

Lawyers Conference Participates in ABA Day at the UN¹

Every year, the International Law section of the ABA organizes ABA Day at the UN, held this year on April 11. I was invited to this year's session along with incoming JD Chair Dick Goodwin. My expectations weren't high, since I could imagine the nuisance that it would be for the US delegation, and the UN to entertain us, while skyrocketers were going off in the Côte d'Ivoire and Libya, with ambassadors and deputy Secretary Generals constantly racing out the doors to various UN groups and meetings.

But if you ever get an opportunity to participate in UN day, don't hesitate to do so. It was a most stimulating experience. Our delegation included four past, present, and future ABA Presidents (reflecting the level of ABA interest), and various experts who had flown in from Paris, Oxford, and other foreign venues. Judge Goodwin himself had just returned from Tokyo.

After a shared breakfast at the Yale Club, we walked to the new US delegation's large new building directly across 1st Avenue from the UN itself. There we received briefings from a variety of ambassadors—delegates to such UN bodies as the Security Council, UN Economic and Social Council (ECOSOC), and the like are of ambassadorial rank—and then proceeded to the UN for lunch and an afternoon of briefings from UN officials. Here are some of the tidbits I gleaned from this enormous flood of information.

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First and foremost was the sense that even if the UN does not get much respect or recognition in the US, it has a much more important image in the rest of the world. Under President Obama and his UN Ambassador Susan Rice (a remarkable person who was a Rhodes Scholar after graduating summa cum laude from Stanford), the US has renewed its engagement in the UN. Rick Barton, our ambassador to ECOSOC, said that other nations welcomed our more active and involved presence. Although perhaps not so visible or significant within the US, this involvement turns out to be quite important in many other countries, which pay a lot of attention to the UN as a source of prestige, authority, protection, and guidance. From that perspective, it is not entirely surprising that a recent survey in the Middle East found that 78% of Palestinians viewed the UN favorably, compared to much lower percentages in the surrounding countries. Our active engagement and the leadership role that the US enjoys as a result seems especially important now that emergent powers like China, India, Brazil, Russia, Turkey, and South Africa have become much more independent and assertive.

I also gained a better understanding of how the UN actually helps people, and US goals, around the world. The UN is no longer divided into permanent blocs, as it used to be some time ago, but acts through frequently morphing coalitions within its various bodies. The task of building support for any position is therefore a painstaking one involving tradeoffs and great globs of time. The diplomats may work in chairs, but the power of their minds is constantly apparent.

Moreover, the UN often defers to member states in claiming credit. As one highly placed UN person explained, UN work behind the scenes has been largely responsible for some of the best recent news around. In Egypt, Secretary Ban Ki-Moon became the

trustworthy outsider who could mediate between the leaders of the uprising and the military, and since the uprising has been there practically every week, evidently gaining considerable cooperation from the military. In the Côte d'Ivoire, the UN's role in running the Presidential elections gave it, alone among outsiders, enough knowledge and legitimacy to authoritatively intervene. The UN provided the real backbone for the international effort to install the legitimately elected President there, while the French got most of the publicity for ousting the embattled former President Laurent Gbagbo. The successful enforcement of the election results was especially important because there will be 16 Presidential elections in Africa this year (most importantly, the UN official said, in Nigeria), and if Gbagbo had prevailed the outcome of the others would be thrown into doubt.

Indeed, hardly a week after our UN briefing came word that Nigeria, by far the most populous African country, had run a largely honest and peaceful Presidential election for the first time in decades. A most interesting tidbit, that illustrates the unexpected linkages that issues can have, is that the victor, President Goodluck Jonathan, has pledged some of Nigeria's oil to support the UN's women's initiative.

As might be expected, there were several discussions of UN Rule of Law efforts. Indeed, we met on the day that the Rule of Law was discussed in the General Assembly. Promotion of the Rule of Law is, in fact, one of the UN's six top priorities, and there will be a major conference about it in September 2012. It was not clear to me, however, that everyone understands the Rule of Law the same way. Some speakers seemed to think that virtually any dispute resolution process qualified as the Rule of Law, such as those extolling Afghanistan's traditional and informal legal structure, which seems to consist of

decisions by the local qadi or other legitimated wise person. Others had more formal requirements in mind, such as written laws that anyone could discover, fair procedures, and impartial decision makers.

In any event, the UN's emphasis is now on a bottoms-up approach to education about the Rule of Law, especially rights, legal redress, and institutional development. Early attempts to promote the Rule of Law, such as US initiatives in Afghanistan after the early defeat of the Taliban, were relatively formal—lots of courthouses were built that remain largely empty—and did not work very well. Hence the interest in informal law and legal structures as practiced in traditional Afghani villages.

There was much more, of course, and in due course I am sure the International Law section's website or Facebook page will provide a more thorough review. I would like to close by thanking and congratulating those members of the Section on International Law and ABA staff who organized and led this event and provided a most useful briefing book. It was beautifully run, and Chair Salli Swartz kept the meetings clicking along precisely on schedule, an example for all event chairs to emulate!