

Chapter 12 – Resolving the Contradictions of the Office

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The problems of the Secretary-General are as many as the number of member states of the United Nations. Although the UN Charter merely designates him or her “the chief administrative officer of the Organization”¹ the position, as this volume has shown, is both much more and much less than that. In the vexed, and too often adversarial, relationship of the office to the members of the organization, the Secretary-General is sometimes treated as an errand boy and punching bag. This is partly the fault of short-sighted foreign offices, but also of the contradictions in the way the job is described in the Charter. That instrument seems to establish him or her both as an important independent force, but also as a mere servant of the political organs of the organization. The problems that have afflicted the various incumbents mostly result from those contradictory designations.

Yet this is not the only contradiction of the office. Quite apart from whether the Secretary-General is intended to be a secretary or a general, the appointment process is designed to avoid selecting either: it is a political rather than professional process, but one that is geared to choosing the weakest rather than the strongest candidate. This is not to disparage the various incumbents, but, as Brian Urquhart recounted in chapter one, those who have stood tallest in the role have been those who most exceeded expectations.

Even within the two dominant functions of the position, the Secretary-General frequently lacks sufficient internal authority to be an effective administrator of the organization, while also lacking the resources to exercise his or her external functions

with credibility. Each Secretary-General, on assuming office, has found that his room for discretion in administrative matters is sharply circumscribed by the micromanagement of the General Assembly and its committees — especially in financial and personnel matters. This is not much ameliorated by the Charter’s proviso prohibiting states from seeking to instruct the Secretary-General or seeking to influence him in the discharge of his responsibilities.² Similarly, the formal title of commander-in-chief of the world’s peacekeepers rarely means actual command authority over national contingents wearing blue helmets.

As indicated in the Introduction, these apparent design flaws are far from accidental. Nor, in many ways, are they improper: the legitimacy of a Secretary-General derives, ultimately, from the member states that constitute the United Nations. Whether the office can go beyond that foundation, acquiring a legitimacy independent of those states, has been the source of the gravest challenges to the men who have held it.

This final chapter will examine these three sets of contradictions — in the nature of the role, the manner of appointing a person to fill it, and the resources available to carry out its stated functions — with a view to drawing some larger conclusions concerning the prospects for the office.

Secretary or General?

As Shashi Tharoor showed in chapter two, the framers of the Charter gave the Secretary-General two distinct and seemingly unrelated functions. He or she is to run an

¹ UN Charter, art. 97.

² UN Charter, art. 100(2). Curiously, more formal restrictions have been placed on the administrative responsibilities of the Secretary-General — for which the Charter provides clear authority — than of his or her political role: see chapter two by Shashi Tharoor.

international civil service, while also being designated the head of a “principal organ of the United Nations”, a status the Secretariat shares with the General Assembly, the Security Council, and the International Court of Justice. The power given by Article 99 of the Charter to bring matters to the attention of the Security Council, though only rarely invoked by name, has provided the basis for a strategic expansion in the Secretary-General’s role, as James Cockayne and David M. Malone demonstrated in chapter four, over time making the office an independent actor in the UN system of institutionalized diplomacy. In discharging that function, each Secretary-General has appointed various expert commissions, panels, and special representatives. Whether by reason of the personal distinction of these agents, or the power of the facts and ideas they have generated, the Secretary-General has acquired an important voice. In annual reports to the General Assembly, or in other public statements, before UN organs, press conferences, and leading universities, that voice has reached out to a global audience.

While creating that space for independent initiatives, however, the Charter also relegates the Secretary-General to the role of servant of the political organs. In that role he or she is instructed to “perform such other functions as are entrusted to him”.³ Thus, while the good offices role as impartial fact-finder and mediator has grown in usefulness, it has been constrained by the agendas and parameters established by the political decisions of the members.⁴ These contradictions have deepened as the Charter has undergone sixty years of adumbration through institutional practice. In particular, as the functions of the Secretary-General have broadened to include operational responsibility for peacekeeping and peacemaking, and as he, increasingly, has become the Security Council’s designated executor of important political and military tasks, these duties imposed on him by states have undercut his other status as an honest broker of emerging disputes. Successes in this area generally coincide with unusually unified international support (as in the case of administering East Timor or supervising Syria’s withdrawal from Lebanon) or with minimal international interest (peacemaking between Nigeria and

³ UN Charter, art. 98.

Cameroon, for example, or between Gabon and Equatorial Guinea); problems arise when the Secretary-General and his agents are thrust into a highly-politicized dispute, such as the Middle East peace process or Iraq, and the organization itself becomes a proxy battleground for the conflict.

An obvious step towards resolving this first tension is to delegate the Secretary-General's administrative responsibilities to a deputy. This was attempted with the appointment of the first Deputy Secretary-General in March 1998, an experiment that was at best partly successful.⁵ Effective delegation may remove some of the strain of the office, perhaps enabling a deputy to take seriously the human resources component of the job and recruit high-quality senior staff, manage them effectively, and fire those who do not perform. It will not, however, change the ambivalence of member states as to whether the Secretary-General should be able to give orders as well as take them.

Compromised Candidates

Even if one could resolve the question of whether the Secretary-General is intended to be more secretary or more general, the appointment process laid down by the Charter and subsequent practice is not geared to selecting a candidate skilled in either area. The lack of debate in the General Assembly, as stipulated by the Assembly itself in 1946, avoids a divisive spectacle, but at the expense of any transparency.⁶ Passing responsibility for selection to the Security Council has meant, as Colin Keating argued in chapter three, handing it to the five permanent members. It is far from clear that an open election

⁴ See chapter five by Teresa Whitfield.

⁵ See chapter three by Colin Keating.

⁶ See GA Res. 11(I) (24 January 1946). Appointments have nonetheless involved the more unseemly aspects of an election campaign, as Brian Urquhart explained in chapter one.

campaign in the Assembly would be an improvement — in particular if it led to 191 vetoes instead of five, or if it saw the appointment of a Secretary-General openly opposed by a significant group of member states. An alternative would be the model of a confirmation, with an opportunity to hear in a public forum what a candidate sees as the priorities of the office. Such a process could ensure that the incoming Secretary-General had a mandate to follow through on an agenda declared in advance.

This might improve the authority of the officeholder, but would not necessarily improve the quality of the candidates. Focusing more on the managerial responsibilities of the office, one solution would be to conduct a professional search akin to appointment of a corporate executive. A nominating committee could take advice from member states, the Secretariat, or private consultancies, in turn proposing names to the Security Council. A form of process was established by the Wisnumurti Guidelines in 1996, but this limited the nomination of candidates to member states, excluded Secretariat staff, and threw a veil of secrecy over the process.⁷

These two aspects of the appointment process — authority and quality — are linked. Quite apart from the political limitations on acceptable candidates, such as excluding nationals of the permanent five members of the Security Council and privileging regional rotation, there is some evidence that high-profile potential candidates are deterred from seeking the office because of the uncertainty of the process of selection and the powers transferred once selected.

Neither Secretary nor General

In their role as subordinate executor of missions and tasks designed by the Security

⁷ The Guidelines are reproduced in the appendix to this volume.

Council and the General Assembly, past Secretaries-General have encountered a third contradiction: between the tasks assigned to them and the resources placed at their disposal by the political organs and member states. The Secretary-General is routinely given operational responsibilities without the means to carry them out successfully, with the Council and the Assembly making available political, fiscal, and military capacities entirely insufficient to accomplish objectives that may themselves be vaguely defined. Creative responses have been found in some situations, notably the mobilization of “groups of friends” to provide political, economic, and other capacities to conflict resolution, as described by Teresa Whitfield in chapter five.⁸

But this is not always enough. After debacles in Somalia, Rwanda, and Bosnia and Herzegovina, the Brahimi Report on UN Peace Operations stopped just short of recommending that the Secretary-General simply refuse to take on tasks that are ill-conceived, ill-defined, or under-resourced.⁹ The theoretical best practice of such operations is that a political strategy should be agreed, a mandate formulated to carry out that strategy, and resources devoted to achieving the mandate. The actual practice tends to be that states determine the level of resources they are prepared to devote to a problem, formulate a mandate around those resources, and hope that some acceptable political resolution will be forthcoming. As Adekeye Adebajo showed in chapter eight, this inconsistency between words and deeds has had profound consequences in Africa.

The fact that the Secretary-General lacks a serious capacity to participate in such decisions is linked to a larger constraint in forming strategic assessments independent of the political organs of the United Nations. The Secretary-General’s power under Article 99 of the Charter is to bring to the Security Council’s attention any matter which “in his opinion” may threaten peace and security. Common sense would suggest that his or her opinion should be an informed one, and yet there has been longstanding resistance to the

⁸ It may also be possible to reach beyond the member states to civil society or new constituencies, such as the business community, as in the case of the Global Compact.

⁹ Report of the Panel on United Nations Peace Operations (Brahimi Report), UN Doc. A/55/305-S/2000/809 (21 August 2000), available at <http://www.un.org/peace/reports/peace_operations>, paras. 58-64.

Secretary-General acquiring any significant analytical support.¹⁰ An illustration is provided by the Asia and Pacific Division of the Department of Political Affairs, which supports UN activities in the Middle East, Iraq, Iran, Central Asia, Kashmir, Sri Lanka, Myanmar (Burma), Nepal, and North Korea: its total number of professional staff is fourteen, almost none of whom speak Arabic, Farsi, Korean, or other relevant languages.¹¹ Resistance to providing a capacity for analysis derives in part from the general wariness member states have for early warning, a function that might see the United Nations prying into issues perceived as lying solely within the domestic jurisdiction of its member states, but it is also driven by the concern that an informed Secretary-General may be in a position to challenge the foreign policy priorities of leading member states.¹² As Edward C. Luck argued in chapter eleven, this may be an inappropriate stance for a Secretary-General to adopt and in any case is unlikely to be successful.

Similar problems also arise in purely internal UN matters, however. Even when making minor decisions pertaining to the allocation of human and fiscal resources, the Secretary-General must defer to the General Assembly's Advisory Committee on Administrative and Budgetary Questions (ACABQ). Member states appear to feel free to put pressure on the Secretary-General's exercise of discretion, especially in matters of staffing and purchasing. Each incumbent has had ample reason to complain that he had been subjected to accountability, but without being vested with commensurate responsibility — a defensible interpretation of the Oil-for-Food scandal.¹³ Further evidence of this was provided in the reaction to reform proposals put forward by Kofi Annan in 2006 that would have strengthened the office of Secretary-General in personnel

¹⁰ Past efforts in this area have seen the closing of the Office for Research and the Collection of Information in 1992 and the abortive effort to establish an Information and Strategic Analysis Secretariat in 2000. There is some hope that the Department of Political Affairs might yet fulfil such a function.

¹¹ A further half-dozen professionals work at any given time on time-limited contracts.

¹² See further Simon Chesterman, *Shared Secrets: Intelligence and Collective Security* (Sydney: Lowy Institute for International Policy, 2006).

¹³ See chapter four by James Cockayne and David M. Malone.

and financial decisions at the expense of micromanagement by member states. Developing states in particular expressed concern that this would reduce their oversight and influence on decisions made within the United Nations.¹⁴

One response to this situation, as sketched out in chapter nine by David Kennedy, is to embrace it and cease examining the office through the lens of secretary or general. For the uniqueness of the position lies not in the power to run an organization or to trump the interests of member states, but to transcend those interests.

Speaking Truth to Power

This public role and its importance derive not simply from the limitations of the office as it is defined but from the nature of the world and its problems: the issues that are likely to land on the agenda of the United Nations and where the Secretary-General can make a significant difference will rarely be those topping the foreign policy agendas of the most powerful states.

As Quang Trinh and Ian Johnstone showed in chapters six and seven, the Secretary-General's voice can be his or her strongest asset — though it must be used with discretion. When employed effectively, in the right circumstances, it can provide an authoritative legal interpretation or cultivate the creation of a new norm. The embrace of the doctrine of the “responsibility to protect”, for example, can be attributed in significant part to Annan's championing of the idea, first articulated in less palatable form in 1999,

¹⁴ GA Res. 60/260 (8 May 2006) reaffirmed the oversight role of the General Assembly in administrative and budgetary matters, stressed that “setting the priorities of the United Nations is the prerogative of the Member States, as reflected in legislative decisions”, and reaffirmed the Assembly's role in “carrying out a thorough analysis and approval of human and financial resources and policies”. See also Warren Hoge, “Third World Bloc Thwarts UN Reform Plan”, *New York Times*, 29 April 2006; Colum Lynch, “Developing Nations Thwart Annan's Plan for Reform at UN”, *Washington Post*, 29 April 2006.

that the protection of vulnerable populations should not be sacrificed on the altar of sovereignty. The Millennium Development Goals are another example of how a Secretary-General can change the terms of debate, in this case about development assistance — though they are also an example of the limits of the office’s power, with few of the actual goals seen as realistic targets for the nominal deadline of 2015. Determining when the circumstances are right, moreover, can be extraordinarily difficult. As chapter ten by James Traub documented, the arc of a Secretary-General’s political capital may be well out of his or her control. Annan’s legacy, for example, may be dominated by his inability to prevent the powerful few doing wrong in Iraq, or to make the many do right in Darfur.

So what lessons may be learned from the preceding catalogue? Perhaps the most important can be summed up in a single word: “No.” It is a word that needs to be spoken far more frequently in private and, when necessary, in public by the Secretary-General and his or her senior staff.

It is a word that needs to be uttered when a diplomat petitions to place a crony or national in a job for which that candidate is unsuited. It needs to be used whenever the Security Council proposes to vest the Secretary-General with a complicated task for which the allocated resources are insufficient or the means are ill-defined. It needs to be used when the General Assembly seeks to associate the Secretary-General with a contentious or tendentious political position that may undermine his or her potential for mediation. It needs to be used when the budgetary process is skewed to permit a powerful committee chair to micromanage administrative processes and priorities.

A Secretary-General cannot easily say “no” to diplomats representing sovereign states. On the other hand, there is nothing in the Charter that prevents a Secretary-General from saying “no” if, in doing so, he or she has garnered the support, or at least the understanding, of a substantial majority of the members and is willing to pay the inevitable price of protecting genuine independence. Dag Hammarskjöld’s defiance of Soviet intimidation may be an example of such a stand; the end of Boutros Boutros-Ghali’s first term and Kofi Annan’s second, perhaps, an example of its price. For the

future, that price is best named and paid before, not after, the commencement of a Secretary-General's term of office. It is a price that is not incalculable: the clearest message that an incoming Secretary-General could send is to announce, before assuming office, that he or she is unavailable for reappointment to a second term.¹⁵

At present, the tradition is for the Secretary-General to be appointed for one term, during which he is almost inevitably vulnerable to the pressures and concerns that go with a well-established expectation of appointment to a second term. These concerns might be set aside at the insistence of the candidate, who could renounce any expectation of a second term.¹⁶ Such a renunciation might sensibly coincide with agreement to give the Secretary-General a term longer than five years. Since the Charter is entirely silent as to all these matters, it is largely up to a candidate to negotiate the terms of his or her appointment with the Security Council and the General Assembly. This would hardly guarantee a more successful tenure — Annan's second term was far more troubled than his first — but such a declaration of independence might usefully change the tone of a Secretary-General's relations with the member states, the political organs, and the Secretariat itself.

The United Nations, as Hammarskjöld once said, was created not to take humanity to heaven but to save it from hell. The Secretary-General, though appointed by 191 governments, has no democratic mandate and cannot take decisions for the almost seven billion people now embraced by the phrase “we the peoples of the United Nations”. The office is, nevertheless, a unique position from which to promote issues that transcend national interest and to mobilize opinions and resources for crises triggering insufficient political will. And, even if he or she cannot force the right decisions when confronted by opposing governments, it is the job of the Secretary-General to make it harder for an international community to make manifestly wrong decisions or to take no decision at all.

¹⁵ See also the discussion of this point in chapter three by Colin Keating.

¹⁶ It is important that such a Secretary-General then hold to this position: see the discussion of Boutros-Ghali's reversal on this point in chapter six by Quang Trinh.
