Remarks by Mark P. Lagon
in receiving the Louis Sohn Award of the UNA-NCA
December 10, 2015

It is an honor to be given this award. I am deeply humbled to be in such company as Elisa Massimino as an awardee; I have no higher regard for anyone in our field than her.

This award is named after a great thinker on the international human rights architecture. Louis Sohn contributed to the San Francisco Conference which established the United Nations, as well as the preceding Dumbarton Oaks Conference, working on the International Court of Justice. He crusaded for the 1948 United Nations Declaration on Human Rights to have the weight of a legally binding document, rather than a simple proclamation of principles. The General Assembly embraced that premise in 1968 when the United Nations International Conference on Human Rights proclaimed that the Declaration "constitutes an obligation for the members of the international community." Sohn believed that this proved the Declaration had become part of customary international law, arguing in 1977 that, “… the Declaration not only constitutes an authoritative interpretation of the Charter obligations but also a binding instrument in its own right, representing the consensus of the international community on the human rights which each of its members must respect, promote and observe.” His was a forward-leaning view of the weight of norms, but who am I to argue about a Declaration negotiated for the U.S. by Freedom House’s Honorary Co-Chair, Eleanor Roosevelt? Indeed, I for one think Responsibility to Protect holds in a case like Syria even if the UN Security Council fails to affirmatively invoke that norm. For his work and forethought, Sohn could be fairly called a “grandparent” of international human rights law.

Sohn was born in Lviv, the son of Polish Jews. His parents were taken to a Nazi concentration camp shortly after the invasion of Poland, where his mother died in the first winter
there. His father barely made it out of the camp alive. This legacy gave him an understanding of the need for a universal system committed to the protection of individual rights. A prolific scholar lawyer, he taught at Harvard and became the Bemis Professor of Law in 1961. After retiring from Harvard in 1981, he followed his friend Dean Rusk to the University of Georgia to become the first occupant of the Woodruff Chair in International Law. He ultimately moved here to Washington in 1991 to join the U.S. Institute of Peace and George Washington University Law faculty. Sohn’s tireless efforts to foster some of the 20th century’s most bold ideas have buoyed the UN’s and the world’s standards.

As Tony Arend and I say in our book, Human Dignity and the Future of Global Institutions, human dignity depends on (1) people’s agency to apply their gifts, (2) recognition of all humans’ equal value; and (3) institutionalization and implementation of this agency and recognition. Like the United Nations Association, both I and Freedom House believe multilateral institutions are deeply important venues to advance these bases of dignity. These are not just venues to defend against parochial and pernicious ideas and claims, but to actively deepen norms, and more significantly, improve the implementation of human rights in practice.

As Deputy Assistant Secretary of State for International Organization Affairs, I was a negotiator in the New York talks to fashion today’s Human Rights Council. The Human Rights Council has ultimately proven its value, especially since the implementation of Universal Periodic Review. Its passage of mandates to monitor rights abuses in Iran and condemn them in Syria, and its restoration of a mandate on Belarus -- eliminated earlier in the Council’s life -- have been significant. The Council provides significant running room to civil society actors to advance dignity, not least through UPR.

Of course, the Council is not alone among multilateral bodies giving civil society organizations a chance to hold illiberal governments to account. In November of 2014 and June and July of 2015, Freedom House support enabled Venezuelan organizations to travel to
Geneva where they presented human rights violations-- documented over the previous two years-- to the UN Committee against Torture, the UN Working Group on Arbitrary Detentions, and UN Human Rights Committee as treaty bodies. Following the presentation by Venezuelan organizations, the UN Committee Against Torture issued an urgent declaration calling on the Venezuela to guarantee the legal rights of victims of torture and enable them to bring their cases before their justice system.

Yet the Human Rights Council is chief among the Geneva-based human rights bodies. It has in turn also enabled UN principal organs, including the Security Council, to further shine a light upon the worst abusers of human rights. The Commission of Inquiry headed by Australian jurist Michael Kirby on atrocities in the Democratic People’s Republic of Korea led to the UN Security Council adding this country’s abuses to its regular agenda. The COI’s findings that up to 120,000 citizens remained in incommunicado arbitrary detention in North Korea’s prison system, where cruel abuses are common practice, were among the reasons the Security Council could not avert its gaze.

However, the Security Council also disappoints. Inaction on the fundamental human rights and governance problem Assad has wrought in Syria has allowed an all-encompassing humanitarian crisis spanning from the Middle East to throughout Europe. Ask not why Germany is so generous to refugees, but rather ask why the U.S., Britain, and France did not invoke R2P as a norm so strong that a Russia veto is irrelevant to legitimacy. A Russia veto was irrelevant to NATO use of force against Serbia to prevent ethnic cleansing in Kosovo, after all. With Assad’s atrocities left unchecked and his aircraft left undestroyed, the armed opposition’s composition morphed, leaving ISIS to commit unthinkable harm upon innocent persons. Human rights cannot be sidelined in conversations on conflict and counter-terrorism. All of these matters of peace and security are fundamentally intertwined with human rights.
The UN’s vital – if not fully sufficient – work on human rights and rule of law is not limited to the resolutions, rapporteurs and review by peers of the Human Rights Council. It’s not limited to the work of the General Assembly – from Third Committee resolutions like Canada’s on Iran to the funding of the Office of the High Commissioner for Human Rights. It’s not limited to work of the Security Council where rights and atrocities abut questions of peace and security. The UN’s goals and work on development are intimately connected to and dependent on human rights and rule of law.

This topic is one my friend Shawna Bader-Blau of the Solidarity Center and I wrote about recently. Without state support for fair and democratic institutions, development is quite simply unsustainable. All people deserve to live in a stable, safe environment where laws are indiscriminate and enforced justly. The inclusion of Goal 16 – which promotes access to justice and the importance of rule of law – in the new Sustainable Development Goals is one recent example of an important step forward. Notwithstanding a desire by some countries to strike Goal 16 from the SDGs entirely, the UN’s Open Working Group was able to agree to include it, which represents a worthy stride in acknowledging the importance of rule of law and just governance in achieving development objectives.

Economic development grows with everyone realizing their basic human rights, which occurs when governments are held accountable. So the world, and especially the 193 countries who committed to the Sustainable Development Goals in early October, have a stake in building upon Goal 16. Implementing concrete benchmarks for rule of law, social inclusion, and access to justice are integral in holding governments to implementation standards -- moving past rhetoric. If we are serious about achieving sustainable development globally, an emphasis on supporting civil society and creating institutions that respond to citizens’ demands should be prioritized.
For instance, Kenya has grown into East Africa’s largest economy, with ambitions to become a middle-income country by 2030. But Kenya’s democracy and civil society are being threatened by attempts to gut 2013 legislation largely protecting NGOs, which play important roles in Kenya’s civil society. They provide ways for citizens to promote good governance and social reform. This pressure on NGOs in Kenya is just one example of how governments worldwide attempt to restrict civil society space, and retard development.

In Qatar, home to U.S. Central Command’s Forward Headquarters and the Combined Air Operations Center, migrant workers die while at work, have been known to suffer unimaginable human rights abuses at the hands of their employers, and are often forced into involuntary servitude after willingly migrating to the country. I have seen this from my work as the U.S. envoy on human trafficking. Though Qatar has made massive gains in economic development since the 1970s, these advances are tainted by blatant denial of dignity to those who go there seeking honest work.

In Tunisia, the Arab Spring’s spark, Mohamed Bouazizi, who set himself on fire to protest unemployment and unaccountable governance, is a poignant example of how political liberties are tightly intertwined with economic and social aspirations. Human dignity involves both sides, inextricably linked. Hopefully Bouazizi would be heartened to know that his actions helped Tunisia advance on the road to both sides of dignity, as it represents the only success story in the Arab Spring’s denouement. However, Tunisia’s nascent democracy is still in danger. This year’s terrorist attacks, spilling over from chaos and extremism in Libya, tempt Tunisia’s government to take steps which might imperil its path toward robust democracy in full – reaching beyond elections and an admirable new constitution to ensuring civil liberties and respectful pluralism in practice.
Thus, in a time when surveys show that faith in democratic institutions is declining, it is now more important than ever to reinforce their importance to development and spreading equity. With the inclusion of Goal 16 in the SDGs, the UN is taking steps toward doing that.

Let me highlight two related premises which inform Freedom House’s programming and thought leadership. *First*, political voice is often needed to raise one’s economic aspirations. China’s model, which has prioritized economic development over political rights, poses a challenge to that vision. Yet studies of South Korea and Taiwan show that their GDP growth *accelerated* after democratizing. Comparing these two nations’ Gini coefficients to China’s shows that China’s development disproportionally enriches those at the top. Social inequality is lower in both Taiwan and South Korea. (And I called democratic Taiwan a nation advisedly.)

Second, states committed to rule of law and human rights must act in concert, whether in the UN or other multilateral institutions. Freedom House values the trans-Atlantic community as central to championing human rights, but seeks to encourage and enlist democracies across the Global South and whole world to become active in that universal cause. Together, they must insist that freedom, equality, and dignity can be realized by all people, irrespective of where one might live.

With these premises in mind, we should all recall former Secretary General Kofi Annan’s address at the first Ministerial Meeting of the Community of Democracies in 2000 in Warsaw. He observed,

“The right of all people to take part in the government of their country through free and regular elections, enshrined in Article 21 of the Universal Declaration of Human Rights, is not peculiar to any culture. People of all cultures value their freedom of choice, and feel the need to have a say in decisions affecting their lives…When the United Nations can truly call itself a community of democracies, the Charter's noble ideals of protecting human rights and promoting 'social progress in larger freedom' will have been brought much closer.”
This is the vision which should guide us.

The United Nations has much to offer to advance rule of law and democracy within Member States, and has much to gain as a result for its larger purposes of peace, prosperity and pluralism. The United Nations must serve not states but people. It is people, after all, who have inherent value. If the United Nations is a vehicle to advance their rights and democratic voice in their societies, then it will better advance the peace and development aims to which it is also rightly devoted.

Thank you for this recognition.