPA based on Article 22 and added that "the transformation" of the IPU into a UNPA should be one of the options to be examined as far as the IPU "is prepared to accept this".³²



The Speaker of the Senate of Canada, Gil Molgat, stated in 2000 that the IPU “deserves to be recognized as a world parliament and its status at the UN modified accordingly”.³³

Within the ranks of the IPU there has been little appetite, however, to move into that direction. Perhaps most clearly, this came to the fore at a meeting of the IPU’s UN Committee in 2007 where it was concluded that

*the IPU should not advocate the creation of some form of world parliament which, in any case, would only ever make sense if there was a world government.*³⁴

This argument is not convincing. The UNSC, for instance, adopts binding resolutions and decides on the use of force. The actions and policies of international institutions and networks impact the lives of global citizens and some of them do actually exercise public authority.³⁵ According to Anne-Marie Slaughter, an international lawyer and political scientist at Princeton University, international government networks *de facto* already perform many of the functions of a world government such as legislation, administration, and adjudication albeit “without the form.”³⁶ In order to address the global democratic deficit, all existing processes of public authority at the global level need to be made subject to democratic supervision by a global parliamentary body (which corresponds to the stage of either a GPA or WP). Further, the IPU Committee’s argument also overlooks the disastrous effects of *insufficient* world government. There are plenty examples, such as the inability of the UN to prevent the tragedies in Rwanda, Srebrenica and Syria, weak global financial governance, and the lack of effective action on climate change.³⁷

One of the most recent statements on this topic was made at a meeting of an IPU preparatory committee of the Third World Conference of Speakers of Parliament in 2010. According to the minutes, the Committee opposed the establishment of a UNPA “which it deemed incompatible with the strategy for parliamentary interaction” with the UN.³⁸ No further reasoning was provided. At the conference, IPU delegates disagreed on the route

to take. The Speaker of EALA, Abdurahim Abdi, for example suggested that parliaments should be formally involved in the decision-making of UN bodies, including the UNGA and the UNSC. The Speaker of the Federal National Council of the United Arab Emirates, Abdul Aziz Al Ghurair, called for the establishment of “an international independent body representing peoples of the world to act as a parliamentary arm for the United Nations”. The Speaker of the German parliament, Norbert Lammert, led the opposition to such views and said that “the IPU is neither a world parliament nor a subsidiary organization of the UN and we also do not want it to turn into one.” The conference eventually threw out a draft that would have opened up the path towards committing the IPU to examine all possibilities of reforming its statutes.³⁹

When the Cardoso Panel recommended that the UN should set up parliamentary “experimental global public policy committees to discuss emerging priorities on the global agenda” in collaboration with the IPU⁴⁰, the IPU Secretariat opposed this proposal arguing that such an arrangement under the auspices of the UN would breach the separation of powers and put parliamentary involvement under the tutelage of UN bodies and member states. In a similar vein, the IPU’s Director of External Relations Anda Filip suggested that the IPU’s formal status, separate from the UN and independent from any intergovernmental treaty, helps maintain a “clear separation of powers and promotes independence and autonomy”⁴¹, promoting the idea that the IPU’s toolbox should be strengthened rather than creating a new institution such as a UNPA. However, as an analysis of existing IPIs shows, the relevance and influence vis-à-vis an IGO tends to be connected with an IPIs formal status. As Andrea Cofelice concluded

*IPIs not established or recognized through an intergovernmental treaty are in no way endowed with oversight, co-legislative, budgetary or consultative powers; only IPIs established on such bases have some chance of acquiring and increasing such powers.*⁴²



While it is true that an Article 22-based UNPA would represent a subsidiary body of the UNGA, it is also true that acquiring formal relevance in an IGO's decision-making procedures necessarily requires that an IPI is integrated into an IGO in one way or another and that governments will have to agree to this (and to providing the IPI with specified powers). Even the IPU's existing relationship with the UN is of course based on the UN's approval, in particular of the UN-IPU cooperation agreement. However, if an IPI is established as a treaty body of an IGO, its formal position is more stable as any change to its legal status would require an amendment of the treaty in question. At this stage, the issue of separation of powers has a different meaning: it relates to the internal relationship between the parliamentary body and the other governmental bodies of an IGO based on treaty provisions.

Indeed, according to Hans Köchler, President of the International Progress Organization, with regard to the UN the requirement of a separation of powers may "best be met" by the creation of a "genuine two chamber-system" composed of the governmental UN-

GA (comparable to a Senate) and a directly elected Peoples' Assembly.⁴³

According to Daniele Archibugi of the Italian National Research Council the IPU appears "to be part of the problem, rather than of the solution" given the IPU's inability to exercise forms of parliamentary representation above the nation-state level and its unwillingness to develop or support their evolution.⁴⁴ In fact, the creation of a WP has been debated within the IPU for more than 100 years. In 1905 the then US-American delegation at the IPU suggested that the IPU should advocate the establishment of a bicameral international congress composed of a senate and an elected chamber of deputies empowered to pass binding resolutions unless a number of national parliaments were to reject them. Opposing this proposal at the time, an IPU delegate from Italy revealed a view that seems to have the upper hand in IPU circles to this day: the creation of a WP, he believed, would put the existence of the IPU in jeopardy and leave it with "no other option but dissolution."⁴⁵ As the author tried to show above, this is not true. Instead, the IPU's role would become even more important.

IV. A UN PARLIAMENTARY NETWORK

THE COMMISSION'S PROPOSAL

In 2015, the Commission on Global Security, Justice & Governance co-chaired by former US Secretary of State Madeleine Albright and former Nigerian foreign minister Ibrahim Gambari presented a report with recommendations on how to improve the UN and the system of global governance.⁴⁶

The report states that as part of a "pragmatic approach toward strengthening UN-citizen relations and overcoming the world body's democratic deficit, a UNPN established under UN Charter Article 22 could wield tremendous potential for expanding public knowledge of and participation in the work of the preeminent global institution" and that the proposed UNPN would feed "fresh ideas" into

the UNGA's debates and would complement the work of the IPU and the longer-term efforts of civil society organizations "to develop a transnational democratic culture."⁴⁷

The report points out that the network would bring together parliamentarians elected from their national legislatures, "to discuss and advise on issues in UN governance that concern citizens worldwide." In terms of "initial composition" it would be similar to existing networks such as the Parliamentary Network on the World Bank and International Monetary Fund or the Parliamentary Conference on the World Trade Organization, "but would have a formal relationship with the UN"⁴⁸ This means that individual MPs could opt to join the body and that there would be no institutional selection or election process.



According to the report, a UNPN could meet every September, at the start of a new UNGA session, “and convene periodically during the rest of the year when critical issues come to the fore.”

The Commission states that “where IPU member-state delegations tend to focus on national issues, UNPN members would focus on UN governance itself, and on facilitating more accountable and inclusive decision-making at the global level.” In other words, in the perception of the Commission a UNPN and the IPU would complement each other.

A STEP TOWARDS A UNPA

In view of the IPU’s UN Committee that is dedicated to UN issues, the question of complementarity needs more consideration. According to the IPU’s Rules of Standing Committees, the Members of the IPU shall be represented on each Standing Committee by one member and one substitute. In terms of composition, the UNPN thus would be more open and inclusive as it is not tied to similar requirements. MPs interested in UN topics could join a UNPN without going through formal selection procedures and institutional obstacles. This opens up the possibility that members of other IPIs than the IPU – or members of the US Congress⁴⁹ which is not an IPU member – can get easy access to this body. It is important to acknowledge that there now is a large number of IPIs across the world⁵⁰ and in fact the UN is interacting with many of them. As the UNSG’s 2018 report on the matter pointed out, beyond the IPU, the UN system “works with a range of international, regional and subregional parliamentary organizations and associations.”⁵¹

Another difference to the IPU lies in the fact that a UNPN is supposed to be recognized by the UNGA based on Article 22. Essentially this implies that the UNPN’s operations would be supported by the UN Secretariat, perhaps by an Elected Representatives Liaison Unit as originally proposed by the Cardoso Panel. Further it should be explored what distinct rights and functions a UNPN should be vested with that go beyond those of the IPU Committee vis-à-vis the UN.

The Commission considers a UNPN to be complementary to the efforts of CUNPA “which seeks the creation of a standing, formally constituted UN second chamber”. A study by Luis Cabrera carried out on behalf of the Commission concluded that a UNPA “would be a better candidate to fill the space of a formal UN parliamentary dimension ... than the IPU” because the latter “faces severe structural constraints stemming from its nature as an organization composed of sitting parliamentarians.”⁵² Thus, a UNPN can be conceived of as an institutional precursor of a UNPA. In fact, we believe that one of the key tasks of a UNPN should be to deliberate – in collaboration with UN member states, civil society representatives and experts – on how to best design and develop a UNPA and present proposals.

An important similarity of a UNPN and a UNPA lies in the fact that in both cases an establishment by the UNGA according to Article 22 UN Charter is envisioned. The most important distinction is that individual MPs can opt to join a UNPN, based on the examples of other parliamentary networks, whereas in the case of a UNPA membership basically would be restricted to parliamentarians who are elected from the midst of national (or regional) parliaments of UN member states (or who may be directly elected). Still, it should be noted that in the opinion of CUNPA:

*Acting as an institutionalized “network of networks”, a UNPA could allow representatives of existing parliamentary networks and institutions to formally participate in its work, thus providing them with more leverage and influence. Consideration should be given to the possibility of involving local authorities and representatives of indigenous peoples and nations in the activities of a UNPA.*⁵³

A UNPN may start as a much smaller operation compared to a fully-fledged UNPA that from the beginning may be composed of 700 to 900 standing members. The threshold for the creation of a UNPN – as opposed to the creation of a fully-fledged UNPA – is lower and thus appears more in reach in the foreseeable future.



V. CONCLUSIONS

The IPU's efforts to increase the role of national parliaments in global affairs is highly valuable and deserve applause, in particular the strengthening of its UN Committee.

The relationship between a UNPA and the IPU is a complementary one. As previously stated by CUNPA, it remains valid that

*a UNPA would not replace or duplicate the IPU's functions. Quite the contrary, a UNPA would provide a response to the democratic deficit in global governance which the IPU in its current structure is unable to offer.*⁵⁴

This complementary relationship will be increasingly evident and relevant as a UNPA evolves over time into a GPA and eventually into a WP. As a body that brings together national parliaments, the IPU will be needed in a future global legislative system. For this reason, notions of transforming the IPU into a UNPA and, more importantly a WP, should be discouraged. National parliaments will continue to require a distinct global voice and platform. In any case, this approach has little support in the IPU anyway.

The strategic imperative should be to focus on the establishment of a UNPA as a new institution. Whilst the UNPA initially remains largely consultative, mainly composed of national parliamentarians and not yet directly elected, some similarities and overlaps will exist with the IPU. However, this is not unusual and the IPU and a UNPA would still have different goals, mandates and functions.

The creation of a UNPN based on Article 22 is a realistic route to the creation of a UNPA. The establishment of an Elected Representatives Liaison Unit in the UN Secretariat is long overdue.

It is paradoxical that the IPU has, for more than 100 years, played an ambiguous role in the development of global democracy. On the one hand, it is clearly recognized in IPU circles that the value of "even the most democratic of institutions at the level of the national state" is limited if more and more relevant decision-making is done "by international institutions that are not subject to any democratic control or accountability".⁵⁵ On the other hand, due to its institutional characteristics the IPU is unable to fill this gap adequately. Worse, it has still been opposing alternative and complementary proposals such as a UNPA or a WP. This provides governments that are not inclined to support a democratization of the UN and the system of global governance with a perfect excuse to do nothing. Considering what is at stake, the opposition within the IPU is unfortunate and should be reconsidered. In principle, the IPU would be well positioned to spearhead the efforts towards a WP.

Managing the global catastrophic risks that humanity is facing, and restoring trust in democracy at all levels, will only be possible if democratic representation and participation is extended to global decision-making through a body of elected global representatives.



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ABOUT DEMOCRACY WITHOUT BORDERS

Democracy Without Borders is a non-governmental organization that promotes democracy from the local to the global level and in the dimensions of representation, participation, deliberation and co-decision. Democracy Without Borders advocates a democratic world order in which citizens participate beyond national boundaries. While advocating ongoing democratization at all levels, we focus on promoting democracy in transnational regional and global institutions. The establishment of a democratic world parliament is one of our key goals.

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