

## Interpreting committee provisions\*

Imperium Anglorum†

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The honest mistake rule is normally judged on the basis of reasonable nation theory: that nations would not interpret resolutions in a way that is self-detrimental. But if we take this justification at face value for the role-played nation, this makes sense only in the context of interpretations done *by* those member nations. The World Assembly as a whole would instead adopt only one interpretation, not one of many reasonable interpretations.

This is increasingly important in light of the trend for WA legislation relying on committees. The extensibility of reasonable nation theory to committees is in question. My view on this is simple: continue to apply the reasonable nation test to committee provisions. This is for three reasons.

First, using a different test in this case overlegalises the game. The creation of a separate means to test different interpretations of different kinds of provisions requires both the Secretariat to create a rule to distinguish and judge such provisions. It would also make it difficult for repeal authors to determine what arguments are or are not permitted without either substantial not-yet-done work by the Secretariat to clarify those rules or months of soul-less legality challenges to litigate their scope.

Beyond the initial work required to set up such a distinction, it would also make it more difficult for new players to understand the rules of the game and increase the size of the (already extremely large) learning curve associated with the World Assembly. This harms participation, activity, and uptake of new players.

Second, the determination of the specific in-

terpretation that a World Assembly organisation would in fact take is unclear and likely impossible. The only kind of justification for a more complicated interpretative scheme would be one that favours authors of positive resolutions, as one that favours repeal authors would necessarily do away with such rules. Consider a scheme where the committee is imputed to interpret the resolution in a way which best undertakes its goal and a hypothetical World Assembly committee with a mandate to institute policies that promote growth in a member nation. In this case, the Secretariat would effectively be required to determine what is the best way to grow an economy.

A repeal which claims that the committee is undertaking certain actions – say a micro-loans project<sup>1</sup> – could be challenged on the grounds that the committee is not in fact doing those things. The ability for the Secretariat, or even a court in real life, to conduct social science research of this type, is extremely limited and perhaps nil.<sup>2</sup> Yet this requires the Secretariat to resolve real world questions indirectly. To do so would be a massive break from precedent as well as overwhelmingly foolish.<sup>3</sup>

All of that is, of course, also to ignore the fact that such a scheme would make it very difficult for repeal authors – legitimate stakeholders in the same way the opposition in a parliament is legitimate – to even determine the effect of a resolution which they would wish to repeal.

Such a convention would also create incentives for authors to write vague and unclear res-

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<sup>1</sup> Eg the World Bank's microcredit project in Albania.

<sup>2</sup> Richard A Posner, "Against Constitutional Theory" (1998) 73 NYU L Rev 1, 12.

<sup>3</sup> *Agricultural Invasive Species Act*, [2018] GAS 4 (writing that "GenSec is unwilling to make factual policy findings"); *Repeal "No Penalty Without Law"*, (2015) 2 IAM — (writing "you may possibly even get away with factual errors ('RECOGNISING that oxygen explodes on contact with water ...')").

olutions that are heavily reliant on wholly nebulous committees. While in the real world, establishment of a new bureaucratic agency would create a concrete organisation with actions that are at least clearly taken or not, we do not have such a luxury in the Assembly. Without this tangibility, it would be akin to replacing the “target” in a target resolution with vampiric mist that dodges all criticism.

Such resolutions would also be a disservice to new players and the general NationStates public. The inability to resolve the question of what resolutions even do further insulates GA players from the NationStates community writ large and entrenches existing beliefs that the GA is wholly captured by small conspiratorial cliques.

Third, even in the scope of role-play, we have held to the convention that there exists some kind of executive in the World Assembly. Regardless of its structure – be it feuding separately headed directories or a single unitary executive under a Secretary-General – turnover at any level would necessarily create different interpretations at different times, in the same way that new leadership in government changes how the government interprets legislation.<sup>4</sup> The exact state of World Assembly executive, at least in general role-play, is unknown.

To resolve the unknowable nature of the executive authoritatively would either require input from the player elected the Secretary-General<sup>5</sup> in the April Fools elections or the Secretariat forcing roleplay on members of the community writ large.

However, this circle can be squared simply by discarding the need to have a single overriding interpretation. This can be justified in role-play simply by invoking the unknowability of the present executive: exchanging, effectively, multiple interpreters in multiple geographies for multiple interpreters *across mul-*

*tle times*.

These multiple interpreters have duties to make reasonable interpretations, but a rabidly anti-corruption executive would take one interpretation that is very distant from a hypothetical petrol-king. Absent clarity – in the same way that nations themselves lack clarity – the exact internal priorities is in something of a super-position.

The repeal argument which asserts or implies some *specific* reasonable interpretation, then, would collapse that superposition and retroactively imply the priorities of the unknown executive. In role-play, the passage of a resolution acknowledging a specific interpretation identifies those executive priorities *ex post*.

This view of how the World Assembly’s executive operates not only solves the extensibility question for reasonable nation theory, but it also avoids all of the pitfalls associated with requiring the Secretariat to create two new standards for what is judged and how it is to be judged, any possible requirement to determine factual questions about the real world, and the costs to the game associated with greater rules complexity.

It also keeps open the kind of give-and-take necessary for the game to be dynamic. Repeals are, even to the chagrin of target resolution authors, a healthy part of the game which ought not be metagamed out of existence. Community involvement in the General Assembly too is important – the GA has weight only *because* of its reach – and preserving that interpretative component keeps us on solid ground.

<sup>4</sup> Eg a new Attorney General, who is in favour of labour deregulation, changing interpretation – and thus, enforcement, – of labour laws and regulations. Or changes in the composition of a Supreme Court impacting interpretations of the scope of executive powers.

<sup>5</sup> Input from the game-side Secretary-General was overwhelmingly rejected by GA regulars in the discussions leading to the formation of the Secretariat in 2016.