The Importance of Consensus at the UN

By Stefano Gennarini, J.D.

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INTRODUCTION

Since the founding of the United Nations, member states have tried to adopt common policy positions on a wide range of issues by "consensus." This is a standard term in parliamentary procedure common to legislative bodies and boardrooms. It means that that a decision or resolution is adopted without objection or the need for a vote because everyone agrees with the proposed text. At the United Nations, there are numerous political and diplomatic connotations to "consensus" that are unique to the specific context and setting of the international organization. This *Definitions* will look at what consensus means at the United Nations and why it is important in the UN context.

Agreed Language

Over 350 resolutions are adopted by the General Assembly each year, of which roughly 80% are adopted by consensus. The language of a resolution adopted by consensus is considered "agreed language." However, if a country makes a reservation on a specific paragraph in a resolution, then the paragraph on which the UN member state made the objection cannot technically be considered agreed.

Agreed language has a special status in diplomatic circles. Because it has already been agreed, the language is considered to be unobjectionable. It is often carried forward into the same resolution in the future. Most UN resolutions

are periodic and reoccurring, therefore agreed language from previously-adopted resolutions makes adopting a fresh resolution annually or biannually a lot easier. Conversely, if language that is problematic becomes ensconced in UN policy over the objections and reservations of UN member states, it is nearly impossible to roll it back, as for example in the case of language on "sexual and reproductive health." The term was controversially adopted at the International Conference on Population and Development in 1994 and has been a staple of UN policy ever since, even though dozens of delegations have objected to the use of the term in UN policy or expressed reservations about its ambiguity in relation to abortion and how it is used by abortion activists and UN agencies to promote abortion.

Sometimes agreed language is also moved transversally into new or different resolutions, which often leads to controversy. Language that in one setting is not considered too controversial may be more controversial in a different context. For example, language about "sexual and reproductive health" is routinely adopted in UN General Assembly resolutions about women. But it becomes more controversial in the context of resolutions about children, especially for countries with conservative social mores. On the other hand, language defending sovereign prerogatives is consensual in just about any context except human rights and women's issues, where Western countries do not like to see any reference to national policy space because they claim there can be no derogation from human rights. These same Western countries advance a vision of human rights that is far more fluid and capacious than what has been ratified by most countries in binding human rights treaties.

Because of the special status of agreed language, all UN negotiations take place within the parameters of agreed language. Any new proposal in a resolution is usually based on or reflects previously agreed language. Sometimes delegations characterize language from agreements of the Economic and Social Council's "agreed language" even though the 54-member body's outputs do not meet the strict definition of agreed language. Only consensus agreements of the General Assembly, which includes all 193 UN member states, are strictly considered agreed language.

The Erosion of Political Legitimacy

The reason UN consensus is so important is because it guarantees the political legitimacy of UN policies and the processes governed by UN resolutions. Political legitimacy

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is extremely important for the functioning of the UN. If UN resolutions were increasingly adopted by vote, it would fragment the normative guidance of the UN General Assembly and would lead to the politicization and mistrust of UN policy. This political legitimacy is under threat.

Donor countries increasingly want to use the General Assembly to lend credibility and validation to their foreign aid strategies. Donor states develop new foreign aid programs on a constant basis, including controversial programs to more or less overtly, depending on the context, promote elements including comprehensive sexuality education, abortion, and homosexuality in developing countries. Until these programs are endorsed by the General Assembly they do not have any international legitimacy. To gain the endorsement of the General Assembly, the programs are translated into UN policy through euphemisms and vague bureaucratic terminology. Once approved, they are streamlined and promoted around the world. For example, rather than say that a program is tailored to the needs of individuals who identify as LGBT, because it would be too controversial and would not be approved, UN terminology uses the phrase "multiple and intersecting forms of discrimination."

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Once controversial policies are approved, even through euphemisms, member states who approved the policies will see those policies wielded against them. While UN resolutions are not binding on sovereign states, they are binding on the UN system and guide UN policy. When a country agrees to a resolution in the General Assembly that contains instructions for UN agencies to work on promoting "education on sexual and reproductive health" it means that the UN agencies have a mandate to implement that resolution as they see fit. It is precisely under such a mandate that UN agencies promote controversial comprehensive sexuality education programs that sexualize children from a young age.[1]

To a great extent, power dynamics already distort the legitimacy of UN policy. This is because UN delegations from developing countries on the receiving end of international assistance find it hard to object to any proposals from wealthy donor countries. But even here, the preference for consensus acts as a political check on the policy preferences of wealthy donor countries and prevents them from having their way in every negotiation.

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Because of this imbalance, delegations are often not ready to spoil consensus unless a draft resolution contains egregious language that would cause political difficulties back home. Such

is the case with the terms "sexual orientation" and "gender identity." The terms are never part of UN resolutions because donor countries usually agree to take out the controversial terms from resolutions in order to keep consensus. Governments from countries where homosexual and transgender lifestyles are criminalized or not considered socially acceptable could never accept them and would call for a vote on such a resolution rather than see it adopted consensually. On the other hand, ambiguous terminology like "sexual and reproductive health" continues to proliferate in UN documents. Since the term is not considered politically dangerous even by countries with protections for children in the womb, the most that will happen is that these countries will make a reservation on the term. But they will not call for a vote on a resolution because the fallout from powerful donor countries would be greater than the political repercussions at home.

Without this preference for consensus, the United Nations system would eventually degenerate into a coercive colonial mechanism to impose social, cultural, and political uniformity around the world, with powerful donor countries deciding the agenda. As things stand, powerful Western countries already have an outsized influence on UN policy, but they are not always able to have their way, especially when a topic is politically significant. The preference for consensus acts as an important political check on powerful countries. This has been the case at the Commission on Population and Development, one of the annual commissions of the Economic and Social Council, for the last decade. In the last five sessions of the Commission, the Commission has only reached an agreement three times.[2]

The Erosion of the Consensus Rule

Consensus used to be held in such high regard that a single UN member state could block language in a resolution. But this is no longer the case. When it comes to social issues especially, it is harder and harder for a single country, and at times even groups of countries, to influence negotiations as they did in past years. Donor countries who set the terms of every UN social policy debate are simply not willing to compromise their policy preferences. As a result, donor countries increasingly present resolutions for adoption with language they know will be a red line for other member states. In essence, they are daring their diplomatic colleagues to break consensus. This power dynamic has been used by donor countries to advance controversial components in resolutions each year, including the annual resolution of the General Assembly on Violence Against Women. For several years it has been an entry point for

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controversial language in UN policy. The countries sponsoring the resolution took advantage not just of the consensus rule, but also the political sensitivity of the topic to ram through controversial proposals and terminology, including "gender-based violence," a term that is now replacing "violence against women" even though it is highly controversial and is not equivalent to the more longstanding consensual term.[3]

Inevitably, this power dynamic leads to resolutions that are voted on, and whose adoption is not consensual. Countries who cannot accept the resolutions as proposed in turn submit multiple amendments. When the amendments and resolutions are voted on the floor of official UN meetings it leads to messy and confusing meetings. It also dilutes the normative guidance of the resolutions adopted. Sadly, there is an increasing trend toward messy adoptions, with multiple hostile amendments and votes taking place on resolutions about apparently uncontroversial topics like violence against women and global health.

By diplomatic custom, some agreements are required to be reached by consensus each year. These include the agreed conclusions of the Commission on the Status of Women and the resolutions of the Commission on Population and Development, which are then adopted by the Economic and Social Council's 54 members. In the case of these agreements, donor countries increasingly lean toward dispensing with the need for consensus altogether. At a recent consultation on the methods of the work of the Commission on Population and Development several delegations proposed abandoning the consensus rule in favor of pragmatism. It is not fair for a few countries to block progress, they argued. These are direct attacks on UN consensus but consensus is also being eroded in more indirect ways.

Over the last two decades there has been a proliferation of summits sponsored by the UN secretariat or UN agencies outside of the General Assembly or other UN charter bodies. These summits are organized by the secretariat and agencies with the sponsorship of powerful donor countries. The agreements adopted by these summits are not negotiated or adopted by all the UN members following the rules of procedure of the General Assembly. They are not reached through open and transparent negotiations following UN diplomatic protocols. Rather, a few member states review the agreements prepared by the secretariat or agencies with the principal donors for the initiative on a non-objection basis. This means that the agreement is circulated among a select number of UN member

states, and if no one makes timely objections, the agreement is published.

Indirect Attacks on UN Consensus

New kinds of agreements that are not consensual and bypass normal diplomatic protocols and procedures are proliferating. Donor countries are using this format to promote concepts and notions that could never be agreed in the context of the General Assembly. For example, the Istanbul Humanitarian Summit in 2016[4] and UNFPA's Nairobi Summit in 2019[5] promoted abortion as a humanitarian right. UN Women's Generation Equality Forum in 2021[6] is now promoting abortion as a humanitarian right as well as advancing LGBT issues within the gender agenda.

Similarly, between 2014 and 2015, UN agencies and the UN secretariat carried out regional review conferences of major agreements of the 1990s dealing with social issues, including the International Conference on Population and Development held in Cairo in 1994, where the term "sexual and reproductive health" was first defined in UN policy, and the Fourth World Conference on Women held in Beijing in 1995. While pretending to follow UN protocol, these conferences were held outside the context of the General Assembly and the normal diplomatic channels to review UN policy. They produced what are called "review conference outcomes" that left behind essential caveats about abortion from the 1994 and 1995 agreements adopted by the General Assembly. They also promote abortion rights, LGBT issues, and comprehensive sexuality education, which were rejected at the original 1994 and 1995 conferences.[7] Other follow-up agreements adopted by the General Assembly had preserved the language of the Cairo conference verbatim, including the outcomes of the reviews of the two conferences held by the General Assembly in 1999 and 2000. By holding regional review conferences outside the context of UN charter bodies, the agencies and secretariat, along with their donor partners, essentially bypassed the General Assembly to change the normative guidance of the General Assembly. Not only does this erode consensus, it also challenges the authority of the General Assembly.

Conclusion

It remains to be seen what kind of damage this erosion of consensus does to the political legitimacy of the United Nations. One thing is certain: as UN policy becomes more and more detached from the political reality of countries, the more likely it

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is for discontent and ultimately conflict to deepen between UN policy and domestic politics.

RECOMMENDATION:

In order to counter the trend of eroding UN consensus, UN member states should insist that agreements be adopted on a consensus basis in the functional commissions of ECOSOC, and that delegations who want to propose controversial terms and concepts in General Assembly resolutions be more flexible. Member states should also insist that any reference to "outcomes of review conferences" be qualified with "adopted by the General Assembly," so it is clear that the conferences that are being referred to are those that enjoy consensus, rather than others which fragment UN normative guidance.

ABOUT THE AUTHOR

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DEFINITIONS is published monthly by the Center for Family & Human Rights (C-Fam).

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Endnotes

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2   https://c-fam.org/turtle_bay/uncpd53-fails-to-adopt-covid-19-declaration-due-to-pro-abortion-and-anti-sovereignty-language-kenya-splinters-african-group/

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4   https://c-fam.org/friday_fax/un-bureaucrats-put-words-delegates-mouths-humanitarian-summit/

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