

UNITED NATIONS  
GENERAL  
ASSEMBLY



Distr.  
GENERAL

A/5169/Add.1  
5 September 1962

ORIGINAL: ENGLISH

Seventeenth session

QUESTION OF THE PUBLICATION OF A UNITED NATIONS JURIDICAL YEARBOOK

Comments by Governments on the form and contents  
of the proposed yearbook

Addendum

CONTENTS

|                      | <u>Page</u> |
|----------------------|-------------|
| 10. Sweden . . . . . | 2           |

10. SWEDEN

Transmitted by a note verbale of 29 August 1962 from the Acting  
Permanent Representative to the United Nations

[Original: English]

The international lawyer, whether a student, scholar, private practitioner or adviser to a Government or an international organization experiences very great difficulties when trying to gather information as regards documentation on a particular legal question. The need for concentrated information regarding available literature on a special legal subject is thus great. A project designed to facilitate his task is the proposed publication of a United Nations juridical yearbook. The lengthy debates in the Sixth Committee in 1959 and in 1960 made it clear that even a project of this modest kind creates many problems, especially as to the scope of the publication.

It can be agreed that, at the outset, the yearbook should not be of an extensive size and that its purpose is to contribute to the development of international law. Since, in 1950, the International Law Commission discussed what the United Nations could do in this field in the way of publications (please refer to the Yearbook of the International Law Commission, 1950, vol. II, p. 373), much has indeed been achieved, e.g. the United Nations reports of international arbitral awards, the United Nations legislative series, the yearbooks of the International Law Commission, the Repertory of Practice of United Nations Organs, etc. Each of these publications constitute a distinct and valuable contribution to the development of international law. In which area can another useful contribution be made by a new publication of a modest size? This is the problem that has been extensively discussed in the Sixth Committee.

One matter that has come up in these discussions is to which category of readers the publication would be primarily directed. It seems clear that if the purpose was to make the general public acquainted with current problems of international law, then the publication would have to deal with only a few items and present them in an extremely popular form. Such a publication does not, however, seem to have been seriously contemplated. The prospective readers seem -

as indeed is natural - rather to be advanced students, scholars, diplomats, and legal advisers to Governments and international organizations. It is thus to the needs of this kind of people that the yearbook should cater.

A new forum for the publication of articles by scholars or reports of organizations is not among the most urgent needs.

The question of the annual publication of a bibliography of international law has already received a good deal of attention. In this field the need is definitely great. Existing current bibliographies, e.g. those in various periodicals, although valuable and representing a laudable effort, are never complete and are often difficult to use for lack of classification by subject. A general solution to this problem, however, entails a considerable amount of compilatory and editorial work, especially if the bibliography is to contain not only classified references to articles, books and documentary material, but also - which would be very helpful - brief descriptions of the contents of the material referred to. However desirable from the viewpoint of the international lawyer, such a bibliography should not be made part of a United Nations juridical yearbook. If the task were eventually assumed by the United Nations - and in view of the contribution it would constitute to the development of international law, there would apparently be no reason why the organizations should not be able to undertake it - rather than left to private groups, the bibliography might with advantage appear as a separate publication.

If the yearbook is to have a bibliographical section only giving references to material on the United Nations and related organizations, the task and cost would admittedly be less forbidding. To be complete - covering all the world's legal publications - even such a bibliography would probably require a considerable effort, which should perhaps be spent only in connexion with the broader project of a general annual bibliography of international law. One thing could, however, be done within the United Nations Secretariat already now, and that is the compilation of a classified annual legal bibliography on the United Nations and related organizations (with the exception of the International Court of Justice for which an annual bibliography already exists in the Yearbook of the Court) and on legal problems discussed in these, covering only certain enumerated periodicals,

perhaps those available in the United Nations library. Such a bibliography, though not complete, would be very helpful, and might be contemplated as a part of a yearbook.

The scope of the yearbook has been the subject of much discussion in the Sixth Committee. It seems to be agreed that all material of legal interest regarding the United Nations and found in the United Nations itself should be included in the yearbook. It would undoubtedly be a pity, however, if not also material not directly dealing with the United Nations but throwing light on principles of customary international law or treaties or general principles of law were not also covered. Thus, debates and resolutions of the Sixth Committee and other bodies ought to be scanned and, in so far as they touched upon this type of material, due references should be given in the yearbook. Development in this field is obviously as desirable as the development of principles and practices that have a more direct bearing on the United Nations.

Another question is whether the same kind of scrutiny should be undertaken for the organizations related to the United Nations. There is no doubt that there is much in these organizations that contributes to the development of international law. From that point of view coverage would obviously be desirable. However, if it were to increase the cost or the size of the yearbook unduly, this kind of material might also be left aside at the present time. For the covering of possible unpublished material of legal interest in specialized agencies, arrangements would obviously have to be made with the legal offices of these agencies.

It has also been suggested that such material in national legislation that is of legal interest and has regard to the United Nations and related organizations should be covered by the yearbook. Further, there are proposals that opinions of legal counsels and advisers to national Governments should be included. There is unquestionably much material of interest to the development of international law to be found in national legislation and in reports of national parliaments. It seems likely, however, as was indicated in the discouraging result of the Secretariat's sampling (see A/4406, para. 15) that only a limited fraction of the legislative material has regard to the United Nations and related organizations. To be really useful, a systematic search of national material ought to cover not

only laws enacted, but also parliamentary proceedings and national declarations and decisions of various kinds. Such searches are undertaken in some countries by private scholars and the results are published (see, for instance, Professor Guggenheim's surveys in the Annuaire suisse de droit international, and Mr. E. Lauterpacht's surveys of British practice in the International and Comparative Law Quarterly). It is obvious that these very helpful endeavours require much work and yield much material. A co-ordinated effort with a view to collecting such material in all States would be of the greatest interest. It would also, however, even if it relied upon national correspondents, require a great deal of work for classification and editing. The yield could also be expected to be so great that a yearbook of moderate size would be totally inadequate to harbour it. To limit publication in the yearbook to such material only as has direct regard to the United Nations and related organizations would no doubt limit the need for space, but would exclude available material of as great importance for the development of international law as that which would be included. It would seem to be a pity also to request national correspondents to undertake a burdensome search in order to turn up only one type of material of interest and to leave uncovered another type that is just as important.

For these reasons it appears wiser at the present time not to touch national material, but to defer any project in this respect to a future date. In the meantime more experience might be gained by the publication of those national digests that are now planned in several countries (see Recommendation 309 (1962) of the Consultative Assembly of the Council of Europe).

For all kinds of material the coverage of which in the yearbook has been discussed above, the question remains as to whether "coverage" should be by reprinting, or by references to sources alone. The answer to this question will also have some bearing upon the scope of the material to be covered. If coverage is to mean only reference, then obviously much more material may be included than if coverage is to mean reprinting. The decision in this regard should be guided by the general need of the users. As these are interested in the most varied problems, it would seem desirable that the yearbook covered as broadly as possible the legal questions that come up within the United Nations, and possibly the specialized agencies. Most of this material will no doubt be printed or stencilled

in public documents, which are available in United Nations depository libraries all over the world. There would seem to be no reason why documents of signal importance to the development of international law should not be allowed to be reprinted in the yearbook. A restrictive selection of such documents might well be made by the Secretariat. Such publication would make it easier for international lawyers to consult the documents.

It may be assumed, on the other hand, that international lawyers on the whole will be better served by a greater number of references to relevant documents than by the reprinting of a fewer number of documents, the texts of which would be available to them anyway in libraries. The preference expressed here becomes the stronger if the references were to include brief indications - apart from that obtained through the placing of the reference in a particular subject section - of the topics touched upon in the document referred to. Such indications would be very helpful and time-saving for the readers, although admittedly they would be correspondingly burdensome for the editors.

The above considerations obviously do not apply to material that is not published or stencilled or that is otherwise difficult to consult. Such material could be printed as annexes in the yearbook. It may be expected that some opinions emanating from the legal department of the Secretariat would fall into this category. The printing of these could take place unless, in the opinion of the Secretary-General, special circumstances made this undesirable.

The views presented here have much in common with the ideas advanced in the Sixth Committee in 1960 for an annual index to legal material in the United Nations and, possibly, related organizations. Such a publication need not necessarily exclude the embarking upon more ambitious projects at a later date. It would seem to be desirable, however, to see the results of an index before any further project were undertaken.