The United Nations and the Evolution of Global Values
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> A man was passing near the site of a new cathedral. He asked one of the workmen what he was doing, and the man replied: "I am breaking stones." A second workman said: "I am earning my salary," and a third, to whom he put the same question, turned his eyes, bright with religious fervour, toward the half-finished cathedral, and answered, "I am building a cathedral."[1]

With this beautiful parable the Luxembourg delegate explained the importance of the "construction work" that the world was engaged in towards the end of the Second World War. He urged all his fellow delegates to acknowledge the almost sacred nature of the task they were carrying out. The cathedral under construction was the United Nations Organization, the blueprint of which, the United Nations Charter, was being drafted by delegates from fifty nations in San Francisco in 1945.

This study is essentially about that UN Charter. It describes what happened to the global values that inspired the drafting of that document. The drafting process of this "constitution of the world" is examined first. Although the proceedings of the San Francisco Conference have been researched many times before, they have never been interpreted from the perspective of global values. This study also analyses the evolution and crystallization of these values by the United Nations during the entire lifespan of this Organization up to its 65th anniversary in 2010.[2] The focus is on the resolutions and declarations of the General Assembly, since that plenary organ is the most authoritative candidate to lead such a discussion about values. The reasons why the General Assembly is such a suitable candidate are explored in detail in this study. We begin by clarifying the concept of "global value". Automatically, various pre-conditions for a "value-making procedure" come

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[1] United Nations, *Documents of the United Nations Conference on International Organization* (22 volumes), vol. 1, p. 504. This collection is referred to as ´UNCIO´ in the rest of this study.
[2] This evolutionary interpretation of the Charter is preferred by a significant number of scholars. See *e.g.*, James Leslie Brierly, "The Covenant and the Charter" (1946), p. 83; Clark M. Eichelberger, "The United Nations Charter: A Growing Document" (1947), p. 98; Hambro Pollux, "The Interpretation of the Charter" (1946), p. 54; Nico Schrijver, "Les valeurs fondamentales et le droit des Nations Unies" (2006), pp. 85-88; Nico Schrijver, "the Future of the Charter of the United Nations" (2006) pp. 5-7; Simon Chesterman, Thomas M. Franck & David M. Malone, *Law and practice of the United Nations* (2008), p. 10; Georg Ress, "Interpretation" (2002), pp. 15-16; Nigel D. White, *The United Nations System* (2002), especially Chapter 2. Also see Yearbook of the International Law Commission, Vol. I (1963), p. 76 (on the law of treaties).

to the surface. After a further theoretical exploration of those conditions, they will be applied to the General Assembly. This deliberative organ is tested for its suitability as a global value-making organ.

This introductory chapter presents the subject matter of this study, as well as the exact research question and the methodology used to answer that question. It also provides a brief outline of the general argument of the study.

1 PRESENTATION OF THE PROBLEM

This study characterizes the work of the United Nations as a contribution to a global discussion about the evolution of global values. This is not how the work of the UN is usually examined. The United Nations is generally seen as a political organization with various highly ambitious tasks. The research then focuses on how the UN has coped in fulfilling those tasks.[3] Here the focus is on the development of ideas, or more specifically: the definition and evolution of a limited set of global values.

Why is there a need to approach the work of the United Nations from the perspective of values? This study aims to fill the gap in scholarship noted by Jan Pronk, a prominent Dutch politician and former Special Representative of the UN Secretary-General in the Sudan. He believed that the history of the United Nations as a community of values needed to be written as a matter of urgency:

> The [United Nations] is more than just an international deliberative organ […]; more even than an organization which can intervene, by joining forces on the basis of consensus, whenever international peace and security is threatened; more even than a set of organizations running programs promoting peace, development and poverty reduction. The United Nations is also a community of values. Through intensive and continuous international dialogue, a global consensus has been achieved on principles, norms and values. The results are codified in charters, conventions and resolutions. Without all this, the United Nations could never have acted effectively, either in the implementation of programs, or when international intervention is deemed desirable. A history of the United Nations can be written from this perspective: a history about the development of values, in order to better cope,

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[3] The keyword is always "effectiveness." See *e.g.*, Hironobu Sakai, "Legitimization of Measures to secure Effectiveness in UN Peacekeeping" (2009); Steinar Andresen, "The Effectiveness of UN Environmental Institutions" (2007); Joachim Müller, *Reforming the United Nations: the struggle for legitimacy and effectiveness* (2006); Emilio J. Cardenas, "The United Nations Security Council's Quest for Effectiveness" (2004); Andy Knight, "Improving the effectiveness of UN arms embargoes" (2004); Guglielmo Verdirame, "Testing the effectiveness of international norms: UN humanitarian assistance and sexual apartheid in Afghanistan" (2001); Meaghan Shaughnessy, "The United Nations Global Compact and the continuing debate about the effectiveness of corporate voluntary codes of conduct" (2001); Fred Grünfeld, "The effectiveness of United Nations economic sanctions" (1999); Patrick James Flood, *The effectiveness of UN human rights institutions* (1998); and so on.

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together, with the [global] challenges. The foundation [of such a history] is enshrined in the Charter of the United Nations and the Declaration of Human Rights. These texts are about peace, human rights, human dignity, international economic and social cooperation, respect for the principle of equal rights and self-determination of peoples, territorial integrity of all States, and other basic values.[4]

There are essentially three reasons for writing the history of the evolution of global values in the work of the United Nations. First of all, as Pronk pointed out, the UN's contribution to the evolution of values and ideas has been undervalued, and should be demonstrated.[5] Secondly, a study of UN ideas shows how powerful ideas can be as (rhetorical) tools to influence global politics. The emphasis on the UN's failure to act in some cases – Rwanda and Srebrenica are examples which spring to mind – does not do justice to the UN's success in the development of new and highly influential ideas. Thirdly, in recent times some highly influential politicians have used global values to describe their foreign policy objectives.[6] Global values have also become a popular object of study for many scholars, particularly in the disciplines of international law, political science and philosophy. Many international lawyers ask themselves whether international law has moved from an essentially value-free order of sovereign and independent States [7] to a more cosmopolitan order, based on universal values and common interests.[8] Political scientists ask themselves a similar question; the words "international law" can simply be replaced by "the world".[9] Since ancient times cosmopolitan philosophers

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[4] Jan Pronk, "Een nieuwe jas voor de Verenigde Naties" (2007), p. 187 (translation from Dutch by the author of this study).

[5] The United Nations Intellectual History Project has studied the role of the United Nations in the creation and evolution of ideas, but not values. See their website (www.unhistory.org), and the numerous books published in the series. These books are referred to frequently in this study.

[6] See *e.g.*, Barack Obama, President of the United States of America, Responsibility for Our Common Future, statement delivered at the 64th session of the General Assembly, 23 September 2009; Dmitry Medvedev, President of the Russian Federation, statement delivered on the same day at the same session; Kofi Annan, *Global Values: The United Nations and the Rule of Law in the 21st Century* (2000); Tony Blair, "A Battle for Global Values" (2007); and statement by Jan-Peter Balkenende, Prime Minister of the Netherlands, at the 62nd session of the General Assembly, 27 September 2007.

[7] This description of the "old" legal order is based on what is generally known as the Lotus principle: "International law governs relations between independent States. The rules of law binding upon States therefore emanate from their own free will as expressed in conventions or by usages generally accepted as expressing principles of law and established in order to regulate the relations between these coexisting independent communities or with a view to the achievement of common aims." (The Case of the S.S. "Lotus', Judgment, No. 9, 1927, P.C.I.J., Series A, No. 10, p. 18.)

[8] See *e.g*., Bruno Simma, "From Bilateralism to Community Interest" (1994). Many more examples will be discussed in subsequent chapters of this study.

[9] The literature will be referred to extensively in the next chapter of this study. See, *e.g*., Richard A. Falk and Saul H. Mendlovitz (eds.), *Studies on a Just World Order*, especially No. 3 in the series: Richard A. Falk, Samuel Kim & Saul H. Mendlovitz, *The United Nations and a Just World Order* (1991).

have advocated a world based on common interests and values. In recent years cosmopolitanism has experienced a revival, boosted by globalization: a cosmopolitan world view is now an accepted description of reality.[10] All these trends in political rhetoric and academic research also justify a renewed interest in the creation of values by the United Nations.

The aim of this study is to contribute to this interdisciplinary discourse on global values by looking in more detail at the link between global values, international law and the United Nations. The main assumption is that the international legal order, for which the United Nations Charter provides the "constitution,"[11] no longer aims to exclusively ensure the peaceful coexistence of independent States – if indeed, it ever did. Instead, it aims to realize a set of internationally shared, fundamental values. The question then, is how these values have been "incorporated" into the language of international law. This study suggests that this was primarily done through the adoption of the United Nations Charter, which therefore plays a crucial role in this "new," value-based, international legal order.

2 RESEARCH QUESTION

The aim of this study is to look at the United Nations documents from the perspective of values. It describes the "birth" of the most important post-World War II values and examines the subsequent evolution of these fundamental values of the international community, through the work of the UN General Assembly. However, the study does not limit itself to a mere description of this evolution. It also analyses the influence of the UN on the philosophical global values discourse, and conversely, the influence of philosophical notions on the UN's work. It is the cross-fertilization of the United Nations and the philosophical discourse on global values which is examined, together with the evolution of these values within the United Nations itself.

The research question may therefore be described as follows:

How, and to what extent, have moral points of view, defined in the language of values, determined the founding of the United Nations and the evolution of its purposes, principles and policies? How has the United Nations influenced these moral views through its own contributions to the debate on values and to the

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[10] Many modern cosmopolitan philosophers were inspired by John Rawls' most recent book, *The Law of Peoples* (1999), which is itself not a cosmopolitan book. See, *e.g*., Charles Beitz, *Political Theory and International Relations* (1999); Thomas Pogge, *Realizing Rawls* (1989); Thomas Pogge, "An Egalitarian Law of Peoples," (1995); Andrew Kuper, "Rawlsian Global Justice: Beyond The Law of Peoples to a Cosmopolitan Law of Persons," (2000).

[11] For the use of this qualification, see especially sections 2 and 3 of Chapter III below.

"translation" of these values into the language of international law, especially by means of adopting general resolutions, declarations, treaty texts, etc.?

To answer these questions, the study delves into the archives of the United Nations. The global values that defined the birth of the United Nations are presented, and a description is provided of how these values evolved over time, especially in declarations of the General Assembly. The Assembly is the only organ of the United Nations that can legitimately claim to speak on behalf of the entire world.

This historical, descriptive overview is preceded by some more theoretical reflections on the relationship between global values, international law and the United Nations. This is not only to justify the emphasis on the General Assembly, and the value-based approach to the work of the United Nations, but also to show the potential of the United Nations as a true "value-making machine."

3 METHODOLOGY

How are the research questions examined in this study? What is the chosen methodology, and why is that particular methodology adopted? Part I adopts a conceptual perspective, whilst Part II uses a more descriptive perspective. The conceptual part tests the hypotheses on which this study is based, in terms of their academic rigor. How does this research build on previous research, carried out in the fields of philosophy, international relations and international law? Do the hypotheses correspond to the scholarship of those disciplines? The descriptive part (Part II) tests the hypotheses against reality.

The working hypothesis is that global values guide international affairs, and that the United Nations General Assembly, aided by scholarship, should play a leading role in the evolution of these values. Does this make academic sense? Part I analyses the literature on global values. First, it examines a number of definitions of the term "value". These definitions come from various disciplines. They have been proposed by psychologists, philosophers, sociologists and international relations scholars. The aim is to compare all these definitions, and see which one comes closest to the intuitive notion of value which is the starting point of this study. The next step is to show that global values theoretically have the potential to influence global affairs.

When an academically sound definition of global values has been found, the following working hypothesis is tested: that a global plenary organ ought to play the leading role in the evolution of these global values. This hypothesis, which is not at all self-evident, is first examined from a purely scholarly perspective. Various theories, mainly of a cosmopolitan nature, are analysed. These theories all argue that there is no better place for the evolution of global values than a deliberative organ which somehow represents the views of all the world's citizens. According to

these theories, a democratic organization of global society is the preferred type of organization.

The next step is to look for candidates in the present world to play the role of the global deliberative organ. The United Nations is presented as the sole candidate to play such a role. The suitability of the United Nations as a sufficiently authoritative value-making process is examined in Part I of this study. The focus is on the question as to what the role of the United Nations, and in particular the UN General Assembly, is, and what it was intended to be. Primary documents, as well as scholarly literature are examined. The aim is to find out what the "founding fathers" themselves had in mind when they established the United Nations, and, subsequently, how the representatives of various States perceived their role in the UN General Assembly. Did they see the UN as a source of ideas, or merely as a vehicle for political cooperation? And has the world's view of the role of the UN in global affairs changed with time? The focus in this part of the study is not on discussions about the potential of the United Nations in scholarship, but on discussions about such potential in the United Nations' assemblies themselves. These highly abstract questions were actually discussed at the highest inter-State level. The reason the focus is on the debates inside the assembly halls, instead of on the debates in the lecture halls of universities, is that discussions in assembly halls carry much more weight than similar discussions which take place in scholarship. After all, at the UN level, the views of the entire world are formally represented in these discussions, at least in theory. Moreover, once the State representatives have defined the characteristics of their work as precisely as possible, they immediately have the responsibility of carrying out their self-imposed tasks.[12]

Part II of this study constitutes the descriptive or historical part of this study. The focus is even more on UN documents and UN discussions. The methodology is identical in all the chapters, each of which is devoted to a discussion of a particular global value. First, the *travaux préparatoires* of the UN Charter are examined to give an overview of the ideas which were discussed in 1945 relating to a certain value. Secondly, the resolutions and declarations of the General Assembly are used as the "backbone" for the description of the evolution of each value. Wherever this is appropriate, the scientific literature on a certain value is also used to compare the scholarly treatment of a particular value with the way in which that same value is interpreted in the Assembly's documents. When the cross-fertilization between the ideas contained in the UN documents and those contained in the philosophical discourse was particularly successful, or where there is great potential for such successful cross-fertilization, the relevant literature is discussed in more detail.

The aim of this study is not to find out what the relevant norms of international law are for each particular global value. In this sense, this study is not a purely legal exercise. The products of the General Assembly are analysed as

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[12] Also see the Fifth Plenary Session, 30 April 1945, UNCIO, vol. 1, pp. 368-369.

contributions to the evolution of global values, not as global legislation. For this reason, no rigid distinction is made between declarations of the General Assembly and texts of multilateral treaties. It is also for this reason that the *travaux préparatoires* of the UN Charter are studied in great detail, even though, according to the Vienna Convention on the Law of Treaties, the *travaux* can only be used as supplementary means for the interpretation of a treaty.[13] Strictly speaking, the *travaux* are therefore not decisive, according to the Vienna Convention, when it comes to the interpretation of a treaty. All this suggests that the UN General Assembly's work in the evolution of global values, and the evolution of the norms of international law, are two separate worlds. This is not entirely accurate. The first part of this study already shows that, according to scientific discourse, global values can only guide international affairs when someone or something is made responsible for promoting and safeguarding these global values. It will be shown that the ideal language for allocating this responsibility is the language of law. When it comes to realizing and promoting global values, the appropriate language is global – or international - law. Therefore the role of the General Assembly in allocating responsibilities for the continuous promotion of respect for global values and value-based norms does fall within the scope of this study. However, it becomes clear that some legally non-binding – or "political" – declarations are just as effective in promoting global values as widely ratified multilateral treaties.

4 OUTLINE OF THE ARGUMENT PER CHAPTER

4.1 Global values

Part I begins by providing a definition of the subject under discussion:

> A global value is an enduring, globally shared belief that a specific state of the world, which is possible, is socially preferable, from the perspective of the life of all human beings, to the opposite state of the world.

This is a working definition which helps to clarify the topic of this study. After finding a suitable definition for this limited purpose, some of the elements of this definition are analysed in more detail. First, the idea that one can refer to "all human beings" as together constituting some kind of community is analysed. An appropriate method for finding global values is proposed: a global discussion about values which is sufficiently inclusive and action-oriented. International law is presented as the ideal language to define obligations which are based on values.

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[13] See Article 32, *Vienna Convention on the Law of Treaties*, signed in Vienna on 23 May 1969; entry into force on 27 January 1980. See *United Nations, Treaty Series*, vol. 1155, p. 331.

Finally, a first attempt is made at answering the question: what are the world's values?

4.2 Global values and the United Nations

When the San Francisco Conference started in 1945, the Second World War was nearly over. The main challenge of the United Nations was to find something better than a common enemy to keep the nations of the world united. [14] This study suggests that what replaced the common enemy and kept the United Nations united in the post-war period, was a set of global values.

The principal inspiration for the list of global values ultimately enshrined in the UN Charter was a list of "evils" that had dominated the world stage before the spring of 1945. The devastations of war inspired the delegates to strive for peace and security. The way in which individuals had been treated during the war was the basis for the delegates' motivation to pursue respect for human dignity for all people. In 1945, colonial oppression was not yet seen by the founding States as one of the world's evils, but a modest precursor to the right to self-determination did find a place in the Charter. The need for social progress and development after the devastating war formed the basis for the last value, even though it was only cursorily referred to in the Charter.

All these values found their place in the UN Charter, most of them in the list of purposes of Article 1. A comparison of the UN Charter's list with the list produced by the philosophical discourse on values reveals a significant overlap. It is very difficult to come up with a different list of global values if one uses the term as defined in this study. Therefore it is unfortunate that the UN Charter does not use the concept of "values." Instead, the UN Charter refers primarily to "purposes" and "principles." The principles were defined as rules of action, whereas the purposes were defined as the aims of action. The link between the concepts used in the Charter and this study's concept of "value" is explained in Part I of this study.

One of the basic assumptions of this study is that when describing the evolution of the UN Charter's values since 1945, the General Assembly is the closest thing we have to a "global conscience." Since the term global conscience is controversial, a section is devoted to explaining and justifying its use. Other sections look in more detail at the characteristics of the Assembly. Can it really be characterized as the "town meeting of the world," where all the world's citizens come together to discuss problems that have arisen in their global neighbourhood?

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[14] Anne O'Hare McCormick, "San Francisco: Battlefield for Peace" (1945). To honour the war bond, the name "United Nations" was chosen, as a reference to the coalition that was fighting Nazi Germany and Japan. See Secretary of state for foreign affairs (UK), *A commentary on the Dumbarton Oaks proposals* (1944), p. 2.

4.3 The role of the United Nations in the evolution of global values

Part II examines the role that the United Nations actually played in the evolution of global values in great detail.

The UN Charter and the resolutions of the UN General Assembly are used as the "backbone" for this research. They constitute the essential documents. Because there are so many General Assembly resolutions – approximately 15,000 – it was necessary to decide on a method of selection. On the whole, reference is only made to resolutions in which the Assembly has declared certain general principles. Such resolutions are generally called "declarations" by the Assembly itself. Many of these declarations have been accompanied by a programme of action, the implementation of which was often the subject of subsequent General Assembly resolutions, adopted on an annual basis. Since this study is interested mainly in the evolution of ideas, these resolutions, which deal purely with the implementation of the general principles declared earlier, are not discussed in great detail. Many resolutions have been adopted, also on an annual basis, presumably to emphasize the continuing relevance of the ideas they contain, and/or to indicate any further development of these ideas. When the content of such resolutions is not substantially different from the resolutions adopted in previous years, the follow-up resolutions are not referred to.

The cross-fertilization of the UN's resolutions and the most influential literature is also examined, whenever this is relevant.

The value of peace and security is dealt with first (Chapter IV). Immediately after the Second World War, armed conflict was considered to be the greatest evil, and peace the most important value. Attempts to define the value of peace and security in positive terms are analysed. It soon becomes apparent that peace and security can be defined much more easily as the "absence" of international conflict, civil war, terrorism, etc. The "humanization" of the value of peace and security is also examined.

The second value is social progress and development (Chapter V). It appears that the UN has never attempted to provide a general definition or description of this value. Instead, the Assembly has repeatedly adopted various strategies and action plans for development. These are compared with philosophical theories of global social and distributive justice. An attempt is also made to distil a general description of social progress and development from all these Assembly declarations. Special sections are devoted to sustainable development and to a rights-based approach to development.

The third value is human dignity (Chapter VI). The promotion and development of this value in the language of human rights has been the United Nations' biggest success. The UN has been very consistent in presenting the value of human dignity as the foundation of all human rights. However, the Assembly has

not been all that clear about the meaning of "human dignity". Therefore some philosophical theories are presented to fill that gap.

The last value treated in this study is the value of the self-determination of peoples (Chapter VII). In 1945, the world was largely blind to the oppression and exploitation of peoples through foreign domination. The Charter was therefore hesitant about adopting the alternative to this evil, *i.e.,* the self-determination of all peoples, as a value. As soon as the UN corrected this mistake, it became very successful in promoting this value. The UN's resolutions played a major role in the process of decolonization. With that process largely completed, the need arose for a more general definition of the self-determination of peoples. The search for such a definition is the subject of this last chapter. It examines both philosophical and UN discussions and ideas. Are minority groups entitled to determine their own future? What about the entire population of an existing State? Finally, a human rights-based approach to this value is discussed.

This study ends with a general assessment of the UN's role in the evolution of global values, and a brief look into the future.