

Hans Corell, Former UN Legal Counsel

By Richard L. Field



Editor's Note: This interview inaugurates ILN's new column, "ILN Interviews," which will be published from time to time to spotlight notable contributors to the field of international law.

Hans Corell (Sweden) was Under-Secretary-General for Legal Affairs and the Legal Counsel of the United Nations from March 1994 to March 2004. From 1962 to 1972, he served in the Swedish judiciary. In 1972, he joined the Ministry of Justice, where he became director

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of the Division for Administrative and Constitutional Law in 1979. In 1981, he was appointed chief legal officer of the Ministry. He was Ambassador and Under-Secretary for Legal and Consular Affairs in the Ministry for Foreign Affairs from 1984 to 1994.

Since his retirement from public service in 2004, he has been engaged in many different roles in the legal field, including those of legal adviser, lecturer, and member of different boards. Among others, he is involved in the work of the International Bar Association; the International Center for Ethics, Justice and Public Life at Brandeis University; and the Hague Institute for the Internationalisation of Law. He was chairman of the Board of Trustees of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University, Sweden, from 2006–12.

Richard Field: Please tell us about the job of the Legal Counsel of the UN. Has the job changed since you were the Legal Counsel?

Hans Corell: This job is probably one of the most fascinating legal positions you can hold in the world—it's at the crossroads between law and politics. You are one of the Under-Secretaries-General of the United Nations working directly with the Secretary-General. The Legal Counsel is head of the Office of Legal Affairs with some 170–180 staff members from all over the world. See <http://legal.un.org/ola/>. The Office, which is based at the UN Headquarters in New York, has six units:

- of Justice, and other UN organs;
 - the General Legal Division, where you find the in-house lawyers dealing with many questions, ranging from the internal UN administrative law, labor law, contracts law, procurement, arbitration—you name it;
 - the Codification Division, which is the Secretariat of the Sixth (Legal) Committee of the General Assembly, the International Law Commission, and UN conferences such as the 1998 Rome Conference on the International Criminal Court;
 - the Division for Ocean Affairs and the Law of the Sea, which is a center for the law of the sea work within the UN system—a very important task considering that the seas and oceans constitute about 70 percent of the surface of the globe;
 - the International Trade Law Division, based not in New York but in Vienna, which is the Secretariat of the UN Commission on International Trade Law (UNCITRAL), one of the best functioning commissions of the UN; and
 - the Treaty Section, which performs the work of the Secretariat and the Secretary-General's functions in relation to multilateral and bilateral treaties.
- In addition, the UN Legal Counsel is also the chair of the meetings of the legal advisers of the organs within the UN system. This is a meeting at the legal advisers level that mirrors the UN System Chief Executives Board for Coordination (CEB), which brings together the executive heads of 29 specialized organizations to deliver as one at the global, regional, and country levels and

- the Office of the Legal Counsel, where you interact with the Secretary-General and the Secretariat, the General Assembly, the Security Council, the International Court

which is supported by three pillars: the High Level Committee on Programmes, the High Level Committee on Management, and the United Nations Development Group. See <http://www.unsceb.org/>.

It is very difficult for me to say whether the job has changed since I left in 2004. Let me say that I was the Legal Counsel during a fairly dynamic time in the UN that followed upon the fall of the Berlin Wall in 1989. Great advances were made in many fields, not least in the legal field. International criminal law should be mentioned in particular. By way of example, one can cite the establishment of the international criminal tribunals for the former Yugoslavia and Rwanda, the Special Court for Sierra Leone, and the Extraordinary Chambers in the Courts of Cambodia, and, of course, the adoption of the Rome Statute of the International Criminal Court in 1998 and the establishment of this Court when the Statute entered into force in 2002.

The entry into force of the Convention on the Law of the Sea in 1994 and the establishment of its three institutions, the International Seabed Authority, the International Tribunal for the Law of the Sea, and the Commission on the Limits of the Continental Shelf in the 1990s is yet another example.

However, relations have now changed, which is demonstrated in particular through the inability of the permanent members of the Security Council to join hands in certain situations when international peace and security are threatened. I experienced the U.K.-U.S. attack on Iraq in 2003, a flagrant violation of the UN Charter by permanent members of the Security Council. This happened again when Russia attacked Georgia in 2008. And what is now happening in Ukraine is extremely serious. I am sure that this development reflects also on the work of the Legal Counsel and the Office of Legal Affairs.

Reforming the UN Security Council, not by simply adding new members but by amending its working methods, is in my view the most urgent need for UN reform today. I have developed my

thoughts in this matter many times in the past, most recently in an article published in October 2014. See <http://www.havc.se/res/SelectedMaterial/20142224ilperceptionsofsecurity.pdf>.

Field: The world geopolitical picture seems to be changing, with non-state players (political and religious, as well as business, civil society, and other interests) sometimes taking a prominent role. Transborder phenomena, such as the Internet, refugees, and health, augment this. Is the UN keeping up in an appropriate way with these changes?

Corell: Such changes have always occurred in the history of mankind, even if the development has accelerated in later years. Whether the UN has kept up depends on the subject matter. It is certainly not easy for the UN to always take the lead for the simple reason that the organization reflects the will of its members. Positions on many issues have not yet crystallized at the national level. One important example is climate change and its effects on the environment. Another example is the growing world population. We were maybe 2 billion people in the world when the UN was established in 1945. At present, we are some 7 billion, and in 2050, we will be 9.6 billion according to the UN Population Division. These are enormous challenges for the future. But in many countries—not least in the United States—people do not seem to realize that these phenomena must be addressed with determination and that they constitute a tremendous threat to international peace and security.

Let me also mention the Internet. Every time a new communications system has been invented, states have joined hands and concluded agreements in order to manage them: the postal system, the telegraph, the telephone, the railways, shipping, and air transport are good examples. But when the fastest and most powerful communications system ever is developed—the Internet—states are unable to come to

an understanding and conclude an agreement on how to manage it.

The UN could certainly do more here. However, this requires that states support the organization wholeheartedly.

Field: What should the ABA's role be in UN affairs? Should the ABA seek a more prominent voice in world affairs?

Corell: I believe that the ABA has a very important role to play here. As lawyers, members of the ABA are in a position to explain the need for democracy and the rule of law both at the national and the international level. Furthermore, the ABA should explain what the present U.S. generation seems to have forgotten: the importance of international cooperation by joining international treaties—e.g., the UN Convention on the Law of the Sea and the Rome Statute of the International Criminal Court—and by respecting the so-called Supremacy Clause in Article 6 of the U.S. Constitution. Imagine the United Nations with 100 percent U.S. support!

Today, the UN is being criticized within the United States—often for unjustified reasons—to such an extent that, so far, President Obama has not even dared mention the UN in any of his State of the Union addresses. One of my favorite quotes from an American president is from President Dwight D. Eisenhower—a Republican and at that a military man. On January 21, 1957, the re-elected president stated before the U.S. Congress:

We recognize and accept our own deep involvement in the destiny of men everywhere. We are accordingly pledged to honor, and to strive to fortify, the authority of the United Nations. For in that body rests the best hope of our age for the assertion of that law by which all nations may live in dignity.

Where did this wisdom go?

It is extremely important that the United States and other Western democracies set the example when it

comes to democracy and the rule of law, both at the national and the international level. And this cannot wait. There is an enormous geopolitical shift going on in the world which is not yet fully understood in the West. In a few years' time, the geopolitical center of the globe will probably be somewhere between China and India. The middle class in China already outnumbers the entire U.S. population. We need the United States as a stabilizing factor in the world. But a precondition is that the United States joins important international treaties and, in particular, that it respects the UN Charter.

Field: You have been astonishingly busy since your "retirement." Are there issues that interest you, or that trouble you, that you would like ILN readers to know about?

Corell: Yes, I retired from public service 10 years ago, but I am still working full-time because I am troubled and refuse to give up. A very interesting learning experience after I left the UN was to work as legal adviser to Kofi Annan and the other members of the Panel of Eminent African Personalities appointed by the African Union to assist Kenya after the disastrous events in the wake of the 2007 elections. The process, which went on for six years (2008–13), was referred to as the Kenya National Dialogue and Reconciliation. This gave me a unique insight into the internal affairs of another country and the difficulties that must be overcome in building a democratic society under the rule of law.

What troubles me is that UN members do not always observe international law—not even the UN Charter. We inherited the Charter from a generation that had experienced two world wars among "civilized" nations. It is extremely important that we respect this inheritance.

What is particularly troubling is that the permanent members of the Security Council sometimes flagrantly violate the UN Charter. I mentioned Iraq, Georgia, and Ukraine. What struck me

following the discussion in the United States some time ago about the possibility of using military force against Iran and Syria was that it was not even mentioned that the UN Charter actually forbids the use of force unless in self-defense in accordance with its Article 51 or after a clear authorization in a Security Council resolution.

The latest development with respect to ISIS is, of course, a different situation because there is now a request for military assistance from the legitimate government in Iraq. And Iraq is entitled to self-defense against the ISIS terrorist aggression, whether it emanates from within Iraq or from the territory of Syria, where the government seems to be unable to defeat ISIS.

I am also devoting a lot of time these days to working to spread knowledge about the rule of law. More specifically, I would like to point to a publication that is now being disseminated over the world: *Rule of Law—A guide for politicians*. I got the idea for this guide in a meeting of the InterAction Council of Former Heads of State and Government in 2008. All of a sudden, former German Chancellor Helmut Schmidt, 90 years old at the time, puts the question: do politicians really know about their responsibility for establishing the rule of law in their societies? I thought: there are books written about this, but politicians are too busy to read thick volumes. Why not prepare a short guide that could be circulated among politicians around the world?

This guide is now elaborated under the auspices of the Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University in Sweden and the Hague Institute for the Internationalisation of Law (HiiL) in the Netherlands. It is only some 40 pages, but it is available in 17 languages, with more to come. It is freely available for downloading and printing from the Web at <http://rwi.lu.se/what-we-do/academic-activities/pub/rule-of-law-a-guide-for-politicians>. The following quotation about "superiority of international law" should be of

particular interest to an American audience:

International law is superior to national law. States are under an obligation to act in conformity with international law and bear responsibility for breaches of it, whether committed by the legislative, executive or judicial branches. This means that states cannot invoke national law, basically not even a national constitution, as a defence of violations of obligations under international law. In other words, international law cannot be evaded, let alone overruled, by national law.

Field: What advice can you give students and lawyers interested in a career in international law?

Corell: I am often asked this question. My answer is: after law school, get some experience with legal work at the national level. Otherwise you do not have any practical national experiences to relate to when you work at the international level. My situation was of course somewhat different, since I did not join the UN until I was 54. But my experiences from serving in the Swedish judiciary for more than 10 years, in the Ministry of Justice for 13 years, the last three as chief legal adviser, and as the legal adviser in the Ministry of Foreign Affairs for nine years were indispensable for my work in the UN. But there are many avenues leading to a career in international law. Here are some useful sources of information:

- The UN Galaxy System: <https://jobs.un.org/Galaxy/Release3/Vacancy/Vacancy.aspx>.
- For junior lawyers, it is of particular importance to know about the National Competitive Recruitment Examinations (NCRE). See <http://www.un.org/depts/OHRM/examin/ncrepage.htm>.
- The UN Office of Legal Affairs: <http://legal.un.org/ola/employ.aspx>.

- The United Nations System Employment Opportunities: http://www.unsystem.org/jobs/job_opportunities.htm.

Field: What are your thoughts about the UN sustainable development process, the 2015 Sustainable Development Goals, and the prospects for their future implementation? Do you see this as different from the 2000 Millennium Development Goals?

Corell: With respect to the eight 2000 Millennium Development Goals to be achieved by 2015, certain progress has certainly been made, even if there is still a long way to go. See <http://www.undp.org/content/undp/en/home/mdgoverview.html>. The 17 2015 Sustainable Development Goals as elaborated in July 2014 are very ambitious indeed. See <https://sustainabledevelopment.un.org/focussdgs.html>. I see no competition between these goals. As a matter of fact, the Sustainable Development Goals are built on the foundation laid by the Millennium Development Goals, and they seek to complete the unfinished business of those goals and respond to new challenges. I therefore view them as part of a continuing process. The question is, however, whether this process is driven forward with sufficient determination and efficiency.

The Sustainable Development Goals are explained in no less than 169 various actions that are very interesting to study. The first among the goals is ending poverty in all its forms everywhere, and the final focuses on strengthening the means of implementation and revitalization of the global partnership for sustainable development.

In view of my past experiences, I am looking at some of the goals with particular interest. Among these are the need to combat climate change and its impacts and the need to conserve and use oceans, seas, and marine resources in a sustainable manner.

I also note with particular attention Goal 16, with its references to promoting the rule of law at the national and international levels and to ensuring equal access to justice for all. I do this for the simple reason that these elements are necessary for implementing all the other goals. I refer to what I just said about democracy and the rule of law. They are indispensable components in modern world governance. An intense focus should therefore be on these elements in the process. Otherwise, the implementation of the other goals is at risk. For this reason, I note with some concern that there are many components additional to the ones mentioned in the document that need to be taken into consideration in the context of Goal 16—in particular, international criminal justice.

Field: What projects are you involved with currently?

Corell: Quite a few. The simplest answer to that question is to refer to the following page on my website, <http://www.havc.se/PresentEngagements.htm>.

Field: Would you like to tell us about any of your other interests outside of international policy?

Corell: First, I would like to mention my family: my wife and our children and grandchildren. They mean so much to me and I am very proud of them all. Other interests are ornithology

(birdwatching), poetry, and music. Although I'm a Swede, I actually play the bagpipes. At the age of 16, I was sent to Scotland to practice my English. This meant that I got acquainted with many people there, which led to lifelong friendships. I was introduced to Scottish culture—poetry, music, bagpipes. I got used to wearing the kilt. Scotland became my second homeland. Later in life, I learned to play the pipes and was a member of a pipe band in Sweden for many years. I also played at the UN. When I left the UN, I gave the Secretary-General a farewell gift, a hymn that I had composed for the great Highland pipe: "Secretary-General Kofi Annan's Prayer for Peace." You are welcome to listen here <http://www.havc.se/BagpipesSackpipa.htm>.

Field: Are you optimistic for the future?

Corell: One must be optimistic, in particular when interacting with the younger generation. But it is equally important to be a realist. What I miss in the world is *statesmanship*. We need statesmen and women in world governance. And they should all be reminded of the last lines in the final choir in Sophocles' tragedy, *Antigone*, written about 2,500 years ago:

Wisdom is the supreme part of happiness; and reverence towards the gods must be inviolate. Great words of prideful men are ever punished with great blows, and, in old age, teach the chastened to be wise.

Why is it so difficult to transfer wisdom from one generation to another? ♦