

AMERICAN BAR ASSOCIATION

**ADOPTED BY THE HOUSE OF DELEGATES
February 9, 2004**

RESOLVED, That the American Bar Association supports the creation of a United Nations Democracy Caucus within the United Nations (UN) framework to work towards the strengthening of democracy, human rights and the rule of law throughout the UN system.

REPORT

Introduction

This report describes the ongoing effort by a large number of member states, supported by Secretary of State Powell human rights organizations and many important non-governmental organizations, to establish a democracy caucus within the United Nations. The idea has also received considerable support in the U.S. Congress culminating in H.R. 1590, the "US International Leadership Act."¹ Initial support for the idea and the legislation was driven somewhat by when the United States was voted off the Commission on Human Rights (UNCHR) in 2001 and Libya was elected to serve as Chair of the UNCHR in 2002.

Background

The Convening Group of the Community of Democracies was formed in 1999. The group, composed of eight countries - Chile, the Czech Republic, India, Mali, Poland, Portugal, the Republic of Korea, and the United States - organized a conference in Warsaw with the overall theme "Towards a Community of Democracies." The goal of the conference was to facilitate a discussion among democratic states on how best to strengthen democracy, human rights, and rule of law throughout the world.

Although the Convening Group did not have a well-defined list of criteria by which it invited other countries to participate in the Warsaw talks, it extended invitations to those countries who met or were seen as working towards meeting general standards for democratic governance (i.e., free elections, rights of assembly and the rights to freedom of opinion and expression, the ability to establish political parties, separation of powers, among other indicia of free societies). A total of one hundred and six countries attended the Warsaw Conference in June 2000.

The Warsaw attendees issued a statement calling for democracies to coordinate their activities at regional and international bodies. The Warsaw Declaration, which was drafted by the Convening Group and, outlined the standards democratic states should strive to meet, was approved overwhelmingly.

A second meeting of the Convening Group took place in November 2002. Over 130 countries were invited to the meeting, as were several international and regional organizations particularly committed to the promotion of the democracy. As was the case in Warsaw, non-governmental organizations held a parallel meeting in Seoul, but with enhanced interaction from representatives of the governments. Also for the first time,

¹ The International Leadership Act was incorporated into the FY 2004-05 State Department Authorization Bill (H.R. 1950). This Bill has been adopted by the House of Representatives, but has not yet been acted on by the Senate. There is also Concurrent Resolution #83 which has been recently introduced in the Senate by Senator Biden which is solely for the purpose of calling for the establishment of a democracy caucus within the United Nations. This Concurrent Resolution will presumably be considered later this year by both houses of Congress.

some countries that needed to advance further in their democratic development were invited to the meeting as observers. Roundtable discussions provided an opportunity for representatives of governments to share specific suggestions on practical steps towards the promotion of democracy. Governments participating in the meeting endorsed the Seoul Plan of Action, a blueprint for actions to be taken by countries participating in the Convening Group of the Community of Democracies. Both the Warsaw Declaration and the Seoul Plan of Action advocate the creation of caucuses within multilateral bodies to increase coordination among these like-minded states.

Soon after the Convening Group of the Community of Democracies meeting in Warsaw and the release of the Warsaw Declaration, a first effort was made at the UN to convene states participating in that process. Close to sixty states participated. Although Community of Democracy participating states have yet to establish a permanent working caucus of democratic states at the UN, we anticipate that participants at the Seoul Conference will constitute the initial membership of the UNDC.

Functions of the UNDC

Under the general objective of promoting the values of democracy and human rights within the UN system, it is contemplated that the UNDC should be patterned after the existing Community of Democracies plan and perform the following functions:

- 1) To forge consensus on issues which are of common concern to participating democratic states;
- 2) To build consensus among the democracies in order to respond effectively through the UN system to the most egregious violators of human rights; and
- 3) To strengthen the governance and accountability of the UN on issues of democracy and human rights by supporting the candidacy of democracies in the UN's constituent regional groups for election to key UN bodies.

The UNDC would likely prove to be a considerable counter force against existing coalitions of countries that include regimes that have been an obstacle to the advancement of important human rights issues. Such groups include the Non-Aligned Movement (NAM), comprising sixty-four UN member states, many of whom do not generally subscribe to democratic principles of good governance and the protection of human rights. Other groups, such as the Organization of Islamic Countries (OIC) and the Group of 77 (G-77) have enabled member states with aligned interests and shared goals to work together in advancing a common agenda that is not always consistent with the promotion of democratic principles. No similar organization exists to advance the interests of democratic states.

Although there are a number of substantial reasons why the ABA should support the creation of the UNDC, perhaps the most compelling arises from the propensity for regional bloc solidarity, which in some cases leads states to support fellow bloc members

for leadership posts or membership in UN bodies even though they do not ascribe to democratic principles such as good governance and the rule of law. A striking example would be that of the willingness of African countries, including those that support democratic principles, to back Libya as the African bloc's sole candidate to assume the Chair of the UNCHR in 2003. Similar African bloc support for Libya to become a member of the Security Council in 2004, at a time when Libya was still subject to U.N. Security Council sanctions, was only averted through intensive multilateral diplomacy.

The UNDC would not replace the group systems in the selection of states to serve on UNCHR or other agencies in the UN System. However, we believe that such a large and important group of countries speaking as a single voice could have considerable influence on the process. Membership in bodies that monitor human rights and democracy, such as the UNCHR, should be primarily comprised of countries that have demonstrated respect for human rights. UNDC could act to further this ideal.

Summary

Democratic states need to work together to condemn and prevent human rights abuses. In addition, democratic cooperation will ensure an enhanced leadership role for democracies within UN bodies, and thus foster an improvement in the UN's ability to promote democratic ideals around the world. Therefore, the ABA should support the formation of a democracy caucus within the UN.

Respectfully Submitted,

A. Joshua Markus, Chair
Section of International Law and Practice

February 2004

GENERAL INFORMATION FORM

Submitting Entities: Section of International Law and Practice

Submitted By: A. Joshua Markus

1. Summary of Recommendation.

The recommendation proposes that the American Bar Association support the creation of a United Nations Democracy Caucus (UNDC) within the United Nations (UN) framework to work towards the strengthening of democracy, human rights and the rule of law throughout the UN system.

2. Approval of Submitting Entities.

The Council of the Section of International Law and Practice approved the recommendation at its fall meeting.

3. Has this or a similar recommendation been submitted to the House or Board previously?

No.

4. What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?

No.

5. What urgency exists which requires action at this meeting of the House?

There is pending federal legislation.

6. Status of legislation.

H.R. 1950 is currently awaiting action by the full Congress..

7. Cost to the Association.

None.

8. Disclosure of interest (if applicable)

Not applicable.

9. Referrals.

Simultaneous with this submission, referral is being made to all other ABA Sections and Divisions.

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