



# THE HIGH LEVEL PANEL REPORT ON UN REFORM, TRANSFORMUN AND THE PARADOX OF GLOBAL GOVERNANCE

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The management of huge natural catastrophes was not among the issues specifically addressed by the reform proposal<sup>1</sup> that the United Nations is currently considering. However, the Tsunami did show, once more, how difficult can be to “do a list” of the “global threats” requiring the strengthening of UN action, and how urgent is to have a framework able to make globalization, in its many manifestations, to be more systematically governed<sup>2</sup>.

Disaster like the one which had just devastated South East Asia are – in terms of complexity and media exposure - the real test for UN to demonstrate that it is still able to add “value” in the management of crises on a global scale. The organization has, in fact, reached – in the words of its Secretary General - *a fork in the road*, dangerously positioned between the possibility of being relaunched and the one of becoming increasingly irrelevant. It is increasingly evident that the direction that the UN will take, depends on its ability to radically change its own modus operandi and institutional layout.

Which has been the contribution of the High Level Panel established with the specific purpose of elaborating ideas able to direct the United Nations (and the world) into the right direction of the “fork”? Was the acceleration of the right intensity? Can the HLP be the beginning of the combination of change management and institutional reform that Annan envisaged one year ago? If – like the “wise” men acknowledge – the “report is the start, not the end of a process” which are the additional political and intellectual resources that the redesign of global governance instruments require?

Vision argues that the report has – like the Secretary General acknowledges – “met and surpassed” the expectations established by the mandate that the HLP received one year ago; but, also, that the mandate was not sufficient enough (and in fact the mandating authority not strong enough) to respond to the challenges that - at the “fork in the road” – the World, as a system, and the United Nations, as an organization, are facing. Much more energy both within and outside diplomacies and nations states is required and the HLP report can be a useful “start”. The report is, in other words, an excellent “start

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<sup>1</sup> In fact, among the “global threats” specifically considered by the High Level Report, also issues like the “environment” degradation and the “prevention of climate change” are missing.

<sup>2</sup> Vision is currently producing a research that will account for some of the costs of the lack of global governance in the case of the Asia devastation: the disaster showed dramatically how inconsistent are myths like global communication network (people died even in a rather well equipped country like Malidive five hours after the wave had already taken its death toll in Sumatra) and how insufficient can be a system where financing and organization must be, every time, developed from scratch.

up” for a reform if we are able to use it as a “framework” to connect the institutional question issues with a global scale and with the capability of mobilizing international public opinions. Vision latest project – TRANSFORMUN – has been precisely developed with such an objective.

### The HLP achievements

The work does yield a number of important results. The most significant of them are relative to the establishment of a number of “definitions” which can be the foundations upon which to construct a more solid legal framework within which crises can be more effectively governed. The HLP for instance

1. clarifies when the "**right to the use of force**" in face of military treats is triggered and, by doing that, it presents a possible institutional “solution” to the senseless (and costly) ideological battle between the (mostly american) prophets of a new unilateralism paradigm and the (mainly european) advocates of an obsolete multilateral mechanism;
2. introduces the "**responsibility to protect**" and, through this notion, it recognizes that citizens rights must be protected beyond and above state sovereignty;
3. defines **terrorism** in a “not politically neutral” way and, through such a definition, it makes an entire breed of actions which have been tolerated for a long time illegal and, thus, to be prevented and punished.

None of these statements are , in fact, entirely new (like the definition of terrorism reiterated by a number of conventions held in the past) and some of them do not imply any real change into the formal layout of the UN or of its *chapters*. However, even if they are, in fact, an “interpretation”, a “legal opinion” choosing among different theories, it is very important that such an “interpretation” is incorporated into such a high profile report and thus important political and practical consequences may derive from such a choice.

Another relevant issue addressed by the report is the elevation of human rights commission to a **council for human right** (with a number of changes consistent with such an upgrading). The establishment of such a new council and the revitalisation of the economic and social council does, in fact, create the conditions for the establishment of a triad (SC, ESOC and HRC) which can be an embrio of a proper "executive" body of a new UN able to progressively (and theoretically) cover each of the three macroareas of global governance: 1) state and non-state conflicts;2) economy and welfare; 3) human rights and democracy.

Most of the achievements we are describing are, in fact, the result of an incremental adjustement of a legal framework (of international right) and in fact of the work of lawyers.

It seems that the UN is following the same path of the EU whereas it is infact the more or less unintentional tendency of international lawyers to build a legal international framework, which is creating some sort of silent, inertial empowerment of the international organization. This is an entirely palusible path towards building an international frameworks; as long as lawyers’ point of view does reach sooner or later “political critical mass”. The HLP report seems the right step towards such a direction.

Last but not least, the report has, in our opinion, the merit to dedicate to the Security Council question “only” 10 of its 102 pages and 9 of its 101 recommendations. Too often the (already small) space dedicated by media to the reform has been entirely absorbed by the Security Council issue and more

specifically by how to reform its composition. The question of “global governance” is obviously much broader than the “battle for the SC seats” and the “wise men” choose to correctly distance themselves from the never ending dispute. However if the HLP’s choices on SC look to be the right ones from a “quantitative” point of view, the merits of the actual proposals seem more questionable.

### Some of the HLP shortcomings

The HLP most evident limits are, in fact, on the most difficult, core questions of the reform and most specifically on the “decision making” related issues.

*General Assembly.* The panel acknowledges that the organ needs to be more effective and that “its inability to reach closure on issues undermines its relevance”. However such a “problem definition” is not followed by adequate “problem solving” and practical solutions to be experimented. The panel calls for the agendas of the GA’s meetings (assemblies and commissions) to be more focussed but such a recommendation once again hardly qualifies as a “reform”.

Why did the Panel not tackle the most evident absurdity of an organ where all members are equal and thus where Andorra and China – regardless their dimension – or North Korea and Sweden – regardless their different capability to represent their own citizenship *preferences* - have the same voting power?

Why did not the reform at least consider the possibility to introduce the principle of weighting votes in GA against population or contribution? And if we consider institutional reform, as we should, a continuous trial-and-errors adaptation process, why should not we envisage, at least in the medium term, some sort of experimentation where a quota of GA votes are reserved to delegates chosen – ad hoc for being UN representatives - through “democratic”<sup>3</sup> elections?

Similar considerations apply to the *Security council*. Alternative mechanisms were proposed for achieving enlargements of the organ to permanent or semipermanent members. We do believe that the second option (so called “model B” in the HLP) of having rotation is to be preferred to the first one for a number of reasons: to enlarge the inner circle to six more states would mean to make choices which risk to divide even further member states; but also add more rigidities<sup>4</sup>. However the most important reason for preferring the second option is that, in fact, in a modern institution nothing should be permanent, and as the report recognizes any solution of the problem should be easily modifiable as conditions (economics, demographics, contributions) change<sup>5</sup>.

Instead, nothing was done to address the question of the vetoes. Once again the sixteen wise men had no problem to recognize the mechanism is obsolete and they made an appeal to the sense of responsibility of the P5 in limiting its use. However, the assumption is still that vetoes can not be touched.

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<sup>3</sup> Possibly scrutinised by international observers like it happened recently even for the US latest presidential ones.

<sup>4</sup> And, in fact, most likely new permanent have already called for additional vetoes to be assigned together with the new status.

<sup>5</sup> Also on this front, a possible alternative could be to replace a “choice” (however “wise” it is) with some simple automatism, with an algorithm by which memberships are allocated on the basis of predetermined criteria (the very report mentions contributions in funds to UN or troops) and revision of seats take place every  $x$  years. This would probably make less dramatic the choice of who is *in* and less politically costly for the “biggest” of whom is left *out*.

A further possibility (see Vision article “The Mother of all questions”, May 2003) would be to use the automatism to allocate positions to coalition of States: this would facilitate aggregation on regional (like EU or AU type), sub regional (if – who knows - common foreign policy is shared only by some sub set of EU, for example) or inter regional (if, just for the argument’s sake, Israel wants to merge its own representation with some European states) base. This would add further element of institutional “flexibility” (which is, in our opinion, one of the basic guideline we should have).

But is it, really, true that it is impossible to touch the vetoes? “Prisoners dilemma” do, in fact, indicate that bargains can happen; and history is, in some sense, a continuous process from weaker to stronger form of cooperation<sup>6</sup>: in some circumstances, by constructing the right cost-benefit functions, it is possible to persuade “incumbents” that is convenient to become “smaller fishes in bigger a pond”<sup>7</sup>.

Same thing applies to the longstanding and widely accepted need for both the GA and SC to interact more often with civil society organizations. The HLP report does simply recognize the importance of such a thing and “endorses” the conclusion of another panel of “eminent persons on the United Nations- Civil Society relationships” issued last June. Some more effort to define a HLP original – even though coincide and “strategic” – point of view on this question could have been beneficial.

What do we really mean by “civil society organizations” and how is the UN supposed to evaluate their representativeness and competence? Why should not they be involved – once “representativeness” and “know hows” have been proved - into real decision making (or at least as far as the issues upon which their capabilities are stronger) and thus be allocated “votes” (which still carry the practical and symbolic significance for being recognized as “decision makers”)?

And beyond the “civil societies organizations” question but still within the “citizens representation” domain, why do not we institutionalize, as soon as possible, some form of involvement of other institutional levels? For instance, the largest city councils (like New York or Mexico City or Delhi or London, for instance) which are already bigger than most of States and are becoming even bigger both in terms of population and ability to “represent” globalization problems and possible innovations, which do already exist and which are, in fact, closer than States to the “civil society” we are trying to intercept?

### **The question of the reform scope**

Most of the “limits” of the HLP work are due, as mentioned to the nature of the mandate that the Panel received and, ultimately, to the political strength of the “mandating authority”.

In fact, both the UN as a whole and its Secretary General, both the panelists and the reports have been some time oscillating between “idealism and realism”, between “globalization theory” and “survival politics”. This is probably the real “fork in the road”, the conceptual and political choice that is necessary to more clearly address.

The Secretary General’s foreword that opens up the very report recognizes which are the foundations of a reform of the United Nations and from the start links the HLP work to the increasing “interconnectedness among different societies that make up the human family” and clearly indicates that such different societies face threats that no nation can hope to master by acting alone ..but also.. opportunities that can be much more hopefully exploited if all nations work together”.

Against such an intellectual setting the “terms of reference” of the panel establishes – on the contrary - that its “work is confined to the field of peace and security.. and that it should extend its analysis ..to

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<sup>6</sup> This is what – even if among contradictions – is gradually happening at European Union level, where unanimity (a form of vetoes) is being gradually replaced by qualified majority and weighted voting.

In the UN case, the vetoes could be then transformed into “heavier” votes and been left as vetoes in only some specific domains.

<sup>7</sup> One bolder possibility would to *dare* the elaboration of Vision provocation (see again Vision article) of leaving the veto to USA only and have USA to accept “in exchange” that SC decisions to become necessary in some instances.

Game theory would not exclude that some of the current P5 may consider the possibility to bargain their blocking capability in exchange of being still important in a more influential body.

other issues and institutions, including economic and social ones, to the extent that they have a direct bearing on future threats to peace and security”.

This is just the result of a “tradition” (and of a political will) that has limited the UN scope to solve problems when they materialize or shortly before they happen, and thus has more or less “confined” the organization mission to prevention of wars, genocide, massive human rights violation and to aid for development but only of seriously underdeveloped countries<sup>8</sup>.

Undoubtedly security, fight to hunger in subsaharrian countries, ethnic cleansing in Congo are among the questions that most dramatically call for collective moral obligations. However, can we accept that other huge questions (from the “redesign of taxation and citizenship” to the definitive defeat of other diseases like cancer, from the “protection of small savers in global financial markets” to the “restructuring of the industry of energy and transportation”) are left without a governance? Or at least left outside the mainstream UN reform debate and UN missions?

And more fundamentally, is it – conceptually and politically - true what conventional wisdom seems to suggest in terms of a trade off between *ambition* (and broadness) of change and its *feasibility* (and costs)?

As far as the scope of the reform we see four problems in limiting the (strategic) thinking to “peace and security”:

1. the reform (and thus the reformed institution) will *miss* about *half of the questions* (and the new UN half of the power) requiring global governance; given that normally each threat is linked to at least one opportunity of the same intensity and opposite direction and still requiring “collective action” (or “coordination” at global level as in the case of UN) to be realized;
2. a “problem solving” exercise uniquely focused on threats tend to produce “*risk adverse*” solutions; it is, for instance, entirely plausible to maintain that Al Qaeda (or some new “mafia”) would not even exist without the internet; however if we only talk about terrorism (and organized crime), we may not weight appropriately the opportunities (new ways to communicate and participate, for instance, but also, at the same time, new modes to empower anti terrorism intelligence) linked to the changes (internet) and the recommendations may risk to be biased towards limiting technologies and over regulating the Net; and
3. such an approach tend to be “*symptomatic*”, responsive to problems only when they happen and, also, which is even worse driven by priorities established by media.
4. lastly a UN with a narrower scope is more difficult to “*market*” to public opinions, to be presented as an institution to care about to a rather large portion of the world population and sadly especially to those generations and segments of public in developed countries (and especially in the United States) whose political energy is, in our opinion, essential for effective reforms to happen;

Such a limitation is even less understandable if we consider that

1. Un is already working on “progress” (internet regulation with the UN initiative competing with ICANN) and not necessarily on emergency (like, and it is just a tiny example, the WHO has been doing for many years);
2. even if international institutions do and were normally born for “security”, it is not excluded that they grow to much wider purposes (like the European Union born for avoiding war and transformed into common market, EMU ect..) and

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<sup>8</sup> It is, in fact, symptomatic of such a “role” that some of the most recent report on the HLP findings were published by The Economist in its Africa section.

3. the very panelists show the clear tendency to go beyond security and to acknowledge that there is no real distinction between “hard” threats (security) and “soft” threats (lack of development).

However, achievements, limits, scope of the work of the wise men are, probably, explained by the *nature* of reform processes like the one that HLP (or in a different context the European Convention) proposes<sup>9</sup>.

In fact, the most fundamental question that we probably need to ask ourselves is: can a vast (“managerial” and institutional) change in a such a complex organization be initiated and brought forward internally? Can it be started up and effectively concluded with internal-only (diplomacies, nation states) intellectual and political energies?

Much of political scientists, management consultants and historians would straightly say that such a “value proposition” (incremental reform within the revolutionary context) is impossible. This is probably why the HLP executive summary concluding remarks is a strong reminder to nation states that the report is “a beginning and not an end”, that much more energies and leadership is required.

This is why Vision has decided to launch TransformUN.

The reform of the global governance frameworks do now need that (a) further ideas (even alternative among them) are put forward, (b) other institutions at global, regional (EU) and subnational (the large city council) level are mobilized, (c) more international public opinions (the young, mobile class of which Vision is a “representation”, for instance) and societies (starting from the American one which can not be considered as an external variable to the process) are involved into the debate.

TransformUN will create a platform of think tanks able to operate on a global scale. The platform will be dedicated to policy areas where the greater effort will be to connect different issues (human rights, Internet’s regulation, terrorism and global police) to institutional problems. The final aim will be a “San Francisco II”<sup>10</sup> that can re-connect the efforts of “civil society” that Vision will have activated in mainstream political decisions to be made in the years to come.

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<sup>9</sup> On this see Vision position paper to the first TransformUN seminar at the LSE (on “news” of [www.vision-forum.org](http://www.vision-forum.org)).

<sup>10</sup> The UN’s birth place in 1945.