

**ROLE OF SECURITY COUNCIL IN  
MAINTENANCE OF INTERNATIONAL  
PEACE AND SECURITY**

**A DISSERTATION**

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C E R T I F I C A T E

This is to certify that the LL.M.Dissertation titled "ROLE OF SECURITY COUNCIL IN MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY" has been written by Vandana Arora, a student of LL.M.(Final) of this University. This is the Original work done by her under my constant supervision and guidance.

This Dissertation may be accepted as a part requirement for the award of Degree of Master of Laws, Punjab University, Chandigarh to the student concerned.

  
(Dr. Veer Singh)



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Chapter-I-

INTRODUCTION

The study on 'The Role of Security Council in Maintenance of International peace and security' has remained the topic of current international importance. It has always remained a topic for considerable debate as the problem relating to peace or threat to peace and security has time and again cropped up. Though league of Nation as an Institution failed to preserve as against external aggression, territorial integrity and existing political independence of all the members of league and consequently failed to prevent breaking of IInd World War. The statesmen of the world still had faith in international Organisation( in the wider sense of process of organising international relations) Even during Second World War they had started endeavour to establish other international organisation which could establish peace and security in the world. Indeed they ultimately succeeded in establishing an organisation in the form of United Nations - On the basis of United Nations charter which was adopted and signed on 25th June, 1945 and after having been ratified by permanent members and majority of the states came into force on 24th October, 1945.

PROBLEM PROFILE:

The United Nations having been established with the first and foremost principle of establishing international peace and security, the provisions relating to the same are studied through out the charter and finds mentions in Preamble, purposes, principles and many other concrete provisions of the charter. In order to ensure prompt and effective action by the United Nations its members have conferred upon the security

council the primary responsibility for maintenance of international peace and security and agree that in carrying out its duties under the charter, the security council shall act on their behalf and all members have agreed to carry out the decision of security council in accordance with the present charter. More over the Five permanent members of the Security Council namely The Republic of China, France, the Union of Soviet Socialist Republics, The United Kingdom of Great Britain and Northern Ireland and United States of America were conferred the Veto Power under the assumption that they shall continue to co-operate in the same way as they did during Second World War.

Now the Question arises:-

Whether United Nations in general and Security council in particular have been successful in performing its primary responsibility of Maintenance of International Peace and Security?

On the above posed question there are two views:

One view is that it had failed to perform this responsibility as immediately after coming into force of United Nation's charter, there developed confrontation between east and west mainly between the Soviet Union on one hand and United States of America and United Kingdom on the other hand. This confrontation proved detrimental for the achievement of chief objective of United Nations i.e. Maintenance of Peace and Security. "It did not take long for San Francisco hopes of great power unity to fade away

better disillusionment rapidly replaced cautious optimism of spring of 1945. Irreconcilable conflict over German settlement, harsh agreement over other peace treaties, the clash over Trieste, Guerrillas Warfare in Greece and continuance of Soviet forces in Iraq beyond the agreed deadline, recent failure in Yugoslavia (1994) and Somalia (1994) rapidly produced an atmosphere of distrust and hostility. In United Nations itself, the security council was the scene of bitter clashes and within two years the Soviet Union had cast several vetoes and staged a famous walk out over Iranian issue. It obviously resulted in obstructing security council from equipping itself to the exercise of full powers conferred on it by the charter. The frequent use of vetoes crippled the security council. The security council could not take away any action in the case where the interest of any permanent members was involved and in regard to the member state of United Nations if that state could muster or get the support or blessing of any of the permanent member of security council. Consequently security council has become unable to perform its primary responsibility of maintenance of peace and security - which charter entrusted upon it.

The other view is that it is far from truth to assume that security council has proved to be a complete failure and that it has made no contribution for maintenance of peace and security. In fact it can not be denied that in number of conflicts the security council has contributed a lot in maintenance and restoration of International peace and security. Among such conflicts is the conflict of

Korea(1950),Palestine,Suez crisis(1956),Congo(1960-61) Middle East(1973) and Gulf War(1991) deserves special mention. It must however be conceded that excepting the case of congo the United Nations could be successful only in stopping the armed conflict for a temporary period. It failed miserably to achieve political solution of the problem. In case of Gulf War (1991),however, the U.N. was completely successful in restoring political independence and integrity of Kuwait. This has therefore become the most successful operation ever made by United Nations.

Various problems have been cropped up from time to time relating to the provisions of the charter, functional and institutional deficiency, financial aspect which are discussed below step by step.

Regarding provisions of the charter the main question for the kind consideration here is:-

- Whether whole sale change/amendment of the charter is feasible and therefore should be done?

or

- Second, whether only specific articles of the charter may be amended as done in the past? or

Third question is, If any specific articles of the charter are to be amended, which are those articles?

Regarding First question:-

Whether whole sale change/amendment of the charter is feasible and necessary?

In view of failures of U.N.(particularly in the field of peace and security).

Some critics have suggested the need of complete review of U.N. charter. They have put forward the view that the charter is like a constitution and should be amended from time to time to adapt it to the changing times and circumstances.

Principal argument put forward in support of review is that the majority of members states had not taken part in the establishment of organisation at San-Francisco conference and that its structure was insufficient for exercising their influence in its activity and the charter must be adapted to changes which have been taken place since 1945.

However a complete change or review of charter is neither feasible nor necessary as it would deal article by article with the fundamental law of United Nations and it would inevitably bring out open some very fundamental disagreements on the basic principles.

As rightly remarked by Prof. Good Speed<sup>1</sup>,  
" But an attempt at the whole sale revision or a show down conference", to force recalcitrant nations into line might not only raise false hopes but result in accentuating existing bitterness and weakening even further whatever unity exists within organisation.

---

1 Stephan.S.Good Speed: The Nature and Function of International Organisation Second Edition P.No.659.

Structural changes involving more machinery and more law will not eliminate the serious disturbances which exists in the world today defects in the charter are not the cause of basic differences separating the peoples." Is desirable change possible without whole sale amendment of the charter? Charter of U.N. was conceived as a living thing, adjustable to meet the challenges of times. Alvarez Judge of IcJ has aptly remarked:

"All institution once established acquires life of its own, independent of elements which gave birth to it and it must develop not in accordance with the views of those who created it but in accordance with requirements of international life".

In another advisory opinion<sup>2</sup> ICJ observed that "Under international law, the powers of institution should be regarded not only those which are expressly mentioned under the charter but, also those which by necessary implication are necessary for performance of its duties. Thus evolution of law of the U.N. is possible without amendment of the charter."

Desirable changes are possible without major changes in the charter. In past the changes have been possible by liberal interpretation of existing provisions. Most of the problems confronting the world community are not because of defects of charter but due to the attitude of member states of U.N.

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<sup>2</sup> On reparation of injuries suffered in the service of U.N. ICJ Report(1949)P.182.

### Proposals for Amendment of Charter

As the wholesale revision of charter is neither feasible nor necessary, however, specific articles of the charter can be amended as done in the past.

Further timing is very important consideration in changes of this kind. For instance by the middle of sixties the time was ripe to increase the size of Security Council and economic and social council(ECOSOC). Now that trusteeship council is winding up, its duties. Perhaps the time is ripe to give some thought to maintaining six principal United Nations organs by creating a social council to deal with human rights and other social question and by redesigning Economic Social Council as our Economic Council.

Such an amendment would upgrade economic and financial matters as well as social questions including the growing field of rights.

Yet another proposal which merits consideration is to delete all references to enemy states in the Charter.

It has also been proposed "to strengthen the capacity of United Nations to be an influence in making and keeping peace" and for this representative character of security Council should be improved.

Besides the above suggestions many other suggestions many other suggestions for amending the charter have been made by authors and jurists. These include the clear definition of the term domestic jurisdiction some restriction on exercise of veto by permanent members of Security Council.

Strengthening the Legislative activities of General Assembly; Amendment of Act 99 on addition of Act 99(A) to empower the secretary General to bring to attention of security council matters relating to human rights, expanding and strengthening the role of International court of Justice.

But it may be noted that none of the proposed amendment can be made unless all permanent members decide to cast their affirmative votes for it. However some suggestions such as renaming of "Trusteeship council as human rights and Trusteeship council", deletion of term enemy states from article concerned and breaking of ECOSOC into Economic council and social council as two principal organs and abolishing Trusteeship council can be incorporated into the charter because even permanent member can be persuaded not to oppose them. In any case in the present circumstances general review of the charter is neither desirable nor necessary. It has been rightly remarked.<sup>3</sup>

In conclusion it does not appear that a good case has been made out for undertaking a general review of the charter at the present time. The failure of United Nations cannot be attributed to any short coming within the charter itself. It is primarily non observance of principle enshrined in the charter that has undermined the effectiveness of United Nations. The charter itself has revealed a remarkable degree of flexibility of accomodating new situations has not been foreseen

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3. P.Rao and Mrs R.Rakswanan, "What is wrong with United Nations charter" 'JIL, Vol16(1976) P.300 Specially on P.No.516.



by its founding fathers. There is however ample room to carry on struggle for a more equitable international Politico-Economic order within the frame work of present charter. The special committee could play an important role in this regard.\*

Another important problem which has cropped up in recent time is the need for making Security Council more democratic for its efficient working for maintenance of International peace and security.

After the Gulf War(1991) and breaking of Soviet Union the need for enlargement of security council is being greatly felt in view of changed situation. Since the breaking of soviet union we are living in unipolar world with United States of America as a sole superpower. In the non-aligned two days foreign ministers conference held in 'Cyprus' in Feb-May 1992, the need for democratisation of U.N. system emerged as recurrent theme. The then India's foreign minister Madhav Singh Solanki stressed that \* with a view to reflect the increased strength of General Assembly and new power configuration in the world, one way of democratising the United Nation would be reviewing the membership of security council.

There seems to be much force in the view expressed by Indian foreign affairs minister when the membership of security council was increased from 11 to 15 the membership of U.N. was 113 since then the membership of U.N. had increased to 185 but membership of security council remained the same.

Besides, there are other imbalances in the

in the existing composition of Security Council. China is the sole representative of Asia, the largest continent from the point of view of area and population.

The two Economic Super powers- Germany and Japan are not permanent members. Moreover, India ought to be made a permanent member.

In view of these reasons the membership of Security Council ought to be increased from 15 to 25 including ten permanent members.

The new five permanent members should be chosen from amongst the countries such as Japan, Germany, India, Egypt, Brazil, Nigeria. Besides, this five new permanent members should be elected on geographical basis to make security council more representative.

According to World Watch Institution<sup>4</sup>, a Washington Think Tank, the security council should be expanded to include India and other countries, saying that the current permanent members have usurped the council authority and have re-legitimised war as arbitor of conflict.

In its 10th annual report entitled "The States of the World" world watch says:-

"If United Nations is to move towards more activist and interventionist stance it needs not only greater financial backbone but all the political legitimacy it can muster. This concerns in particular the security council". further leaving decision making relating to international peace and security exclusively to Security Council will always carry with it certain danger of usurption by the great power as the Gulf War demonstrated when coalition lead by the United

4. Quoted from "The Hindustan Times, Dated 10th Jan, 1993."

States was given a blank cheque for driving Iraq out of Kuwait. The report further said:-

"Making the Security Council more representative and democratic may help curb such abuse."

Finally the report has finally suggested, "that criterion for permanent membership should include in addition to 'Traditional big Power' factors like Military Powers & Economic Muscles, population, size, financial and other support for the U.N. Perhaps with the stipulation that permanent members jointly represent at least fifty percent (50%) of the world region.

#### METHODOLOGY OF RESEARCH:

This study on 'The Role of Security Council in maintenance of international peace and security' is primarily theoretical and Doctrinaire. It is based on the analysis of provisions of the charter, view of the jurists and commentators, Analysis of Records and Reports and Evaluation of Efficacy of various measures adopted by Security Council from time to time for maintenance and restoration of international peace and security.

#### RESEARCH HYPOTHESIS:-

The basic objective of study is to assess the scope and efficacy of mechanics, evolution of Security Council for maintenance of international peace and security within the frameworks of U.N.Charter and to analyse its role in maintenance of international peace and security and to identify the institutional and functional deficiencies that have hampered the security council in performance of its primary responsibility with a view to suggest ways and means to make the role of Security Council more effective and purposeful.

**PLAN OF STUDY:-**

In order to highlight the present defects in existing structure of United Nations and to suggest measures to remove them in - depth study has been made in the present work of "The Role of Security Council in maintenance of international peace and security." The present work is divided into seven chapters. Chapter-1 deals with introduction to the study undertaken. In CHAPTER- 2 an attempt has been made to study the evolution of international institutional arrangements w.r.t. maintenance of international peace and security and in it the evolution of international institution from the beginning to the establishment of United Nations, is made. The evolution is studied in four stages. In the First stage study is made from the beginning to the peace of Westphalia. In this stage besides the factor leading to establishment of congress of Westphalia, India's contribution to the eradication of war and promoting peace in ancient India has also been highlighted.

Second stage covers period from Westphalia to Vienna including the Grand Design of Henry IV. Study from Vienna to Versailles is covered under IIIrd stage which includes establishment of holly alliance, concert of Europe, Hague conferences, administrative and technical union and creation of league of nations. It also covers factors leading to failure of league of nations which finally led to series of efforts leading to the establishment of United Nations upon which nations of the world have conferred responsibility for the maintenance of international peace and security.

In Chapter 3 Indepth study of Aims and Objectives of United Nations alongwith the various other related issues like concept of self-determination in present scenario, question of self-determination in Kashmir and Kurds in Iraq opinion of international court of justice and General Assembly's resolution on this issue, has been made.

Besides this the basic principles of the Charter limitation recognised on these principles. The principles of non-intervention under Art.2(4) and Art.2(7) have also been dealt elaborately.

Chapter 4 of the study is devoted to Organisational set up of United Nations. In this chapter evolution of United Nations, the legal character of United Nations, the organisation of U.N.composition powers and functions, voting rights, the achievements of all six important organs of United Nations has been discussed in detail. This Chapter also deals with changing role of General Assembly in 1950's and 1960's because of functional deficiencies in Security Council like veto power which eventually led to the passing of uniting for peace resolution, 1950 and its validity and limitations on the exercise of powers of security Council Appendix-I attached at the end shows the organisational set up united nation.

Security Council its Organisation, powers and functions alongwith other related issues like need for enlargement of Security Council in the present day, India and Security council voting rights and voting procedure in Security council, veto and its effects on efficiency of Security council, role of Security council in maintenance

of international peace and security including pacific settlement of disputes, definition of aggression and other functions of security council has been studied in depth in Chapter-5.

The detail chart showing peaceful settlement of dispute undertaken by United Nations has been attached in Appendix-II.

Chapter-6 examines the role of Security Council in U.N. peace keeping operation. In this chapter emphasis has been laid on the united nations concept of peace keeping and role of security council in peace keeping operations. The detail map showing places of these operations is attached in appendix-III

In the last chapter number 7 on the basis of study certain conclusions are drawn and suggestions made for improving the functioning of organisation and making it more effective for performing its primary function of maintenance of international peace and security.

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CHAPTER-2MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY  
EVOLUTION OF INTERNATIONAL INSTITUTIONAL  
ARRANGEMENTS.

The devastating effects of First World War compelled all right thinking men of the world to make endeavour to establish an international organisation which might be able to establish peace and security in the world. Their efforts led to the establishment of league of nations. The league of nations is often termed as "the child of first world war". Although to a great extent the statement is correct, yet there was nothing novel in the idea behind the league of nations. Most of the costly wars in the history have produced plans for the prevention of war among nations and for settlement of international dispute by arbitration rather than by armed conflict. In fact the efforts to contain war and establishment of atmosphere of peace as also to establish friendly relations among nations were as old as civilization itself.

The international/interstate efforts made prior to the establishment of league of nations to contain war and establish peace and security in the world could broadly be covered under following periods:-<sup>+4a</sup><sub>4a</sub>

1. From the beginning to the peace of Westphalia (1648)
2. From Westphalia to Vienna
3. From Vienna to Versailles
4. The league of nations
5. The United Nations.

1. FROM THE BEGINNING TO THE PEACE OF WESTPHALIA:

Prototype of today's organisation are to be found in ancient and medieval history and modern pattern of

International Organisation has been evolving ever since the nation system emerged several centuries ago.

Long before the Golden age of ancient Greece inter-state relations of the sort existed in many parts of the known world including China, India, Mesopotamia and Egypt. Contracts between Rulers and kingdoms were not un-common and there was a fair origin of agreement on diplomatic practices commercial relations, treaties of alliance, code of warfare and terms of peace.

"The treaties of the past are the first step towards International Organisation."<sup>5</sup>

Although Local loyalties prevented the Greeks from achieving a true national unity, the procedure and patterns in use among their city states as well as their theories of inter state relations appear strikingly modern Treaties, alliances, diplomatic settlement of disputes, rules of war and peace, leagues and confederations and other means for regulating inter state relations were well known and widely used.

#### ERADICATION OF WAR AND PROMOTION OF PEACE: INDIA'S CONTRIBUTION

The first landmark in this connection would take us back to as early a period as 274-237 BC during the reign of Ashoka when greatest contribution to the evolution of inter state relationship came with renunciation of war on age old approach of shunning violence at all stages and at all events. Ashoka built and extended his empire of peace on the basis of Buddhist law of 'Dhammayiyya'.

Externally too his empire was wedded to peace he

<sup>5</sup> Gerard.J. MANGOVE: A short history of International Organisation (New York) M.C.Graw (Hill Book Co.1954) P.14



spread the principles of Buddhism beyond Indian frontiers and thus established deep-rooted inter state relationship with countries such as Ceylon and Asia and Europe.

The exchange of Ambassadors and ENVOYS did much to develop the legal concept of this institution though not permanent one as at present.

ii) It was Sukra who in his 'Nitisara' written in early middle ages propounded the sound principle of international law in period of world history when war was legitimate that:

"Resort to arms and forces should only be permitted as a last remedy when everything else has failed."

This legal dictum "Upayantra Nashetu Talo Vigrahamacharet" was indeed a progressive concept eliminating war except as a last recourse in the settlement of dispute after all other methods such as negotiation and mediation through third parties etc. has been adopted but without success.

This principle of ancient and medieval India was developed much later in modern times for the settlement of inter state disputes.

Thus Sukra's principle had its own contribution to the legal evolution of human attitude towards war prior to its banning which in modern times was banned for the 1st time in 1928 by the "General Treaty for Renunciation of War" (Pact of Paris) and by "The UNITED NATIONS CHARTER" thereafter although treaties for the establishment of peace were signed far back in the past however most of these were almost entirely bilateral.

However, one early exception to bilateral organisation even as far back as 1648 was the peace conference where all the belligerent worked together for formulation of peaceful settlement following a war.

In 1648, The Congress of Westphalia was such an organisation coming at the end of thirty years war and setting up in Europe a new foundation of peace. To that conference almost all the then existing major states sent representatives. These were the states of Europe "The World of International Politics" in the 19th century. Thus the origin of modern international organisations law be founded in European diplomacy from which treaties for a new statusquo in Europe emerged. Westphalia set the trend for similar international gatherings such as Utrecht which rebuilt European order after the wars of Louis XIV and Napoleon respectively. The greatest achievement of the treaty of Westphalia was the conclusion by negotiation of two multi-lateral treaties which legalised the new order of European international politics.

The peace of Utrecht shattered imperial aspirations and furthered the creation of several independent sovereignties. Three new dynasties were recognised at the conference. The protestant succession to the British throne recognised by France, The elector of Brandenburg took the title of Prussia and nice was returned to victor A madeus who received international sanction as monarch of sicily.

#### FROM WESTPHALIA TO VIENNA:

During the dynastic and colonial struggle of 18th century alliances, coalition, diplomacy, wars conferences and peaceful settlement became common place technique of international relations. In the 17th and 18th century some

of the important books and philosophers who advanced some of the best known early plans and proposals for peaceful relations included: William Penn's proposal of 'Parliament in Europe' in his essay 'Towards the present and the future peace of Europe (1693), Kants famous proposal-perpetual peace (Zum Ewigen frieden, 1795), The Abbe de Saint Pierre in his 'Project to bring perpetual peace in Europe (1712)', Bentham's principles of international law'. Some of the new plans for international organisation also surfaced. The Duke of Sully, Minister of Henry IV of France, proposed in his memoirs a European confederation of number of states. This was known as 'Grand design of Henry IV of France and Duc de sully (early 17th C). One thing worth mentioning here is that the plan known as 'Grand Design' was essentially designed to assure peace in Europe to check unnecessary bloodshed and to establish friendly relations among European countries. There was a provision for establishment of senate consisting of 66 representatives of the countries of the continent. This plan could not be given a practical shape because of untimely death of Henry IV. But later on French Scholar Abbe' de St. Pierre, prepared a plan to form a permanent congress to prevent the out break of war. He had called upon the sovereigns to submit their differences to judicial settlement for a lasting peace among nations. He also proposed that in the event of any recalcitrant state refusing to accept the decision of the court the other states should unite their military forces against it. However, these schemes containing some significant ideas for the growth of future international organisation found no general acceptance within the 17th & 18th C state system. The

treaties signed at Westphalia and Utrecht stabilised the Western European state system temporarily but two other powers became parties to a general European congress only at the Carlowitz conference of 1698.

### Vienna to Versailles

Congress of Vienna (1814-15): The congress of Vienna was first of the series of international conferences that played an important part in 19th century European politics. After the defeat of Napoleon in Battle of Waterloo victorious allies met in the congress at Vienna to settle the affairs of disturbed Europe. It was a brilliant assembly in which most of the European states were represented but the four great power that had taken part in defeating Napoleon had by far the largest share in the decision arrived at. These big four comprised of England, Russia, Prussia and Austria. Among the assembled diplomat the most outstanding figures were Metternich, Czar Alexander I, Castlereagh and Wellington. The most important tasks before the congress were:

1. To reshape the map of Europe
2. To administer vast Empire of Napoleon and to suppress the important element of Revolution.
3. To devise ways and means for maintenance of international peace and balance of power.

In comparison with the Pre-Napoleonic international gatherings, the congress of Vienna made a remarkable advance-towards international organisation in the extend of:

- a) political settlement reached
- b) The diversity of economic-social problem treated and
- c) the adaption of a procedure for a congress itself.

Apart from confining France to its original boundaries the settlement restored territories to different countries which had been over run by Napoleon. The neutrality of Switzerland was affirmed.

In Socio-Eco field, efforts were made to abolish slavery every international river bounding or transversing upon a signatory states was not only declared open to commerce, but the states also pledged to regulate by common consent rules regarding Navigation.

The congress gave a three-fold classification of diplomatic envoys and made the European states admit a basic equality in their negotiations with one another not only at conferences but also in their day to day dealings. The congress of Vienna also marked a change in procedure adopted for conducting conference proceedings. The earlier conferences had elected no Presiding officers and appointed no committee for their work. This was not the case <sup>with the</sup> congress of Vienna which had <sup>METTERNICH</sup> metternich as president and Griedrich-von-Gentz as its secretary general. Proper invitations were issued to all countries enemies, allies and even neutrals. The delegates at vienna surely laid the foundations of a political and international system which for a century shaped the course of European and to some extend of world affairs. The "Grand Alliance" of 1815 (Great Britain, Prussia, Austria, Russia and later joined by France) forged, later undertook to assure that the vienna accords would be fulfilled, thereby preserving stability in Europe.

#### The Work of Congress:-

The decision and the settlement made by the congress of vienna assured peace in Europe for the next 40 <sup>years</sup> (forty years). No war was fought between 1815 and 1853 when Crimean war broke out between England and Russia in 1853.

The Vienna arrangements were placed under collective guarantee of allied power but past experience had convinced them that something more was necessary. They felt the necessity of some form of permanent organisation to

- 1) ensure the 'peace of Europe' and
- 2) to prevent the recurrence of revolutionary violence

To secure these two objectives two different experiments were made:

- 1) The Holy Alliance
- 2) The concert of Europe

1) The Holy Alliance:- To settle the international disputes and to maintain peace in Europe, the Czar of Russia Alexander-I framed a plan and made its declaration on 26th September, 1815. It is known as Holy alliance in the history of continent. The first reflection of concert of Europe was seen in it.

#### AIMS OF HOLY ALLIANCE

The members of this alliance were to observe the christian principles of justice, freedom, charity and peace etc. in the field of their internal and external policy.

2) The Concert of Europe:- OR QUADRIPPLE ALLIANCE:-

The Central Agency for enforcing Vienna settlement was the quadripplle alliance of Austria, Great Britain, France, Prussia & Russia.

This was second of such movement as were designed and established to maintain peace in Europe and in order to solve international problems in peaceful manners.

\*The alliance represented first combined efforts of nations to place security upon the multinational basis. viewed in the large, the alliance is an ancient institution predating the nation state by many centuries. throughout the

history it has been a convenient mechanism by which a several state have bound themselves together for protection against a common enemy. Even yet, the alliance relied upon very widely as a method of providing security, the North Atlantic pact is the evidence of that fact".<sup>6</sup>

Further it was agreed in quadruple alliance that signatory party shall hold meetings at fixed period to discuss matters of common interest and to decide what would be the most salutary for the peace and prosperity for Europe. It was this proposal for periodical meeting that constitute "The concert of Europe". It was the first attempt of its kind at 'International Government' inaugurating the system of "Diplomacy by conference" which was a new departure from the old system of individual diplomacy. The concert prevented some potential armed conflicts. Yet it was far from institutionalised international consultation that exists today in bodies like United Nations. The consultative system was rather clumsy in handling the crisis. Besides, the opinion of small states was not given any weightage. Yet the concert of Europe not only laid the principle of collective diplomatic consultation on all major international issues, but also made considerable progress in developing the techniques and psychological pre-requisite for successful multilateral negotiations the framers of covenant of league of nations found in concert of Europe as a model for establishing league council on similar lines.

#### THE HAGUE SYSTEM:

#### THE HAGUE CONFERENCES OF 1899 AND 1907

During the 19th century development of machinery for adjudication of international disputes was a further

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<sup>6</sup> NORMAN Hill: International Organisations.

progress towards international organisation. While diplomats, philosophers and sovereign were engaged in thinking of scheme for world peace and world was alternating between period of peace and small wars, a significant development took place. This was the evolution of international law which was largely the work of Dutch Jurist, Hugo Grotius, in the 17th century. <sup>Livius</sup> Livius in period of wars, <sup>Grotius</sup> Grotius felt the urgency for peace. In working out the system of international law, he derived great help from Roman ideas of "Jus gentium" and "Jus Naturale" which were thereafter fused into single system of natural law from the body of custom which had been observed among the states from time immemorial.

The Hague peace conferences have been regarded as landmarks in development of international law and organisation. The two conferences of 1899 and 1907 attempted to revise clarify and codify the whole body of international law affecting the conduct of war, thereby placing international law on a new footing.

The conference also aimed at improving international relations in general by such means as disarmament and peaceful settlement of disputes. They were convened at the initiative of Czar Nicholas II of Russia. His idea was to hold periodic conferences, for establishing common code of <sup>behaviour</sup> among nations.

Another noteworthy thing about these conferences was that: in these conferences for the first time all the states (Big and Small) participated in these conferences on equal <sup>s</sup> term to consult problems of international concern. The era <sup>of Concert</sup> was the period of great power hegemony. The Hague conference enabled the smaller states to taste independence and equality while the first Hague conference was attended by 26 states. The second Hague conference was attended by



44 states thereby manifesting to approach towards universality. These two conferences contained the seeds of league assembly and general assembly.

Prof. Good Speed has remarked:-

"In fact Hague conferences were precluded to the building of league of nations a sort of interim stage in the development of international co-operation designed to bring about a great measure of security within the system of nation states."

He further said:-

"Both the concert and the Hague conferences reflected the significance of the quest for security and importance of high political issues."

Besides, introducing the general idea of holding periodic conferences, the Hague meetings also produced some other concrete results. One of them was the establishment of permanent <sup>Court</sup> court of international arbitration. The court consisted of a panel of qualified jurists and mediators who could be called upon by governments to give binding decision on international disputes. An international bureau, headed by a Secretary General was also a permanent feature of the organisation.

The two Hague conferences were actually assemblies of the different countries of the world for the express purpose of developing a body of international law. They provided an elaborate code for land and naval warfare. Without the development of international law, the history of international organisation could not have begun.

He further said:-

The above mentioned development prepared the ground for the establishment of league of nations which represented

the first attempt to develop a comprehensive global organisation. League of nations could thus best be described as "First international attempt at general and comprehensive global international organisation"

Administrative and Technical Unions:-

Other international movement appeared in the form of Administrative and Technical Union. Universal Postal union is glaring example of such unions (Basically concerned with trade and commerce).

Creation of League of Nations:-

In August 1917, Pope Benedict XV had pleaded for the settlement of all international disputes by arbitration instead of war.

Movement for peace also gained ground in Germany and Scandinavian countries. But the movement for a world organisation grew in volume in England, America and France. In June 1915 an organisation called "League to enforce peace" was formed in America. In England Phillimore and Smuts greatly supported the idea of world organisation for establishing peace. However, after the conclusion of war, the European statesmen felt the necessity of an international organisation for settlement of varied problems of the post war world by peaceful means and through international co-operation averting the possibilities of war in future. Foremost among them was U.S. Woodrow Wilson. Ultimately the American and British proposals were compiled in joint draft known as "Hirst-Millar" draft which was presented before league of nations commission of peace conference and same was accepted by it on April 21, 1919. Covenant was kept as a part of treaty of versailles, 1919. Thus finally league

of nations was established on Jan.10,1920.

The League of nations was thus the culmination of a series of attempt made in the nineteenth century to avoid war and to settle international disputes by peaceful means. It carried the movement towards world organisation into the sphere of politics by setting up a mechanism for the preservation of peace as also for international co-operation in other fields.

The covenant of the league of nations is contained in twenty six articles. In the preface to the covenant the object of league has been stated to be:-

- i) Promotion of internation cooperation and
- ii) The achievement of peace and security.

Its seat was fixed at Geneva in Switzerland. The league was to function through its principal organs:-

1. The Assembly
2. The Council
3. The Secretariat headed by Secretary General.

The Assembly :- The assembly was to consist of representatives of all the members joining the league, each state being entitled to maximum of three delegates, but only to one vote. Although there was no demarcation of function between Assembly and Council certain functions are exclusively performed by Assembly e.g. admission of new members by two-third majority, nominated the non-permanent members of the council and approved or ratified the appointment of Secretary General.

Council :- The council was to consist of representative of Chief Allied powers viz; Great Britain the United States, France, Italy & Japan with Four other members elected by Assembly.

Unfortunately America could never join it although President Wilson inspired and encouraged the establishment of league of nations and therefore place of America was filled by smaller states which was elected by the Assembly.

Exclusive functions performed by council included the nomination of additional members of the council, preparation of plans for reduction of armaments to advise the members in regard to defence and external aggression and for maintaining territorial integrity of the members. The council formed something like the executive or cabinet for the league.

3) The Secretariat : The Secretariat of league of nations consisted of 600 officers and subordinate officials. It was headed by Secretary General who was appointed by unanimous decision of council. League of nation deserves the credit for establishing an international civil services in the real sense of terms & it was the league experiment which was further developed and perfected by United Nations. The duty of secretariat was to prepare business for Assembly and Council.

The other major agencies connected with league were:

The permanent Court of International Justice:

- The Court was to deal with international disputes referred to it by the council.

- The International labour Organisation (ILO): It dealt with all kinds of labour problems.

FUNCTIONS & OBJECTS OF LEAGUE OF NATION:

"The High contracting parties in order to promote international cooperation and to achieve international peace and security by acceptance of obligation not to resort to war, by prescription of open, just and honourable

relations between nations, by a firm establishment of understanding of international law as the actual rule of conduct among Governments and by the maintenance of justice and scrupulous respect for all treaty obligations in the dealings of organised peoples with one another agree to covenant of the league of nations"

Thus the main functions of league were two, viz:-

- 1) the maintenance of international peace and security
- ii) the promotion of international co-operation

#### The Maintenance of World Peace:-

The avoidance of war by the peaceful settlement of disputes was the main objective of the league and with a view to achieving that objective various provisions were inserted in the covenant.

1) Art.8 of covenant recognised that the maintenance of peace required the 'Reduction of National armament to the lowest point consistent with national safety' and the enforcement by common action of international obligations and for this purpose required the council to formulate plans for such reduction for consideration and action of several governments.

2) To preserve as against external aggression, the territorial integrity and existing political independence of all members of league U/Art.10. This Article constituted a general territorial guarantee as against external aggression of territorial arrangements of the peace settlement of the treaty of versailles.

3) Art.11-17 of covenant contained the 'Scheme for achieving the peaceful settlement of dispute.

Art.12: enjoined upon the members not to employ force for settlement of dispute but to submit the matter either

to arbitration or judicial settlement or to enquiry by council.

Art.14: enabled the council or assembly to refer any dispute or question to permanent court of Arbitration for its advisory opinion.

Art 16: If any member of league resorted to war in violation covenant it should ~~RESO-~~facto be deemed to have committed an act of war against all other members of league who should thereupon immediately sever all trade or financial relations and prohibit all intercourse between their nationals and the nationals of covenant breaking state.

4) Yet another important function of league of nations was to bring about peaceful change in international relations.

#### DISARMAMENT : UNDER LEAGUE OF NATIONS

The question of disarmament is very intimately connected with security. which would remain a paper security if the nations could not be persuaded to disarm. But this was a problem which presented great difficulties and eventually proved insoluble. Each nation wanted some other nation to take initiative in matter of disarmament. The fact is that national Armament might be dangerous in future but disarmament might be still more so.

Compulsory disarmament had been imposed upon Germany but she contended that she accepted it or hope that other nations would disarm in pursuance of one of the provisions of covenant of league which contemplates

A general limitation of armament of all nations.

But despite this there was no general disarmament.

Some success was achieved in respect of prevention of rivalry in naval armaments. A conference was held in 1921 in Washington by which five great Naval Powers Great Britain the United States Japan, France and Italy agreed to limit their battleships, cruisers and aircraft carriers in a fixed ratio. Though it was not a total success yet the 'Washington Treaty' represented the most substantial efforts to secure disarmament since the armistice.

Attempts were almost made to secure a general limitation of Land Armaments. In 1926 League appointed a Commission to study the problem and make recommendations preparatory to the calling of disarmament conference. Commission submitted its draft after 5 years. The World Disarmament conference met at Geneva in 1932 but as France's and Germany's view points being diametrically opposite, nothing came out. France did not disarm as its vital necessity was security which it wanted to base on its military superiority. Germany felt insecure in such circumstances. The conference could not settle the matter and was adjourned. Thus the final attempt to keep alive the spirit which created the Hague ended in failure.

Germany now dominated by Hitler withdrew from conference in 1933 proclaimed his intention of rearming despite the treaty of Versailles.

#### Weakness and defects of LEAGUE OF NATIONS

##### Breakdown of collective Security:-

The League of Nations had made sincere efforts to promote national security and international peace for about fifteen years since the treaty of Versailles. But the League could not be better than the members who composed it and members could not be brought to abide by its recommendations if



these conflicts with their national interests real or fancied.

The fact is that the world war had greatly intensified nationalism and made it very exclusive and intolerant. Each national state was regarded as an end on itself and waited to place its own interest over and above everything else. When this was the feeling every where we cannot expect that sub-ordination of national interest & policy to international adjustment which alone could ensure the success of league.

No wonder a generous experiment failed.

#### AMERICA COULD NOT JOIN THE LEAGUE:-

Although president Wilson of America contributed much for establishment of league of nations, yet it was unfortunate that America could never become its member.

Reasons being the league of nations was a multi-lateral international treaty and therefore for becoming member consent or ratification of American Senate was required and the same could not be obtained and hence America did not join league of nation.

#### UNANIMITY CLAUSE:-

One of the main defects of covenant of league of nation was not all the decisions of the council were to be taken unanimously. since nations were divided in different groups it was not possible to decide many matters by unanimous decisions. Thus unanimity principle incorporated in order to improve league's efficiency proved detrimental and obstructed its day to day working.

#### WAR NOT PROHIBITED COMPLETELY:-

Yet another defect of league of nations was that it did not completely prohibit war the covenant permitted member



state to resort to war under certain circumstances.

Under covenant members were under obligation to settle their dispute through arbitration, judicial settlement or enquiry by council and when problems could not be solved by these peaceful means they could go to war after the lapse of three months. This was the main constitutional defect of the covenant.

#### IMPOSITION OF AMENDMENT OF COVENANT

Covenant provides that if any amendment of covenant is not acceptable to any state then that member ceased to be the member of league of nations.

This provision proved to be fatal because in course of time a number of states ceased to be members of league of nations.

#### WITHDRAWAL:

Covenant provides that member could withdraw from league by giving two years advance notice. This provision also proved fatal and in course of time number of states decreased from 62 to 32.

It was perhaps for this reason that in San-Francisco conference in 1945 when matters relating to withdrawal of states from United Nation was discussed. Majority was in favour of exclusion of this provision and eventually charter of United Nations contains no provision regarding withdrawal of members from organisation.

Yet another defect was that great powers always considered their selfish interest over and above all things.

#### P.B.Potter remarked:

"The ultimate culprits in failure of league of nations were the members states. It was not the league of nations but the nations of the league which failed in so far as there was a failure.

One of main defects of league of nations was that it failed and failed miserably to perform its main and primary function of establishing peace in the world. which ultimately leads to outbreak of IInd World War.

Although it is not correct to say that league of nations pioneered in all aspects of international organisation because it was indebted to the development in the field of international organisation which has preceded it yet it cannot but be admitted that it made the first important attempt to establish a general and comprehensive global international organisation. The experiment made by the League of Nations was further developed and perfected by United Nations.

The failure of the league of nations to avert a Second World War did not destroy the conviction shared by many that only be some form of general organisation of states could a system of collective security be achieved which would protect the international community from scourage of war. The allies were, even in 1941, calling themselves "The United Nations" and by 1943 the Moscow declaration had recognised the necessity of establishing at the earliest practicable date a general international organisation, based upon the "principle of sovereign equality of all peace loving states" large and small for the maintenance of international peace and security". The formulation of definite plans for such an organisation took shape in stages, at Teheran in 1943, at Dumbarton Oaks in 1944 at Yalta in 1945 and finally at the San Fransico conference in 1945 where fifty governments, upon the basis of the Dumbarton oaks proposals prepared by the four sponsoring states together drafted the United Nations Charter

CHAPTER -3AIMS AND OBJECTIVES OF UNITED NATIONS

The United Nations is an international organisation of the states founded after second World War for the purpose of preventing wars in future, for maintaining international peace and security with additional functions of developing friendly relations among nations, achieving international co-operation in Economic, Social, Cultural and International rights and fundamental freedoms for all and of providing a means for harmonising international actions to achieve these aims.

The United Nations Charter outlines all the United Nations subsequent relationships and programmes. The charter also is a multilateral treaty establishing the pattern of agreements among members also obligations of its members and as such is an important addition to the international law. As a written constitution, the charter provides aims and objectives organisational structure, principles, powers and functions of United Nations.

Details regarding aims and objectives, purposes and principles of United Nations are found in the Preamble of United Nations, Article 1 and article 2 of the Charter. The Preamble of the Charter reads as :

"We the people of United Nations determined to save to save succeeding generation from the scourage of wars which twice in our life time has brought unfold sorrow to mankind, and to reaffirm faith in fundamental human rights in the dignity and worth of human person, in the equal rights of men and women and of the nations large and small, and to establish conditions under which Justice and respect

for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom and for these ends.

to practice tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security and

to ensure, by the acceptance of principles and the institution of methods, armed forces shall not be used, save in common interest, and

to employ international machinery for promotion of the economic and social advancement of all peoples

have resolved to combine our efforts to accomplish these aims."

Thus from the text of preamble it is clear that the preamble indicates that charter of U.N. was born as a result of the experiences of devastating war and that it holds out hope for a lasting peace based on recognition of fundamental human rights which have been the casualties of war, on recognition of sovereign equality of all states and on better Economic and Social conditions for the millions who have been the victims of oppression and exploitation.

Whatever might be the interpretation given to the preamble, it has to be admitted that the teeming millions all over the world opined for a World Organisation which would ensure peace and security and that charter reflects the prevailing mood of mankind inspite of many failures and frustration which the organisation suffered from time to time.

Art.1 of the Charter contains details regarding purposes and objectives for which United Nations was established:

The primary goal of both the league of nations and the United Nations is to maintain international peace and security. The means for goal achievement include:

- Peaceful settlement of disputes and
- Collective measures for the prevention and removal of threats to the peace and acts of aggression.

Major sections of the charter details the instruments and methods for implementing this objective. The security council is assigned primary responsibility for peace maintenance but shares these functions with General Assembly and the international court of justice.

This first and primary purpose of United Nations as mentioned in the charter when reproduced reads as under:-

" To maintain international peace and security and to that end; to take effective collective measures for the prevention and removal of threats to peace, and for the suppression of acts of aggression or other breaches of peace and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of peace."<sup>7</sup>

Maintenance of Peace and Security as an objective:

The present charter, like the Dumbarton Oaks proposals, makes the maintenance of peace and security the first purpose of united nations.

None of the other purposes of the Organisation can be achieved without peace and security. Formal peace alone is not enough. Armed peace with fear of war as recurrent

7. Art1(i) of the Charter(U.N.)



theme is not sufficient for achievement of the purpose of United Nations. Peace must be accompanied by a feeling of security, security from the war in particular.

"Means for maintaining international peace and security"<sup>8</sup>

The means for attaining international peace and security could be broadly discussed into two:-

1. To maintain international peace and security "effective collective measures for the prevention and removal of threats to peace and for suppression of acts of aggression and other breaches of peace" are to be taken i.e. principle of collective security.

2. The charter also proposes to achieve the maintenance of international peace and security by bringing about "by peaceful means" and adjustment or settlement of international disputes or situation which might lead to breach of the peace"

"In Conformity with the principles of justice and International Law."

This phrase was not contained in Dumbarton Oaks Text but was inserted at San-Francisco on the recommendation of several governments including the four sponsoring governments. The insertion of these words were intended to provide a safeguard against the settlement of international questions on the basis of political expediency.

It was intended to avoid such a sacrifice of rights of small nations in the interest of doubtful peace as was made at Munich.

2 The second objective mentioned in United Nations charter is

" To develop friendly relations among nations based on respect for the principle of equal rights and self determination of peoples, and to take appropriate measures to strengthen Universal Peace."

In Dumbarton Oaks proposal the words " to develop friendly relations among nations alone were used. It was at San Francisco on proposal made by sponsoring governments that the words "based on respect for the principle of equal rights and self determination of peoples" were added.

#### THE PRINCIPLE OF SELF DETERMINATION

The principles of self determination has been incorporated in Art 1(2), Art.55 and Art.56 of united nations charter.

Art.55 deals with promotion of international economic and social co-operation with a view to the conditions of stability and well being which are necessary for peaceful and friendly relations among the nations based on the respect for the principle of equal rights and self determination of peoples.....

It is further provided that

"All members pledge themselves to take joint and separate action in co-operation with the organisation for the achievement of purposes set forth in Art.55"<sup>9</sup>

In Advisory opinion of international court of justice in Western Sahara Case<sup>10</sup>

"These provisions have direct and particular relevance for non-self governing territories, which are dealt within Ch- XI<sup>11</sup> of the United Nations Charter."

<sup>9</sup> Art 56 of United Nations Charter.

<sup>10</sup> Western Sahara case, I.C.J.Reports (1975) para 54 I.L.34

<sup>11</sup> Declaration regarding Non-self governing Territories.

Although principle of self-determination have been incorporated in United Nations Charter there is a great deal of controversy on the point that

Whether the principle of self-determination has become binding principle of international law including laws of United Nations.

Several views have been put forward regarding this point

Firstly, it is contended that the self determination had become principle of international law even before the adoption of United Nations charter rather it is said it is incorporated in the charter only because it has already become principle of international law.

This view has been supported by several Russian authors like V.V. Lyubomudrova and Speranskaya. However, this contention cannot be outrightly accepted and is not very convincing.

Second view is

Art.1(2) simply states the concept of sovereign equality of states. It does not introduce a new concept of self determination rather it is simply a warrant for enforcing the principle of democratic government on these states.

Hans Kelson has argued that this view is in accordance with principle of sovereign equality of members of United Nations mentioned in Art 2(1) as also restrictions put on the United Nations by Art 2(7) which prohibits intervention in matters essentially within the domestic jurisdiction of States.

Thirdly, it has been pointed out that

The Charter of United Nations introduces the principle of self determination as a rule of international law and as such parties to it are under legal obligation to accord



self determination to their peoples. This conclusion results from provisions of Art 1(2), 55 and 56.

Fourthly, The United Nation Charter has not made the principle of self determination as a rule of international law. It is simply a political principle for building a community of states.

However, S.Prakash Sinha<sup>12</sup> has pointed out three great limitations on the principle of self-determination:

- i) There is a lack of adequate measure of the definition of self determination in United Nation Charter.
- ii) The Principle of self-determination in Art 1(2) is only sub-servient to certain purposes of United Nations such as to maintain 'International peace and security', 'to develop friendly relations among nations' and 'to be a centre for harmonizing the action of nations.'

Accordingly if in a particular case, self-determination results in undermining either friendly relations among nations or Universal peace it cannot be upheld within the meaning of this Article and

- iii) Art 2(Z) of United Nations Charter which prevents intervention in matters essentially within the domestic affairs of state is also a great limitation for the issue of self-determination, law arise only within a existing state.

The three factors stated above do diminish significantly a states obligation under the charter with respect to self-determination.\*

Principle of Self determination AND GENERAL ASSEMBLYS RESOLUTIONS AND OPINION OF INTERNATIONAL COURT OF JUSTICE:

\* In the Declaration on the Granting of Independence to Colonial Countries and Peoples.<sup>13</sup>

The principle of self determination as a right of peoples and its application for one purpose of bringing all colonial situation to a speedy end were enunciated.

12 S.Prakash Sinha, 'Has self-Determination Become a principle of international law today? IJIL Vol 14 (1974) P.No. 332-335-336

13 General Assembly Resolution 1514(XV) of 14th Dec.1960.

In a resolution General Assembly proclaims the necessity of bringing to a speedy and unconditional end of colonialism in all forms and manifestations.

It inter alia provides:

" All peoples have a right of self-determination by virtue of that right they freely determine their political status and freely pursue their Economic, Social and cultural development. Immediate steps shall be taken in trust and non-self governing territories or all other territories which have yet not attained independence to transfer powers to the people of those territories, without any condition or reservation, in accordance with their freely expressed will and desire, without any distinction as to race, creed or colour, in order to enable them to enjoy complete independence and freedom. Any attempt aimed at the partial or total disruption of the national unity and territorial integrity of country is incompatible with the purposes and principles of United Nation Charter."

Thus the above provisions laid down in resolution fully confirm and emphasised that the application of right of self-determination requires free and genuine expression of the will of the people concerned.

International court of justice has referred this resolution in its Advisory opinion on 21st June, 1971 on "The Legal consequences for states of continued presence of South Africa in Namibia (South West Africa) notwithstanding security councils resolution 276, 1970"<sup>14</sup>

With regards to development of international law in relation to Nonself governing territories the World Court concluded:

In the domain to which the present proceedings relate, the last fifty years have brought important

14 ICJ Reports (1971) P.No.16.

developments. These developments leave little doubt that ultimate objective of the sacred trust was the self-determination and independence of people concerned. In this domain as elsewhere, the Corpus Juris gentium has been considerably rich and this the court, if it is faithfully to discharge its functions may not ignore it."

Again in its Advisory opinion in the Western Sahara case<sup>15</sup> the international court of justice has rightly remarked "The General Assembly resolution 1514(XV) provides the basis for the process of de-colonization which has resulted since 1960 in the creation of many states which are today members of United Nations."

The General Assembly vide its Resolution 1654(XVI) of Nov 27, 1961 has reaffirmed the principle of self determination. It was further reaffirmed in General Assembly declaration on Non intervention<sup>16</sup> and on declaration of principles of international law concerning friendly relations among nations in accordance with charter of United Nations<sup>17</sup>

The resolution reiterates the basic need to take into account the wishes of concerned people: The Resolution 2625 further provides:

The establishment of Sovereign and independent states or emergence into any other political status freely determined by people constitute modes of implementing the right of self determination by that people."

Resolution further provided:

Every state has a duty to promote, through joint and separate action, realization of the principle of equal rights and self determination of people in accordance with the provisions of the charter and to render assistance to

<sup>15</sup> I.C.J. REPORTS, 1975 Para 57

<sup>16</sup> Resolution 2131

<sup>17</sup> G.A Resolution 2625 (XXX) of 24th Oct.1970

the United Nations in carrying out the implementation of the principle in order. To bring speedy end to colonialism having regard to the freely expressed will of people concerned.

It further stated:

Every State has a duty to refrain from any forcible action which deprives people of their right to self determination and freedom and independence. In their action and resistance to such forcible action in pursuit of exercise of their right to self determination. Such people are entitled to seek and to receive support in accordance with the purposes and principle of the charter. The principles of the charter which are embodied in declaration constitute basic principle of international law and appealed to all the states and even non members to be guided by these principles in their international conduct and to develop their mutual relations on the basis of strict observance of these principles.

Thus it could be safely concluded that the Resolution 1514(XV) and other resolution on self determination, have not only assumed legal implication but have assumed binding forces in the process and context of colonialism

In the First place

These resolutions supporting self determination have been passed by overwhelming majority states.

Secondly,

They may be deemed to interpret and implement the provisions of the charter.

Thirdly,

Their recitation in numerous resolution shows the international standard of states on the principles of self-determination.

Last but not the least

In its advisory opinion international court of justice has supported it.

Thus it is now crystal clear in light of numerous General Assembly Resolution that "All people under Alien Subjection have a right of self-determination"

The Question of Self Determination in Kashmir:

When on 26th October, 1947, Maharaja Hari Singh of Jammu and Kashmir executed the instrument of accession, from that very day Jammu and Kashmir became part of India and from that very day Pakistan has been meddling in internal affairs of Kashmir on one pretext or another.

In respect of Kashmir Pakistan has always claimed that plebiscite be held and India is bound to do so. The basis of plebiscite is the principle of self-determination i.e. to give the people of territory the opportunity to determine their future. Self-determination usually means two rights:-

- 1) The right of the people to determine as to which country they would belong to
- 2) The right of people to determine the type of Govt. they will have.

The principle of self determination is not binding principle of international law under all circumstances. As principle of self determination finds mention in Art.1(2) of Charter which deals with purpose of United Nations and the same are not binding.

Though at early stage India had agreed to hold plebiscite in Kashmir subject to the condition the Pakistani armed forces be first withdrawn from Pak-occupied Kashmir.

Since this condition was not fulfilled plebiscite



could not be held. Now India claims that in view of changed circumstance there is no justification for holding plebiscite. India's view is supported by America, Britain and other western countries since 1990 and they have consistently expressed the view that plebiscite in Kashmir is no more essential and that India and Pakistan should settle their problems under Simla Agreement (1972).

The congressional paper, prepared by the Congressional Research Service (CRS) of America entitled

"The Kashmir dispute: historical background to the current struggle" published in September, 1991, the plebiscite, as envisaged in U.N. Resolution of 1947 and 1948 has virtually lost its relevance as a solution to Kashmir problem.

Earlier in June 1991, U.S. Congress:

had rejected the plea of plebiscite in Jammu and Kashmir.

Stephen Solarz, a congressman viewed that holding of plebiscite in Kashmir in order to give the people of territory the opportunity to determine their own future "would constitute a highly unjustified and unwarranted interference in the internal affairs of India, and would have a chilling effect on Indo U.S. Relation.

He further added

If you give every minority the right to secede democracy will cease to exist.

Moreover, in view of Art. 55 and 56 and U.N. General Assembly's resolution, state practice and Advisory opinion of international court of justice is that

The principle of self determination has become binding principle of international law only in context of colonialism. It cannot be applied to establish states.

Indeed Kashmir is not a colonial situation and hence principle of self determination, and for that matter plebiscite, cannot be applied as binding principle of international law in respect of Kashmir.

Prof. Rahmatullah Khan has pointed out and rightly too,

"The principle of self-determination must be deemed to have application in the process of decolonisation alone. It could not be applied to establish states in their territorial disputes. No such state is likely to espouse this principle and invite self destruction. For what else would it be but self destruction if India accedes to the demands of Nagas, Mizos and others or if Iraq concedes the demands of the Kurdish claim or if the U.S. allow extremist Black panther demands for a separate Negroland."

THE SELF DETERMINATION AND KURDS:

INTERVENTION BY AMERICA AND UNITED NATIONS:

After being badly defeated by America and its allied powers during Gulf war, Iraq was confronted with many serious problems one of such problem insurgency by the Kurd people who had utilised this opportunity for starting struggle for self determination and independence from Iraq. Soldiers loyal to president Saddam Hussein ruthlessly crushed the Kurds revolt. Because of these atrocities committed on them lakhs of kurds fled crossing the border of Turkey and Iran. About 15 lakhs kurds became refugees in their own country as well in the neighbouring countries.

On 4th March, 1991, America warned Saddam Hussein to stop the use of helicopters against the Kurds.

On 5th March, 1991 the United Nations Security council passed a resolution asking Iraq to allow international humanitarian agencies to visit Iraq without any obstruction.

The resolution condemned Iraqi repression of its civilian population and added that it posed a threat to international peace and security as large number of refugees were fleeing across Iraqi border.

On 12th April America intervened and announced that it would implement four-point "Operation provide comfort" With respect to the above said aspect following legal question arise:-

First question is whether Kurds had a right to ask for self determination?

Iraqi repression against Kurds is a flagrant violation of human rights and deserves universal condemnation. As regard question of right of self determination, it is not a binding principle of international law under ordinary circumstances. The principle of self determination has become a binding principle of international law only in context of colonial situation. Iraq is an established state and is not bound to give to its own people the rights of self determination.

The next legal question that arises is:

Whether the United Nations or for that matter any state has the right to intervene in the internal affairs of Iraq? International law prohibits intervention. The Charter of United Nations propounds the principles of how intervention by states under Art 2(4) and by the United Nation Art.2(7).

Under Art.2 even the use of force is prohibited. Individual and collective self defence is however an exception to this rule. But this is very limited right and can be exercised under the conditions mentioned in Art.51 of United Nations Charter. One of the conditions mentioned in Art 51 is "if armed attack occurs against members of United Nations" there is no such thing in respect of Kurd people in Iraq.



Hence establishment of refugees camps within Iraqi areas to provide them armed security to warn Iraq not to cause repression of Kurd's people and to remove its enemies from southern Iraq to render assistance to Kurds people etc. are flagrant violation of territorial integrity or political independence of Iraq. America took the defence that it intervened to render assistance on humanitarian grounds. But the Charter of U.N. does not permit any member state of U.N. to intervene in internal affairs of any other member state on humanitarian grounds.

Thus American action is clearly violative of rules of international law.

#### UNITED NATION'S SECURITY COUNCIL

Even United Nations cannot interfere in the internal matters of any member state except when it takes an enforcement action under Ch. VII of the charter and more so action under Ch VII cannot be taken merely on the grounds of violation of human rights. Action could be taken only if it posed a threat to international peace and security.

The resolution passed by security council on 5th April, 1991 expressly mentioned that "repression" of Kurds in Iraq posed a threat to international peace and security.

Thus security council's action in taking charge of refugee camps of Kurds in Iraq to render them assistance and to direct Iraq not to cause atrocities upon Kurd people is valid and legal.

#### (3) INTERNATIONAL CO-OPERATION IN SOLVING INTERNATIONAL PROBLEMS OF ECONOMIC, SOCIAL AND HUMANITARIAN CHARACTER:

Second only to peace maintenance, the charter emphasises the aim of promoting international economic and social co-operation the charter provision in Art.1(3) when

reproduced reads as:

To achieve international co-operation in solving international problems of an Economic, Social cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion."

This clause of Article 1(1) affords clear evidence that the framers of the charter recognised that the maintenance of peace and security is not solely a matter of settling disputes or dealing with threats to the peace or cases of actual aggression. There is also a need of creating conditions, other than purely political ones, favourable to the existence of peace.

Thus charter recognises that international organisation set up primarily to provide peace and security must also actively concern itself with the improvement of the economic and social conditions of peoples and the widening of the area of human freedom.

The Economic and social council is to serve as the major organ for implementing this goal with substantial support from the General Assembly and from such autonomous international specialised agencies in the economic and social sphere as the government may create and bring into formal relationship with United Nations.

Besides, additional support may come from subsidiary bodies of ECOSOC and through consultation with non-governmental organisation. Some of the obligation under the trusteeship provisions of the Charter and some of guarantees made to all non-self governing people also fit into the economic and social category.

4) TO MAKE THE UNITED NATIONS A CENTRE FOR ATTAINMENT OF ABOVE COMMON ENDS:

The last purpose of the United Nations is to make it a centre for harmonising the actions in the attainment to those common ends. This purpose was accepted at San Francisco without discussion.

A more reasonable interpretation of Art 1(4) would seem to be that United Nations is to be the means for harmonizing the actions of nations in the attainment of common ends. The emphasis is thus placed and quite properly, on necessity of agreement as the basis for action because it is only by an agreement between the states concerned, not by the votes or by coercive measures that the purposes of an organisation can be achieved. Consequently, a central purpose of an organisation is to provide the means for achieving agreements.<sup>18</sup>

BASIC PRINCIPLES OF THE CHARTER

Immediately following the primary statement of purposes, the charter in Art 2, establishes the basic rules of conduct or principles upon which the united nations is founded and it is hoped upon which will operate.

In addition to the list in Art 2, several other general rules are scattered throughout the charter. Although all provisions of the charter are in theory, legally binding, these statements are basic standards or norms underlying the structure and operation of United Nations system. These principles, therefore, represent the most fundamental obligation of members of United Nations and are the basic legal standard to which they promise adherence.

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<sup>18</sup> Goodrich and Hambro: The Charter of United Nations.

Following are the principles of united Nation mentioned in Art 2 of United Nations Charter:

1) The Principle of the Sovereign equality of all members:

The first and probably the most fundamental principle is the "Sovereign equality of the members" The expression "the sovereign equality of all peace loving states" first appeared in the Moscow four power declaration of October, 1943. The Dumborton Oaks proposals used the same phraseology. This was modified at United Nations conference in San Fransico to make the principles applicable only to members since it was not considered appropriate or desirable to give non-members the benefit conferred by the charter. According to this principle

All the members of the United Nations are equal in the eyes of law irrespective of their size or strength. They are all equal in eyes of law irrespective of their size and strength, and no discrimination can be made on any basis. Undoubtedly it is an important principle and framers of the charter deserve credit for having included this principle in the charter.

However, this is not an absolute principle and admits certain exceptions.

Some inequality has been recognised in according permanent security council's membership to the great powers and in the unequal assignment of responsibilities and financial assessments.

Thus permanent members (Great powers) have been conferred upon some special privileges and rights. According to Art.27, for the decision on all the permanent members in security council, the affirmative vote of all the permanent members is essential.

Besides, according to Art 108 for amendment of the Charter it is necessary that it should be adopted by two-thirds majority of members of united nations and ratified by government of these states but the majority of two thirds must include the five permanent member of security council.

Thus United Nations is based on the principle of sovereign equality of states but the great powers are in reality unequal to smaller states.

In fact great powers have been conferred upon with special powers in the charter with the hope that these great powers would co-operate in the same way as they did during second world war and would thereby establish peace and security in the world. But unfortunately immediately after establishment of United Nations conflict started among permanent members and they did not fulfil their responsibilities and obligation which the charter imposes upon them.

Moreover, the fact that United Nation is an Organisation of sovereign states places drastic restrictions on the independent power of the organisation. Sovereignty indicates that the members reserve the power of ultimate decision making for themselves and confer no real authority upon international agency.

This reservation of authority requires the United Nations to depend for its effective performance on the willingness of the members to co-operate in collective action and to accept frustration when co-operation is withheld in favour of national interests.

LIMITATIONS:- Certain limitations have also been put upon sovereignty concept in charter. For instance it is the mandatory obligation to carry out certain decisions of the



Security Council but in practice this obligation proves almost meaningless.

Moreover, the admission to membership of non-self governing political units such as the Ukraine serves as an exception to the strict application of the principles of sovereignty. However, the principle of sovereignty is one of the corner stones upon which the United Nations is constructed.

2) The Second Principle of the United Nations: is that all members in order to ensure <sup>to</sup> all of them the rights and benefits resulting from membership shall fulfil in good faith the obligations assumed by them in accordance with the present charter.

### 3) PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES:

All members shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered.

closely related to the primary goal of the United Nations to maintain international peace and security are the twin principles that all members states.

- 1) shall refrain from the threat on use of force in any manner inconsistent with purposes of United Nations and
- 2) shall settle their international disputes by peaceful means.

The substitution of peaceful settlement for reliance on force has been disappointing in the United Nations record. Portions of charter that envisions the establishment of international military forces have not been implemented.

The United nations has lacked the means to ensure either in the first instance that the disputes will be submitted to international agencies for settlement or in the second place that the settlement procedure or enforcement will be effective.

Although international peace will always be relative rather than an absolute condition the number of unsettled disputes, the numerous instances of recourse to force and the frequent refusals to submit disputes to United Nations agencies attest to the lack of success since 1945 in substituting peaceful settlement for reliance upon force.

#### 4. PRINCIPLE OF NON-INTERVENTION

According to the Fourth principle of United Nations, "All members shall refrain in their international relations from the threat or use of force against territorial integrity or political independence of any state or any other manner inconsistent with the purposes of United Nations."

The words "against the territorial integrity or political independence of any state" were inserted at United Nations conference in response to demand by certain smaller states that these should be included in the charter some more specific guarantee that force could not be used by the more powerful states in violation of the "territorial integrity and political independence" of weaker states.

"In their international relations" the phrase limits the application of principle to the international relations of members i.e. their relations with other members and with states not members of the United Nations in much the same way that the words "as against external aggression" limited the application of Art 10 of covenant.

5) The next principle is that "All members shall give the United Nations every assistance in common action it takes in accordance with the present charter and shall refrain from giving assistance to any state against which United Nations is taking preventive or enforcement action."

6) The Organisation shall ensure that states which are not the members of United Nations act in accordance with these principles so far as may be necessary, for maintenance of international peace and security.

The obligation to support United Nations enforcement actions is essential to the integrity and reasonable degree of effectiveness of the organisation. Without co-operation of non-member states any assurance of effective or efficacious action by the United Nations is diminished.

The experience of league of nations with lack of will by members to apply and enforce league principles and uncertainties concerning support for league measures by a non-members such as United States serve as cogent reminder of the importance of both principles.

1) NON INTERVENTION IN DOMESTIC MATTERS OF STATE:

Art.2(7) states "nothing contained in the present charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the members to submit such matter to settlement under the present Charter."

THE PRINCIPLE OF NON INTERVENTION UNDER UNITED NATIONS CHARTER ART.2(4) AND 2(7)

The word 'intervention' has been defined as dictatorial inference by a state in the affairs of another state for the purpose of the maintaining or altering the actual condition of thing.

In principle international law prohibits intervention the prohibition of intervention" is the corollary of every states right to sovereignty, territorial integrity and political independence." But as pointed out by Hans



Kelson, International law does not prohibit intervention in all circumstance. According to him, when one state intervenes in the affairs of another state through force, then as a reaction against this violation, international law permits intervention.

The principle of non intervention propounded under the charter under Art 2(7) is applicable to the United Nations and in Art 2(4) is applicable to states.

Art.2(4) runs as follows:

"All states- - - - - United Nations"

This principle has to be re-affirmed by General Assembly through its resolution 2131 (XX) of December, 1965.

The governments of states also accept this principle. Again in 1970, the General Assembly adopted unanimously a resolution entitled

Declaration on principles of International law concerning friendly relations and co-operation among states in accordance with the charter of United Nations. The resolution declared 19

"Every state has the duty to refrain from organising, instigating, assisting or participating in acts of civil strife or terrorists acts in another state or acquiescing in organised activities within its territory directed towards the commission of such acts, when the acts referred to in the present paragraph involve a threat or use of force".

As regards the non intervention the resolution added:

"No state or group of states has the right to intervene directly for any reason what-ever, in the internal or

19 General Assembly Resolution 2625 (XXV) of 24th Oct 1970  
GA, Official Records, Twenty fifth session, Suppl. No. 28  
(1971) PP 121-124

external affairs of any other state. Consequently, armed intervention and all other forms of interference or attempted threat against the personality of the state or against its political, economic or cultural elements, are in violation of international law.

"No state may use or encourage the use of economic, political or any other type of measure to coerce another state in order to obtain from it advantage of any kind. Also, no state shall organise, assist, forment, finance, incite or tolerate subversive terrorist or armed activities directed towards the violent overthrow of the regime of another state or interfere in the civil strife in another state.

It has been rightly remarked that the above resolution contains a far reaching interpretation of the fundamental principle embodied in Art 2 of the Charter.

Further, it is noteworthy that the General Assembly declared further that the principles of the Charter 'which are embodied in this declaration, constitute basic principle of international law.' and appealed to all the states, including the non-members to be guided by these principles in their international conduct and to develop their mutual relations on the basis of strict observance of these principles."

Reference may be made here of "Declaration on the enhancement of effectiveness of the principle of refraining from the threat or use of force in international relations", adopted by General Assembly on 18th November, 1987:

The declaration declared:

Every state has the duty to refrain in its international relations from threat or use of force against the territorial integrity or political independence of any state or in any other manner in consistent with the purpose of U.N. Such a threat or use of force constitute a violation of international law and the charter of U.N. and entails international responsibility.

2. The principle of refraining from the threat or use of force in international relations is universal in character and is binding regardless of each states political economic, social or cultural system or relations of alliance.

3. No consideration of whatever nature may be invoked to warrant resorting to threat or use of force in violation of charter of U.N.

4. States have a duty not to urge, encourage or assist other states to resort to threat or use of force in violation of charter of U.N.

5. States shall fulfil their obligations under international law to refrain from organising, instigating, assisting or participating in para-military, terrorist or subversive acts including acts of mercenaries in other states or acquiescing in the organised activities within their territory directed towards commission of such acts.

6. States have the duty to abstain from armed intervention and all other forms of interference or attempted threats against the personality of state or against its political, economic or cultural elements.

7. No state may use or encourage the use of economic, political or any other type of measures to coerce another

state in order to obtain from it the subordination of exercise of sovereign rights and to secure from it advantage of any kind.

8. In accordance with the purposes and principles of U.N.States have the duty to refrain from propaganda for war or aggression.

The Preamble of the above declaration recalls " that this principle is enshrined in Art.2,paragraph 4, of the United Nations charter and has been reaffirmed in number of international instruments and reaffirm the obligation to maintain international peace and security in conformity with the purposes of the United Nations".

Thus what has been stated above of declaration of 1970 is also true of this declaration and may be regarded as authoritative interpretation of article 2(4) of the charter or extension of charter itself.

#### Art.2(4) and the limits of use of force

Art 2(4) contains the prohibition of use of unilateral use of force or threat thereof by one states in their international relations.

The only exception to this recognised under the U.N.Charter is individual and collective self defence as contained in Art.51.

Prof.M.K.Nawaz has rightly interpreted it and has aptly remarked: 20

" The upshot of all this is to say that no state under international law especially the U.N.Charter can intervene with armed forces either to change the extend of government or to create a political environment for installing a government of its liking. Nor can it so act

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20 Dr.M.K.Nawaz: "What limits on the use of Force? Can Forfe be used to depose an oppressive government?" I JIL, Vol.24(1984).P.406 at p.410

militarily to suppress the process of self determination; the only exception being the state can get to the aid of another state if an armed attack occurs against it, presumably at the request of the attacked state".

So long as the words "armed attack" are retained in Art.51 this seems to be the correct interpretation of the charter. This interpretation also finds support from verdict of International Court of Justice indicating interim measures in case concerning Military and Para Military Activities in and against Nicaragua"

(NICARAGUA VS UNITED STATE OF AMERICA)<sup>21</sup>

The policy of United States in Nicaragua as openly declared by president Reagan was that

Unless the Nicaraguan government sought democracy the only other alternative for the rebels would be to have their way and take over with this policy in view the U.S. was giving \$ 10 million military aid to contras. The World Court by 14:1 votes held:

The right to sovereignty and to political independence possessed by the republic of Nicaragua, like any other region of the world, should be fully respected and should not be in any way jeopardised by an military or para military activities which are prohibited by principle of international law, in particular the principle that states should refrain in their relations from the threat or use of force against territorial integrity or political independence of any

state and the principle concerning the duty not to intervene in matters within the domestic jurisdiction of a state, principles embodied in United Nations Charter and the charter of organisation of American States".

Further:

I C J in its final verdict in June 1986<sup>22</sup> by 12:3 votes held:

The aiding of contra rebels with money and military hardware U.S. supported attacks on Nicaragua ports and oil installations and U.S. intelligence flight over Nicaragua territory constituted an infringement of Nicaragua's sovereignty and flagrant violation of principles of U.N. Charter which bars unlawful use of force by one state against another.

The World Court further held:-

There is no rule in customary international law permitting another state the right of collective self defence on the basis of its own assesment of the situation where the collective self defence is invoked it is to be expected that states for whose benefit this right is used will have declared itself to be the victim of an armed attack.

Further

" The lawfulness of the use of collective self defence by the third state for the benefit of an attacked state also depends upon the request by the state which is the victim of the alleged attack is additional to the requirement that such a state should have declared

22 ICJ Reports 1986 P.14 at p.104



itself to have been attacked."

INTERVENTION BY UNITED NATION AND THE CONCEPT OF  
DOMESTIC JURISDICTION

Art 2(7) of United Nation Charter provides nothing contained in the present charter authorises the United nations to intervene in matters which are essentially within the domestic jurisdiction of any state.

Exception to this general principle is also contained in Art 2(7) itself which provides that this principle shall not prejudice the application of enforcement measure under chapter VII

This principle is a great restriction upon the powers of United Nations. However, the term 'Domestic Jurisdiction' is not clear. Its meaning and implications are dependent upon the facts and circumstances. Some matters which were considered to be within domestic jurisdiction of the states at the time of the establishment of the charter are now considered matters of international concern. They have, therefore, ceased to be matters within the domestic jurisdiction of the states.

With the growth of international community and interdependence of states, the scope of 'domestic jurisdiction' is constantly diminishing. It is possible that matters which are now considered to be within domestic jurisdiction of states may in future be treated as matter of international concern and the United nations may be entitled to intervene in those matters.

Judge Lauter Patch has remarked:

"that any matter which is regulated by international law may not be a matter within the domestic jurisdiction of any state."

Again as regards the words "a matter which by international law is solely within the domestic jurisdiction of a State",

Prof. Eriery has expressed the view that

No matter which is regulated by international law can be a matter which the domestic jurisdiction of a state. Thus it is clear that United Nations can not intervene in the domestic jurisdiction of any state. But what these matters would be was not settled once and for all in advance. This was left to be decided pragmatically in the practice of United Nations."

On the perusal of historical perspectives, debates and conferences, it is clear that the representative of the states in San Francisco conference intended that the United Nations should neither discuss nor pass any resolution in regard to the matter within the domestic jurisdiction of any state. However, this conception has undergone a significant changes.

It is now well recognised that:-

Discussions in the United Nations and passing resolution to implement the provisions of the charter do not amount to intervention in the domestic affairs of any State.

Inclusion of any matter in the agenda of General Assembly, discussion on it, its study or passing of the general resolution would not amount to intervention.



M.S.Raja- Famous Indian Jurist has also made clear in his book that:

The resolution of General Assembly which was passed to fulfil international obligations of members are within the jurisdiction of United Nations. In the present time; The United Nations is also empowered to intervene in the civil wars of states when it is viewed that civil wars reach a stage which endangers international peace and security and it becomes necessary for the United Nations to take collective action.

Grounds of Intervention:-

The coming into force of the charter of U.N. has brought about revolutionary changes regarding the valid grounds of intervention. Most of the traditional grounds have ceased to be valid. The charter have however, introduced a new ground; namely, collective measures or collective intervention founded on the concept of collective security.

Broadly speaking, there are now only two valid grounds for intervention:-

One for the states i.e. self defence and the other for the United Nations i.e. collective intervention or enforcement action under Chapter VII of the charter.

1) SELF DEFENCE :- Self defence has been a valid ground of intervention for long time. On the ground of self defence a state may intervene in the affairs of another state. In this connection Mr. Webster, the Secretary of United States of America propounded a very important principle in famous case

The Caroline (1841)

In this case Mr. Webster declared the necessity of self defence and self preservation should be instant, over whelming and leaving no choice of means and no moment for deliberation.

This principle was reaffirmed by Nuremberg Tribunal in 1946. The test laid down in the Caroline was finally affirmed by the International court of justice in the Corfu Channel case<sup>23</sup>.

The test propounded by Mr. Webster is still valid with the only difference that intervention on the ground of self preservation is no more allowed. Thus instead of self defence and self preservation the valid ground now is only self defence that too very much limited and curtailed by Art 51 of the charter.

#### INTERVENTION ON HUMANITARIAN GROUNDS:

Intervention was permitted in the past on humanitarian grounds: After coming into force of U.N. charter not to talk of state even U.N. has been prohibited under Art.2(7) from intervening in domestic affairs of government on the grounds of human rights alone ! even U.N. cannot intervene in the affairs of any member state. It can, however, do so by connecting or linking the matter of human rights with that of maintenance of international peace and security i.e. if under Art.39 the Security Council determines that violation of human rights in any state poses a threat to peace or amounts to breach of peace then security council may intervene for them. The provision of chapter VII

become applicable. The U.N. recent intervention in Iraq on behalf of Kurdish people is the glaring example of such intervention.

## II) Collective intervention on collective measure

Under Chapter VII, Security Council has been empowered to take collective action if there exists a threat or breach of international peace and security or an aggression has taken place. In the first stage, the security council takes such collective measures as do not involve the use of force.

But if such action does not prove to be adequate the security council is empowered to employ armed forces. The United Nations took such action in Korea in 1950, and in Congo in the year 1961. The very recent instance of such action is Gulf War (1991) for the vacation of Iraqi aggression and occupation of Kuwait.

### INTERVENTION IN CIVIL WARS:

In view of continuous growth of international community, nations of the world have established close relation with each other. If any thing happens in the state, it is likely to affect directly or indirectly other states on this ground.

The question arises how far such type of intervention is justified in view of the fact that united Nation's charter has propounded the principle of non-intervention by the states in the affairs of other states.

It has been suggested that in civil war the united nations should have the right to intervene to check such type of war. Here also U.N. Council intervene only if security council under Art.39 declare that it

poses threat to peace or there is an act of aggression.

In Congo in 1961 when United Nations intervened in civil war it was successful in ending it. More recent instances of such intervention by United Nations are :-

- 1) Intervention in Iraq on behalf of Kurdish people
- 2) Intervention in Yugoslavia in civil war
- 3) Intervention in Somalia

Thus it could be safely concluded from above discussion that states may intervene in the affairs of another state only on the ground of self defence and the U.N. may intervene in the domestic affairs of member state on the ground of maintenance or restoration of international peace and security i.e. if any aggression has taken place or there is threat to international peace and security.

Some Historical precedents of intervention on the Grounds of Self-Defence and on other grounds:

1. Dropping of Supplies by Indian Aircrafts in Srilanka, despite opposition of Srilanka:-

The dropping of supplies in Jaffna (Srilanka) by Indian aircrafts on humanitarian grounds amounted to intervention in internal affairs of Srilanka and cannot be justified on any ground what so ever under international law.

In view of judgement of ICJ in case concerning military and para military activities in and against Nicaragua

(Nicargua V U.S.) (Judgement dated 27th June, 1986)

I C J held: In the absence of the request of a sovereign state concerned, entry of air-

crafts in the air space of that state amounts to intervention.

Since Indian action was not on the request of Srilanka, rather it was opposed by Srilanka, it was clearly violative of Art.2(4) of United Nations Charter.

Question of the withdrawal of Indian Peace Keeping forces (IPKF) from Srilanka:

IPKF were sent on the request of the President of Srilanka and hence when later requested for their withdrawal, they ought to have been withdrawn forthwith.

When the president, Premadasa asked India to withdraw IPKF by the end of July, 1989, India instead of withdrawing the IPKF as desired, connected the withdrawal of IPKF with devolution of Power in North East province. India, however, proposed to withdraw IPKF by 31st Dec. 1989.

The IPKF were not withdrawn even by Dec. 31st, 1989 it was only on 24th March, 1990.

Comment: Legal Aspects

It was wrong and unjustified on the part of India to connect the withdrawal of IPKF with devolution of power in the North Eastern provinces. As rightly pointed out by Justice Sri V.R. Krishna Iyer (retd) in his article "Peace even at the cost of prestige"<sup>24</sup> even an infant in international law will call this negative aggression - - - Negative aggression is where a foreign force once in by invitation for limited purpose exceeds that purpose or refuses to

24 Indian Express, 28th July, 1989.

return on revocation of the invitation."

Thus continued presence of IPKF after the request of Srilanka was clearly violative of International law.

#### Iraqi Invasion and annexation of Kuwait

On 2nd Aug, 1990, Iraq invaded Kuwait. Subsequently Iraq annexed Kuwait and declared it to be its 19th province of Iraq. An emergency session of security council was immediately called and Resolution condemning Iraq's action and asking Iraq to withdraw its forces unconditionally from Kuwait, was passed.

Subsequently the Security Council passed number of resolutions including resolution which set Jan 15, 1991 as a deadline to ask Iraq to implement security councils decision. But the resolution did not have the desired effect on Iraq.

Gulf war started on 17th Jan. 1991. America and its allied forces crippled Iraq's power and forced Iraq to withdraw its forces from Kuwait.

Iraq was clearly and without shade of doubt guilty of aggression against Kuwait and for that matter against the whole international community. Iraq's invasion and annexation of Kuwait was flagrant violation of Art 2(4) of the U.N. Charter. The Security council therefore rightly took action under chapter VII of the Charter.

Thus the most successful collective action taken by the security council under chapter VII of the Charter.



Kurd's problem and Legality of the action taken by America and the U.N.

After being badly defeated by America and its allies during the Gulf war, Iraq was confronted with many serious problems. One of such serious problems was insurgency of Kurd's people who utilised this opportunity for starting struggle for self determination and independence from Iraq, which was ruthlessly crushed by President Saddam Hussein's army. Due to atrocities committed by Saddam Hussein's army lakhs of Kurd's fled Iraq crossing borders of Turkey and Iraq about 15 lakhs became refugees on 4th March, 1991. America warned Iraq to stop the use of helicopters against Kurds and on 5th March, 1991 the security council passed resolution asking Iraq to stop repression of its civilians and to allow international humanitarian agencies to visit Iraq without obstructions.

The resolution condemning Iraq's action added that it posed a threat to international peace and security as large number of refugees were fleeing across Iraq's border.

Legal Aspects :-

The legal question that arises is whether the U.N. or for that matter any state has the right to intervene in the internal matters of Iraq?

Under Art 2(4) Even the 'Use of force' has been prohibited. Individual and collective self defence is however an exception to this rule.

But at the same time this is very limited right and can be exercised under the condition mentioned in Art 51 of the Charter of U.N. One of the conditions

mentioned in the Art.51 is " if armed attack occurs against member of United Nation."

There is no such thing in respect of Kurd people in Iraq. Hence the establishment of refugees camp within Iraq area, to provide them armed security, to warn Iraq not to cause repression of Kurds people etc. are flagrant violation of territorial integrity or political independence of Iraq.

America's claim that it intervened on the humanitarian ground cannot be accepted as U.N.Charter does not permit any member state of U.N to intervene internal affairs of any other member states on humanitarian grounds. Thus American action is clearly violative of rules of international law.

Even U.N.cannot intervene in internal matters of member states except when it takes action under Ch.VII of the charter i.e.for taking action under Ch.VII Security Council has first to determine under Art 39 that violation of human rights has reached such a stage that poses threat to international peace and security and thus action cannot be taken merely on the ground of violation of human rights.

The resolution passed by Security council on 5th April,1991 expressly mentioned that repression of Kurds in Iraq posed a threat to international peace and security. Thus Security Council's action in taking charge of refugee camps of Kurds in Iraq to render them assistance and to direct Iraq not to cause atrocities upon kurd people is valid and legal.



CRISIS IN SOMALIA:

The situation in Somalia is unique and unprecedented. The present crisis in Somalia is due to violence, civil war, famine and drought in Somalia. Armed Warlords of Somalia have been obstructing the deliveries of humanitarian aid to Somali people who are dying in large number due to starvation and diseases.

On 20th Jan, 1992 interim Govt. of Somalia requested the Security Council of U.N. to consider on the worsening humanitarian crisis, civil war situation in Somalia. Security Council by passing a resolution and acting under Ch. VII of Charter established an operation in Somalia called UNOSOM I & UNOSOM II to supervise ceasefire in Somalia.

Legal Aspect:

When Security Council takes action under Chapter VII of the charter, the principle of non-intervention by U.N. in matters of member states which are essentially within the domestic jurisdiction as provided under 2(7) does not apply.

As regards Somalia, the interim govt. of Somalia requested the council to consider worsening humanitarian problem and civil war.

Thus,

First U.N. took action at the request of Somalia

Second, council determined that humanitarian problem and civil war of Somalia posed a threat to international peace and security.

Third, when the council found that action not involving use of force proved to be inadequate

the council allowed the use of "all necessary means" (as it did in Gulf war 1991) to establish a secure environment for humanitarian relief.

Security council's action on Somalia is fully justified under international law.

The list of principles in Art.2 of the charter concludes with a severe limitation upon united nations authority. The limitation is the domestic jurisdiction clause which forbids United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state"

An exception to the application of the domestic jurisdiction principle is granted in last clause of Art 2 authorising Secretary Council to take enforcement action under Ch.VII without any restriction to domestic jurisdiction rule.Ch.VII deals with most drastic measures which security council may apply with respect to threats to peace, breaches of peace or acts of aggression.

Although the whole of Art.2 of the charter is devoted to basic principles at least a half dozen other provisions can reasonably be put in the same category of fundamental standard.

The preamble and Art 1 contain references to human rights not only as a goals but also as recognised principles.

Art I which primarily deals with purposes of United Nations also includes an obligation for "respect for the principle of equal right and self determination of peoples".

Another principle of charter is found in Art.51 of the "right of individual or collective self defence" against armed attack.

The primary responsibility for dealing with acts of aggression resides in security council and member states are obliged to report their responses to attack to the security council but are not required to wait for effective United Nations action before taking self defence measures.

Several additional principles are found in Art.102-103 of the charter.

The first of these provisions provides that "Every treaty and international agreement shall be registered by the members with the Secretariat and that no treaty not so registered shall be invoked before any United Nations organ,

A second principle under these Articles declares in case of conflict obligations under the charter shall take precedence over the obligations under international agreements.

Art 104 and Art.105 provides:

the standards for establishing the juridical capacity of united Nations and its privileges and immunities and those of its agents and representatives. These principles discussed above constitutes a substantial body of basic norms on which the United Nations structure and functions are super imposed.

The principles in combination with purposes of organisation represents the essential statement of philophy of United Nations and since philophy is not

very useful without implementation, the international behaviour of states will determine whether these norms or others are predominant in World Politics.

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CHAPTER - 4ORGANISATIONAL SET UP OF UNITED NATION ORGANISATION

24a

The twentieth century is a critical period in human history. Before it ran half its course it saw two World-Wars which in their progressive brutality and destructiveness portended a crisis to all that human civilization stands for. But crisis whether individual or international has sobering effect and man is led to think of higher things to avert its recurrence. The horrors of Napoleon wars stimulated the piety of Czar Alexander-I who evolved a scheme of Holy alliance of christian powers. The First World War produced the League of Nations which embodies President Wilson's effort to bring idealism to bear upon practical politics. But this idealism evaporated before the selfish consideration of individualistic diplomacy. International co-operation in the field of politics and maintenance of peace failed and second World War raised hydra-headed hood. But inspite of its past failure man's optimism is irrepressible and he has looked forward even in the midst of mortal perils of this heinous war to the prospect of realising the ideal of one 'World State' in which all nations may dwell together in unity. It is this ideal which gave birth to United Nations Organizations (UNO) on 24th October, 1945.

Born as a result of experiences of a devastating war that witnessed Nazi atrocities flagrant violation of human rights and death of millions of innocent people,

24a Chart showing Organisational set up of United Nations attached in Appendix I

it was quite natural for the framers of the Charter to have determined

" to save succeeding generations from the scourge of war, which twice in our life time has brought unfold sorrow to mankind, and to reaffirm faith in fundamental human rights in the dignity and worth of human person. In equal rights of men and women and of the nations large and small and for these ends to unite our strength to maintain international peace and security" and to ensure, by the acceptance of principles and institution of method that armed forces shall not be used save in the common interest" and to have resolved to combine our efforts to accomplish these aims"<sup>25</sup>

It was with this chief objectives that United Nations was established.

#### Attempts at U.N. Formation:

The United Nations history starts with the declaration made by President Roosevelt on January 6, 1941 to the Congress of the United States. The four freedoms declared in his speech as being of universal importance were:-

- a) freedom of speech and expression
- b) freedom of every person to worship God in his own way
- c) freedom from want and
- d) freedom from fear

These ideas formed the basis on which the United Nations were built. The United States had not initially entered World War II and has no thought of doing so in the

immediate future. Despite this, President Roosevelt's interest in the events taking place in Europe gave a boost to the Allied Powers. As a result of this, six months later, on June 12, 1941 an inter-allied declaration was signed in London.

(1) The Declaration of St. James Palace (June 12, 1941)

OR

Inter-Allied Declaration

signed in London by representatives of the allied nations Britain, Canada, Australia, Newzeland and South Africa with exiled governments of Belgium, Czechoslovakia, France, Greece, Luxembourg, the Netherlands, Norway, Poland and Yugoslavia. put forward their view that the only basis of peace was willing co-operation among nations was willingness of world. To enjoy economic and social security they would have to be relieved of the menance of aggression which could be done if all peace loving <sup>countries</sup> of the world worked together in times of war and peace.

The Declaration was to establish on Internation Organisation in lieu of regional pact as a means of enduring permanent peace and security.

2. The Atlantic Charter: On 14th August, 1941, President Franklin Delano Roosevelt of United States and Prime Minister Winston Churchill of United Kingdom proposed a set of principles and international collaboration in maintaining peace and security. The document signed during a meeting on a ship in Atlantic Ocean came to be known as Atlantic Charter.



Atlantic Charter

In this Charter they undertook to make joint efforts to end Nazism and expressed their faith in principles of equality of nations, universal peace, collective co-operation and prohibition of acquiring territories through conquest. All nations must come to abandonment of use of force. The basic principles put forward in this were:

- First:** their countries seek no aggrandisement, territorial or other.
- Second:** they desire to see no territorial changes that do not accord with the freely expressed wishes of the people concerned.
- Third:** they respect the rights of all people under which they will live and they wish to see sovereign rights and self government restored to those who have been forcibly deprived of them.
- Fourth:** they will endeavour to further the enjoyment by all states of access on equal terms, to trade and raw materials of the world which are needed for their economic prosperity.
- Fifth:** they strive to bring about the fullest collaboration possible between all nations in the economic field, with the object of securing for all, improved labour standards, economic advancement and social security.
- Sixth:** after the final destruction of Nazi tyranny they hope to see established a peace which will afford the assurance that all men in all the lands live out their lives in freedom from fear and want.
- Seventh:** such a peace should enable all men to transverse the high seas and oceans without hindrance.
- Eighth:** they believe that all the nations of the World, for realistic as well as spiritual reasons, must come to abandonment of use of force, pending the establishment of a wider and more permanent system of general security, the disarmament of such nations is essential



Four months later, the United States joined the war after Japan attacked Pearl Harbour. The term 'United Nations' was coined by President Roosevelt. On January 1, 1942 the declaration by the United Nations was signed in Washington by the representative of 26 Nations.

#### Declaration by United Nations

On 1st January, 1942, the representatives of 26 nations fighting against the AXIS powers proclaim their support for the Atlantic Charter by signing declaration by United Nations. The declaration was signed by President Roosevelt of America, Winston Churchill of Britain, Maxim Litvinov of Russia and T.V. Soong of China, subsequently signed by 20 other states.

Document marked the first official use of term 'United Nation' suggested by President Roosevelt. The "declaration of the United Nations" stated that the Atlantic Charter would be reviewed as a common programme for the allied states.

Its signatories pledged to give each other full support in the war effort and not to conclude

a separate peace or armistice with the enemies. Hardly a blue print the declaration set one principle for a "wider and more permanent system of general security". Even the use of the term "United Nations" was considered tentative. The Casablanca conference held in January 1943 was another step towards the formation of new institution. The participant - Churchill and Roosevelt - discussed among other things the role their countries would play in the future international system.

#### MOSCOW AND TEHRAN CONFERENCES

In a declaration signed in Moscow on 30th October, 1943 the Govt. of U.S.S.R., U.K., U.S. and China emphasised for an early establishment of international Organisation which should be based on the principle of equality of nations, should be open for all states of the world and should aim at maintaining international peace and security.

The goals are reaffirmed at the meeting of leaders of U.S, U.S.S.R. and U.K. at Teheran on 1st December, 1943.

4. Dumbarton Oaks Conference:

The first blue print of UN is prepared at Dumbarton conference held at Mansion known as Dumbarton Oaks in Washington D C. During two phases of meetings which ran from 21st September to October, 1944. The representative of USSR, UK, US and China agreed on aims, structure and functioning of a World Organisation. The conference members at Dumbarton Oaks decided to retain the name "United Nations". It symbolised their intention of maintaining the common purposes of the ward and continuing co-operation in peace time.

A clear distinction was made between the power of the General Assembly, where all members would be represented and those of security council, whose members (originally 11, now 15) would have specialised duties relating to keeping the peace. A number of differences among the conference members could not be settled at Dumbarton Oaks. The British Government opposed any attention being paid to its colonial territories, while the United States thought this was a major task for the new Organisation. The Soviet Union objected to the Anglo-U.S. notion that a party to an international conflict should not participate in voting on such issue in the Security Council. Britain and the United States argued that this exclusion would be heeded in order to obtain co-operation from smaller countries, but the Soviet Union feared it could be used against itself.

It made clear its view that the new organisation ought to be devoted mainly to defending states, especially, the Soviet Union against outside aggression. As for ensuring security this could be done only on the basis of major power agreement reached at the United Nations. The Soviet Union was also unable to get the consent of the conference to its proposal that all 16 component republics of the Soviet Union should be given membership in the new institution on individual basis. This proposal was a response to Soviet estimates that the United States and the United Kingdom had assured support from Latin American and dominion governments.

The Yalta Conference : On February 11, 1945 following their meetings at Yalta the USSR, President Franklin D. Roosevelt, P.M. Winston Churchill and premier Joseph Stalin declare their resolve to establish a general international organisation to maintain peace and security. At Yalta conference these statesmen dealt with the issues that has not been resolved at Dumbarton Oaks. As for colonial questions, the Yalta conference agreed to a system of trusteeship limited to the following three categories:-

1. Former mandates of league of Nations : These were former colonies of Germany and Turkey that has been put under the supervision of the league. Some of them had not yet gained independence.
2. Territories to be taken from Germany and Japan after World War II.

3. Territories that the present colonial powers would voluntarily put under the supervision of the projected United Nations trusteeship system.

The British was reassured that no part of their empire would be put under the control of United Nations without their agreement nor was the control of these colonies to be disturbed except as provided for in the trusteeship system.

Voting and decision making received much attention at Yalta. The permanent members of the Security Council received the right of the veto except on the procedural matters.

In other words, the views of the five great powers had to be unanimous for the council to act. Procedural matters required a majority of 7 of the 11 members.

The Soviet Union agreed that parties to the conflict would have no vote in the security council when issue was a matter of peaceful settlement of a dispute. But when the security council considered any enforcement action, the parties to the conflict would have the right to vote.

On membership issues it was agreed to admit to the United Nations in addition to the Soviet Union, the Ukrain SSR and Byelorussian SSR. France and China would join the United States, the Soviet Union and the United Kingdom as "Sponsoring Power" and would be

given permanent places in the Security Council as Great Powers with a veto.

Finally, those nations that had declared war on Axis Powers before March 1, 1945 and had signed the declaration of the United Nations on Jan. 1, 1942 would be invited to the founding conference of the United Nations.

President Roosevelt died on April 12, 1945. However, his successor, Henry Truman declared that the founding conference on international organisation would be held as planned.

The United Nations conference on international organisation opened on April 25, 1945, in San Francisco and ended on July 26, 1945 with an agreement on the United Nations charter, the constitutional document of new international institution.

6. SAN FRANCISCO CONFERENCE: was held on June 25, 1945. It was attended by large number of states and was presided over by Lord Halifax.

In the course of the deliberations at San Francisco, there appeared two important divisions: between large and small states and between colonial and non-colonial powers. Whenever the major powers showed signs of disagreement, the views of small powers gained importance. Generally the smaller states sought to strengthen the powers of General Assembly, where they would always be represented as against those of

the more exclusive security council. They also put more emphasis than the great powers on economic and social co-operation through the United Nations.

As for colonial issues, the non administering powers generally sought to make the colonial power more accountable for their administration of colonial territories.

The small state-large State cleavage became visible in the resistance of former to the Unanimity, or veto, rule in Security Council. But when the major powers made it clear that without this privilege they would not join the international organisation at all. The smaller states accepted the Dumbarton Oaks proposals. In the election of the non-permanent members of the security council, the smaller states accepted the Dumbarton Oaks proposals, which gave more some advantages.

These stated that due regard would be paid to the contribution of all member states.

- to the maintenance of peace and security.
- and also to "equitable geographical distribution" in the matters of appointment to UN Organs.

The issue of colonialism in the post- world was resolved with a complete set of provisions in the charter. The division between trust territories and other colonial possessions, implied in the Yalta agreements became more explicit. On the other hand, the trusteeship system would apply to only those defined colonies that has been treated as prizes of the war, on those which entered the system voluntarily. Furthermore, at the instances of U.S.Military, a special category of trust territory was



created. These supposedly had a strategic value and were to be administered by the security council, rather than by the Trusteeship Council. Only the U.S. administered islands detached from Japan were included in this group. For other colonial areas, a declaration on non-self governing territories was worked out. It placed on the administering states the duty to ensure the political, economic, social and educational advancement of the non-self governing peoples.

The Charter did not come into force immediately after its adoption. It was provided that charter would come into force only when China, France, Britain, America and Russia signed and ratified it. This requirement was completed on 24th October, 1945 and consequently Charter of United Nation came into force from that date.

San-Francisco conference was attended by 51 states. These 51 states became the original members of United Nations. The membership of United Nations has since then been more than trippled and at present the United Nations has as many as 185 members latest being the territory of 'Plaau'.

Thus United Nation has now achieved near Universality. As compared to League of Nations it would not be wrong to say that United Nations is an Universal International Organisation in the real sense of terms.

Legal Character of United Nations<sup>27</sup>

Ordinarily, the United Nation is considered to be an

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27 S.K.Kapoor: International Law p.528



association or Organisation of States. But the United Nations also had a distinct Legal Personality of its own apart from those of its members. It has its Headquarters and officials. According to Art.104 of the Charter, the organisation shall enjoy in the territory of each of its members such legal personality as may be necessary for the exercise of its functions and fulfilment of its purpose.

Art 105 further provides that Organisation shall enjoy in territory of each of its members such privileges and immunities as are necessary for the fulfilment of its purposes. as also are necessary for the independent exercise of their function in connection with organisation.

Thus United Nation is a legal person and is subject of International Law. The United Nation is capable of holding and disposing of property and can enter into contract. General Assembly in this connection adopted the convention on the privileges and Immunities of United Nations in 1946.

Art.1 of Convention provides:

" The United Nations shall possess juridical personality. It shall have the capacity

(a) to contract:

(b) to acquire and dispose of immoveable property;

(c) to institute legal proceedings "

with a view to give effect to the convention in

India, the Parliament of India enacted the United

Nations (Privileges and Immunities) Act, 1947 (Act No. XLVI of 1947).<sup>28</sup>

The schedule of Act describes in detail the Juridical personality,<sup>29</sup> rights in respect of property,<sup>29a</sup> facilities in respect of common nation<sup>29b</sup> and representatives of members etc. of United Nations.<sup>30</sup>

" The International Court of Justice in its advisory opinion

Reparation for Injuries suffered in the service of the United Nations<sup>31</sup>

confirmed that United Nation is a legal person and a subject of law."

The world court said that United Nations is an international legal person which has rights and duties under International law.

It can claim compensation for injuries suffered by persons in its service.

But under the charter power to enter contract generally has not been conferred on the United Nations. On behalf of Organisation it can enter into those contracts or Agreements which are mentioned in the specific provision of the charter<sup>32</sup> for instance it can enter into agreements with specialised agencies.

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28. General Assembly's "convention on privileges and immunities of United nations", 1946.

29a. Art. 1 of schedule

29a. Art II

29b. Art III

30. Art IV

31. ICJ Report (1949) P.174

Stephen S. Goodspeed. The nature and function of International Organisation Second Edition p.108

THE ORGANISATION OF UNITED NATIONS

The United nation differs from the League of Nations in decentralized character, the powers and functions under the charter being distributed among six 'Principal' Organs:

- (1) The General Assembly
- (2) The Security Council
- (3) The Economic and Social Council
- (4) The Trusteeship Council
- (5) The International Court of Justice.
- (6) The Secretariat

Each Organ has sharply defined spheres of action and although in a sense residue of authority is vested in the General Assembly. The later's power are mainly supervisory and recommendatory. So that possibly some field of international action may be outside the operation/competence of united nations.

As distinct from the principal organs, there are 'subsidiary Organs' of United Nations so as to which there is attached a considerable degree of flexibility, since paragraph 2 of article 7 of charter provides that Such subsidiary <sup>organs</sup> ~~as~~ may be found necessary may be established in accordance with the present charter" and Art.22 and Art.29 empowers the General Assembly and Security Council respectively to establish subsidiary organs deemed necessary for the performance of their functions.

### The General Assembly :

The General Assembly is the main deliberative Organ of U.N. Composition. According to Art.7 of U.N. Charter " The General Assembly is one of the principal organs of United Nations\*. The General Assembly consists of all the members of United Nation. Each member may have not more than five representatives in the General Assembly(Art.9).

COMPOSITION : At present the General Assembly comprises of 185 states Plaaui' being the latest to become its member.

If the present international society were to be compared with a nation state, the U.N.General Assembly could be held to represent a parliament in which the affairs of the world are debated and discussed by representatives of every region.

But the Assembly is not yet a world Parliament in any real sense. It has no government. The U.N.agencies are not ministeries, they do not come directly under the General Assembly; they have their own assemblies and decide their own policies, and U.N.General Assembly has only the most transitory power or influence over each. Still less are member states committed to obey the Assembly's resolution. So the Assembly can discuss or recommend but rarely decide.

Again the General Assembly is not representative of peoples in the way an elected Parliament is today supposed to be. It is representative of governments and

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Art.18 of the U.N.Charter.

these may or may not themselves represent accurately the views of their own populations. Governments are represented on a highly uneven basis, with the nation of 50,000 people having the same representation as one of 500 million.

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Voting Rights

Each member of General Assembly has one vote. Decisions on important questions are made by two-thirds majority of members present and voting. Such questions include the matter relating to maintenance of international peace and security. The election of non-permanent members of security council the election of members of Economic and social council and trusteeship council, the admissions of new members of United Nations, the suspension of rights and privileges of the membership, the expulsion of members, the question relating to trusteeship system and budgetary questions decision on other questions including the determination of additional categories of questions to be decided by majority of members present and voting."

SESSION

The General Assembly's regular session begins each year on the third Tuesday in September and continues usually till mid-December. At the start of each regular session, the Assembly elects a new president, 21 vice presidents

and Chairmen of the Assembly's seven main committees. To ensure equitable geographical representation, the presidency of the Assembly rotates each year among five groups of states: African, Asian, Eastern European, Latin American, Western European and other states.

In addition to its regular sessions, the Assembly may meet in special sessions at the request of the Security Council, of a majority of members of the United Nations, or of one member if the majority of members concur. Emergency special sessions may be called within 24 hours of a request by the Security Council by the vote of any nine members of the Council or by majority of United Nations members or by one member if the majority of the members concur.

While the decisions of the Assembly have no legal binding force on the Government they carry the weight of world opinion on the major international issues, as well as the moral authority of the World Community.

The work of the United Nations round the year is directed largely from the decisions of the General Assembly, that is to say the will of majority of members as expressed in the resolution adopted by the Assembly. That work is carried out:

- a) by committees and other bodies established by the Assembly to study and report on specific issues such as disarmament, outer space, peace keeping, decolonisation human rights and apartheid;
- b) by international conferences called by the Assembly ; and
- c) by the Secretariat of the United Nations, the Secretary-General and his staff of international civil servants.

**The General Assembly: Powers and Functions**

It is essentially a deliberative body with powers of discussion, investigation, review, supervision and criticism in relation to the work of United Nations as a whole and of various other organs of world government provided for in the Charter including specialised agencies.

Generally speaking the powers of General Assembly are limited to making recommendations which are not binding decision, although it is empowered to take certain final decision for instance as to the budget or as to admission, suspension or expulsion of members.

However, if recommendations, while not creating legal obligations may operate with permissive force to authorise action by member states.

The General Assembly's powers and functions consist of the following:

- i) Powers of discussion and recommendation in relation to maintenance of international peace and security.
- ii) The direction and supervision of international economic and social co-operation.
- iii) The supervision of international trusteeship council.
- iv) The consideration of information as to non-self governing territories.
- v) Budgetary and financial powers whereby it has exclusive control over the finances of United Nations.
- vi) Powers of admitting, suspending and expelling states members.
- vii) Powers in relation to adoption of amendment to the charter (Art.108-109)
- viii) The Election of members of other organs.
  - a) It elects ten(10) non-permanent members of Security Council.



- b) 54 members of Economic and Social Council.
- c) Some members of Trusteeship Council.
- d) It also takes part in election of judges of International Court of Justice.
- e) The General Assembly also takes part in the appointment of Secretary General. Art.97 of Charter provides that:  
 "Secretary General shall be appointed by General Assembly upon recommendation of Security Council."
- ix) As Central Organ receipt and consideration of reports on the work of United Nations and
- x) the adoption of International Conventions.
- xi) The General Assembly supervises the functions of other principal organs and specialised agencies of United Nations.

It particularly exercises sufficient control over the two principal organs of United Nations namely-Economic and Social Council and Trusteeship Council.

Economic and social council in fact works as its subordinate organ.

**THE GENERAL ASSEMBLY: MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY**

Although the primary responsibility for the maintenance of peace and security belongs to the Security Council, the General Assembly is given in this connection certain facultative or permissive powers of consideration and recommendation.

- 1) It may consider the general principles of co-operation in the maintenance of peace and security including principles as to disarmament and armament regulation and may make recommendations on the subject to the member state or to the Security Council(Art.11, paragraph1)



2) Art.11 paragraph 2) It may 'discuss' any specific questions relating to maintenance of peace and security brought before it by a member state or by the Security Council or by a non-member and make recommendation thereon.

3) It 'may recommend' measures for the peaceful adjustment of any situation likely to impair the general welfare of friendly relations among nations (Art 14).

And it may call the attention of Security Council, as the body primarily responsible for enforcing peace to any situation likely to endanger peace and security.

However, there is one general restriction on these power of recommendation, namely that while in the exercise of its functions under the Charter the Security Council is actively dealing with any dispute or situation, the General Assembly- although it is not precluded from discussion- is not to make a recommendation in matters there to unless the Security Council so requests.

But to prevent important matters relating to peace and security from being 'frozen' on the Security Council agenda and therefore from coming under the search light of General Assembly Procedure, it is provided that the Secretary General is with Security Council's consent to notify the General Assembly when such matters are being dealt with, and immediately the Security Council ceases to deal with them.

It is remarkable that within these limits the General Assembly has been able to take a leading role in question of international peace and security. It has discussed leading international and political problems

brought before United Nations such as those relating to Palestine, Greece, Spain, Korea, Suez, The Congo and the middle East and had taken concrete action with reference to them.

As Regards PALESTINE :

It appointed a Special Committee in 1947 to investigate the facts and subsequently in 1948 appointed a Mediator to secure peace between the parties in strife and later a conciliation commission.

The General Assembly has also materially contributed to settlement of Suez-Canal Zone conflict in October-November, 1956 and

In September it authorised the continued maintenance in Congo of a United Nations force.

The stultifying result of 'Veto' upon the work of Security Council brought about further significant development under which the General Assembly impinged more and more upon the broad field and peace and security to the extent of making general and even specific recommendation in this domain, although it could not compel compliance with these recommendations.

Moreover, now it has become practice that matter might be removed from agenda of Security Council by a procedural Vote, thus eliminating the use of the 'Veto' to preclude a matter being brought before the General Assembly.

EXPANDING ROLE OF GENERAL ASSEMBLY

Following are the illustrations of General Assembly's achievements in the domain of international peace and security:

- a) The recommendation made by General Assembly in April, 1949 for setting up a panel of individual to serve on commission of inquiry and conciliation and that Security Council examine the desirability of using the procedure of Reapporteurs or conciliation for disputes or situations brought before Security Council for action.

UNITING FOR PEACE RESOLUTION NOVEMBER 3, 1950

- b) The powers of General Assembly reached their zenith with the passing of the uniting for peace Resolution, 1950. On account of mutual conflict and non-co-operation among the permanent members of Security Council, the Security Council failed miserably to perform its primary responsibility for maintenance of world peace as also the provisions enshrined in Art 48 for the contribution of Armed forces to the United Nations by member states could not be enforced because special agreements were necessary for this which could not be entered into because of conflict among major powers.

The first important achievement of Security Council was the action taken in Korean conflict when it declared North Korea to be an aggressor and ordered for an action to be taken to repel aggression. This decision was possible because Russian representatives were absent during meeting. On 1st Aug. 1950, when Russian Representatives returned to Security Council, Security Council could not take any action because of veto exercised by Russia.

America, therefore, took initiative with the support of France, Britain and other western countries.

The General Assembly of United Nations passed united for Peace Resolution on Nov.3,1950. Under this resolution the General Assembly has been empowered to send the Emergency Forces of United Nations for supervision of cease-fire of conflict areas OR to maintain international peace and security. The Resolution provided the following:

- 1) A Special emergency of General Assembly to be called on 24 hrs.notice by the affirmative votes of the Security Council to that effect or by the majority of members of the General Assembly.
  - 2) If the Security Council fails to prevent any aggression or to take any action in respect of any breach of peace, the General Assembly may consider this matter.
  - 3) This Resolution also empowered the General Assembly to take collective measures including the use of armed forces for the maintenance of peace and security.
  - 4) It provided for establishment of a 14 member peace observation commission established to supervise conflict areas and to submit report to General Assembly in that regard.  
However, this commission could go to conflict area when the state concerned gives its consent in this connection.
  - 5) Each member was asked, under this resolution, to maintain certain elements within its armed forces fully equipped so that the same could be made available to the United Nations at its demand.
  - 6) A 14-member collective measure committee was also established under the resolution so as to study and report
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THE matter and other methods for maintaining and strengthening international peace and security.

7 " The objective of the Resolution was to improve the machinery of United Nation for preserving peace."<sup>34</sup>

Jasef, L. Kunz has also pointed out

"It was an attempt to transfer the Sanctioning Competence from the Security Council to General Assembly in order to evade veto and to revise the task of United Nations to maintain and restore international peace and Security."

" The part played by General Assembly in Nov. 1956 in Suez Canal conflict, in effecting cease fire, involving Israel, Egypt, France and Great Britain represented perhaps the high water mark of the work in sphere of peace and security.

After Security Council action had proved impossible because of 'Veto', special emergency session was convened for 1st Nov. 1956, by vote of seven members of Security Council on pursuance of "Uniting for peace" Resolution: At this session, the General Assembly adopted Resolution for cease-fire by all contestants, as also for the creation of United Nations emergency force to guarantee peaceful conditions in Suez Area with the ultimate consequences that peace and order were restored.

Another instance of General Assembly's action, pursuant to the "Uniting for peace" Resolution, occurred on 19th September, 1960, when General Assembly authorised the secretary general to continue to take vigorous action pursuant to earlier resolution of Security Council for United Nations military assistance to maintain Law and order in Congo."<sup>35</sup>

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34 Juraj Andrassy, "Uniting for Peace" AJIL Vol 50 (1956), 563

35 J. G. Starke; Introduction to international law: 1994 p. 640.

VALIDITY OF THE UNITING FOR PEACE RESOLUTION:

Validity of uniting for peace Resolution, 1950 has been criticised and challenged by some jurists and communist countries particularly Russia has been opposing the said resolution on constitutional or other grounds.

According to Russia (supported by France), it is contrary to the provisions of Charter in her view, the primary responsibility for maintenance of peace and security rests with Security Council. Therefore, sending United Nation Forces and thereby incurring huge expenditure upon them by General Assembly is contrary to the provisions of Charter(Art.24).

The view of Russia can be criticised because under Art 10 the Charter, the General Assembly is empowered to consider any matter within the scope of charter.

Besides this Art.24 referred to by Russia simply provides that primary responsibility for maintenance of peace and security will be that of Security Council. But the term 'Primary responsibility' does not mean that if Security Council fails to perform its responsibility the responsibility of United Nations Organisation as a whole ends.

"No provision of Charter, not even Art.24 would allow the conclusion that responsibility of Organisation as a whole is ended in case of inability or unwillingness of the council to take prompt and effective action."<sup>36</sup>

An eminent Jurist, Miss Gutteridge has expressed the view:

that United Nations is capable of legal development



in accordance with needs and circumstances. In her view United Nations can do so if it fulfils two tests:

- 1) It should not be against the provisions of United Nations charter and
- 2) It should be for the attainment of the purposes contained in Art.1 of Charter.

On the basis of above discussion it would not be wrong to say that uniting for peace resolution is a resolution which fulfils above two test. In short united for Peace Resolution is a valid resolution and is not inconsistent with the provisions of the charter.

Prof. Leonard has pointed out:

"The remarkable development in United Nations brief career has been the place assumed by the General Assembly." Besides this General Assembly's Resolution has been approved by International Court of Justice thereby leading to enhancement of powers and functions of General Assembly and validity to "United For Peace Resolution.

On July 20, 1962, the International Court of Justice in its Advisory opinion 'On certain expenses of the organization<sup>37</sup> ruled that the General Assembly of United Nations is entitled to perform all those functions which are not prohibited under the charter and which are performed for the fulfilment of purposes of charter laid down in Art 1 (one of imp purpose is "maintenance of peace & security). Thus indirectly the ICJ upheld the validity of the Uniting for peace Resolution, 1950 and made it clear that the General Assembly can do all that which is not prohibited under the charter.

c The General Assembly recommendation on 17th Nov. 1950, as to the appointment of permanent commission of Good offices

37 ICJ Reports (1962). P. 151.

d. The several General Assembly Resolutions relative to the situation in Korea, 1950-53 including the Resolution of 1st Feb. 1951 pursuant to which there was set up.

an additional measure Committee, which reported on measures of Economic conference action to be taken.

e. The General Assembly labours in the field of disarmament, leading initially in 1961 to the establishment of an Eighteen Nations Disarmament Committee, which was the predecessor body for the Committee on Disarmament (C D), composed of representative of 40 member states, with the mandate of conducting negotiations for general and complete disarmament under international control and for arms Control agreements, which commission was re-christened at 1984 session as the "Conference on disarmament" and leading as well to the re-institution by it of the United Nations Disarmament Commission (UNDC),

while it also held in 1978 and 1982 two special sessions on Disarmament and proclaimed in 1969 and 1980, respectively as successive Disarmament Decades.

The General Assembly's continued interest in the field of peace and security was also illustrated by its resolution adopted on 4th Nov., 1982, calling upon the United Kingdom and Argentina to resume negotiations, under United Nations auspices, to find as soon as possible a peaceful solution to the sovereignty dispute over the Falkland Islands which had led to the conflict of April-June, 1982.

Besides this, reference must also be made to the creation by General Assembly, in 1947 of an interim Committee (the so called 'Little Assembly')



to assist it in its duties in relation to maintenance of peace and security.

#### Necessity for little Assembly or INTERIM COMMITTEE

This Committee was made necessary by the fact that the General Assembly is under continual pressure at its annual sessions to dispose of a heavy agenda, and need to make its own arrangements for keeping in touch with questions of peace and security.

It was thought that through such a body as the Interim Committee, with a watching brief over all matters of peace and security and with a power to carry out special studies or inquiries, the General Assembly could effectively discharge its functions in relation to peace and security without detracting from the authority of Security Council or intervening in council's work.

#### SECURITY COUNCIL<sup>38</sup>

The Security Council is an executive Organ of the United Nations. Though it is small in size, yet it is most important in its influence. The responsibility of the maintenance of world peace rests on its shoulder. It is also known as "Heart and mind of United Nations."

#### ECONOMIC AND SOCIAL COUNCIL

The United Nations is also concerned with Economic and Social problems of the world and Art 1 of the Charter is proof of it. The framers of United Nations Charter were fully aware of the fact that the international peace and security would be merely a myth in the absence of economic and social equality. So to achieve this purpose, economic and social council was constituted.

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38 Details of Security Council mentioned in Chapter-III.

COMPOSITION :

The Economic and social council (ECOSOC) consists of 54 members which are elected by the General Assembly, one-third of its members are elected each year by General Assembly for a term of 3 years.

Before 31st August, 1965, the Economic and Social Council consisted of 18 members, this was increased to 27 in 1965. A subsequent amendment on 24th Sept., 1973 further increased the membership from 27 to 54.

VOTING:-

Each member of Economic and Social Council has one representative in the council and each member is entitled to have one vote. Art 67 of the Charter provides that decisions of ECOSOC are made by majority of members present and voting. No state is entitled to continuous membership but as a practical matter, to assure adequate support to the programmes all permanent members of security council except nationalist China have been regularly re-elected. Other states are rotated on regional basis.

POWERS AND FUNCTIONS :-

The ECOSOC performs the following functions:-

Its functions may be divided into 3 general categories:

- A) Deliberation and recommendations
- B) Research and reports and
- C) Co-ordination.

1 The Economic and Social Council may make or initiate studies and reports with respect to Economic, Social, cultural, educational, health and related matters and may make recommendations with respect to any such matter to General Assembly to members of United Nations and specialised agencies

concerned.<sup>39</sup>

2. It may make recommendations for the purpose of promoting respect for, and observance of human rights and fundamental freedom for all<sup>40</sup>

3. It may prepare draft conventions for submission to General Assembly with respect to matter falling within its jurisdiction.<sup>41</sup>

Art.62 further provides:-

4 It may call accordance with the prescribed rules, international conference on matters falling within its competence.

5. The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.<sup>42</sup>

6. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out the recommendation of the General Assembly (under Art.66).

7. With approval of General Assembly ECOSOC performs services at the request of members of United Nations and the specialised agencies (U/A 66(2))

8. Such other functions as are specified elsewhere in the present charter or may be assigned to it by the General Assembly.

9. Besides these, it performs important task of effecting co-ordination in the works of specialised agencies thereby avoids duplication of similar work by more than one

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39 Art.62 para 1

40 Art.62 para 2

41 Art.62 para 3

42 Art.65

specialised agencies and to make them more efficacious in the performance of special functions for which they have been established.

The ECOSOC is responsible for improving the standard of living of people to provide full employment and to develop social and economic conditions of the people of world.

In order to perform its work more effectively it has established 4 Regional Commissions:-

- i) Economic Commission for Europe (ECE)
- ii) Economic Commission for Asia and Far East (ECAFE)
- iii) Economic Commission for Africa (ECA)
- iv) Economic Commission for Latin America (ECLA)

Standing and special bodies have been appointed to work under it such as International Children's emergency funds, Permanent Central Opium Board

The IBRD & ICAO, UNESCO, THE ILO & THE WHO

UNITED NATIONS COMMISSION FOR REFUGEES

UNITED NATIONS WORLD FOOD PROGRAMMES Etc.

bodies also work under it.

#### THE TRUSTEESHIP COUNCIL

The trusteeship Council supervises the administration of trust territories and the purpose is to prepare these territories for self rule. The responsibility of the development of the trust territories is given by the United Nations to the developed countries and the trusteeship council supervises the developmental works being done in these territories. It looks after three kinds of territories such as

1. These territories which were entrusted to the United Nations through the agreement after Second World War.
2. Those system which were under mandate system during league's time.
3. Those territories which colonial powers wanted to supervise by Trusteeship Council.

COMPOSITION OF TRUSTEESHIP COUNCIL:

It comprises of three types of members

1. Permanent members of the Security Council.
2. Those countries which look after the administration of trust territories.
3. The members equal to the number of the members of both the categories mentioned above, are elected by the General Assembly for a period of three years.

MEETINGS : It meets at least twice a year but on the request of Security Council or the General Assembly, the special meetings of the Trusteeship Council can also be convened.

FUNCTIONS OF THE TRUSTEESHIP COUNCIL:

Its functions are as follows:

1. To make efforts for the development of trust territories.
2. To enable the people living in trust territories to run their administration on their own.
3. To look after the developmental works in trust territories
4. To receive reports from the administration of trust territories and also to receive complaints and petitions from the people of trust territories.
5. To send reports to the General Assembly about the administration and progress of the trust territories.

ACHIEVEMENTS: The trusteeship council has been working since 1947 and at that time the number of trust territories was eleven.

out of 11  
 Now 10 Trust territories have become independent- Lebia,  
 Tanganyika, Somalia, Cameroons, British-Cameroons, Rwanda-  
 Urundi etc.

#### THE INTERNATIONAL COURT OF JUSTICE

The International Court of Justice has taken the place of Court of International Justice. This can be called Supreme Court of the World.

In 1946 the International Court of Justice, the Principal judicial organ of United Nations, succeeded the permanent court of league days. The continuity was maintained. The statute governing the two courts are almost identical. The new court meets at the Hague in the same building as the old one and cites the judgements and opinions of its predecessor as readily as to its own. Indeed two of the Judges of permanent court were elected to the New One.

COMPOSITION: It is composed of 15 judges who are elected by the General Assembly on recommendation of Security Council. The person who possesses high legal qualification and is a man of highmoral character and integrity is eligible to be elected as the judge of International Court of Justice. No two judges shall be elected from the same country. It has become a custom that five judges are from the five permanent members of the Security Council. The court is constituted in such a way that Latin America, Europe, Africa and Asia are represented in it so as to represent "the main forms of civilization and the Principal Legal systems of the World."<sup>43</sup>

TENURE : The judges are elected for a period of nine years and 1/3 of the judges retired every three years. The retired judge is again eligible for re-election.

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43 J.E.S. FARGETT: The Law of Nations (1968) P.118.



The judges elect one among them as President of the Court for the period of three years.

MEETINGS: It meets almost regularly and for the meeting out of 15 judges, nine have to be present. The decisions are taken with majority vote and in case the votes are equal, the chairman exercises his casting vote. If a Judge does not agree with the majority decision, he is free to write his separate judgement.

SEAT OF INTERNATIONAL COURT OF JUSTICE:

The International Court of justice sits in Hague in the Netherland(Holland). If the court so desires, it can meet at some other place as well.

CANNOT IMPOSE VERDICTS:

The International Court of justice does not have a power to impose its judgement on disputing parties in the same way in which judiciary in the state can on the parties which appear before it, as all members are sovereign and U.N.itself is Non Sovereign.

Decisions of International Court of Justice when binding according to Art.59 of the statute of International Court of Justice:-

The decision of International Court of Justice shall not have binding force except upon a parties to dispute and only in respect of particular dispute between them. Thus this Article means

That previous decisions/judgements of the Courts are not binding either upon the states or upon the court itself.

In other words, they are not precedents yet it would be wrong to conclude that they have no value at all. Infact previous decisions influence the future decisions of the

Court. States are under no compulsion to recognize its jurisdiction or confer the same on it but once their consent to it has been established it is incumbent upon them to comply with its decision. A judgement of the court is final and without appeal.

JURISDICTION :

" By 'Jurisdiction' it is meant the power or authority of the court to render binding decisions on the substance or merit of a case placed before it. The International Court receives this power only from the consent of the state that it should so act. Neither the Charter of the United Nations, nor any general rule of contemporary international law imposes on states the obligation to refer their legal disputes to the Court."<sup>44</sup>

International court of justice is a world court in a true sense of terms because it is open for all states of the World.

However, Art.34 of the statute provides great limitation that is, it say

" Only states may make use of court or file their cases in it.

Thus individuals cannot be party to the disputes and even the state can use the court in limited circumstances. As have been pointed out by Dr.Nagendra Singh:-

"Individual as such has no access to the court only a sovereign state can make use of the International law and that too in very limited circumstances such as when the dispute arises or parties have already agreed by a treaty prior to the dispute."<sup>45</sup>

<sup>44</sup> Shabtai Rosenne, -The World Court- What it is and how it works p.73

<sup>45</sup> Nagendra Singh, 'International Court of Justice-Waten man of the World peace order' \*Special Number of Yogna (18th Oct, 1970) P.87.



However, in one respect atleast individuals have acquired indirect access to the court. In 1955 the General Assembly established a committee on Applications for the review of U.N. Administrative Tribunal's Judgements for presenting requests to International Court of Justice for advisory opinion of Committee found that there was substantial basis for an objection to the judgement of the Tribunal by a member state. It was also provided that when necessary the Tribunal would be obliged to revise its judgements in conformity with the opinion of the Court.

Thus this procedure has two novel features: It allows a defacto appeal from the judgements of tribunal and it gives individuals indirect access to international court of justice.

Besides the states, the organ of the international organisation and specialised agencies may also request the court to give its advisory opinion on legal matters within the competence of such organisation or specialised agencies as the case may be. Broadly speaking the jurisdiction of the court may be divided into following two headings:-

1. Voluntary jurisdiction
2. Compulsory jurisdiction
3. Advisory Jurisdiction

**ENFORCEMENT OF DECISIONS:** Under Art.94 of the Charter the member states are bound to accept the verdict of International Court of Justice. If a member state refuses to accept the verdict, the Security Council is competent to take necessary steps to give effects to its verdict.

#### **THE SECRETARIAT**

The routine work of United Nations is done by the Secretariat

which works under the supervision of the Secretary General. The office of Secretary General is of much importance as the responsibility of the maintenance of the world peace mainly rests on his shoulders.

APPOINTMENT OF THE SECRETARY GENERAL:

The Secretary General is appointed by the General Assembly with 2/3 majority on recommendation of the Security Council. In Security Council at least nine members including all the permanent members must agree to the nomination by the Secretary General.

TENURE : In the absence of any charter specification the first General Assembly established the length of term for the Secretary General as five years.

The greatest hurdle in selection is agreement on a candidate by the major power since any permanent member of Security Council may exercise a veto. State votes are a general threat in the selection process and term of 1st Secretary General had to be extended by General Assembly without concurrence by the Security Council.

The United Nations secretariat is a body of International civil servants headed by the secretary general. It is constituted of full time employees of the organisation who must preserve their neutrality in interest of serving the entire membership and of promoting the international goals of United Nations.

The Neutrality is safe guarded by the provisions of Art 100 of the Charter which provides for the following: In the performance of their duties the Secretary General and the staff shall not seek or receive instructions from any other authority external to the Organisation.

2. Each member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary General and the staff and not to seek to influence them in the discharge of their responsibilities.

These paragraphs indicate clearly the double responsibility incumbent upon both staff and government to preserve the international character of Secretariat. The independence of Secretariat members from national pressures was a principle not clearly stated in the covenant but established at the inception of the league of nations by its first Secretary General. The major functions of the Secretary General are outlined clearly in the charter clearly and include the following:

- 1) to be the Chief Administrative Officer of the Organisation.
- 2) to act as secretary to all the major delegate bodies of the United Nations.
- 3) to perform functions assigned to him by the General Assembly and the three councils
- 4) to make an annual report to the General Assembly on working of the Organisation.
- 5) to appoint the secretariat staff under regulations established by the General Assembly.

The Secretary general also has the authority to act on his own initiative to bring to the attention of the Security Council any matter that in his opinion threatens Internal peace and security.

CHAPTER-VSECURITY COUNCIL: ORGANISATION, POWERS AND FUNCTIONS

The memories of Nazi atrocities, flagrant violation of human rights, loss of lives of millions of innocent people and unprecedented devastation caused during Second World War were fresh in the minds of framers of charter of United Nations. Though the league as an institution failed to "preserve as against external aggression, the territorial integrity and existing political independence of all members of league" and consequently failed to prevent second world war, yet statesmen of the world still had faith in international organisation even during the second world war they had started endeavour to establish an international organisation which could establish world peace as also prevent future war. Eventually they succeeded in establishing such organisation in the form of United Nations.

The Chief United Nation body responsible for maintenance of world peace is the Security Council "The Dumbarton proposals emphasised the establishment of an executive organ whose membership might be limited and which could be entrusted the 'Primary responsibility' for the maintenance of international peace and security. In San Francisco conference, it was finally decided to establish such an organ in the form of Security Council."<sup>46</sup>

In view of Art.7 of United Nations Charter, Security Council is one of the principal organs of United Nations.

46. D.W.Bowett: The law of International INSTITUTION(1970)  
P.No.25

"In order to ensure prompt and effective action by the United Nations members states have conferred upon the Security Council the primary responsibility for the maintenance of international peace and security. The members have also agreed that in carrying out its duties under this responsibility, the Security Council acts on their behalf". The members of United Nations have also agreed to accept and carry out the decision of Security Council".

#### DEVELOPMENT OF SECURITY COUNCIL AND HOW IT OPERATES TODAY:

When the United Nations was formed there was a general desire to learn lessons from the failure of league of nations. The league had failed, it was felt, for four main reasons.

First, it had no armed forces it could call upon to withstand aggression.

Second, it lacked the authority and physical strength to impose collective decision to defend member that was attacked.

Third, it was paralysed in time of crisis by the rule of unanimity.

Fourth, the absence of several major power-the U.S. throughout its tenure. The Soviet Union, Germany, Italy and Japan for much of it- had made it unrepresented and impotent.

All these failings were sought to be rectified in the U.N. Security Council. It would have armed forces permanently at its disposal for use against aggressors. The council would be given authority over every member in calling for collective sanctions. The veto would be reserved for the five most powerful states. The United Nations would be made more universal by freely admitting as many members as possible. To provide the teeth required to enforce security council decisions all members were

to negotiate with the council for allocation of armed forces, it might use to keep the peace though held by home state, they would be available for use by the United Nations immediately whenever needed.

Moreover, the council was equipped with powers to make "decisions" which <sup>the</sup> league council has lacked that is the power to command obedience of all united nations members. Under Art.25 of the new United Nations Charter every member of the organisation was under an obligation to accept and carry out the decisions of the Security Council in accordance with the present Charter". When a threat to the peace took place, the council could first call on all members in certain circumstances either to apply economic sanctions, the severing of communication or of diplomatic relations or, if necessary, to take action by air, sea or land forces as may be necessary to maintain or restore international security.

In this way the organisation was to possess the power to act decisively which the league had conspicuously lacked.

The unanimity rule was largely given up in the assembly it was abandoned altogether. In the council it was confined to the big five, who were enable to protect themselves through the exercise of the veto; a contrary vote by any of them would cause a resolution on substantive issues to fail. Otherwise, a decision on procedural matter could be reached by majority vote (9 votes out of 15), the granting of veto power to the largest states could be said to represent merely a recognition of the realities of power politics. Even if the veto had not



existed in practice the organisation could not have been used wholly against the will of any one of the major powers, without provoking it to leave the organisation altogether. The veto could thus be regarded as an essential safety-valve, which served to prevent dissension among its leading members. Without it, the organisation, if urged to take action against one of these powers, could have been paralysed by difference of opinion.

COMPOSITION:-

The Security Council is a continuously functioning body. It initially consisted of eleven members of the United Nations.

The Republic China, France, The Union of Soviet Socialist Republic, Great Britain and the United States of America being five permanent members, while six non-permanent were elected by the General Assembly for a two years terms.

Under amendment adopted by the General Assembly on the 17th December, 1963 and which came into force on the 31st August, 1965 the Security Council consist of 15 members, the five permanent member remaining same and the number of non-permanent member increased to ten. Ten non-permanent members are elected by the General Assembly for a term of two years and in their election due regard is to be specially paid to:-

1) the contribution of member states to the maintenance of peace and security, and to other purposes of United Nations and

2) equitable geographical distribution.<sup>48</sup>

Besides permanent and non-permanent members there are

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47 Art.25 of the charter.

48 Art.23 of the charter.



provisions for participation in the Security Council's discussion by

- a) any member state of United Nations, without vote in a discussion of any question brought before the Security Council, if council considers the interests of that member states are specially effected. (Art.31)
- b) any such member State or any non-member state, if it is a party to a dispute being considered by Security Council, is to be invited to participate without vote in the discussion concerning the dispute (Art.32).

Why was Amendment Necessary:-

Before the amendment, even without exercising veto, the permanent members could prevent the Security Council from taking decisions on any matter because Security Council then consisted of 11 members and decision even ordinary or non-substantial matters required seven affirmative votes. If five permanent members voted against the proposal, Security Council could not take any decision on it, but this is no more possible because now security council consist of 15 members- 5 permanent and 10 non-permanent members and decision on non-substantial or procedural matters 9 affirmative votes are required. Thus on non-substantial matter the Security Council can take decision on the basis of affirmative votes of non-permanent members.

Need for Enlargement of Security Council: <sup>49</sup>

There have been proposals since 1985 to enlarge the membership of Security Council on the ground of ensuring a claimed more equitable geographical distribution of seats in the Council.

After the Gulf War (1991) and breaking of Soviet

Union the need for enlargement of Security Council is being greatly felt in view of changed situation. Since the breaking of Soviet Union we are living unipolar world with United States of America as the sole super power.

In the non-aligned two day foreign ministers conference held at Larnaca (Cyprus) in 1st week of February, 1992, the need for democratisation of U.N. system emerged as recurrent theme for example, Indian Foreign Affairs Minister, Mr. Madhav Singh Solanki, who was the first to address the delegates during the closed door deliberation, stressed that "with a view to reflect the increased strength of General Assembly and the new power configuration in the World, one way of democratising the U.N. would be by reviewing the membership of Security Council."

There seems to be much force in the view expressed by Indian foreign affairs minister when the membership of Security Council was increased from 11 to 15 the membership of U.N. was 113. Since then membership of U.N. has increased to 185 at present but the membership of Security Council remains the same.

Besides this there are other imbalances in the existing composition of Security Council. Africa and Latin America are unrepresented. China is the Sole representative of Asia, the largest continent from the point of view of area and population.

The two economic super powers- Germany and Japan- are not permanent members. Moreover, India also ought to be made a permanent member. In view of these reasons the

membership of Security Council ought to be increased from 15 to 25 including 10 permanent members. The new five permanent members should be chosen from amongst the countries such as Japan, Germany, India, Egypt, Brazil and Nigeria. Besides this 5 new non-permanent members should be elected on geographical basis to make the Security Council more representative.

#### India and Security Council:

India is today largest voluntary contributor of the South to U.N.D.P. (United Nations Development Programme) and has perfect record in meeting its assessed contribution to U.N. India's bid to enter Security Council as permanent member must be taken seriously.

The population size, the size of economy, the military clout and ability to contribute to U.N. lends validity to her demand.

India's entry is opposed by Malaysia, Pakistan, and Indonesia and supported by countries like Cuba, Mauritius and Bhutan.

Besides the French Ambassador in India Mr. Philippe Petit recently expressed his country's support for India's entry. Similarly, recently Brazil also supported India's entry in Security Council. More recently<sup>50</sup> Poland Prime Minister Aleksander Kwasniewski while passionately pleading for reforms of world body supported greater role for India in world body. In reformed Security Council India should have more permanent role.

#### Voting Rights and Voting Procedure in Security Council:

According to Art.27, each member of the Security Council

has one vote.

The decisions on procedural matters are to be made by an affirmative vote of 9 members (the former affirmative votes required was of 7 members) Decisions on all other matters ( i.e. non-procedural matters) are to be made by an affirmative vote of nine-members, including the concurring votes of five permanent members.

However, there is an exception to this general rule.<sup>51</sup> In decisions concerning the pacific settlement of disputes whether under Ch.VI or under Art 52 paragraph 3 (i.e. pacific settlement under regional arrangement) any permanent or non-permanent member, if party to the particular dispute under consideration must abstain from voting.

#### V E T O :-

It is under voting rights to permanent members that the so called 'Veto' operates. A negative vote cast by a permanent member on substantial or non-substantial matter is called veto. For casting 'veto' it is necessary that the representative of permanent member desiring to exercise this right must be present and cast his vote in meeting of Security Council.

Thus the voluntary absentation of permanent member from voting has consistently been interpreted as not constituting a bar to validity of security council's decision.

In 1950 an question of Korea, Security Council could take action because of absence of representative of Soviet Union, later on it was argued on behalf of Soviet Union that its absence constituted 'Veto' but

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51 Art.27 paragraph 3 of the Charter.

other members of the council did not accept this argument. Similarly,

As to Portugal's claim<sup>52</sup> that security council resolution of 9th April, 1965 authorising the United Kingdom to take steps to prevent the arrival at Beira of vessels taking oil to Rhodesian regime, was invalid because of absenteeism from voting of two permanent members. It was interpreted as not constituting a bar to the validity of security councils decision.

The legality of the practice was upheld. International Court of Justice in its Advisory Opinion<sup>53</sup>

"On the legal consequences for states of the continued presence of South Africa in Namibia (South West Africa)"

In which ICJ ruled that

"Security Council Resolution of 1970 declaring illegal the continued presence of South Africa in South West Africa (Namibia) was invalid by reason of the absenteeism from voting of two permanent members"

DOUBLE VETO :

Before a matter is put to vote, the President of council gives a ruling as to whether the matter is important (substantive) or procedural. This decision can be challenged by veto which makes it unimportant. Since the matter now becomes important, the possibility of double veto arises.

Thus by 'double veto' is meant that permanent member of security council can use their veto two times. First time permanent member by use of veto power can make procedural matter substantive, once the matter is

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<sup>52</sup> Bowett, PP 31-32 also cryer Australian book of International law, 1966 P-95-96

<sup>53</sup> Advisory opinion ICJ on 21st June, 1971.

declared or becomes important or substantive, decision on it can be vetoed by any permanent member. This is second time the use of veto.

Russia used double veto on the question of Greece, Czechoslovakia and Spain.

The essence of double veto has been summed up by Prof. Goodspeed in following words:

The essence of veto is to manoeuvre the council in voting whether a question is substantive or not the veto is possible on such question which thereby guarantees that question will become substantial if so desired. Once declared substantive the matter itself can be vetoed.<sup>54</sup>

Veto and its effect on efficiency of Security Council

The veto power has been conferred by framers of charter on great power with the hope that these great power shall fulfil their responsibility and shall co-operate among themselves for maintenance of peace and security as they did during second world war. Unfortunately this assumption proved wrong. Infact, the conflict among great powers started immediately after the establishment of the United Nations.

The right to veto given to these powers had greatly impaired the efficiency of Security Council because of this security council has become weak organ and unable to perform functions entrusted to it under the charter.

It is often claimed that Security Council was successful in stopping the North Korea from over running South Korea in 1950. But nothing could be more misleading

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<sup>54</sup> Stephen S. Goodspeed, The Nature and Functions of International Organisation, Second Edition P.147.



Since United State was able to obtain United Nations blessing in carrying out military action in absence of Russian representative. Thus when Soviet representative return and exercised its veto security council was helpless and could not take any action.

Similarly in the case of Indo-Pak war of 1971 security council in the beginning could not take any decision because Russia exercised its veto in favour of India.

Likewise in other important matters Security Council could not use its enforcement power effectively on dispute like Congo, Berlin, Palestine, Indo-China, Hungary Suez etc.

Moreover, the veto has stood in the way of maintaining harmonious relations among the permanent members of the council which was a basic pre-requisite for peace in the charter. Due to existence of this cold (till recently), certain states have shown reluctance to refer their disputes to the security council. It can not be denied that if there had been no veto pacific settlement of disputes might have been expedited.

In view of these complications, sometimes a demand is made for doing away with the provision of veto for the privileged five. But it must be remembered that the real test of success of United Nations lies in its ability to influence the action of states. If the states are unwilling to accept its recommendations or ever its decision changing the voting procedure will do little or no good. The veto is the symptom of disagreement rather than its cause. Its abolition would not alter the causes of conflict among states.



In conclusion we may say that real challenge facing the United Nations since the inception of Security Council, the permanent members right to veto has been the subject of questionings. Such questioning were foreshadowed at San Francisco conference and publicists and writers claimed that original doubts are justified in as much as veto has been abused.

The main idea behind right to veto is that since Great powers as permanent members had been given the main responsibility for the maintenance of peace and security, no one permanent member should be compelled by a vote of security council to follow a course of action with which it disagrees. Thus possibility of division among great powers on the question of collective security was foreseen.

At San Francisco conference four sponsoring powers Great Britain, China, Russia and the United states supported veto system, as any step going beyond mere discussion or procedural preliminaries might initiate 'chain of events' which in the end could or should require the security council to take enforcement action and that such action must attract the right of veto.<sup>55</sup>

The same statement added that great powers would not use their powers 'wilfully' to obstruct the operation of the security council.

Undoubtedly as the veto has been used, Security council-procedure has been stultified and attempts have been made to find ways to liberalise the voting

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55 United Nations Documents 1941-45 (Pub. in 1946, by Royal Institute of International Affairs) P. 268-271

practice while keeping within the limits of principles justifying the veto. Perhaps the veto is not the main obstacle to security council reaching its full status as an organ for maintaining peace and security.

One learned writer has said' - - - in a curious way veto may have preserved the United Nations by allowing or forcing it to yield to reality. Even if there were no veto, it is probable that some alternative methods of obstructing the security council work would have been resorted to, leading to equal abuses and absurdities, or that, as occurred in the league of Nations, certain powers might have quitted the Organisation.

#### INDIAN VIEW ON VETO SYSTEM

India regards 'Veto' as a necessary 'evil' with which states have to learn to live with because in view of existing state of international affairs and in present circumstances, there is no alternative to it.

#### ROLE OF SECURITY COUNCIL IN MAINTENANCE OF INTERNATIONAL PEACE SECURITY

It has been rightly remarked

• The purpose of United Nations Organisation is World Peace"

The provisions relating to international peace and Security are studied throughout the charter. They find mention in preamble purposes, principles and many other concrete provisions of the charter.

The Preamble of the Charter says ,

"We the people of United Nations determined. . .  
 . . . to unite our strength to maintain international  
 Peace and security....."

The very first purpose of United Nations is "to maintain international peace and security"

Then one of the principles of the charter emphasises the concern of organisation in respect of world peace by providing,

"All members shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered"<sup>57</sup>

Further, the principle of Non-intervention by U.N. under Art 2, paragraph 7 of the charter in domestic jurisdiction of member state provides an exception in respect of enforcement measures under Ch.VII dealing with Action with respect to threats of the peace breaches of the peace and act of aggression."

These enforcement measures are taken to maintain and restore international peace and security.

Besides this, though the charter does not "impair the inherent right of individual and collective self defence" of the members of U.N. even this right is subordinated to world peace' for the charter clearly provides that

"Measures taken by the members in the exercise of this right of self defence--- shall not in any way affect the authority and responsibility of the security council under the present charter to take any time such action as it deems necessary in order to maintain or restore international peace and security."<sup>58</sup>

57 Art 2, paragraph 3 of the charter

58 Art 51 of the charter.

The performance of almost all the legally important functions of United Nations are conferred upon security council acting either exclusively or in consultation with General Assembly.

In order to ensure prompt and effective action by United Nations its members have conferred on the security council the "Primary responsibility" for the maintenance of international peace and security" and agree "that in carrying out its duties under this responsibility the security council acts on their behalf"<sup>59</sup>

Further, the members of United Nations agree to accept and carry out the decisions of security council in accordance with the present charter.<sup>60</sup>

The security council performs dual functions

- 1) It investigates disputes under Ch.VI of the Charter
- 11) And takes action with respect to breaches of peace under chapter VII.

Pacific Settlement of Disputes under Ch.VI<sup>60a</sup>

CHARTER PROCEDURE AND METHODS:

Ch.VI of the United Nations charter deals with pacific settlement of disputes.

Art.33 of the charter provides that

'The parties to any disputes, continuance of which is likely to endanger the maintenance of international peace and security shall first of all seek a solution by

- Negotiations
- Enquiry
- Mediation
- Conciliation

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59 Art 24 of the charter

60 Art 25 of the charter

60a Chart showing specific settlement of dispute by Security council is attached as appendix-II.

- Arbitration
- Judicial settlement
- Resort to regional agencies or arrangements  
or
- Other peaceful means of their choice"

further, the Security Council shall when it deems necessary,

"Call upon parties to settle their disputes by such means"

It is also provided in the charter that

"If the parties to the dispute fails to settle it by the means mentioned in Art.33 they shall refer it to security council.

As also if the security council deems that continuance of dispute is infact likely to endanger the maintenance of peace and security it shall decide whether to take action or to recommend such terms of settlement as it may consider appropriate"<sup>61</sup>

UNDER ART.34

The Security council may investigate any dispute or any situation which might lead to international friction or give rise to dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Art 35 of the charter provides:

1 Any member of united nations may bring any dispute or any situation of the nature referred to in Art 34 to the attention of General Assembly or Security Council.

61 Art 37 of the charter.

2. A state which is not a member of United Nations may bring to the attention of Security Council or of general assembly any dispute to which it is party if it accepts in advance for the purpose of any dispute the obligation of pacific settlement provided in the present charter.

In Mavrommatis Palestine Concessions (Preliminary Objections) case<sup>62</sup>

A dispute has been defined as

"A disagreement on the point of law or fact, a conflict of legal views or interest between two persons"

In an international dispute,

- a) The dispute must be between states, in case of wrong done to a national of one state. It does not become an international dispute until it is taken up by govt. of state of injured national.
- b) The dispute must lead to some action by the aggrieved state.
- c) The dispute must relate to some reasonably well defined subject matter

"Thus it is clear that the charter provides a logical progression of steps to be followed by the states involved in disputes. Each member promises in adhering to charter in settling their dispute through peaceful means and will refrain from the threat or use of force. If parties themselves fails to settle their dispute they refer the matter to Security Council whose option is to suggest to the disputant to settle their dispute by one of the following means of peaceful settlement:-

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<sup>62</sup> PCIJ, Series, A.No.2 P.No.11  
<sup>63</sup> A Le Roy Bennett: International Organisation:  
 ALe Principles and issues: P.N.101



Negotiation:

It is the most common method for settling international differences involving direct discussion between or among the parties to the dispute with the objective of reaching an agreement. No outside party is involved in the process. Negotiation is the essence of the practice of diplomacy.

Good Offices:-

Good offices is the only traditional method of dispute settlement not listed in Art 33 of the charter but one frequently used by limited nations organs.

It involves the assistance of a third party or state not a party to the dispute. Third party may offer only a channel of communications or facilities for the use of the parties but may not offer any suggestions for the terms of settlement.

By providing a neutral ground for negotiation or by offering to carry messages between the disputants the third party displays a friendly desire to promote a settlement without getting involved in the issues at stake:

Inquiry:- Inquiry is the process of factfinding by a neutral team of investigation. Often the facts underlying controversy are in dispute and clarification by an impartial commission may facilitate settlement. The report of investigating commission does not suggest terms of settlement but may help to establish conditions conducive to settlement.



**Mediation:** Mediation is a procedure involving the suggestion of terms of settlement by the third party. The mediation enters into the negotiations between the disputing parties seeking terms of compromise acceptable to the disputants. An effective mediator may not impose his will upon the parties without losing the confidence of one or more of them in his neutrality.

**Conciliation:-** Conciliation is similar to mediation except for the legal distinction that the third party is a commission or international body whose aid has been sought in finding a solution satisfactory to the disputants. Special commissions have been created often by United Nations to attempt conciliation.

As in mediation, the object is peace through compromise on terms acceptable to the parties, not the imposition of terms by the commission of conciliation or the application of abstract principles of law or justice.

In practice the terms conciliation, mediation and good offices have been tended to be used without adherence to their strict legal distinctions.

**Arbitration:** Arbitration is a means of applying legal principles to a controversy within limits previously agreed upon by the disputing parties.

A panel of judges or Arbitrators is created either by special agreement of the parties or by existing arbitral treaty.

In agreeing to submit the dispute to arbitration the disputants also agree in advance to be bound by the decision. An arbitral agreement known as compromise

specifies the method of selecting the arbitral panel, the time and place of hearing or any limitations upon the facts to be considered or principles of law or equity to be applied in arriving at the decision.

Historically, arbitration has enjoyed several periods of popularity, beginning with its use by the ancient Greeks and gaining in use during the nineteenth and early twentieth centuries but it has almost disappeared from the general use in the period since 1945 except for specific areas of trade disputes and investments.

Adjudication or Judicial Settlement :-

It is a process of submitting dispute to an international court for decision. Unlike arbitration the court is subject to no preliminary limitations upon its procedures evidence to be considered or legal principles to be applied, except those stated in the statute by which it was created.

As with Arbitration, once the parties have agreed to submit a case to adjudication the decision rendered is considered binding, although adequate means of enforcing or enforcement in instances of non compliance are lacking. However, Nations jealous of their sovereignty have been reluctant to grant to international court any form of compulsory jurisdiction or to submit appropriate cases to existing courts. As a result international court of justice has languished for the lack of business to even greater extent than its predecessor, the permanent court of international justice.

One device not mentioned in the charter which have been used to good effect while other means for final settlement are being sought is calling on the parties already engaged in armed hostilities to be abide by cease-fire.

The drawing of cease fire line and the temporary cessation of hostilities may make possible the working out of permanent settlement, as in Indonesian dispute OR it may contribute only to checking of large scale fighting and loss of lives for prolonged periods as in Kashmir and palestine disputes.

In either case, whether settlement is arrived at or not, security council members generally prefer an armistice in which the adversaries sides each other from their respective sides of cease-fire line to warfare with its human and economic costs.

The more important responsibility of Security council arises with reference to preventive or enforcement action under Chapter-VII

The security council is empowered to determine the existence of any threat to peace, breach of peace or act of aggression and to make recommendations or decide what enforcement measures are to be taken to maintain or restore international peace and security. The relevant provision of charter are contained in Ch.VII Art.39-51. The same when reproduced read as under:

1. The Security Council first determines whether there exists any threat of peace breach of peace or act of aggression had taken place and then it

recommend what measures are to be taken to restore or maintain international peace and security.<sup>64</sup>

2) The Security Council may decide what measures not involving the use of armed forces are to be employed to give effect to its decisions and

may call upon the members of United Nations to apply such measures which include

complete or partial interruption of economic relations and of rail, sea, Postal, telegraph, radio and other means of communications and the severance of diplomatic relations.<sup>65</sup>

3) If measures mentioned in Art 41 of the charter prove to be inadequate the security council may take such action by air, sea, or land force as may be necessary to maintain or restore international peace and security.

Such action may include demonstration, blockade and other operations by sea, or land forces of the members of United Nations.<sup>66</sup>

4) It is further provided in Art 43 that: the Security Council may ask the members of United Nations to contribute to the maintenance of international peace and security and to make available on its call armed forces etc. for the purpose of maintenance of international peace and security.

64 Art.39 of the Charter

65 Art 41 of the Charter

66 Art 42 of the Charter.

Art.43 further provides that:

For the contribution of armed forces special agreement or agreements were to be entered into.

However, due to conflict among major powers, no such agreement have been entered into.

Thus, although security council has been empowered to make use of armed forces and to ask the member states to contribute them this provision has not been implemented due to mutual fears and suspicions, non-cooperation and conflict among the permanent members of the Security Council.

5) Under Art.47 of the Charter

There is also a provision for the establishment of military staff committee

- to assist and advise the security council on all questions relating to its military requirement for the maintenance of international peace and security.
- the employment and command of the forces, placed on its disposal, the regulation of armament and possible disarmament.

But this provision also have not been implemented and there is no military forces at the disposal of Security Council.

Defination of Aggression :<sup>67</sup>

Since Chapter VII of charter deals with sanctions against aggressor and before taking any action under this chapter Security Council first decides whether there exists any threat to peace or an act of aggression has taken place, the defination of term "aggression" has been considered most urgent for consideration of international security and world peace

After 51 years of work by jurists and political experts, the term 'aggression' has been fully defined. Attempts in this direction began as early as 1923 under the League of Nations. After dissolution of league work continued under united nations.

The draft definition of 'Aggression' (containing 8 Articles) was submitted by the "United Nations Special Committee on question of defining aggression to the General Assembly on April 1974 which when

**REPRODUCED READS AS:**

**Article 1:** Aggression is the use of armed forces by a state against the sovereignty, territorial integrity or political independence of another state or in any other manner inconsistent with provisions in Nited Nations charter.

**EXPLANATORY NOTE:-**

In this defination the term 'State' is used-

- a) without prejudice to question of recognition or to whether a state is a member of U.N. and
- b) includes the concept of a group of states where appropriate concept of.

**Article 2:-**

The first use of armed force by a state in contravention of charter shall constitute prima-facie evidence of an act of aggression although the security council may in conformity with the charter conclude that a determination that an act of aggression has been committed would not be justified in the light of other relevant circumstances including the fact that the acts concerned or their consequences are not of sufficient gravity.



**Article 3:** Any of the following acts, regardless of a declaration of war, shall subject to and in accordance with provision of Art 2 qualify as an act of aggression

- a) The invasion or attack by the armed forces of a state of the territory of another state or any military occupation, however, temporary resulting from such invasion or on attack or any annexation by the use of force of the territory of another state or part thereof.
- b) Bombardment by the armed forces of a state against the territory of another state or the use of any weapons by a state against territory of another state.
- c) An attack by the armed forces of a state on the land, sea or air forces, marine and air fields of another state.
- d) The use of armed forces of one state which are within the territory of another state with the agreement of receiving state in contravention of the conditions provided for in the agreement or any extension their presence in such territory beyond the termination of the agreement.
- e) The action of state in allowing its territory which it has placed at the disposal of another state, to be used by that other state for perpetrating an act of aggression against the third party.
- f) The sending by or on behalf of a state of armed bands group, irregular or mercenaries which carry out acts of armed forces against another state of such gravity as to amount to the acts listed above or its substantial involvement therein.

**Article 4:** The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.



Article 5 : No consideration of whatever nature, whether political, economic military or otherwise, may serve as a justification for aggression. A war of aggression is crime against international peace. Aggression gives rise of international responsibility. No territorial acquisition or special advantage resulting from aggression are or shall be recognised as lawful.

Article 6 : Nothing in this definition shall be construed as in any way enlarging or diminishing the scope of charter including its provisions concerning cases in which the use of force is lawful.

Article 7: Nothing in this definition and in particular Article 3, could in any way prejudice the right to self determination, freedom and independence, as derived from the charter, of peoples forcibly deprived of that right and referred to in declaration of principles of international law concerning friendly relations and co-operating among states in accordance with the charter of the United Nations, particularly peoples under colonial and racist regimes or other forms of alien domination; nor the right of these peoples to struggle to that end to seek and receive support, in accordance with the principles of the charter and in conformity with above mentioned declaration.

Article 8: In their interpretation and application the above provisions should be construed in the context of other provisions. The above definition was finally adopted by the United Nations General

Assembly on December 14, 1974 by the General Assembly Resolution 3314 (XXIX). It is undoubtedly a significant achievement.

The U.S. representative claimed, "The text is inevitably of a compromise what is remarkable is that we have succeeded at all when previous generations have failed."

The Soviet representative also said that "the definition has accomplished its main purpose of depriving potential aggressor of possibility of using judicial loopholes and pretext to unleash aggression."

But these claims made by United States and Soviet Union have been refuted by Prof. Julius Stone.<sup>68</sup> He points out

This is so far, from the realities disclosed by an examination of the definition that remarkable text rather appears to have codified into itself (and in some respect extended) all the main juridical loopholes and pretext to unleash aggression available under pre-existing international law, as modified by U.N. Charter. Ambitions of delegations to narrow some major loopholes were usually balanced by the inclusion of provisions demanded by other states which efficiently neutralised the clarification proposed and often produced. This is true even for the more concrete problems surrounding 'armed aggression' and the legal liberty of self defence against it. It is even truer

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<sup>68</sup> Julius Stone, "Hopes and Loopholes in the 1974 Definition of Aggression" AJIL, Vol. 71 (1977) P. 224

as to the less concrete problems of 'indirect' and 'economic' aggression which though not expressly mentioned in the definition may often be affected from its text and from its very silences. The status of extreme economic coercion in the form, e.g. of 1973 oil boycott and of legitimate responses to it under Art 2(4) of the Charter remains as legally problematic as ever"

Further;

"As to some of the 'loopholes' and 'pretexts' indeed even apart from consensus definition (for instance as to deterring aggressions enlightening states or guiding U.N.Organs) would require the elimination or atleast substantial reductions of the many chronic doubts and uncertainties concerning the charter provisions as to the limits of unlawful use of force and powers of U.N.organs relation thereto. The doubt and uncertainties according to him, are in respect of Art 2(4), 10-12, 24, 25, 39 and 51.

Submissions :-

It could thus be safely submitted that definition of aggression has a number of loopholes and weaknesses. The only matter of satisfaction is that in the form of consensus definition a beginning has been made. Even though it is a partial success it is welcomed in the context that previous generations has failed.

Other Functions of Security Council

Besides shouldering the main responsibility of maintenance of International peace and security, the security council other power and functions include:-

ADMISSION OF NEW MEMBERS OF UNITED NATIONS:

The Security Council with its 2/3rd majority including five permanent members, recommend to the General Assembly about the admission of new members of United Nations. It can also recommend about the expulsion of members of United Nations.

Electoral Functions:

The Security Council also performs the following electoral functions.

1. It recommends the name for the election of judges of the International court of justice to General Assembly.
2. Recommend the name for office of Secretary General. Art.97 of the Charter provides that "the Secretary General shall be appointed by the General Assembly upon the recommendation of Security Council."

Although the word 'election' has nowhere been used in this Article, but infact it is the election because the appointment of the Secretary General is substantial matter under the charter and therefore affirmative votes of 9 members including 5 permanent members are necessary.

3. It also recommends the name for election of members of Trusteeship council.  
The permanent members of security council are also the members of Trusteeship council.

CONSTITUTIONAL FUNCTIONS: The Security Council performs an important constitutional function:

Art.108 of the Charter provides that:

\* Amendment to the present charter shall come into force for all members of United Nations when they have been adopted by the vote of two-thirds of members of the

General Assembly and ratified in accordance with their respective constitutional processes by two-third of members of United Nations, including all the permanent members of Security Council". Thus no amendment of the charter is possible until and unless all permanent members of Security Council give their affirmative vote on it and it is subsequently ratified by their respective governments. Thus in respect of constituent powers, the Security Council is certainly a more important organ than General Assembly.

#### Supervisory Functions:

The Security Council supervises the functions of Organisation as a whole although its supervisory powers are not as wide as that of the General Assembly. But since it has been conferred upon important functions with regard to expulsion and suspension of members, it is through this it exercises supervision upon United Nations.

Besides this, the Security Council is responsible for control and Supervision of strategic areas of Trust territories under the trusteeship system of the United Nations.

#### ENFORCEMENT OF DECISIONS OF UNITED NATIONS:

The Security Council makes necessary arrangements for the enforcement of the decision of different organs of United Nations.

#### LIMITATIONS OF THE SECURITY COUNCIL:

The first great limitation of the Security Council is the right of veto possessed by the permanent members. The mis-use of veto power by these permanent members of Security Council has greatly effected the efficiency of the Security Council.

Even apart from veto, the Security Council suffered from its inception by other disabilities; some of which were open while others were concealed.

As remarked by Bowett<sup>69</sup>

\* The Security Council was never intended as an organ appropriate for settlement of inter-state dispute generally. Its jurisdiction is limited under chapter VI to disputes the continuance of which is likely to endanger maintenance of international peace and security."

Moreover, éver in the dispute of this character the procedure afforded to the council under Chapter VI are supplementary to and not exclusive of traditional, procedures to which the parties must first of all refer their disputes- - - - "

Recourse to the Security Council should therefore be regarded as a recourse to Secondary means of settlement when the primary traditional means have failed.\*

Other limitation which threatened its (Security Council) paralysis as an executive organ of international community includes:-

- 1) The inherent right of individual and collective self defence against "armed attack" provided under Art.51 of the charter.
- 2) Moreover Art 52 to 54 give the member liberty of action to enter into regional arrangements. This involves a question whether Art 52 gives a forms of priority of competence to regional arrangements over local disputes."
- 3) Thirdly, Art 53(1) and 107 gives members liberty of action against former enemy states.

Aft.107 has affected the Security Council only once

69 D.W.Bowett: "The United Nations and peaceful settlement" in international disputes.



that is in Berlin case in 1948 when the Soviet Union denied competence on this ground and vetoed any resolution. It may be noted for practical purpose both Art 53 and 107 have almost become redundant.

4) Last but not the least, the exclusion from United Nations jurisdiction of matters essentially within the 'domestic jurisdiction' of states as expressly provided under Art 2(7) of the charter and by implications under Articles of Chapter VI and VII.

In spite of these limitations the Security Council has played a role in direction of pacific settlement of disputes and helps atleast in defusing tension.

#### Binding Character of Resolution of Security Council<sup>70</sup>

The resolutions of the Security Council are binding upon the members: This is evident from Art 25 of the Charter which provides that members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

There is no controversy in respect of binding effect of resolutions of the Security Council relating to enforcement measure under Chapter VII of the Charter but there is some controversy w.r.t. binding nature of provisions of the Charter relating to international disputes and dangerous situations.

In its advisory opinion concerning:

The legal consequences for the states of the  
CONTINUED PRESENCE of South Africa in Namibia  
(South West Africa)<sup>71</sup>

70 S.K.Kapoor: International law: 1994 Edition:583

71 ICJ Reports (1971) P.16



The World Court observed:

" It has been contended that Article 25 of the Charter applies only to enforcement measures adopted under Chapter VII of the Charter. It is not possible to find in the Charter any support for this view. Article 25 is not confined to decisions in regard to enforcement action but applies to the decisions of the Security Council adopted in accordance with the present charter.

Moreover that article is placed, not in Chapter VII but immediately after Article 24 in that part of the Charter which deals with the functions and powers of the Security Council concerning enforcement action under Article 41 and Article 42 of the charter that is to say, if it were only such decisions which had binding effect, then Article 25 would be superfluous, since the effect is secured by Article 48 and 49 of the Charter."

But this was an advisory opinion of the Court and some states, particularly France, pointed out that it was consultative opinion and not a decision. Italy approved court's opinion in respect of Namibia but disagreed with the courts interpretation on Article 24 and 25 of the Charter.

After detailed discussions on Court's opinion the Security Council adopted by 13 votes to the courts opinion vide resolution 301(1971). As pointed out by author,<sup>72</sup> however, this was not perhaps conclusive of the matter. The abstaining states, for instance, explained that they

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72 S. Azadon Tienal, 'Binding Decisions of the Security Council within the meaning of Art.25 of U.N.Charter' IJIL, Vol.15(1975)195

had abstained because they could not support a resolution which implicitly accepted the advisory opinion of the "International Court of Justice". Further, in conclusion, it should be observed that the controversy as to the scope of Article 25 persists, at least in the attitudes of several states and that the majority view in the Namibia advisory opinion has not been accepted as a definite disposal of the issue."

The correct legal position seems to be as stated by the International Court of Justice the decision of the Security Council in respect of enforcement measures under chapter VII as well as other decisions are binding upon the member states by virtue of the provisions enshrined in Article 25 of the Charter.

Relations between the General Assembly and the Security Council:

Although the primary purpose of Security Council is maintenance of International peace and security and it is obligated to submit annual reports to General Assembly on measures taken by it for this purpose, the General Assembly is not authorised to comment upon the activities of the security council in a manner amounting to an assumption of concurrent jurisdiction in the matter of settling disputes. In other words, the Security Council is not subordinate to the over riding authority of General Assembly.

The Security Council is composed of diplomats and bureaucrats while the General Assembly consists of politicians from nation states. The Security Council

is almost continuously in session, while the General Assembly meets only in annual sessions or in special sessions called by the Secretary General at the request of Security Council or by majority of its members.

The two organs work in conjunction on matters pertaining to the admission and expulsion of members, appointment of the Secretary General and election of the judges of International Court of Justice.

The relationship between the two bodies as originally envisaged by the Charter, has been dramatically changed by the passage of the united for peace resolution. Since this resolution was passed the General Assembly has been able to wield wide powers when the Security Council is unable to exercise its primary responsibility for the maintenance of International peace and security due to the lack of unanimity among the permanent members in any case where there appeared to be a threat to peace, breach of peace or act of aggression.

However, from the 1960s the decline in the powers of security council was arrested and it once again started playing a leading role in settlement of international disputes. Thus the security council played an important role in the handling of Cuba, Congo, Cyprus and Indo-Pak crisis. It was also the main forum of action in the cases of Rhodesia and South Africa. In the middle east also the security council played an important role. This improvement in the status of security council was rendered possible because of the dead lock over Congo in the General Assembly, and the ineffectiveness of the General Assembly to act in the face of the

" Financial Veto " applied by the Security Council. Consequently once again, there was pressure for expansion of membership of the Security Council.

The fact is that its mere size and compactness give the security council a considerable practical advantage in the organisation comprising over 100 members. The General Assembly is usually in session in the last three or four months of the year but outside these limits it is an unwieldy body to convoke, compared to a body like the Security Council who is so organised as to be able to function continuously. In a world where unpredictability in international relations seems to be a rule rather than an exception, an agency which can respond quickly, however, inadequately is likely to remain a first resort, and on the issues on which the major powers have the last say, often of last resort too.

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CHAPTER - 6SECURITY COUNCIL: ROLE IN UNITED NATION'S PEACE  
KEEPING OPERATIONS

The United Nations Charter does not provide in terminis the power of Security Council to organise peace keeping operations and travaux preparatoires of San Francisco conference do not suggest that the founding fathers of the organisation would have really contemplated them. Nevertheless in modern times peace keeping operations have gradually acquired general, if not universal acceptance in the UNITED NATIONS.

In brief, one could say that Lacto Sensu the concept of "peace keeping operations" designates everything from one man's presence', through mediatory and conciliatory mission, observer and investigatory groups, Truce teams and on upto the formally organised peace keeping forces. Stricto Sensu the concept designates those operations which are carried out by organised armed forces of United Nations acting as rule with co-operation of parties involved in political or military conflict which caused the organisation of operation.

Peace keeping is one of the major ways in which the Security Council of the United Nations helps to maintain international peace and security. for the United Nations context; Peace keeping has been defined as:

The use of multinational forces, under the United Nations command to help **contain** and **resolve** conflict between hostile states and sometimes between antagonistic forces within the single state. It is a technique pioneered by the United Nations the soldiers as a

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68a Map Showing United Nations Peace Keeping Operations is attached as Annexure-III

catalyst for peace rather than instrument of war.

Around the world, respect for the United Nation's peace keeping activities is growing. As the tensions of cold war recede, the international community is turning increasingly to U.N. peace keepers to help resolve regional crisis.

In September, 1988, the Norwegian Nobel Committee awarded the peace prize to the peace keeping forces for performing an increasing variety of functions which requires new combinations of defence, police and civilian personnel.

United Nations peace keeping forces can be sent as unarmed observers or as a lightly armed peace keeping force. They might be despatched to observe a situation and report to the Secretary General, to supervise troops withdrawal or help ensure compliance with the treaties or other agreements. They might be asked to enquire into cease-fire violations or patrol buffer zones or they could be assigned to help supervise elections, monitor maintenance of law and order situations and ensure transition of a territory to independence.

In addition, they often provide much needed medical services, assist in the resettlement of refugees and work to restore normal civilian activities in strife torn areas.



ESTABLISHMENT OF PEACE KEEPING OPERATIONS:

When the United Nations member state or group of states or the secretary general, proposes the establishment of a peace keeping operation, three basic conditions have to be met.

- First, there must be the consent of the country or countries involved.
- Second, the proposal must enjoy broad support from the international community-specially, it must attract necessary votes for adoption by Security Council.
- Third, the member states must be ready to volunteer personnel.

The united nations has an impartial role. The success of peace keeping operations depend not only on the parties consent, but also on their full-co-operation, especially regarding freedom of movement of United Nations personnel within their territories and the facilities necessary to carry out the mandate.

In order for the 15-member Security Council to adopt a proposal for a peace keeping operation there should not be any negative vote from any of its five permanent members (China, France, Soviet Union, the United Kingdom, the United States).

- The Secretary General report to the Council on how the operation can be launched and executed.
- Subject to the councils approval he must then make the required arrangements.
- Choosing to supply military or civilian personnel, supplies and equipment, transportation and logistic support to the United Nation.
- In approving the Secretary General report on the establishment of peace keeping operation, the council



also decides how it will be funded: On a voluntary basis or as is usually the case, on a obligatory basis as expenses of world organisation in accordance with the provision of the charter. In the later case, General Assembly decides how the expenses will be apportioned among the member states. Only in exceptional circumstances may U.N. troops use force. They carry light arms and may employ them only if they are attacked, or if are stopped by force from carrying out their mandate.

The effectiveness of peace keeping forces derives from a combination of factors- the physical presence of military personnel who will return fire if they are fired upon, the moral authority of the U.N. and the pressure of world public opinion. Together, they deter the hostile parties from using force in the presence of U.N. peace keepers.

United nations soldiers work under the U.N. Commander, who takes his orders from the secretary general (who is himself responsible to the Security Council) but they remain under national command in matters of pay, discipline and promotion.

#### The United Nations Concept of Peace Keeping:-

The main responsibility for peace keeping lies with the security council. The United Nations Charter states that "when the council determines the existence of any threat to peace breach of peace, or act of aggression it shall decide what the United Nation should do to maintain or restore international peace and security. The Security Council looks first for peaceful settlement of the dispute. If its recommendations are not followed

by the parties involved, it can call for action by the international community, which might include asking member states to make armed forces available to enforce its wishes.

Since the United Nations was founded there have been only two military enforcement actions- in 1950 and 1990 when the Security Council in a series of resolution recommended member states to collectively deter aggression by use of force against an identified aggression. These two operations differed from peace keeping operations, which was based on the consent of the parties, are not permitted to use force except in self defence and are under the command of Secretary General.

As said earlier peace keeping as a concept is not specifically described in the U.N.Charter, but it has evolved over the years as an internationally acceptable way of controlling the conflicts. Since the advent of U.N. peace keeping for the first time military forces have been used not to wage war, establish domination, serve the interests of any power or group of power but rather to control and resolve conflicts between states or communities within the states.

Peace keeping has come a long way since the U.N. launched in 1948 and 1949 its first two truce observation mission in the middle east and along India-Pakistan cease-fire line in Kashmir which is still operational.

In January 1992, the Security Council held an unprecedented meeting at the levels of head of states and government. The meeting was a striking re-affirmation of role of United Nations in maintaining peace and security and the recognition that ending of cold war did not mean

end of the threat to peace. At the same time council welcomes the rapidly increasing peace keeping task it was over seeing including election monitoring, human rights disarmament verification and reparation of refugees.

The Council also called on the Secretary General to recommend ways to improve the United Nations capacity to meet escalating challenges in the areas of preventive diplomacy, peace building, peace making and peace keeping. In response, Secretary General released a far-reaching report later that year entitled 'An agenda for peace' that has served as policy bench mark in the tumultuous period that continues today.

The heightened role of Security Council in the post cold war period is reflected in a high level of difficult peace keeping and peace making initiatives. These missions have a close relationship with overall mandates of U.N. organisation and advancement of economic and social development in particular.

Peace and security are of course the ultimate goal of all United Nations activities. However, its direct involvement is clearest in its peace initiative through Security Council, its humanitarian assistance initiatives, its involvement in multi faceted process of disarmament and earlier in the process of decolonization given the immediacy and danger of conflicts, both nuclear conventional, peace keeping has always been an over riding concern of United Nations and its most visible activity to the world public. As a result, the activities of blue helmet U.N. peace keepers have become virtually synonymous with the organisation.

- By deploying more than 35 peace-keeping forces and observer missions since 1948, the Security Council has been able to intervene in conflicts to monitor cessation of hostilities agreements, provide humanitarian assistance and encourage peace negotiations. These interventions have saved many civilians from becoming casualties of conflicts. To date there has been around twenty peace keeping operations. Of these ten were peace keeping forces and other ten were military observer mission. This distinction is not however, absolute, unarmed military observers are often attached to peace keeping forces, and specialist military units, sometimes armed forces can be attached to observers mission. Several past operations have included major civilian elements. the UNTAG operation in Namibia being the most recent example.

- The United Nations annual budget for peace keeping rose from \$ 230 million in 1988 to \$3.6 billion for 12 months ending March,1995.

- As on 30th May,1995 there were 16 peace keeping operations around the world. In early 1995 about 69,000 U.N.Troops, military observers and civilian police provided by 77 were deployed in various areas of the world.

- More than 7,20,000 military personnel and thousands civilian have served with the U.N.Forces since 1948 and nearly 1,200 peace keepers have lost their lives while on mission.

PEACE KEEPING HIGHLIGHTS:

Peace making and peace keeping efforts of U.N. in General and Security Council in particular began with the entering into the force of U.N.Charter in October,1945 and opening of the first session of General Assembly in January,1946. They have continued on all fronts even since with notably positive results. Some of the important peace keeping operations undertaken by security council when reproduced read as under

UNITED NATIONS TRUCE SUPERVISION ORGANISATION (UNTSO)

HEADQUARTERS: Government House, Jerusalem

DURATION: June 1948 to present

AUTHORISED STRENGTH: 220 Military Observers

CHIEF OF STAFF: Major General Krishna Naryan Singh Thapa  
(Nepal)

The first peace keeping operation was united nations truce supervision Organisation in the middle east set up in 1948 to supervise the truce called for by the Security Council. In 1949 its military observers remained to supervise the armistic agreements between Israel and its Arab neighbours which were the basis of uneasy truce in the whole area.

UNTSO is still in operation. A unique feature of UNTSO is that its activities are spread over territory within five states and it maintains relation with five host countries (Egypt, Israel, Jordan, Labanon and Syria)



UNITED NATIONS MILITARY OBSERVER GROUP IN INDIA AND PAKISTAN

LOCATION: The cease fire line between India and Pakistan in the State of Jammu & Kashmir

HEADQUARTER: Rawalpindi(November to April)  
Srinagar(May to October)

DURATION: January,1949 to present

BACK GROUND: For nearly four decades, the United Nations has been concerned with the conflict between India and Pakistan over the status of the State of Jammu and Kashmir. The question first came before the Security Council in January,1948, when India complained that tribesmen and others, with Pakistan's support and participation, were invading Kashmir and extensive fighting was taking place. Pakistan denied the charges and declared that Kashmir's accession to India was illegal.

ESTABLISHMENT OF UNMOGIP :

On 20 January, the Security Council adopted resolution 39(1948) establishing a three-member United Nations Commission for India and Pakistan(UNCIP) to investigate and mediate the dispute. On 21 April 1948 by its resolution 47(1948) the Council decided to enlarge the membership of UNCIP and recommended various measures, including the use of observers to stop the fighting. The cease-fire between India and Pakistan came into effect on 1 January,1949 and a first group of U N military observers arrived in the area on 24 January. On 18 July,1949 India and Pakistan signed the Karachi Agreement establishing a cease-fire line to be supervised by the observers. These observers formed the nucleus of the United Nations Military Observer Group in India and Pakistan(UNMOGIP).

UNMOGIP'S ACTIVITIES

Following the termination of UNCIP, the Security Council, by its resolution 91(1951) of 30 March, 1951 decided that UNMOGIP should continue to supervise the cease-fire in Kashmir. Since that time, UNMOGIP has functioned as an autonomous operation, directed by the Chief Military Observer. UNMOGIP's functions were to observe and report investigate complaints of cease-fire violations and submit its findings to each party and to the Secretary General.

In early August, 1965 hostilities again broke out on a large scale along the cease-fire line in Kashmir and eventually spread to the international border between India and West Pakistan. The Security Council called for a cease-fire and a withdrawal of all armed personnel to the position held before the hostilities began.

COMPOSITION

The strength of UNMOGIP is 38 military observers from eight countries: Belgium, Chile, Denmark, Finland, Italy, Norway, Sweden and Uruguay

FINANCIAL ASPECTS

UNMOGIP is financed from the regular budget of the United Nations. The annual cost of the operation is approximately \$ 7 million.



UNITED NATIONS OPERATION IN CONGO

The Republic of Congo (Now the Republic of Zaire) a former Belgium colony, became independent on June 30, 1960. In the days that followed, disorder broke out and Belgium sent its troops to Congo, stating that its aim was to protect and evacuate Europeans.

On July 12, 1960 the Congolese government asked for United Nations Military assistance to protect the national territory of Congo against external aggression. Two days later security council called upon Belgium to withdraw its troops from the Congo and authorised the Secretary General to provide Congolese government with such military assistance as might be necessary until, through the efforts of government and technical assistance of United Nations, the Security force might be able in government opinion to meet their task fully.

In less than 48 hours contingents of United Nations force, provided by number of countries including Asian and African states began to arrive in Congo. At the same time, United Nations civilian experts were rushed to the Congo to help ensure the continued operation of essential public services.

Over the next four year the task of United Nations Operation in the Congo was to help the Congolese government, restore and maintain the political independence and territorial integrity of the Congo to help it maintain law and order throughout the country and put into effect a wide and long term programme of training and technical assistance programmes.

In February 1963 after Katangai had been reintegrated into national territory of Congo, a phasing out of the forces was begun aimed at its termination by the end of that year. At the request of Conglese government, however, the General Assembly authorised the stay of reduced number of tropps for further six months. The force was completely withdrawan by June 30,1964.

UNITED NATIONS PEACE KEEPING FORCES IN CYPRUS  
UNFICYP

LOCATION: CYPRUS

HEADQUARTER: NICOSIA

DURATION: MARCH 1964 to PRESENT

AUTHORISED STRENGTH: 1,273 Troops and Support Personnel,  
12 Military Observers and 38 civilian  
Police

BACKGROUND :-

Cyprus became independent on 16th August,1960 with a constitution that was intended to balance the interests of the islands Greek Cypriot and Turkish Cypriot communities. A Treaty of August,1960 entered into by Cyprus Greece, Turkey, United Kingdom guaranteed the basic provisions of the Constitution and territorial integrity and sovereignty of cyprus.

However, the application of the provision of the constitution encountered difficulties and led to succession of constitutional crisis. The accumululated tension between the two communities resulted in the out break of violence on the island on 21st December,1963.

On 27 December, the United Nations Security Council met to consider a complaint by Cyprus charging intervention in its internal affairs and aggression by Turkey. Turkey maintained that Greek Cypriot leaders had tried for more than two years to nullify the rights of Turkish Cypriot community and denied all charges of aggression.

ESTABLISHMENT OF UNFICYP:

ON 15th February 1964, after all attempts to restore peace on the island had failed the representative of the United Kingdom and of the Cyprus requested urgent action by Security Council.

On 4th March, 1964 the Council unanimously adopted resolution 186(1964) by which it recommended the establishment of the United Nations peace keeping force in Cyprus (UNFICYP) with a mandate to use its best efforts.

- to prevent a recurrence of fighting and as necessary
- to contribute to the maintenance and restoration of law and order and a
- return to normal conditions

Since then the council has periodically extended UNFICYP'S mandate usually for period of six months at a time.

MAINTENANCE OF CEASE FIRE AND MILITARY STATUS QUO:

In connection with hostilities in July and August 1974, the Security Council adopted a number of resolutions which have affected the functioning of UNFICYP and have required the force to perform certain additional functions relating, in particular, to maintenance of cease fire.

Following defacto cease fire which came into effect on 16th August, 1974, UNFICYP inspected the deployment of Cyprus National Guard and the Turkish Cypriot Forces and cease fire line and a buffer zone were established between the areas controlled by opposing forces.

Strict adherence to the military status quo in the buffer zone as recorded by UNFICYP at the time has become a vital element in preventing a recurrence of fighting.

#### HUMANITARIAN ACTIVITIES:

Another major function entrusted to UNFICYP is to:-

- encourage the fullest possible resumption of normal civilian activities in the buffer zone. To this end, it
- facilitates the resumption of farming in the buffer zone- Assist both communities on the matters relating to supply of electricity and water across the lines;
- endeavours to facilitates normal contact between Greek and Turkish Cypriots
- Facilitates provision of emergency medical services and
- Facilitates delivery of mail across the lines UNFICYP visits Greek Cypriots and the small Maranite community living in northern part of country (Island)

It also visits Turkish cypriot living in southern part.

UNFICYP also cooperates with United Nations High Commissioner for refugees in providing relief assistance.

#### Composition of UNFICYP :

The operational elements of forces are provided by Argentina, Australia, Austria, Canada, Denmark, Finland, Hungary, Ireland, Sweden and the United Kingdom. There are 34 international civilian personnel and 381 locally recruited staff.

UNITED NATIONS DESENGAGEMENT OBSERVER FORCE:LOCATION: Syrian Golan HeightsHEADQUARTERS: DAMASCUSDURATION: June 1974 to PRESENTSTRENGTH: 1,107 troops assisted by the Military  
Observers of UNTSO's OBSERVER GROUP  
GOLANFORCE COMMANDER: MAJOR GENERAL ROMAN MISZTAL (POLAND)BACKGROUND:

On 6 October 1973, war erupted again in the middle East between Egyptian and Israeli forces in Suez canal area and the Sinai and between Israeli and Syrian on Golan height.

On 24th October as fighting between Egypt and Israel reached a critical stage the Security Council decided to set up a second United Nations Emergency force (UNEF II). The force was immediately moved into a PLACE between Israel and Egyptian armies in the Suez Canal area and its arrival effectively stabilize the situation.

In the Israel - Syria sector tension remained high and from March 1974 the situation became increasingly tensed. United States undertook a diplomatic initiative which resulted in conclusion of an agreement on disengagement between Israeli and Syrian forces. The agreement signed on 31 May 1974 provided for establishment of a United Nations Observer Force to supervise its implementations.

ESTABLISHMENT OF UNDOF AND ITS ACTIVITIES :

The Security Council adopted resolution 350(1974)  
by which it set up the United Nations Disengagement  
Observer Force

As provided in the Agreement on Disengagement UNDOF's Mandate was:- to maintain the cease fire between Israel and Syria. To supervise disengagement of Israeli and Syrian forces and to supervise the areas of separation and limitation.

Since then, the Security Council has periodically extended UNDOF's Mandate for period of six months at a time.

UNDOF Head Quarter maintains a close Liaison with Israeli and the Syrian authorities through their senior military representatives. At the local level the commander of UNDOF of UNITS maintain liaison with one side or the other through Liaison Officer designated by the parties.

UNDOF has performed its tasks effectively with the Co-operation of the parties and the area has remained generally quiet.

In addition to normal peace keeping functions UNDOF has carried out activities of humanitarian nature.

At the request of the parties, UNDOF has from time to time exercised its good offices in arranging for transfer of released prisoners and the bodies of war dead between Israel and Syria. It has assisted the international committees of Red Cross by providing it with facilities for handover of prisoners and bodies for the exchange of parcels and mail and for passage of persons



and personal effects across the area of separation. Within the means available, UNDOF has also provided medical treatment to the local population.

UNITED NATIONS INTERIM FORCE IN LEBANON (UNIFIL)

LOCATION: SOUTHERN LEBANON

HEADQUARTERS: NAQOURA

DURATION: MARCH 1978 TO PRESENT

STRENGTH: Some 5,266 Troops assisted by 57 military observers of UNTSO's group approximately 520 international and CIVILIAN staff

CHIEF OF STAFF: Major General Trand Furuhande (NORWAY)

Established in 1978, UNIFIL was established by Security Council with the mandate

- 1) to confirm the withdrawal of Israeli forces from Southern Lebanon
- 2) restore international peace and security and
- 3) to assist government of Lebanon in ensuring the return of its effective authority of the area.

HISTORICAL BACKGROUND

In the early 1970s tension along the Israeli Lebanon border increased, especially after the relocation of palestinian armed elements from Jordan to Lebanon. Palestinian Commando operations against Israel and Israel reprisal against palestinian bases in Lebanon intensified.

On 11 March, 1978, a commando attack in Israel resulted in many dead and wounded among the Israeli population. The Palestine Liberation Organisation claimed responsibility for that raid. In response Israeli force invaded Lebanon and occupied almost the the entire southern part of the country.



ESTABLISHMENT OF UNIFIL :

On March 15, the Lebanese Govt. submitted a strong protest to the Security Council against Israeli invasion stating that it had no connection with Palestinian Commando operation on 19th March, the Security Council adopted resolution 425(1978) calling up

- immediately to cease its military action and withdraw its forces from all Lebanese territory.
- It also decided to establish immediately a United Nations interim force for Southern Lebanon (UNIFIL) for an initial period of six months subject to extension.

The First UNIFIL troops arrived in the area on 23rd March 1978.

UNIFIL'S ACTIVITIES

Until now, however, it has not been possible for UNIFIL to carry out in full its original mandate. From its inception, the force had to operate under extremely difficult conditions. The PLO and the Government of Israel never fully accepted the UNIFIL mandate with all its implications.

In June 1982, Israel invaded Lebanon again. This invasion changed UNIFIL's situation drastically. For three years, UNIFIL in its entirety remained behind the Israeli lines, with its role limited to providing protection and humanitarian assistance to the local population to the extent possible.

In 1985, Israel carried out a partial withdrawal but it retained control of an area in southern Lebanon, manned by the Israel Defence Forces (IDF) and by Lebanese de facto forces (DFF), the so called 'South Lebanon Army'. IDF/DFF remain target for attack by armed groups opposed

to the occupation. For their part, IDF/DFP react vigorously to these attacks, often with heavy weapons and with air support from Israel.

UNIFIL has thus been prevented from carrying out its mandate. In the circumstances, it endeavours, to the best of its ability, to prevent its area of operations from being used for hostile activities and to protect civilians caught in the conflict.

UNIFIL's operations are based on a network of positions which are manned 24 hours a day.

UNIFIL's network of positions and the patrols mounted from them also play a central role in the Force's performance of its humanitarian task.

In accordance with its mandate of assisting the Government of Lebanon in ensuring the return of its effective authority in the UNIFIL area, UNIFIL and the Lebanese military authorities worked out arrangements for the transfer to the Lebanese army of responsibility for the western part of the Force's Ghanaian battalion sector. The handover which involved the vacating of eight UNIFIL positions, was completed in early April, 1992. In a follow up handover additional area comprising three villages, including the former Ghanaian battalion headquarter of Marakah was handed over to the Lebanese Army on 16 February, 1993.

In July 1993 in his report to the Security Council The Secretary General stated that although UNIFIL had not been able to make progress towards the implementation of its mandate, its contribution to stability in the region and the protection it provided to the local population

remained nevertheless important. He recommended to extend UNFIL'S mandate for a further period of six months, that is until 31 January, 1994. The Security Council approved this recommendation.

COMPOSITION OF UNFIL

In the course of 1992, the strength of UNIFIL was reduced by 10 per cent. At present UNIFIL has some 5,266 troops provided by Fiji, Finland, France, Ghana, Ireland, Italy, Nepal, Norway, Poland and Sweden. In addition, 57 military observers from UNISOs, Observer Group Lebanon assist the force in the performance of its tasks. UNIFIL employ: 526 civilian staff of whom 161 are recruited internationally.

IRAN- IRAQ: UNITED NATIONS IRAN-IRAQ MILITARY

OBSERVER GROUP: (UNIIMOG)

The Security Council Unanimous adoption in July, 1987

of Resolution 598 on the conflict between Iran and Iraq contained peace plan that as a first step, called for an immediate cease-fire and for withdrawal of forces to internationally recognised boundaries.

Following acceptance of Resolution by Iran and Iraq, the Secretary General negotiated a cease-fire agreement between two sides to take effect on 20 August, 1988.

The Security Council then established the U.N. Iran-Iraq Military observer Group (UNIIMOG) composed of 350 military observers and their support staff to monitor the cease-fire and report to the Secretary General.

By late 1990 Iran and Iraq had largely completed a troop withdrawal to the internationally recognised boundaries. The UN. Military observer group supervised and verified the withdrawal and defused local tension.

In Feb.1991, the withdrawal of forces completed the mandate of UNIMOG came to an end.

UNITED NATIONS ANGOLA VERIFICATION MISSION I & II

LOCATION: ANGOLA

HEADQUARTER : LUANDA

DURATION: 1ST MISSION: DECEMBER 1988 to PRESENT

2ND MISSION: JUNE 1991 to PRESENT

STRENGTH: 50 MILITARY Observers, 18 Police Observers, 11 Military Paramedics 43 International STAFF and 75 Local Staff

CHIEF MILITARY OBSERVER :Major General Chris Abutu Garuba (Nigeria)

The United Nations Angola verification mission (UNAVEMI) was originally established by Security Council on 20th December,1988 at the request of governments of Angola and Cuba.

- Its task was to verify the phased and total withdrawal of Cuban troops from Angola in accordance with the timetable agreed between the two governments. The withdrawal was completed by 25th May,1991 (more than one month before the Scheduled date)

And on 6th June the Secretary General reported to the Council that UNAVEMI had carried out fully, effectively the mandate entrusted to it. Meanwhile on 17th May,1991 the Angolan government requested the Secretary General to ensure the participation of United Nations in verifying the implementation of peace Accords for

Angola, initiated by Angola government and UNITA and consequently to prolong the UNAVEMs presence in Angola.

On 30th May, following Secretary General's recommendations, the Security Council adopted resolution 696(1991) entrusting new mandate to UNAVEM (thereafter UNAVEM II) and establishing a Mission for a period of seventeen(17) months until general elections were held in Angola in the fall of 1992.

The United Nations verification operation began its tasks of verification of cease fire arrangement as soon as Angolan peace accord were formally signed on 31st May,1991. In essence their task was

- To verify the arrangements agreed to by the Angolan parties for monitoring the cease-fire and verifying elections.

Despite the United Nations declaration that the September 1992 elections were generally free and fair, the results of the elections were contested and renewed fighting broke out.

#### SITUATION DETERIORATES :

On 30 October, the Security Council faced with alarming reports of resumed hostilities in many parts of the country adopted resolution 785(1992) extending the mandate of UNAVEM-II until 30th November,1992 and endorsing the statement by the Secretary General's special representative on elections having been generally free and faire

#### FURTHER EFFORTS TO RESTORE PEACE

In January 1993 fighting intensified throughout the Angolan National territory between the Angolan Government and UNITA Forces particularly in the Central city of Huambo. After repeated efforts of the Secretary General's

special representative a dialogue was arranged between the two sides in the light of steadily worsening situation and collapse of negotiations, the Security Council by resolution 811(1993) of 12th March demanded an immediate cease-fire throughout the country.

On July 15,1993 the Mandate of UNAVEM II was further extended by Security Council resolution 851(1993)

Since then UNAVEM-II has sought to help the two sides agree on ways to restore peace.

#### IRAQ - KUWAIT :-

#### 1. UNITED NATIONS IRAQ- KUWAIT OBSERVATION

##### MISSION

LOCATION: The demilitarised Zone along the boundary between Iraq and Kuwait

HEADQUARTERS: Umm Qast

DURATION: April 1991 to present

AUTHORISED STRENGTH: 3,645 Military Personnel

CURRENT STRENGTH: 252 Military observers, 109 other Military personnel and some 80 international and 106 local civilian staff.

ACTING CHIEF MILITARY OBSERVER: Brigadier General Viga Aabrek (Norway)

The response of U.N. to Iraq's 2 August,1990 invasion of Kuwait has involved the full range of options at the disposal of International community for maintenance of international peace and security- Good Offices, sanctions enforcement actions, peace keeping, humanitarian assistance and pioneering role for organisation in practical disarmament.



BACKGROUND:-

On 2 August 1990, Iraq invaded and occupied Kuwait. The same day the United Nations Security Council immediately undertook wide ranging diplomatic efforts to attain a peaceful solution to the crisis. The Secretary-General met with Iraqi Foreign Minister in August, 1990 and with Iraq's president in January, 1991 and consulted with other political leaders and concerned parties.

In a series of Resolutions adopted during the same period, the security <sup>council</sup> condemned the invasion and demanded

1. Iraq's unconditional withdrawal.
2. Imposed comprehensive mandatory sanctions on both Iraq and occupies Kuwait and
3. Endorsed a naval blockade to enforce those measures.

The Council subsequently adopted a number of resolutions of various aspects of the situation and on 29th November, 1990 it decided to give Iraq until 15th January, 1991 to implement those resolutions if not, member states co-operating with the government of Kuwait were authorised to use "all necessary means" to uphold and implement the council's resolution and to restore international peace and security in the area.

However, on Iraq's failure to comply with the Security Council's resolutions by 15th January, 1991, the coalition forces led by America, acting in accordance with Security Council's authorisation successfully ousted Iraqi forces from Kuwait and restored Kuwait sovereignty. Since the cessation of hostilities on 27th February a multifaceted United Nations efforts has sought to restore peace in the region and ensure that Iraq can no longer



pose a threat to its neighbours. On 3rd April 1991 while still maintaining the economic sanctions against Iraq, the Security Council adopted resolution 687(1991) which set an elaborate series of conditions for a ceasefire and established the machinery for the supervision of those conditions. Following Iraq's acceptance of that resolutions provisions the ceasefire became a formal one.

ESTABLISHMENT OF UNITED NATIONS IRAQ-KUWAIT

OBSERVATION MISSION: UNIKOM:

By Resolution 687(1991) the Security Council established, among other things a demilitarized zone (DMZ) along the boundary between Iraq and Kuwait, to be monitored by a United Nations observer unit and requested the secretary general to submit to council for approval a plan for the units immediate deployment. The Secretary General reported back on 5th April,1991 and on 9th April, the Security Council approved his plan for the setting up of United Nations Iraq-Kuwait observation Mission (UNIKOM)(resolution 689 (1991). It decided further that the modalities for the mission should be reviewed every six months.

The mandate of the Mission is to monitor the Khawr Abd Allah water way between Iraq and Kuwait and the demilitarised Zone (DMZ)

- to deter violations of the boundary through its presence in and surveillance of the demilitarised zone and
- to observe any hostile action mounted from the territory of one state against the other.

(The Khawr Abd Allah water ways is about 40 Kms long. The DMZ which is about 200 Kms long extends 10 Kms into Iraq and 5 Kms into Kuwait).

The military observers of UNIKOM are unarmed. UNIKOM does not have the authority or the capacity to take physical action to prevent the entry of military personnel or equipment into Demilitarised Zone. Responsibility for the maintenance of law and order rests with the government of Iraq and Kuwait in their respective part of Zone. In the Demilitarised Zone the Police are allowed only side arms.

#### UNIKOM'S ACTIVITIES

The UNIKOM advance party arrived in the area on 13th April 1991. By May 6, 1991 the Mission was fully deployed. UNIKOM then monitored the withdrawal of the armed forces that were still deployed in its assigned Zone. That withdrawal having been completed, the De-Militarised Zone established by the Security Council came into effect on 9th May and UNIKOM assumed in full its observation responsibilities.

UNIKOM'S concept of operation is based on combination of patrol and observation basis, observation points, ground and air patrol, investigating teams and liaison with the parties at all levels.

UNIKOM enjoys full freedom of movement throughout the De-Militarised Zone and observes the length and breadth of the Zone and that no military fortifications are maintained in it.

UNIKOM also maintained a contact and provided technical support to other United Nations Mission working in Iraq and Kuwait, in particular to Iraq-Kuwait boundary demarcation commission and to the United Nations office dealing with the return of property from Iraq to Kuwait.

## 2. THE UNITED NATIONS IRAQ-KUWAIT BOUNDARY COMMISSION;

Established in May 1991, it demarcated the disputed boundary between the two countries- Iraq and Kuwait- It is the first time in the history that Organisation was called upon to demarcate a boundary between two member states.

3. Since April 1991, The United Nations Special Commission (UNSCOM) with international atomic energy agency (IAEA) has completed destruction of Iraq's massive chemical stocks, established a comprehensive system to ensure that Iraq does not reconstitute its prohibited Nuclear Programme and deployed a system for ongoing monitoring and verification of Iraq's military capabilities. Since August 1992 the Commission established to administer the United Nations compensation fund for victims of Iraq's invasion, it has been receiving several categories of claims covering death, personal injury forced departure from Iraq and Kuwait and other associated damages for which Iraq is obligated to pay in accordance with United Nations Resolution. In 1994, the Fund paid out \$2.7 million to the 1st successful claimants. By mid 1995, the fund had approved awards totaling \$1.3 billion to 3,50,000 people from 67 countries and international organisations presenting Palestinian claims.

However, payment of these and any future compensation awards was being hindered due to lack of sufficient resources in compensation fund.

UNITED NATIONS OBSERVER MISSION IN  
ELSALVADOR                      (ONUSAL)

LOCATION:     EL SALVADOR

HEADQUARTER:     SAN SAIVADOR

DURATION:         JULY 1991 TO PRESENT

AUTHORISED STRENGTH: Approximately 1,000 Military and  
Police Personnel, 170 international  
Civilian Staff and 187 Local Staff

BACKGROUND:

The establishment of ONUSAL came about as a result of complex negotiating process, initiated by the Govt. of EL Salvador and the Frente Farabundo Marte Para La Liberacion Nacionae (FMLN) in September, 1989 and conducted by the parties under the auspices of United Nations General Secretary.

The objectives of the negotiation were to achieve a series of political agreements aimed at resolving the prolonged armed conflict in EL Salvador by Political means

- as speedily as possible
- promoting democratisation in the country
- guarnting unrestricted respect for human rights and
- reunifying salvadorian society.

It was envisaged that implementation of all agreements that might be signed between the two parties would be subject to verification by the United Nations.

The first substantive agreement was achieved on 26th July, 1990 when the government of EL Salvador and FMLN signed at San Jose Costa Rica, the agreement on

Human rights which provided for establishment of United Nations verification Mission to monitor nation-wide respect for and the guarantee of human rights and fundamental freedoms in EL Salvador Mission was to take up its duties as of the cessation of armed conflict.

ESTABLISHMENT OF ONUSAL:

On 20 May 1991, following Secretary General recommendations, the Security Council by its resolution 693(1991) decided to establish the United Nations Observers Mission in EL SALVADOR(ONUSAL) as an integrated peace keeping operation to monitor all agreements conducted between the government of EL Salvador and FMLN. The Mission's initial mandate was to verify the compliance by the parties with the San Jose Agreement on Human Rights. At that stage, the tasks of Mission included actively monitoring the human rights situation in EL Salvador; investigating specific cases of alleged human rights violations promoting human rights in the country; making recommendations for the elimination of violation and reporting on these matters to the Secretary General and through him to the United Nations General Assembly and Security Council.

First Enlargement Of ONUSALS MANDATE

Meanwhile, steady progress was made in the negotiation on other political agreements aimed at ending the armed conflict in EL Salvador, on 31 December 1991, parties agreed that final peace agreement would be signed at Mexico City on 16th January, 1992.

The agreement included two in particular, requiring a substantial enlargement of ONUSALS Mandate. These were the agreements on cessation of Armed conflict according to

which ONUSAL was to verify all aspects of cease-fire and the separation of forces and the agreement on National Civil Police which envisaged that ONUSAL should monitor the maintenance of Public Order during the transition period while the new civil police was being set up.

On 14 January 1992 Security Council by its resolution 729(1992) unanimously decided to enlarge ONUSAL Mandate and to increase its strength in order to fulfil verification requirement of the agreements. After signing of 'Peace Agreement' in Mexico city on 16th January, 1992, the Secretary General took immediate steps to enable the mission to implement its expanded mandate.

#### END OF ARMED CONFLICT

On 23rd December 1992, the Secretary General reported to the Security Council that the armed conflict between the government of El Salvador and FMLN had been brought formally to an end on 15th December in accordance with agreed adjustment in time table for implementation of peace agreement.

#### SECOND ENLARGEMENT OF ONUSALS MANDATE:

ONUSAL's MANDATE was enlarged a second time after the government of EL SALVADOR on 8th January 1993 formally requested United Nations Observation of election of Presidency, the Legislative Assembly, Mayor and Municipal Councils due in March, 1994.

The Secretary General informed the Security Council of the request and stated that given the importance of these election it was his intention to recommend that council accept it.



A Technical Mission visited EL Salvador from 18th April 1993 to define the terms of reference, concept of operations and financial implications of expanding the ONUSAL MANDATE

The Secretary General summarised his main findings of the mission in his report to Security Council and stated that the elections were likely to be the culminating point of entire peace process. The Salvadorian Supreme Electoral Tribunal would receive full co-operation from ONUSAL. Security Council approved his recommendation that mission be authorised to observe electoral process.

The Security Council approved the secretary general report by its resolution 832 of 27 May, 1993 and decided to enlarge ONUSAL's mandate to include observation of the electoral process. It also requested Secretary General to take necessary measures to this effect.

By the same resolution the council welcomed the continuing adaptation by the Secretary General of the activities and strength of ONUSAL, taking into account progress made in implementing a peace process.

COMPOSITION:

ONUSAL Military observers are provided by Brazil, Canada, Colombia, Ecuador India, Ireland, Spain, Sweden and Venezuela. In addition, four Medical Officers are provided by Argentina. Police observers came from Austria, Brazil Chile, Colombia, France Guyana, Italy, Mexico, Spain and Sweden.



UNITED NATIONS MISSION FOR REFERENDUMIN WESTERN SAHARA (MINURSO)LOCATION: WESTERN SAHARAHEADQUARTERS: LOAYOUNEDURATION: SEPTEMBER 1991 TO PRESENTFORCE COMMANDER: Brig- General Andre Van Baciën(Belgium)BACKGROUND :

The situation in western Sahara was essentially tense. In order to bring peace in the region, the Secretary General of United Nations in co-operation with the Chairman of Assembly of Head of State and government of organisation of African Unity(DAU) initiated a joint mission of good offices for solution of question of Western Sahara on 11 August,1988 a document known as settlement proposal was arrived at, which called for:-

Just and definitive solution of question of Western Sahara in confirmity with 1960 General Assembly resolution 1514(XV).

This would be accompanied by means of cease fire and the holding of referendum without military or administrative constraint to enable the people of Western Sahara in exercise of their right to self-determination to choose between independence and integration with Marocco.

This proposal of Secretary General was approved by Security Council on 27 June,1990 alongwith an outline of Secretary General's plan for implementing those proposals.

IMPLEMENTATION PLAN AND ESTABLISHMENT OF MINURSO

The plan was to be implemented by a group known as United Nations Mission for referendum in Western Sahara (MINURSO) headed by special Envoy to Secretary General assisted by deputy Special representative and united nations civilian military and civilian police personnel.

MINURSO was accordingly established by Security Council vide resolution 690(1991) with a mandate

- Originally to monitor cease-fire
- verify reduction of Moroccan Troops in territory
- Monitor confinement of troops to designate locations.
- ensure the release of western Sahara Political prisoners or detainees, oversee the exchange of prisoners of war.
- Implement the repatriation programme
- Identify and register qualified voters organised and ensure a free referendum and proclaim the results.

However, due to divergent views plan has not been fully implemented.

UNITED NATIONS OPERATION IN SOMALIA-IILOCATION: SOMALIAHEADQUARTERS: NOGADISHUDURATION: APRIL 1992 to PresentAUTHORISED STRENGTH: Approximately 28,000 Military  
Personnel and some 2,900 civilian StaffBACKGROUND:

The situation in Somalia is unique and unprecedented. The present crisis in Somalia is due to civil war since 1991, Gen. Aidid never accepted the Ali Mahdi Mohamed as interim president. Apart from these two main groups, there are many other armed factions who are engaged in looting and robbery. Due to continuous violence and civil war the social and economic conditions is in shambles.

In Short violence, civil war, famine and drought are the main problems of Somalia. Armed factions of Somalia have been obstructing the deliveries of humanitarian aid to Somali people who are dying in large number due to starvation and diseases.

On 20 January 1992, Interim Government of Somalia requested the Security Council of United Nations to consider on the worsening humanitarian crisis in Somalia. The attention of Security Council was also drawn towards the worsening Civil War Situation in Somalia.

On 23rd Jan 1992, the Security Council of United Nations passed a resolution unanimously that in order to establish peace and stability in Somalia "All states shall comply with the general and absolute prohibition of supply of Military equipments to Somalia and shall continue to do

so until council decides otherwise."

Although the states contended that they have been complying with the general and absolute prohibition both the warring group claim that they have been receiving arms.

On account of constant endeavours of Security Council and Council Prohibition of supply of arms to Somalia four months heavy fighting for control of Mogadishu ended on 3rd March 1992, with the signing of cease fire agreement.

On 24th April, 1992, the Security Council established UNOSOM to supervise cease-fire in Somalia and to provide every possible humanitarian aid to the suffering people of Somalia and also supported 90 days emergency plan proposed by Secretary General to facilitate cessation of hostilities.

In an 90 days action plan 15 lakh people (whose lives were in imminent danger were to be given food supply and other aid besides this help was also to be given in the services, food supplies, seeds, basic health, water etc. to other 35 lakhs people.

#### 100 Day Plan :

The United Nations agencies participating in the Mission including the World Food Programme (WFP) United Nations Children Fund, UNHCR, the United Nations development programme The food and Agriculture Organisation of the United Nations and the World health Organisation—decided to undertake massive mission of food and other relief activities, after the main factions of Somalia agreed that during the next 100 days free and safe access would be provided for the delivery of humanitarian assistance to the affected population.

In November 1992 America proposed to send 20,000 troops in Somalia. In December 1992 Secretary General Boutros- Boutras Ghali said that American troops should disarm war lords of Somalia and they should remain there until peace is established. Earlier, gravely alarmed by the deterioration of humanitarian situation in famine stricken Somalia and dismayed by the continued looting of relief supplies and attack on United Nations peace keepers there, the Security Council on 3rd December 1992 called for the use of "all necessary means" to secure delivery of humanitarian aid to the starving people of Somalia.

By Resolution 794(1992) the Council acted under CH-VII of the UN Charter which provides for action including use of force with respect to threat to peace and act of aggression.

This was probably in response to American offer for deployment of American troops to ensure secure environment for humanitarian relief operations in Somalia.

On 26th March 1993 the Security Council decided to transfer the task of securing humanitarian aid deliveries from U.S.led international forces to United Nations peace keeping Operations i.e. expanded U.N.Operation in Somalia called UNOSOM II. It was made clear that like UNITAF(United Nations Task Forces led by America) Forces, UNOSOM II will operate under the provision of CH VII a mandate No.I initially given to UNOSOM.

LEGAL JUSTIFICATION FOR ROLE OF SECURITY COUNCIL

The Security Council took action under CH VII of United Nations Charter and when the Security Council takes action under CHAPTER VII of the Charter the principle of Non-intervention by the United Nation in the matter of member states which are essentially within the "Domestic jurisdiction" as provided in Art 2(7) does not apply.

As regard Somalia the interim government of Somalia requested the council to consider worsening humanitarian problems and civil war.

Thus First Security Council took the action at the request of Somalia.

Second - The council determined that humanitarian problems and civil war of Somalia posed a threat to international peace and security.

When council found that action No.1 involving use of force proved to be inadequate the council allowed the use of all necessary means (as it did earlier in the case of gulf war,1991) to establish a secure environment for humanitarian relief.

Thus Security Council action in Somalia is fully justified under international law. Ordinarily even the United Nation can not intervene on the ground of violation of human rights or civil war in a member But if the Security Council determines that violation of human rights or civil war reaches such a magnitude that it poses a threat to international peace and Security, Security/<sup>council</sup>becomes entitled to take action under CH VII of the Charter by virtue of exception provided in Art2(7)



of the Charter. This is what the council actually did in case of Somalia.

Although it is true that it is essential to prevent the wave of violence in Somalia and to achieve this Security Council took upon itself the task of disarming the warlords of Somalia so as to ensure the environment for humanitarian deliveries to the starving people of Somalia. It must not be forgotten that the objectives of United Nations is to enforce peace rather than imposed peace.

After failure of American troops to disarm warlord of Somalia especially to capture General Aidid and his followers this was realised by United Nations Security Council. Instead of enforcing peace American action lead to outburst of violence. American action came up for a lot of criticism.

That is why, in January 1994, Security Council gave United Nations peace keeper a limited mission after the withdrawal of American troops. It retreated from aggressive and combative peace keeping operations and returned to more cautious neutral role the United Nations has traditionally played.



UNITED NATIONS OBSERVER MISSION IN GEORGIALOCATION: GEORGIAHEADQUARTERS: SUKHUMIDURATION: AUGUST 1993 TO PRESENTAUTHORISED STRENGTH: 88 Military observers, 56 international and 46 Local Civilian StaffBACKGROUND :-

The relations between Abkhaz and Georgians have been tense for decades. Historically Abkhaz (situated in North West region of Georgia) attempted many times <sup>to</sup> separate from the Republic of Georgia.

Most recently in August 1990, the Abkhaz Supreme Soviet declared Abkhazia a sovereign republic of Soviet Union independent of Georgian Supreme Soviet. ~~Union~~ compromise for remaining in the Republic of Georgia, the Abkhaz were given disproportionate representation in the Supreme Council of Abkhazia.

A Cease Fire Agreement was reached on 3rd September, 1992 in Moscow by the Republic of Georgia the leadership of Abkhazia and the Russian Federation stipulating the territorial integrity of Republic of Georgia shall be ensured.

However, an agreement was never fully implemented. Both sides accused one another of continuing to violate cease-fire. The situation remained very tense.

UNITED NATIONS EFFORTS:-

The United Nations sought to revive the peace process by diplomatic means. In carrying out peace making efforts, the United Nations consulted with the CSCE so as

to ensure effective co-ordination of activities.

The Secretary General sent various mission to explore the specific ways in which United Nations could support the implementation of the 3rd September agreement including the possible deployment of civilian and military observers.

Secretary General then recommended deployment of United Nations Military observers.

On 9th July, 1993, the Security Council adopted Resolution 849(1993) by which it approved the deployment of military observers as soon as the cease-fire was implemented.

On 27 the July 1993 a new agreement was concluded and cease fire is reached.

#### ESTABLISHMENT OF UNOMIG

On 24th August the Security Council decided to establish the UNITED NATIONS observer Mission in Georgia (UNOMIG) when UNOMIG was still in the early stage of deployment. The cease fire broke down on 16 September when Abkhaz forces withdrew armed support from outside Abkhazia launched attack on Sukhumi and Ochamchira.

#### The Security Council Acts

By its resolution 876 (1993) adopted on 19th October the Security Council reaffirmed its condemnation of the violation by Abkhaz Forces of the cease-fire agreement and their subsequent violation of international humanitarian laws.

The Council welcomed the Secretary General decision to send a fact finding mission to Georgia in particular to investigate reports of ethnic cleansing

While welcoming the humanitarian assistance already provided to victims of the conflict the council urged members states to contribute to the relief efforts being carried out by international agencies.

UNITED NATIONS OBSERVER MISSION IN LIBERIA

LOCATION LIBERIA

HEADQUARTER: MONROVIA

DURATION: SEPTEMBER 1993 to present

STRENGTH: 303 Military observers, 20 Military Medical personnel, 45 Military Engineers  
58 United Nations Volunteers, 89 International Civilian and 136 local civilian staff

BACKGROUND

The UNITED NATIONS observer Mission in Liberia (UNOMIL) is the First United Nations peace keeping Mission undertaken in co-operation with the peace keeping operations already set up by another organisation. Established in September 1993 by Security Council UNOMIL will work with the Economic community of western African states (ECOWAS) a sub regional organisation in assisting the liberians to establish peace in the country.

The situation in Liberia is essentially that of civil war, since 1990 the war has claimed 1,00,000 1,50,000 civilian lives and displaced many resulting in some 7,00,000 refugees in the neighbouring countries.

UNITED NATIONS ACTION IN LIBERIA

The Security Council first took up question of Liberia on 22 Jan.1991 when council's President commended the efforts of heads of state of ECOWAS and called upon the parties to respect the cease fire agreement.

On 19 November 1992 the Security Council adopted Resolution 788(1992) and imposed a general and complete embargo on all deliveries of weapons and military equipment to Liberia except for those designed for the sole use of the peace keeping forces of ECOWA S

The Council also called on the members states of United Nations to keep <sup>exert</sup> self restraint in their relations with all parties to the conflict in Liberia and to refrain from taking any action that would be inimical to the peace process.

Further it requested the Secretary General to despatch urgently a special representative for Liberia who would evaluate the situation and make recommendation as soon as possible.

Finally on 25th July, 1993 peace accord is reached known as colonou peace agreement. The agreement laid out a continuation of action from cease fire through disarmament and demobilization to the holding of national elections. On Humanitarian issues, the parties asked that all efforts be made to deliver such assistance throughout the Liberia using the most direct routes and monitoring compliance with the Emargo provisions of the Agreement.

The United NATIONS High Commissioner for Refugees was requested to facilitate the speedy return of refugees and their reintegration into their communities. Eventually on 22nd September 1993 the Security Council by resolution 866(1993) established united nations observers mission in Libera(UNOMIL) for a period of seven months, UNOMIL will work with ECOMOG in implementation of colonou peace agreement.

UNITED NATIONS OBSERVERS MISSIONUGANDA - RWANDALOCATION: Uganda Side of Uganda Rwanda BorderHEAD QUARTERS: KABALEDURATION: June 1993 to PRESENTAUTHORISED STRENGTH: 81 Military observers, 17 international staff and 7 locally recruited personnelACTING CHIEF MILITARY OBSERVER: Colonel BEN MATIWAZA (ZIMBABWE)BACKGROUND:

Fighting between the armed forces of Govt.of RWANDA and RWANDESE PATRIOTIC Front(RPF) first brokeout in October 1990 across border between RWANDA and its norther neighbour UGANDA

Despite number of cease fire agreements thereafter hostilities resumed in the norther part of the Country resulting in interruption of ~~comprehensive~~ negotiation between govt.of RWANDA and RPF.

For the resumption of negotiation both sides asked for the help of Secretary General who with the approval of Security Council sent good will mission to RWANDA and Uganda as also asked the Mission to explore all possible means for establishment of peace including possibility for deploying military observer along the border.

Meanwhile efforts of organisation of African Unity (OAU) and Tanzania led to a meeting between Government and RPF where they pledged their commitment to negotiated

settlement and agreed to reinstate the cease-fire on 9th March and to the resumption of peace talks in Austria Tanzania. They also committed themselves to provide adequate security and protection to displaced persons.

On 12th March 1993, the Security Council by resolution 812(1993) called on the govt.of RWANDA and RPF

- to respect the renewed cease-fire
- to resume negotiations
- to allow delivery of humanitarian supplies
- and the return of displaced persons.
- Security Council also on recommendation of Secretary General by its resolution 846(1993) authorised the establishment of United Nations observer Mission Uganda - RWANDA(UNCOMUR). On Uganda side of common border for an initial period six months, subject to its review every six months.
- The Security Council also urged the govt.of Rwanda with a view to conclude quickly a comprehensive peace agreement.

As requested by Security Council Resolution 846(1993), the UNITED NATIONS undertook consultations with the govt.of Uganda with a view to concluding a status of mission agreement.

The agreement was finalised and entered into force on 16th August 1993. This opened the way to deployment of advance party which arrived in the Mission area on 18 August.

#### FUTURE OF UNCOMUR

The Arusha peace talks which had resumed on 16 March 1993 successfully concluded on 4th August,1993. The Govt. of RWANDA and RPF called for

- Establishment of neutral international force to facilitate the implementation of peace agreement.
-



- On 5th October the Security Council by resolution 872(1993) established United Nations assistance Mission for RWANDA (UNAMIR).

The Council also approved the proposal that UNOMURI be integrated into UNAMIR i.e. UNITED Nations Assistance Mission for RWANDA.

UNITED NATIONS ASSISTANCE MISSION FOR RWANDA

LOCATION: RWANDA

HEADQUARTER: KIGALI

DURATION: OCTOBER 1993 to PRESENT

Security Council established UNAMIR on 5th October, 1993 by resolution 872(1993) with the mandate

- of contributing to the establishment and maintenance of a climate conducive to secure installation and subsequent operation of the transitional government.  
For achieving this end its principal functions would be
- to assist in ensuring the Security of capitalcity of Kigali.
- Monitor cease fire agreement including establishment of an expanded demilitarised zone(DMZ) and Monitor the security situation during the final period of transitional governments mandate leading up to elections and
- Assist in mini clearance.
- In addition mission was asked to escort and protect humanitarian activities until relieved by the new defence forces and Genclarmerie of Rwanda.

The Council asked the parties to implement the Arishq agreement in good faith and called upon member states, united nations specialised agencies and non-governmental organisation to provide and intensify their Economic, Financial and humanitarian assistance in favour of Rwandese population and democratization process in RWANDA.



UNITED NATIONS PROTECTION FORCES: UNPROFOR

LOCATION: BOSNIA AND HERZEGOVINA, CROATIA, THE FEDERAL  
REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENE-  
GRO) AND THE FORMER YUGOSLAVIA REPUBLIC OF  
REPUBLIC OF MACEDONIA

HEADQUARTERS: ZAGREB CROATIA

DURATION: 1992 to PRESENT

AUTHORISED STRENGTH: Approximately 25,500 Military  
PERSONNEL 660 CIVILIAN POLICE, 695  
INTERNATIONAL CIVILIAN STAFF AND  
974 LOCAL STAFF

BACKGROUND:

The situation of former Yugoslavia is essentially that of civil war. The former Yugoslavia consisted of six republics of Bosnia and HERZEGOVINA CROATIA MACEDONIA, SERBIA AND SLOVENIA.

SERBIA AND MONTENEGRO NOW CONSTITUTE:

The FEDERAL REPUBLIC OF YUGOSLAVIA

After breaking up of former Yugoslavia these Republics started fighting among each other for territorial gains and other matters.

What was still more serious was that different ethnic communities had been nurturing so much ill will hatred and intolerance for each other that they not only started fighting each other but went to the extent of committing heinous crimes of ethnic cleansing. The forces and the people of these republic indiscriminately violated international humanitarian laws. They are guilty of war crimes and genocide. The fighting among these republic escalated and there was every likelihood of war going beyond the borders of former Yugoslavia. Moreover since these republics have declared themselves

independent war among them ceased to be matter of their domestic jurisdiction.

The United Nations became actively involved in the situation in Yugoslavia on 25th September, 1991 when the Security Council meeting at Ministerial level, unanimously adopted its resolution 713(1991) expressing deep concern at the fighting in that country and calling on all the states to implement immediately a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia.

It soon became clear that most valuable contribution the united nations could make at that stage was a peace-keeping operations to create the necessary conditions for the pursuit of political negotiations for peaceful settlement.

As a part of the collective effort to stop the fighting and to find a peaceful solution to the conflict the Secretary General Personal Envoy undertook several mission to Yugoslavia and discussed the feasibility of deploying united nations peace keeping operations.

Meeting was called on 23rd November at Geneva. During the meeting agreement was reached at and an immediate cease-fire and wish expressed for immediate establishment of United Nations peace keeping operations. However, soon ceasefire broke down.

On 15th December the Security Council by its resolution 724(1991) approved Secretary General report which contained a plan for a possible peace keeping operation. Efforts to secure cooperation for establishment of peace keeping operation continued.

On 15th February 1992, notwithstanding the fact that certain political groups in Yugoslavia were still expressing objections to the United Nations plan, The Secretary General recommended to the Security Council the establishment of United Nations protection force (UNPROFOR)

On 21st February the Security Council by its resolution 743(1992) approved the report and established UNPROFOR for an initial period of 12 months.

The council confirmed that the force should be an interim arrangement to create a conditions of peace and security required for negotiation of an overall settlement of Yugoslav crisis with in the frame work of EUROPEAN Community's conference on Yugolevia.

It requested the secretary General to deploy immediately those elements of UNPROFOR which could assist in developing an implementation plan for earliest possible deployment of UNPROFOR. The Security Council by its resolution 749(1992) authorised the full deployment of the forces.

That is why and rightly too, right from September 1991 when security council was first seized with the matter, the Security council has been taking action under chapter VII of United Nations Charter.

Art.2(7)of U.N.Charter expressly states that

"The principle of non-intervention by United Nations shall not prejudice application of enforcement action/measure under Chapter VII of the charter".

Thus the action taken by the Security council is fully justified,

HOW FAR ACTION TAKEN BY SECURITY COUNCIL IN THE CRISIS OF FORMER YUGOSLAVIA HAS BEEN EFFECTIVE

So far as role of United Nations in General and Security Council in Particular w.r.t. crisis in former Yugoslavia is concerned it has been a mere helpless spectator of the greatest humanitarian tragedy in Europe after the Second World War.

Indeed Bosnia is a global shame. So far the Security Council, European union and NATO combined have failed to do anything effective to prevent atrocities sexual harassment, ethnic cleansing etc. against the muslim population of Bosnia and Herzegovina. After utter failure of the U.N. in Somalia this is the second dismal failure of U.N. in recent hay of the whole internation community including U.S. the sole super power and self stybed international policeman.

The U.N. Operation against Iraq (1991) was successful not simply because of the might of United States and its allied powers but also because action was backed unani- mously by all the permanent member of the Security Council.

In case of crises of former Yugoslavia, an action is apparantly supported by all the permanent members perception and objectives of them is different.

There are differences between United States and European Union between the United States and France between United States and China and above all between United States and Russia. But all seems to be unanimous in partition of Bosnia-Herzegovina among Serbs Muslims and croats creating union of Ethnic States. But re-unanimity stops at this. While the European Union

wants to establish a loose union of states the United States wants a strong constitutional union. There are also difference between United states and Russian over the involvement of NATO while Russia does not want greater involvement of NATO especially air strikes on serbs for whom Russian has a soft corner. United states wants greater involvement of NATO and strong action against Bosnian Serbs.

Moreover, besides having soft corner for Bosnian Serbs Russian had apprehension that with the involvement of NATO, Russia is being driven out of decision making process. All these factors not only account for failure of Mission in Bosnia Herzegovina but may usher in cold war once again in relation between the United States and the west.

ESTABLISHMENT OF INTERNATIONAL TRIBUNALS FOR TRIAL OF WAR CRIMINALS

Besides the Security Council also created investigative Commission for war crimes and ethnic cleansing and establishment of international tribunal to prosecute and punish person of former Yugoslavia who are guilty of violating international humanitarian law, war crimes and ethnic cleansing. This action of Security Council is indeed praiseworthy.

The trial of person responsible for violation of international humanitarian laws, war crimes and ethnic cleansing must begin immediately and the persons found must be given suitable punishment so that it may serve as a deterrent and an eye openers for others.

UNITED NATIONS TRANSITIONAL AUTHORITY IN CAMBODIA (UNTAC)

UNTAC was established in April, 1993 with the strength of 28,000 Military personnel to organise and conduct free and fair elections (23-28 May, 1993) and help oversee civil administration, human rights situation, the maintenance of law and order, repatriation and resettlement of refugees and displaced persons and the rehabilitation of infrastructure. The transitional period will end when the constituent assembly is elected and a new cambodian constitution approved.

THE UNITED NATIONS COMMISSION FOR UNIFICATION AND REHABILITATION FOR KOREA (UNCURK)

On 25th June 1950 the Security Council declared an attack by north Korean forces on the Republic of Korea to be a breach of peace. Two days later security council acting in absence of Soviet Union, recommended that United Nations member states furnish the necessary assistance to Republic of Korea to repel the attack and restore stability on Korean peninsula.

The Security Council asked all member states providing military forces to make them available to a unified command under the United States. Troops from 16 nations medical units from five nations and military force of Republic of Korea formed United Nations command authorised to fly under United Nations Flag.

Fighting continued until July 1953 when an armistice agreement was signed between United Nations command and the Chinese-North Korean command. The agreement established a military armistice commission to



supervise the implementation of Armistice Agreement and to settle any violation through negotiation. The United Nation Commission for Unification and Rehabilitation for Korea(UNCURK) remained in the country until it was dissolved by General Assembly in 1973. In 1974 the General Assembly urged North Korea and South Korea to continue their dialogue to expedite reunification and the question of Korea was taken off the agenda of General Assembly. Both the Democratic peoples Republic of Korea(DPRK) and Republic of Korea maintained absence status at General Assembly until September 1991 when both were admitted to United Nations.

In March,1993, DPRK announced its intend to withdraw from Nuclear Non proliferation treaty.The safeguard agreement which it signed in 1991 permitted international Atomic Energy agency(IAEA) to inspect its Nuclear facilities. But on I.A.E.A. request to inspect two additional sites was denied leading to DPRK's announcement to back out on agreement. The Security Council called upon the DPRK to reconsider its withdrawal.

Following the negotiations with United States, the DPRK announced in June that it has suspended its withdrawal. In December the Secretary General visited the Korean Peninsula for discussion with two countries including the nuclear issue. Further negotiations with United States led in October 1994 to the "Agreed Framework" on an overall resolution of the issue. Contacts between the two countries continued to settle a number of outstanding questions.



A perusal of the above mentioned peace keeping operations makes it clear that in recent years there has been a phenomenon increase in the deployment of persons in United Nations peace keeping operation. Such huge operations obviously require logistic information, equipment and above all matching resources.

The study made by "World Watch" - a think tank of Washington, in collaboration with 'Ford foundation' has suggested: a revolving peace keeping reserve fund of \$400 million and charging of interest on late payment made by States.

It has also been suggested that instead of single annual contribution, payment may be taken in four annual instalments. These suggestions merit serious consideration. As regards \$400 million revolving fund for peace keeping it should be financed by three annual assessments on the member states.

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CHAPTER -7CONCLUSIONS AND SUGGESTIONS:

The United Nations was essentially set up to accelerate socio-economic developments, to prevent global conflicts and maintain peace and security through peace keeping forces, the powerful Security Council and various United Nations organs and agencies.

Throughout the fifty years (50 yrs) of tumultuous change the United Nations has remained the world principal mechanism for international effort to deal with global economic, social and environmental problems. Constantly struggling to fulfil the hopes and dreams of its founder it has contributed enormously to global stability, peace Co-operation and understanding.

Amidst crisis and never ending streams of new challenges, the United Nations has evolved into an indispensable multifaceted tool upon which 185 member states and billions of people rely to handle issues that requires international co-operation. Recent breakthroughs such as an agreement reached at world conference on environment population, social development and extension of treaty of Non-proliferation of nuclear weapons recent signing of comprehensive test ban (CTBT) highlights the new vitality and effectiveness of the Organisation.

As stated earlier, the very first purpose of United Nations Organisation being " to maintain world

Peace ". The provisions relating to the same are studied throughout the charter. They find mention in preamble, purposes, principles and many other concrete provisions of the charter. In order to ensure prompt and effective action by the United Nations its members have conferred on the Security Council the primary responsibility for " maintenance of international peace and security" and agree that in carrying out its duties under this responsibility the security council acts on their behalf and members have further agree to accept and carry out the decision of Security Council in accordance with the present charter.

Moreover, the five permanent members of the Security Council were conferred on veto power under assumption that they shall continue to co-operate in the same way as they did during Second World War.

However, critics are of the view that Security Council had made no contribution to the maintenance of international peace and security they are of the view " It did not take long for the San Francisco hopes of great power unanimity to fade". Immediately after the establishment of United Nations the conflict and bickering among great power started. The conflict over the issue of Germany, conflict over Gurilla war in Greece, difference on the question of Korea were the glaring examples of such conflicts among the great powers. The conflict among great powers and repeated exercise of veto proved detrimental for the effective functioning of Security Council. The Security Council could not take any action

in a case where the interest of any of the permanent members was involved, not only this Security Council could not take any action in regard to any member state of United Nations if that state could muster or get the support or blessing of any permanent member of the Security Council consequently Security Council became unable to perform its primary responsibility for the maintenance of international peace and security which the charter entrusted upon it.

In spite of these set backs the history of United Nations reveals a long list of accomplishment. Some of its achievements are so basic- such as enormous impact of health and family planning and education programme or standard setting in scores of area critical to our well beings that they tend to be taken for granted.

#### EVOLUTION AS PEACE KEEPER

No sooner had the United Nations been established than it became deeply involved in peace keeping beginning with the question of palestine, followed later by confrontation in Korea, the Suez Canal crisis, the crisis in Congo and conflict related to decolonization struggle. Its work was greatly complicated by the escalation of the cold war. Between 1967 and 1987 the Security Council had to respond to the conflict between Israel and Arab neighbours fighting between India and Pakistan, between Iran and Iraq and civil wars in Afghanistan and EL-Salvador.

In the post cold war period new and more complex conflicts, primarily within the nations and often accompanied by serious humanitarian dimensions, have stretched capabilities of Security Council to the limits the

traditional United Nations role of peace keeping has broadened, with the emphasis on peace making and peace building to sustain peace and promote long term development. In 1988 total of seven missions were underway while in 1994 the Security Council of United Nations has deployed a record number of 17 peace keeping operations involving some 70,000 troops worldwide.

#### UNITED NATIONS AND DISARMAMENT

The United Nations has also vigorously pursued the goal of disarmament in order to remove the threat of nuclear war to halt and reduce the proliferation of nuclear weapons to prohibit nuclear testing in the atmosphere and underground to control and prohibit the use of biological and chemical weapons and Toxins and other weapons of mass destruction and to control the use of particularly injurious conventional weapons.

Several international treaties have non-proliferation Treaty(NPT) and Comprehensive TEST BAN Treaty(CTBT).

[Comprehensive Test Ban Treaty was signed in September 1996 by an overwhelming majority-158 in favour and three against(India, Bhutan and Libya). India has not signed it only because it is discriminatory as also not comprehensive.

Arundhati Ghose, India's Ambassador to the conference on disarmament "India will never sign this unequal treaty, not now not later" she asserted in the United Nations" .

Prakash Shah, the Indian Ambassador to United Nations, underlined the danger looming in the horizon: the advanced nations can one day surprise the world by

announcing the birth of a fourth grade of nuclear weapon " To be relevant today and to achieve its intended purpose", he said, the C.T.B.T. should have banned not only test ban explosion but all "Nuclear Tests" which could lead to development and upgradation of nuclear weapons<sup>75</sup> have been enacted and global campaign to sensitive world opinion to the urgency of disarmament have helped to create a climate of peace and economic development by giving new momentum to disarmament agreement and generating peace dividends that can be reallocated towards development efforts.

#### AFTER THE COLD WAR

With the end of cold war international community freed of ideological and other constraints of East-West struggle, saw new opportunities to respond more effectively to long standing problems that had defied resolution because of super power rivalries. As a result energies turned to the revitalization and redefinition of work of structure of organisation. There was a optimistic talk of the "peace dividend" and U.N.Security Council acted with unprecedented consensus and momentum on many issues.

Although Security Council has been successful on many occasions which calls for its intervention time and again it has been felt and expressed by the world leaders that united nations must reflect the global realities of our present times and not fifties. On its 50th Anniversary celebrations(October,1995) most important matter which came to surface was that United Nations has been in the need of drastic reforms.

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<sup>75</sup> Frontline, October 4,1996 P.19-20



SUGGESTIONSProposal ofor Reforms

Before discussing proposal for reform it is relevant here to say a few words about the general direction in which the world organisation-meant primarily for maintaining world peace-should seek to move.

It is generally agreed that the United Nations should become by far more effective than it is today by acting what its charter has described as "a centre for harmonising the interest of Nations". It should be better equipped to enable it to become such centre for the United Nations is not yet what was once hoped it would be 'a world government' which can decide what nations should do and instruct them accordingly. What it can do if properly used, is to modify inter state relations by maximising assets which it does possess: It can act as guide, as an authority and above all a focus for discussions and contracts. If it uses the authority it already has in the most effective way it might be able to bring significant long term changes in the attitude and policies of government. The general direction in which the United Nations should seek to move is towards anticipation of potential conflicts, promotion of negotiations and formulation of general norms of international behaviour.

What specific changes Required to bring about  
Such Movement

To ensure that disputes are discussed before they have erupted open war it would be useful if the United Nations Secretariat were to institute a more systematic procedure for monitoring political situation all over the



world. A strong research and advisory staff within the Secretariat for this purpose might be needed to keep potential conflict situations under constant review.

Though under chapter VI of the United Nations Charter a long series of procedure can be put into effect by the security council to examine situations which have not yet reached the stage of open conflict, they have almost never been used. In most cases security council does nothing at all until conflict has reached a stage of open war e.g. The Security Council made no efforts to discuss Iran-Iraq dispute during the summer of 1980 even though recurrent armed clashes were already taking place along their borders and there is every likelihood of an open armed conflict breaking out in near future.

In other words the security council should activate the procedure incorporated in chapter VI, whenever necessary, rather than try to intervene after the outbreak of actual war, when it is extremely difficult to stop the fighting. The Secretary General should be accorded a strong position and better means to exercise authority. He or she should have constitutional power to act swiftly when international situation calls for it. He should be first to know when a conflict is likely to develop and be able to take preventive action. To this end permanent political offices in the key regions, military observer teams fact finding missions and military collective security forces under command of security council could constitute a global emergency system.

## 2. Need to strengthen United Nations peace keeping Forces

There is a growing criticism that United Nations is being hijacked to subserve the strategic interest of rich and militarily strong powers in time of regional conflict. To make the role of peace keeping forces more effective the world body would need a modus operandi by which such forces could be deployed at short notice. It has often been seen in recent times that few countries have arrogated to themselves the role of United Nations in so called peace keeping but in reality reducing themselves to the role of gunboat diplomacy as the case of united states role in gulf war and now in Bosnia (where use of NATO was opposed by Russia) and French involvement in Rwanda. The role of United Nations peace keeping forces should also be expanded. They should not only deal with monitoring cease-fire and other means of ending or containing conflicts but could also be used to ensure that countries are not destabilised across the frontiers. There is a need for securing an agreement in principle on the forms these forces should take and how they should be controlled. There are certain points on which wider agreement can be reached.

Future peace keeping should normally be authorised and controlled by the security council. They should play a neutral political role within the country where they are operating.

Financing should, where possible, be under the regular budget but on special scale. The possibility of a permanent peace keeping fund should be explored.

Meanwhile, the voluntary ear-marking of forces and greater co-operation and co-ordination in training such forces could continue.

#### CHANGES WITH RESPECT OF VETO

The five permanent members of Security Council has been provided with veto power by the United Nations charter. The misuse of veto power has made many<sup>to</sup> questions to its validity, for any veto can make a proposal ineffective however good it may be.

The frequent use of veto power in the Security Council has resulted in oft-repeated calls for abolition of veto.

However, veto problem can not be solved by any revision of the charter because of the opposition of great power to such amendment. Under the circumstances it is desirable that permanent members of Security Council should accept certain voluntary restrictions on their right to veto decisions of the Security Council.

Further the veto should be used only on vital issues and procedure matters should be immune from it.

It is also desirable that veto should be eliminated with respect to admission of new members and the peaceful settlement of disputes.

It is also desirable that composition of the security council especially with regard to the permanent members should be changed and should include other great and potentially great powers like Germany, Japan, India and Brazil in the immediate future.

However, it would be more appropriate if the status

of permanent membership is abolished in order to democratise the Council while making it more representative.

#### Reviewing the Potential of Military Staff Committee

A global law enforcement role for United Nations should be elaborated focusing on the role of sanctions and military enforcement measures. There must be a clear understanding of enforcement measures, their sequencing and timing that can be implemented by the international community when international law has been violated.

As military measures may sometimes become necessary the potential of military staff committee of security council should be reviewed. This Committee practically dormant during the years of cold war would play a significantly more important role in future.

#### EXPANSION OF SECURITY COUNCIL

Another reform much awaited is the expansion of the Security Council. The membership of United Nations has increased more than three fold since 1945. The end of cold war has brought new world order. The Security Council must reflect the global realities of our present time and not fifties. Germany and Japan are rightfully demanding permanent membership Brazil and Argentina are competing for Latin American State Nigeria and South African region and India, Malaysia Pakistan and Indonesia for Asian region.

In the Non Alligned two days foreign ministers conference held in Cyprus in 1st week of February, 1992, the need for democratization of United Nations system emerged as recurrent theme.

For example, Indian foreign affairs minister, Mr. Madhav Singh Solanki, who was the first to address the delegates during the closed door deliberations, stressed that "with a view to reflect the increased strength of General Assembly and the new power configuration in the world, one way of democratising the United Nations would be \*by reviewing the membership of security council.

There seems to be much force in the view expressed by Indian foreign affairs minister when the membership of Security Council was increased from 11 to 15 the membership of United Nations was 113. Since then the membership of United Nations has increased to 185 at present but the membership of security council remains the same.

Besides there are other imbalances in the existing composition of security council Africa and Latin America are represented China is the Sole representative of Asia, the largest continent from the area and population point of view.

The two economic super powers -Germany and Japan- are not permanent members. Moreover India today is largest voluntary contribution of the south to UNDP and has perfect record of meeting, its assessed contribution to United Nations. Therefore, India's bid to enter Security Council as permanent member must also be taken seriously.

In view of these reasons the membership of Security council ought to be increased from 15 to 25 including 10 permanent member. Besides 5 New non permanent members should be elected on geographical basis to make the security council more representative.

CHANGE IN POLICIES

A Major concern of Secretary General of member States is to ensure that the policies governing the work of organisation and its structures and methods of work those of its inter governmental organs (security council, the General Assembly and Economic and Social Council) and those of the Secretariat undergo the necessary reforms to enable the United Nations to meet effectively the challenges posed by the new international context.

Through an Agenda for peace and Agenda for Development

The Secretary General has introduced new approaches to the role of Organisation in support of peace and Security on the one hand and economic and social development on the other, highlighting linkages between these two inseparable aspects of the missions of organisation.

Both the security council and the General Assembly actively pursued discussion on the policy proposal and recommendation for reform outlined in 'An Agenda for peace'

Restructuring of SECRETARIAT;

The Secretary General has also initiated and implemented a major re-structuring of secretariat of United Nations itself based on a comprehensive review of functions and of new requirements. This has involved a significant reduction in the number of separate offices and departments and has led to more rational and effective distribution of activities within the



organisation including relocations of programmes between United Nations Centres in NEW YORK, GENEVA, VIENNA AND ROME. The resulting Economies of scale have made it possible to meet new demands and reinforce capacities in the areas of emerging priority without budgetary growth.

Under the new structure, a single department, the department of peace keeping operations has responsibility for all aspects of peace keeping operations and another department of political affairs is responsible for policy co-ordination and in the exercise of Secretariat Functions for peace making, peace building and peace keeping.

#### INTERNATIONAL COURT OF JUSTICE

To make the International Court of Justice more effective it is desirable that the members should agree to submit their legal disputes to it. As the member states are reluctant to accept the optional clause, it is desirable that the United Nations should broaden the scope of the work of the court on its own initiative for example the Security Council and the General Assembly can refuse to consider legal disputes and recommend to the parties that such disputes be taken to the court. Such an attitude on the part of the Council and Assembly may not compel the states to take their disputes to the courts, but it would certainly encourage them to reach some settlement.

#### FINANCIAL REFORMS<sup>76</sup>

Under the strong pressure from United States and facing bankruptcy the United Nation has announced a major reform programme which would involve reduction



in staff by 10% through voluntary buy outs attrition and involuntary buyouts ( out right dismissal )The United Nations said they plan to cut the budget by \$250 Million involving reduction in staff by 1000 and efficiency admit would lead to decline in quality and speed of press coverage of meeting by its staff hit several programmes and may lead to shut down of some. Generally the reforms framed by United Nations could lead to overall inefficiency under fire for inefficient functioning of its various departments. The most affected would be the short term contract employees whose contract would not be resumed.

Observers say: the buyout plan, which entitles the employees to buy their retirement could lead to efficient and qualified leaving the organisation and it being saddled with inefficient ones who unable to find jobs elsewhere.

The United Nations officials say they are taking steps to avoid such a situation and every buyout offer would not be accepted. But privately official admit that it would be difficult task to keep efficient employees.

Under Secretary General Administration and MANAGEMENT: Joseph Connor: said two hundred were eliminated last year itself which save 598 millions. 400 vacancies were created by voluntary buyout(that vacancies created were not filled) Another 400 would be eliminated this year through voluntary or involuntary buyouts and attrition(i.e. not filling the poses which fall vacant)

But this would still not ease the Financial crisis and cannot stressed on the need for infusion of Fund

particularly by the United States which owes maximum amount of around \$ 1.5 billion. The total arrears of member states amount to \$3b billion against the U.N's two year budget of \$ 2.6b.

#### PERMANENT FUNDS:

The United Nations should have a permanent fund to make its financial position secure. Whether the 1986 agreement—under which "consensus" will be required for all budgetary decision—will permanently solve all financial problems of U.N. is yet to be seen.

"Consensus" in effect means that each state has a veto. Everything will depend on the way compromises are worked out. If the developed states choose to use their veto power unreasonably to prevent even moderate increases in the U.N. budget or if the developing countries continually try to push through proposals leading to unreasonable budgetary expansion the problem will remain unresolved. This will continue as long as the U.N. does not have a system of raising revenues independently for its activities.

#### HUMAN RIGHTS AND SOCIO ECONOMIC ACTIVITIES

Another field in which the U.N. has not been particularly successful is achieving its objectives in that of human rights. Though it has plethora of human rights bodies and a vast collection of conventions, covenants and other formal instruments, their influence on the governments that have ratified them has not always been very effective. If the U.N. is to reactivate its role in the fields of human rights the sub commission on prevention of discrimination and

protection of minorities activities (since its doing a good job) should be maintained and extended. Every efforts should also be made to revive the post of U.N.High Commissioner for human rights.

It is necessary to improve the capacity of the United Nations to co-ordinate the huge number of social and economic activities now being carried out by its organs and specialised agencies. The existing co-ordinating bodies (ACC and ECOSOC) have only marginal influence over the U.N.system. Ideally any new high powered committee or council responsible for budgetary control should be given an overall coordinating function within the U.N.System.

Moreover, if U.N.Bodies are to play alleading role in developmental work, efforts should be made to ensure that as large a share as possible of national development programmes are channelled through the U.N. agencies. Multilateral programmes not only reduce the effect of politcal bias in determing rational co-ordination of programmes. The Cooperative world climate we enjoy at the moment offer political advantage as well as opportunity to open up substantial resources which had earlier been diverted for war purposes. Govt. in the industrialised countries should pledge to allocate a specific part of their defence budgets to international cooperation.

One billion people on this planet exists in conditions of extreme poverty. The world community should set as its goal the eradication of such poverty within the next two decades. All the industrialised nations should

set time frames for providing one percent of their GNP towards co-operative international development and it is the duty of the U.N. to monitor such efforts.

#### ENHANCING REGIONAL CO-OPERATION

The United Nations in order to live up to the challenges of tomorrow, needs certain changes which must be achieved in some measure. This could only be possible with the adoption of certain structural changes in the U.N. System making it obligatory for states to agree to compulsory jurisdiction in the long run. If U.N. is to become an effective body, the obligation which member-states agreed upon when joining it must not be contravened. The U.N. also does not pay much attention to the growing needs of regional co-operation. Infact, one of the major ways to achieve political security and economic advancement of most nations is through regional co-operation collective self-reliance on the international scale is possible only if it can be achieved on a limited scale on the regional basis. This is one of the neglected areas which require greater formal recognition in U.N. charter.

#### SECRETARY GENERAL

Proposals and Actions: To strengthen the United Nations short of the world government, a proposal to strengthen the United Nation range all the way from a reorganisation of the present structure without the Soviet Union to formal modifications of voting procedure in security council with relatively minor changes in the charter. The plans for revision has come from unofficial Organisation and influential private persons in various countries. or official proposals to the General Assembly.

Lie's Proposal

Trygve Lie, on June 6, 1950, proposed a twenty-year programme for 'Achieving peace through the United Nations' calling for implementation of the following ten point programme

- 1) 'Periodic meetings' of the Security Council to be attended by foreign ministers for the purpose of consultation in efforts to gain grounds towards agreement on questions at issue, to clear up misunderstandings, to prepare for new initiatives that may impose the chance for agreement at later meetings.
- 2) A renewed effort to achieve agreement on international control of atomic energy.
- 3) A new approach to control of armaments of all sorts.
- 4) A new attempt to make armed forces available to Security Council.
- 5) Rapid progress towards universality of membership in U.N.
- 6) A sound and enlarge technical assistance programme
- 7) More vigorous use of specialised agencies of U.N.
- 8) Wide respect for human rights
- 9) Promotion of equality for dependent people
- 10) Further development of international law.

So it could be safely concluded that overall performance of U.N. in general and Security Council in particular is maintenance of international peace and security as also in other fields has been of success except few failure which are sometimes due to functional deficiencies and sometimes structural deficiencies, but mainly due to conflicting interest of great power the suggestions made above and much awaited reforms it

taken in right spirit hopefully would go along way in making United Nations a success in present world and would prevent the outbreak of third world war as has been doing since its establishment in 1945.

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## APPENDIX-II(1-5)

TABLE 6-1 Disputes Considered by the Security Council and the General Assembly,  
January 1946-December 1988

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
<i>Middle East</i>						
Iranian Question	X		1946	X		
Syrian-Lebanese Complaint	X		1946	X		
Palestine Question	X	X	1947			X
Egyptian Question	X		1947	X		
Status of Jerusalem	X	X	1947		X	
Palestine Refugee Question		X	1948			X
Anglo-Iranian Oil Dispute	X		1951	X		
Israeli Complaint against Egypt on Suez Canal	X		1954	X		
Gaza Area Incidents	X		1955	X		
Suez Canal Question	X	X	1956			X
Syrian Complaint against Turkey		X	1957	X		
Lebanese Complaint against UAR	X	X	1958	X		
Jordanian Complaint against UAR	X	X	1958	X		
Case of Adolf Eichmann,	X		1960	X		
Question of Oman		X	1960			X
Question of Kuwait	X		1961	X		
Question of Yemen	X		1963		X	
Complaint by UK against Yemen	X		1966	X		
Situation in the Middle East	X	X	1967			X
Situation in and around Jerusalem	X	X	1968			X
Israeli Practices Affecting Human Rights in Occupied Territories		X	1968			X
Question of Bahrain	X		1970	X		
Dispute over Certain Islands in Persian Gulf	X		1971	X		

(continued)

SOURCE: ALEXY BENNET

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Iraqi Complaint against Iran	X		1974	X		
Middle East Problem Including Palestinian Question	X	X	1976			X
Situation in Occupied Arab Territories	X	X	1976			X
Exercise by Palestinian People of Inalienable Rights	X	X	1976			X
Situation in Lebanon	X	X	1978			X
Situation between United States and Iran	X		1979		X	
Situation between Iran and Iraq	X	X	1980			X
Israeli Attack on Iraqi Nuclear Reactor	X		1981		X	
Israeli Annexation of the Golan Heights	X	X	1981			X
Complaint of Gulf States against Iran	X		1984	X		
Israeli Air Attack against Tunisia	X		1985	X		
Israeli Interception of Libyan Aircraft	X		1986	X		
Downing of Iranian Plane by United States	X		1988	X		
<i>Asia and Far East</i>						
Indonesian Question	X	X	1946		X	
Korean Question	X	X	1947			X
Indian-Pakistani Question	X		1948			X
Hyderabad Question	X		1948	X		
Soviet Threats to Political Independence of China		X	1949		X	

(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Armed Invasion of Taiwan	X	X	1950	X		
Alleged Bombing by U.S. of Chinese Territory	X	X	1950	X		
Intervention of China in Korea	X	X	1950	X		
Relief and Rehabilitation of Korea	X	X	1950			X
Alleged Bacterial Warfare in Korea	X	X	1952		X	
Complaint of Mass Murder of Korean and Chinese POWs by U.S.		X	1952	X		
Burmese Complaint against Rep. of China		X	1952		X	
North Korean and Chinese Atrocities		X	1953	X		
Thai Request for Aid of Peace Observation Commission	X		1954	X		
Detention of UN Military Personnel in Violation of Korean Armistice Agreement		X	1954		X	
Acts of Aggression by U.S. Navy against People's Rep. of China		X	1954	X		
Violations of Freedom of Seas in China Area		X	1954	X		
West Irian Question		X	1954			X
Question of Chinese Coastal Islands	X		1955	X		
Laotian Situation	X		1959	X		
Question of Tibet		X	1959			X
Question of Goa	X		1961	X		
Human Rights in South Vietnam		X	1963	X		

(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Cambodian Complaints of Aggression by U.S. and South Vietnam	X		1964	X		
Question of Malaysia	X		1964	X		
Gulf of Tonkin Incidents	X		1964	X		
Situation in Vietnam	X		1966	X		
Complaint by U.S. against North Korea	X		1968	X		
Dispute Concerning Legal Regime in Khmer Republic		X	1973	X		
Situation in East Timor	X	X	1975			X
Question of Kampuchea	X	X	1979			X
Situation in Southeast Asia	X	X	1979			X
Situation in Afghanistan	X	X	1980			X
Downing of Korean Air Liner	X		1983	X		
Bombing of South Korean Air Liner	X		1988	X		
<i>Africa</i>						
Treatment of Indians in South Africa		X	1946			X
Question of South-West Africa	X	X	1946			X
Former Italian Colonies		X	1948		X	
Apartheid in South Africa	X	X	1952			X
Tunisian Question		X	1952		X	
Moroccan Question		X	1952		X	
Algerian Question	X	X	1955			X
Sudanese Complaint against Egypt	X		1958	X		
French-Tunisian Dispute	X		1958	X		
Congolese Question	X	X	1960		X	
Angolan Situation	X	X	1960		X	
Mauritanian Situation		X	1960	X		
Dispute over Bizerte	X	X	1961	X		
Algerians Imprisoned in France		X	1961	X		

(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Southern Rhodesian Question	X	X	1962			X
Complaints by Senegal against Portugal	X		1963		X	
Situation in Territories under Portuguese Adm.	X	X	1963			X
Intervention in Democratic Republic of the Congo	X		1964	X		
Question of Spanish Sahara		X	1964			X
Complaints of Dem. Republic of Congo against Portugal	X		1966		X	
Complaint of Dem. Republic of Congo Concerning Act of Aggression	X		1967	X		
Situation in Namibia	X	X	1968			X
Complaints by Zambia against Portugal	X		1969	X		
Complaints by Senegal against Portugal	X		1969	X		
Complaints by Guinea against Portugal	X		1969	X		
Complaint by Guinea against Portugal	X		1970	X		
Complaint by Guinea against Portugal	X		1971	X		
Complaint by Senegal against Portugal	X		1971	X		
Complaint by Zambia against South Africa	X		1971	X		
Complaint by Senegal against Portugal	X		1972	X		
Complaint by Zambia against South Africa	X		1973	X		
Occupation by Portuguese Forces of Sectors of Guinea- Bissau		X	1973	X		

(continued)



TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Situation Concerning Western Sahara	X	X	1974			X
Situation in the Comoros	X		1976	X		
French-Somalia Incident in Afars and Issas	X		1976	X		
Complaint of South African Aggression against Angola	X		1976	X		
Complaint by Zambia against South Africa	X		1976	X		
Complaint by Mauritius of Act of Aggression by Israel against Uganda	X		1976	X		
Complaint by Lesotho against South Africa	X		1976	X		
Complaint by Botswana against Rhodesia	X		1977	X		
Complaint of Aggression against Benin	X		1977	X		
Question of South Africa	X	X	1977			X
Complaint by Mozambique against Rhodesia	X		1977	X		
Complaint by Zambia against Rhodesia	X		1978		X	
Complaint by Chad	X		1978	X		
Status of Mayotte		X	1979			X
Status of Certain Malagasy Islands		X	1979			X
Complaint by Zambia against South Africa	X		1980	X		
Complaint by Chad against Egypt and Sudan	X		1981	X		
Mercenary Aggression against the Republic of Seychelles	X		1982	X		

(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Fund for OAU Peacekeeping in Chad	X		1982	X		
Complaint by Lesotho against South Africa	X		1982		X	
Complaint by Chad against Libya	X		1983	X		
Complaint by Libya against United States	X		1983	X		
Complaint by Angola against South Africa	X		1983		X	
Air Attack by Libya against Sudan	X		1984	X		
Complaint by Botswana against South Africa	X		1985	X		
United States Attack on Libya	X	X	1986	X		
Complaint by Chad against Libya	X		1986	X		
Situation in Angola	X		1987		X	
Israeli Aggression against Tunisia	X		1988	X		
Complaint by Botswana against South Africa	X		1988	X		
<i>Europe</i>						
Greek Question	X	X	1946			X
Spanish Question	X	X	1946		X	
Free Territory of Trieste	X		1947		X	
Corfu Channel Question	X		1947	X		
Czechoslovakian Situation	X		1948	X		
Berlin Situation	X		1948	X		
Human Rights in Balkans		X	1948		X	
Soviet Wives of Foreign Nationals		X	1948	X		
Conditions for Free Elections in Germany		X	1951	X		

(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Complaint by Yugoslavia of Hostile Activities of Neighbors		X	1951	X		
Complaints of U.S. Intervention in Domestic Affairs of Other Countries (three separate complaints)		X	1951	X		
Austrian Peace Treaty		X	1952	X		
U.S. Complaint of Attack on Its Aircraft	X		1954	X		
Cyprian Question	X	X	1954			X
Hungarian Question	X	X	1956			X
Flights of U.S. Armed Aircraft toward Soviet Frontiers	X		1958	X		
Complaints of U.S. Violations of Soviet Airspace	X		1960	X		
Status of Bozen Residents		X	1960		X	
Relations between Greece and Turkey	X		1964	X		
Situation in Czechoslovakia	X		1968	X		
Complaint by Iceland against United Kingdom	X		1975	X		
Complaint by Greece against Turkey	X		1976	X		
Complaint by Malta against Libya	X		1980		X	
Hijacking of Achille Lauro	X		1985	X		
Attacks on Rome and Vienna Airports	X		1985	X		
<i>Western Hemisphere</i>						
Aggression against Guatemala	X		1954	X		

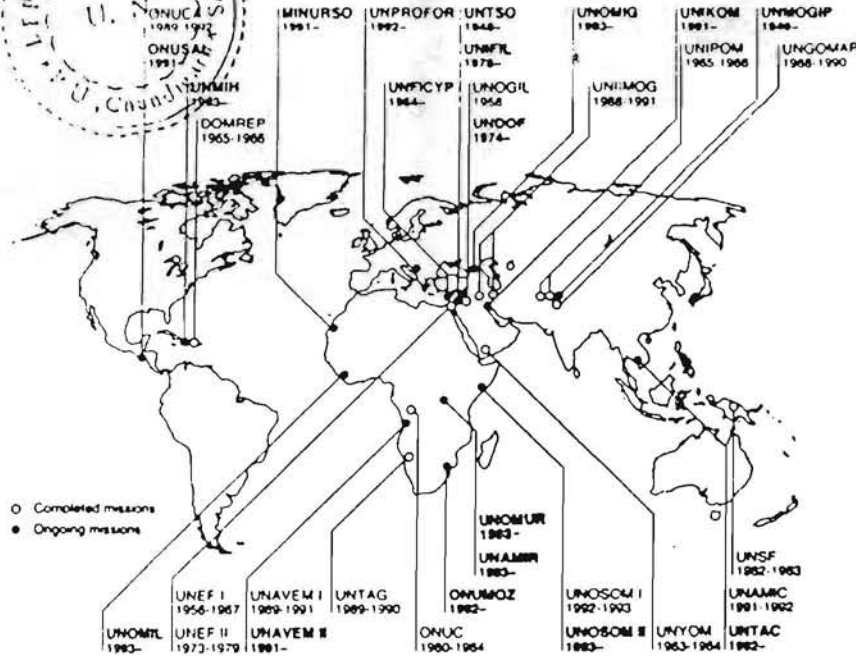
(continued)

TABLE 6-1 (Cont.)

DISPUTE	CONSIDERED BY		YEAR FIRST INTRO- DUCED	DURATION OF CONSIDERATION		
	SECURITY COUNCIL	GENERAL ASSEMBLY		1 YEAR OR LESS	1-5 YEARS	MORE THAN 5 YEARS
Cuban Complaints against U.S.	X	X	1960		X	
Venezuelan Complaint against Dominican Republic	X		1960	X		
Boundary Dispute between Venezuela and British Guiana		X	1962	X		
Haitian Complaint against Dominican Republic	X		1963	X		
Panamanian Complaint against U.S.	X		1964	X		
Situation in Dominican Republic	X		1965		X	
Complaint by Haiti of Act of Aggression	X		1968	X		
Question of Panama Canal	X		1973	X		
Complaint by Cuba against Chile	X		1973	X		
Question of Belize		X	1977		X	
Complaint by Costa Rica against Nicaragua		X	1978	X		
Situation in Nicaragua		X	1978	X		
Situation between Ecuador and Peru	X		1981	X		
Situation in Central America	X	X	1982		X	
Falklands/Malvinas Dispute	X	X	1982			X
Situation in Grenada	X	X	1983		X	
Complaint by Nicaragua against United States	X		1983		X	
Nicaraguan Complaint of Situation in Central America	X		1986	X		
Nicaraguan Complaint of U.S. Aggression	X		1986	X		
Nicaraguan Complaint against United States	X		1988	X		



# UNITED NATIONS PEACE-KEEPING OPERATIONS



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## INFORMATION NOTES

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