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77 YEARS OF EVOLVING UNITED NATIONS

Prof Dr. Mohamad Walid Abdulrahim

Prof Dr. at the Department of Public International Law, Faculty of Law and Political science-Beirut Arab University-Lebanon, walidabdulrahim@gmail.com

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77 YEARS OF EVOLVING UNITED NATIONS

Abstract

The article illustrates the changes to the United Nations that incurred upon it as the result of world events during the 77 years since its establishment in 1945. After defining the events, the article articulates their effects. The events are the following: the liquidation of the colonial system, the rise and fall of the Soviet empire and, the emergence of a new world order under the leadership of the United States of America. The effects are the following. Certain articles fall into disuse by not being implemented or applied. Other articles were interpreted or applied in ways that the founders of the United Nations did not contemplate. Special organs and agencies were created. Supplementary or supporting treaties or agreements were concluded. The organs and procedures of the United Nations underwent an evolutionary growth through the process of trial and error. These events affected the system, structure, functions and roles of the United Nations, and the influence within. The article aims to prove that the 2022 United Nations is differently distinct than the 1945 United Nations.

الملخص (Abstract in Arabic)

يوضح هذا المقال التغييرات التي طرأت على الأمم المتحدة نتيجة الأحداث العالمية خلال 77 عاما" منذ العام 1945, يعد تحديد الأحداث, يوضح المقال آثارها . الأحداث هي التالية: تصفية النظام الاستعماري, صعود وسقوط الإمبراطورية السوفيتية, ظهور نظام عالمي جديد تحت قيادة الولايات المتحدة الأمريكية. الآثار هي التالية: إهمال بعض المواد من خلال عدم تنفيذها أو تطبيقها, تفسير مواد أخرى أو تطبيقها بطرق لم يفكر فيها مؤسسو الأمم المتحدة, إنشاء الأجهزة والوكالات الخاصة التابعة للأمم المتحدة, إبرام المعاهدات أو الاتفاقات التكميلية أو الداعمة, خضوع أجهزة وإجراءات الأمم المتحدة لنمو تطوري من خلال عملية التجربة والخطأ. بالعموم لقد أثرت هذه الأحداث على نظام وهيكلية ووظائف وأدوار الأمم المتحدة, وأيضا" على التأثير داخلها. الهدف من هذا المقال هو اثبات أن الأمم المتحدة في العام 2022 هي, إلى حد كبير, غير الأمم المتحدة في العام 1945.

Keywords

The United Nations, Charter, Amendment, Permanent members, Expansion in the membership, Changes, Evolution, Ramification, World events, Liquidation of colonial system, Détente, The fall and rise of the Soviet empire, The new world order, and the Cold War.

الكلمات الدالة (Keywords in Arabic)

الأمم المتحدة, الميثاق, التعديل, الأعضاء الدائمون, التوسع في العضوية, التغييرات, التطور, الأحداث العالمية, تصفية النظام الاستعماري, الإنفراج, سقوط وصعود الإمبراطورية السوفيتية, النظام العالمي الجديد, الحرب الباردة.

1. INTRODUCTION

The formation of the United Nations in the closing months of the World War II represented an important effort by states of the world to meet the needs for maintaining international peace and security, and to grasp the presented opportunity. The year 1945 was an appropriate moment for charting a new design for world order. The Charter of the United Nations as emerged from the San Francisco Conference, represented a series of compromises among states with diverse interests and varying political, economic and cultural backgrounds. The founders of the Charter hoped that most of the compromises would endure. They anticipated, however, that some of the compromises might not last. This was why many powers and functions of the United Nations were stated in general terms with the expectation that they would be interpreted in the light of future specific situation. Accordingly, provisions were made in articles 108 and 109 of the Charter for its amendment and review.

The founders of the United Nations did not intend that the Charter should be a rigid perfect instrument, but rather a human instrument that “has within it ample for growth and development, for dynamic adaptation to changing conditions”.¹

The dramatic changes that occurred immediately after the establishment of the United Nations inspired doubt as whether this new organization had been endowed with sufficient powers to maintain world peace, security and order. The appearance of the atomic bomb was one change created a new phase for humanity. The split of the World War II victors into two camps, East and West was another change that for almost half a century played an essential and dangerous role on the international stage. These changes have resulted in further changes in the attitudes of peoples and nations. The United Nations has not been able to live to its promises and expectations and operate as effectively as its founders hoped. It has become apparent that changes in the United Nations necessary in order to cope with the situations and to adopt the functioning of the organization in the field of peace and security to the constant threat of war.

During its 77 years, the United Nations confronted with many events that affected it in many aspects: structure, membership, systems, functions and powers, roles, and the influence within it. All of these resulted in changing the United Nations and its evolution. These changes are the subjects of the first following chapter that deals with the changes that have occurred on the international arena since the establishment of the United Nations and their effects on the Organization. While the second chapter deals with the methods available for achieving changes to the United Nations that involve informal ones used to date and formal ones provided in its Charter.

2. CHAPTER ONE: THE UNITED NATIONS 1945-2022: 77 YEARS IN A CHANGING WORLD

There is nothing similar in the whole history of Mankind. During only few decades significant changes have taken place that have put the fate of man on a crossroads, the crossroads of survival or destruction.

World War II was followed by extensive scientific and human revolutions of global nature. “The forces of science and technology were unleashed in both negative and positive directions, creating in man both a new sense of insecurity and terror and a renewed hope that a better life is within his reach”.² Atomic energy and other advancements in science, technology, and medicine, with all their potential for good or evil bringing to Mankind, have been changing the relations of individuals, peoples and nations.

The advancement have influenced behaviors of persons, peoples and nations in many ways. There have been greater demands for self-determination, both political and economic, for democracy and more equality and wealth, for opportunities to improve the economic, education and social status of individuals, groups and nations, and for respecting and securing human rights and freedoms to individuals. All these demands have caused significant events to occur during the last seven and half decades since the establishment of the United Nations.

¹ Statement by former Secretary of State Cordell Hull, June 26, 1945, on the occasion of the signing of the Charter, Dept. of State Bulletin, vol. 13, Washington D.C. 1945, p. 13.

² Commission to study the Organization of Peace, *Building Peace*, Scarecrow Press, New Jersey 1973, p. 693.

During the 77 years of the age of the United Nations, many world events occurred. Two of these events constituted the most important events that have a greater effect on this organization; these events and their ramifications are the subjects of the following two sections.

2.1 The Major World Events Affecting the United Nations (1945-2022)

Two major world events occurred during the 77 years of the age of the United Nations that have been affecting this Organization. These events are the liquidation of the colonial system, the rise and fall of the Soviet empire and, the emergence of a new world order under the leadership of the United States of America; these events are the subjects of the following divisions.

2.1.1 The Liquidation of Colonial System

The 45 percent of Mankind that was under the domination of the colonial powers in 1945 achieved independence by 2022. The prolonged and persisting struggles of national liberation movements and the successful anticolonial campaign of the United Nations ended hundreds of years of western colonization of Asia, Africa, the Caribbean, and the Pacific. The colonial powers, after several wars among themselves, lost their strength and became unable to maintain their empires in the face of the awakened oppressed people of their colonies.

After its creation, the United Nations was involved in a global campaign of anticolonialism and decolonization that reached its peak in the 1960 and was maintained its full momentum in succeeding decades. The United Nations made a distinctive and effective contribution to overturning of the colonial system. Its attacks upon colonialism were extensive, as demonstrated by the multitude of words and resolutions on the subjects adopted by its different organs.

The concern of the United Nations with the colonial issue was varied and extensive. The 1960 "Declaration on Granting of Independence to Colonial Countries and Peoples" marked the culmination of drastic change in relationship of the United Nations to colonialism.³ This declaration adopted by the General Assembly was an outstanding landmark in the movement against colonialism by making the war against this system a major enterprise of the United Nations. In later resolutions by the General Assembly, the war on colonialism was pushed several steps ahead. The legitimacy of colonial struggles for self-determination and independence was recognized and all states were invited to provide material and moral support to national liberation movements, i.e., the members of the United Nations were overtly invited to enlist in armed struggles to overthrow colonial and racially discriminatory regimes.

2.1.2 The Rise and Fall of the Soviet Empire

In 1945, the victorious Red Army liberated Eastern European Countries from the Nazi occupation. Three years after World War II all these countries had adopted Communist regimes. Eastern European countries became satellite states of the Soviet Union. The consolidation of power in Eastern Europe by the Soviet Union and the emergence of the Soviet Union as a nuclear power led to the polarization of the world. The world was divided into two camps - East and West - with conflicting ideologies and concerns. In May 1955, the Soviet Union and its Eastern European Countries established the Warsaw Pact as alliance for cooperation and defense among them. This was in response to the creation, in April 1949, of the North Atlantic Treaty Organization (NATO) as an organized defense cooperation between the United States of America (USA) and its Western allies. The alliance between the United States of

³ See G.A. Res. 1514 (XV), GAOR, Fifteenth Session, Supp. No. 16, p. 66, U.N. Doc. A/4684 (1960). For the discussion of this resolution and the uses made of it, see D.A. Kay, *The Politics of Decolonization: The New Nations and the United Nations Political Process*, International Organization., Vol. 21, Issue 4, Autumn 1967, pp. 786-etc.

America and the Soviet Union during World War II was replaced by distrust and competition. The Cold War between the East and West embarked.

By using its military might and intimidation, the Soviet Union was able for four and half decades, following the World War II, to maintain its control over East Europe, and to influence world events. It formed friendships with great number of third world countries, particularly in Africa, Asia and the Middle East.

In maintaining control over East Europe, the Soviet Union and the Communist governments of these countries resorted to force to crash several revolts, e.g., the Hungarian revolt of 1956, the Czechoslovakian revolts of 1967 and 1977 and the Polish revolts of 1968, 1970 and 1981. Although, the Soviet Union succeeded in crashing these revolts, it failed to suppress the aspiration of East European peoples for national independence and democracy.

With the rise of Mikhail Gorbachev to power in 1985, a new kind of leadership was emerged in the Soviet Union. President Gorbachev was devoted to political and economic reforms in the Soviet Union and to improve relations with the West. This meant letting democracy take its course in the Soviet Union and East Europe. Democracy swept all over East Europe. In 1989, the first democratic non-communist government took over Poland. On November 8, of the same year, the Berlin Wall collapsed. By the end of 1989, all Eastern European Countries achieved national independence by peaceful means.

The Soviet Union, itself, was not immune from the spread of democracy and national independence. In 1990, the three Baltic Republics, Estonia, Latvia, and Lithuania, were the first to declare independence and seceded from the Soviet Union. In the Summer of 1991, the Russian people defeated the coup d'état by the hardline communists who tried to recapture the power and put the Soviet Union back on its past course. By the end of 1991, all the Republics of the former Soviet Union achieved their national independence; consequently, the Soviet Union ceased to exist.

The fall of the Soviet Empire put an end to the Cold War between the East and the West, with most of its consequences. However, this fall resulted in the emergence of new problems. Ethnic wars erupted in several republics of the former Soviet Union and in the former Yugoslavia. These wars represented major threats to the international peace and security.

2.1.3 The Emergence of New World Order under the Leadership of the United States of America

The most important consequence resulted from the fall of the Soviet Union was the emergence of a new world order. The new world order that emerged after 1991 is very distinct from the previous one, which emerged after the end of the World War II and continued during the Cold War. The old-world order based on bipolarity was replaced by a new one based on unipolarity; the U.S.A has been the pole of this new world order.

The U.S.A considered the establishment of the new world order as its fifth objective. In his message to the U.S Congress on September 11, 1990, President George Bush described the new world order in the following words: "out of these troubled times, our fifth objective -a new world order- can emerge: a new era -: free from the threat of terror, stronger in the pursuit of justice, and more secure in the quest for peace. An era in which the nations of the world, East, and West, North and South, can prosper and live in harmony".⁴

⁴ <https://w.w.w.presidency.ucsb.edu/documenys/address-before-joint-session-the-congress-the-persian-gulf-crisis-and-the-federal-budget>.

During its leadership of the new world order, many world events occurred that forced the U.S.A to confront it, e.g., the Second Gulf war (1991)⁵, the Yugoslav Wars (1991-2001)⁶, The 9/11 attacks (9/11/2001)⁷, the Afghanistan War (2001-2021)⁸, The Iraqi War⁹ and the Libyan Civil War (2011)¹⁰, the Syrian crisis (2011-)¹¹. In all these events, the U.S.A considered itself concerned, as the leader of the new world order and as the world police, to act and lead world coalition to restore peace and security and to spread democracy and justice.

Under the pretext of fighting terrorism, destroying weapons of mass destruction, spreading democracy, protecting human rights, and on top restoring or maintaining international peace, security and order, U.S.A waged its wars and took its actions all over the world.

2.2 The Ramifications of the Major Events of the Period 1945-2021

The above-mentioned events caused significant changes to the United Nations. The changes reflected in the following two areas: expansion in the membership of the United Nations and, shifting powers, functions and influences within the United Nations.

2.2.1 Expansion in the Membership of the United Nations

The most profound change, which significantly affected the structure and the patterns of powers and influence in the United Nations, was the increase in the number of members from 51 in 1945 to 193 in 2022.

The majority of states that got together, in 1945, to lay the foundation of the United Nations were long-established states with developed political, economic and social systems. They had substantial populations and were western in their general orientation. However, the majority of members in 2021 represent developing states, which have not yet achieved stability in their political, economic or social systems. In addition, these states have various cultural background.

The priorities and concerns of the majority in the early years of the United Nations were different from those of the majority in the latter years. In the early years, the majority took an anticommunist position on the Cold War issues; relatively few states were uncommitted. In the latter years, the majority took a neutral position concerning the East-West conflict. The problems of decolonization and racial discrimination constituted a priority to this majority since most of the states themselves were former colonies. States were concerned about establishing their national identities, and developing their political, economic, and social systems. Today, the majority is devoted to cooperating in the field of economic development and word

⁵ The Second Gulf War (the Desert Storm) is a war waged by a coalition force from 35 nations led by the U.S.A against Iraq in response to Iraq's invasion and annexation of Kuwait in August 1990. Notably, the First Gulf War is the war waged between Iraq and Iran between September 1980 and August 1988.

⁶ The Yugoslav Wars are a series of armed conflicts related to ethnic conflicts, wars of independence and insurgencies waged in the former Yugoslavia from 1991 to 2001 resulting from the breaking of Yugoslavia Federation.

⁷ 9/11 attacks are a series of four coordinated terrorist attacks by militant Islamic terrorist group Al-Qaeda against U.S.A on the morning of Tuesday September 11, 2001.

⁸ The Afghanistan War is a war waged by U.S.A led coalition against Afghanistan to topple the Taliban government for providing sanctuary for the Al-Qaeda perpetrators of the 9/11 Attacks, this war lasted from October 7, 2001, to August 30, 2021.

⁹ The Iraqi War (Operation Iraqi Freedom) is the invasion of Iraq by the coalition led by the U.S.A (20 March to 1 May 2003) under the pretext of Iraq owning weapons of mass destruction.

¹⁰ The Libyan Civil War is an armed conflict in 2011 fought between the Libyan army and rebel groups; it resulted in ousting Colonel Muammar Gaddafi from the ruling of Libya.

¹¹ The Syrian Crisis (the Syrian Civil War) is an ongoing multi-sided civil as well as international armed conflicts waged between the Syrian Arab Republic led by President Bashar Al-Assad and various domestic (opposition groups and the Islamic State of Iraq and Levant/ISIL) and foreign forces (Russia, U.S.A and its Allies, Iran, Turkey, and Hezbollah) for various reasons and objectives.

peace and security. States are concerned about their political, economic and social development.

The substantial expansion in the membership of the United Nations, during the four decades after its establishment, caused the rise of blocs and grouping of states around common characteristics and interests of all kinds, as well as the emergence of new issues, problems and priorities. These blocs and groups, which roughly approximate political parties, played a significant role in the decision-making process of the United Nations. The largest of the blocs were the Group of 77 (the developing Nations bloc) which consisted of some 120 member states. Next largest was the Non-Aligned Movement which consisted of some 90 members. Following was the 50-member African Group. Next was the Islamic Conference that consisted of 41 member states. In addition, there were the 39-member Asian Group, the 33-member Latin American Group, the 22-member Western European and Others Group, the 21-member Arab Group, and the 11-member Eastern European Group (ceased in 1990). In addition, there were the smaller groups: the 5 Nordics, the 6-member Association of Southeast Asian Countries and the 10-member European Community.¹²

It is important to mention that although blocs were extremely important in determining many outcomes in the organs of the United Nations, they were not invariably decisive. Many states were belonging to more than one bloc and were subjected to various sorts of influences and interests that affect their attitudes toward any issue. Blocs, except to some extent the Eastern European Group before 1989, were not been concrete or cohesive in nature¹³. However, the tendency of states to get together in the United Nations in voting blocs on their special interests has been placing all the state members of the organization at the mercy of blocs that command sufficient votes to initiate or prevent action of any kind.

An important result of the expansion of the membership of the United Nations was the increase in the number of non-permanent members of the Security Council from 6 to 10.¹⁴ These seats are allocated as follows: 5 for Africa and Asia, 1 for Eastern Europe, 2 for Latin America and 2 for Western Europe and other states.

Another aspect of the expansion of the United Nations membership, in the sixties, the seventies and the eighties, was represented by the shift of influence in the General Assembly from the United States of America and its allies to the Soviet Union. The Soviet Union, which was in a minority position in the early years, emerged as an influential power in the United Nations. Before 1989, the Soviet Union was able to make common cause with the emerging majority in the United Nations, the nations of Asia and Africa. Colonialism, national liberation, self-determination, economic development and social justice were issues that the Soviet Union not only was able to gain from, but they also gave it an advantage over the Western Camp, the United States of America and its allies.¹⁵ The Soviet Union, with that majority in the United Nations, was able from 1960 to 1989 to influence the outcomes of the General Assembly and other organs and agencies of the United Nations. However, as the result of the fall of the Soviet Union in 1991, the United States of America has been able to recapture the majority in the United Nations, and since has been the most influential state in this international organization.

2.2.2 Shifting Powers, Functions and Influence within the United Nations

The mechanism envisaged in the 1945 United Nations Charter that vested upon the Security Council the primary responsibility for the maintenance of international peace and security proved, during the early years of the life of the Organization, its

¹² See T.M. Frank, *Nations Against Nations*, Oxford University Press, Oxford 1985, p. 247.

¹³ *Id.*

¹⁴ See *infra*. Chapter two, Section 1 (1), Ordinary Amending Process.

¹⁵ See M. Moskowitz, *The Roots and Reaches of the United Nations Actions and Decisions*, Sijthoff & Noordhoff, The Netherlands 1980, p. 26.

defect. The Council, because of the veto, failed to meet its responsibilities under the chapters VI and VII of the Charter. The defects in the mechanism rested on the fact that the permanent members failed to cooperate among themselves and to make the United Nations system works by equipping and using it as a chosen instrument for achieving common ends.

The success of the United Nations depends primarily on the cooperation of the permanent members of the Security Council. At the time the Charter was written, its authors assumed that the major allied victors would find it in their interests to cooperate to make the United Nations effective to prevent the recurrence of another world war.¹⁶ It soon became apparent, however, that the silence of guns after the end of the World War II put an end to their cooperation. The major victors divided into two camps with conflicting ideologies, views, and concerns regarding the necessary conditions of peace and security and regarding the role that the United Nations should play.

In the early years of the United Nations, the Western powers (the U.S.A. and its allies) sought to make extensive use of the Organization for restoring conditions of peace and security in the war-torn world. This attitude was dictated by the fact that they were able to control the majority in the Security Council and the General Assembly. The Soviet Union and its allies, on the other hand, who were a minority in both organs, considered any action by the United Nations as detrimental to their interests since it would further the interests of the Western powers. Actions which the majority in the Organization sought to undertake were viewed by the Soviet Union as direct threats to its security and therefore to be prevented using the veto in the Security Council. In this line, it looked upon the United Nations more as an instrument used to prevent action inimical to its own interests than an instrument of cooperation for common purposes.¹⁷

The characteristics of the Cold War, such as fear, distrust, and lack of confidence, were behind the failure of the United Nations to implement the enforcement provisions of the Charter, particularly the conclusion of article 43 agreements making available to the Council the forces and facilities necessary to the full discharge of its responsibilities.¹⁸ This failure was the first major blow to the United Nations system. The experience of the early years, which was influenced by the Cold War, demonstrated that the veto power exercised by the Soviet Union made the Security Council an unreliable instrument for providing collective security and maintaining international peace and order. Responding to this reality, the Western powers sought alternative instruments for providing collective security. The first instrument was the establishment of the North Atlantic Treaty Organization (NATO) on April 4, 1949. The inherent right of individual or collective self-defense recognized by article 51 of the Charter was the basis on which the NATO was founded. The NATO became the basis for organized defense cooperation among West European powers,

¹⁶ See L.M. Goodrich, *The United Nations in a Changing World*, Colombia University Press, New York 1974, pp. 112-113

¹⁷ *Id.* p. 113.

¹⁸ Article 43 of the U.N. Charter stipulates:

- “1. All members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international law and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by signatory states in accordance with their respective constitutional processes.”

United States of America and Canada, and the principal collective instrument by which these states faced their major external threat in the years of Cold War.

The second instrument sought by the Western powers to deal with threats to international peace and security was the use of the General Assembly as an alternative to the Security Council, in case the latter was prevented from taking an action because of the veto. The General Assembly on November 3, 1950, adopted the “United for Peace” resolution.¹⁹

In essence, the “United for Peace” resolution grants the General Assembly the power to act in place of the Security Council only if the Council fails to discharge its primary responsibility. Under it, the General Assembly may do by recommendation anything that the Security Council can do by decision under Chapter VII of the Charter. The Assembly can make appropriate recommendations to members for collective measures, including the use of armed force, if the Council, because of the lack of unanimity of the permanent member, fails to exercise its responsibility in any case where there appears to be a threat to the peace, breach of the peace or act of aggression. The above two facts represent the essential preconditions to the operation of the “Uniting for Peace” resolution.

By this resolution, the Assembly in effect asserts its right to act in the same manner that the Council can act under Chapter VII of the Charter, but only when the Council fails to act. This right granted to the Assembly was not intended to be a substitute for the Council responsibility for the maintenance of international peace and security, but rather a supplement. This is why the preamble to the resolution reaffirms “the importance of the exercise by the Security Council of its primary responsibility” and “the duty of the permanent members to seek unanimity and to exercise restraint in the use of the veto.” In addition, therefore the resolution, in section A, requires the General Assembly to exercise this right only in cases where there appear to be a threat to the peace, breach of the peace, or act of aggression, and when the Security Council fails to exercise its primary responsibility.

It is apparent from the provisions of this resolution that it provides a system quite different from the one the drafters of the United Nations Charter intended. Instead of “decision” by the Security Council, which members are obliged to carry out, the collective action is to be based upon “recommendation” by the General Assembly that is not legally binding upon members.²⁰ In addition, instead of “special agreement” referred to in article 43 to be the basis for making available to the Security Council armed forces, the armed forces under this resolution are to be made available to the General Assembly by members on a voluntary basis.

On the Eastern side, the Warsaw Pact was concluded in May 1955 as an alternative means for collective cooperation and defense for the Soviet Union and its Socialist allies in Eastern Europe, in response to the creation of the NATO and the adoption of the “Uniting for Peace” resolution.

The Cold War between the East and the West negatively affected the United Nations system for maintaining peace and security. The system was weakened and became distorted. The shift of powers and functions with this regard from the United Nations to the NATO and the Warsaw Pact represented a very serious blow to the expectations that the founders of the United Nations hoped to further. The expectation to establish one world organization for taking effective collective measures to prevent and remove threats to the peace and to suppress acts of aggression or other breaches of the peace was demolished. The NATO and the Warsaw Pact were two gigantic systems

¹⁹ See G.A. Res. 377 (V), U.N. GAOR, Fifth Session Supp. No. 20, p. 10, U.N. Doc. A/1775 (1950). The Uniting for Peace resolution was initiated by the United States and submitted by the "Joint Seven-Powers" in October 1950, as a means of circumventing further Soviet vetoes during the course of the Korean War (25 June 1950 – 27 July 1953). It was adopted by 52 votes to 5, with 2 abstentions. This resolution created the mechanism of the "emergency special session" to be convened by the General Assembly.

²⁰ See L. Goodrich, E. Hambro & A. Simons, *Charter of the United Nations: Commentary and Documents*, 3rd & rev. ed., Colombia University Press, New York 1969, pp. 124-125.

that function independently of the United Nations. Their rivalry and mutual fears resulted in arms race, polarization of the world states, a weakened United Nations as an organization of collective security, the threat of nuclear war and arms race.

The period of “détente”²¹ that followed the Cold War in the early seventies was unable to remove the negative impact of this war on the workability and effectiveness of the United Nations. The world politics during the years of “détente”, as it was during the years of the Cold War, was mainly preoccupied with conflict, competition and arm race between the superpowers. The United States of America (U.S.A.) and the Soviet Union continued to behave in the same manner they used to behave during the years of the Cold War. However, a significant change relating to the center of influence in the United Nations occurred. The influence upon the United Nations that the U.S.A. and its allies were able to exercise by mobilizing support for their position came to an end. Between the early sixties and late eighties, such influence was exercised by the Soviet Union who was able to mobilize the majority in the General Assembly, and even to some extent in the Security Council, to support its positions. The U.S.A. found itself in the same shoes the Soviet Union had found itself in the past. Its confidence in the capability of the United Nations on matters of peace and security declined. It, on many occasions, exercised its veto power to prevent actions and resolutions to be taken and adopted by the Security Council. During those years, nothing changed on the international stage except the actors. The United Nations system for the maintenance of peace and security remained ineffective. The assumption behind given powers in the field of peace and security to the General Assembly under the “Uniting for Peace” resolution did not realize. It was clear that the provisions of this resolution could not be used to coerce any major power or to initiate collective measures in situations where any permanent member of the Security Council would feel its vital interests threatened. The Resolution was meant to achieve quicker consideration by the General assembly, but not to exercise by this organ powers to which any permanent member objects.²²

With the collapse of the Soviet Union in 1991, the picture of the world changed. All the consequences of the Cold War ended, and the U.S.A became the primary pole, at least, of the contemporary world order. The influence within the United Nations has shifted to the U.S.A that become again the center of influence within this Organization.

Today, the U.S.A dominates the United Nations, its main organs, especially the General Assembly and the Security Council. It is able to manipulate the organs of this organization and its member states. The majority on both the General Assembly and the Security Council is on its side.

3. CHAPTER TWO: AVAILABLE METHODS FOR ACHIEVING CHANGES IN THE UNITED NATIONS

Many changes have taken place within the United Nations system since the drafting of the Charter of the United Nations in 1945. The Charter in 2022, as it has been profoundly influenced during the past seventy-seven years by customs and usage, interpretation, resolutions of various United Nations organs, supplementary or supporting treaties and the changing conditions on the international stage, is hardly the Charter that was drafted in 1945.

The text of the Charter, except of articles 23, 27, 61 and 109, is the same today as it was on June 26, 1945, the day when the delegates of the 50 nations assembled at San Francisco solemnly affixed their signatures to it. The Charter, however, in its practical application is not the same as it was then. Some of its gaps were filled up. Some articles, which in 1945 seemed

²¹ “Détente” is a French word, literally means a relaxation of tension. It was used as a shorthand for a complex process of adjustment between the East and the West during the seventies of the last century. The policy of détente encompassed a continuing dialogue between the United States of America and the Soviet Union in the areas of arms control, trade, scientific and technical exchange, and crises management. The essence of the policy was coexistence relationship between the two superpowers. *See generally*, U.S. Dept. of State, *The Meaning of Détente*, 1974.

²² *See* L.M. Goodrich, *op. cit.*, p. 117.

to be very essential for affecting the expectations of the founders, became dead letters. Others, which then seemed to be of minor importance, unexpectedly came to be significant. The relative importance of organs, functions and procedures were changed.

The founders of the United Nations meant it to be a living organization that would grow with the changing world. This expectation of growth and change is expressed, near the end of the Charter text, in a short chapter entitled “Amendments”.²³ Amendments of the Charter occurred three times in the life of the United Nations, in 1963, 1965 and 1971.²⁴ However, many other changes in the United Nations system came about in a variety of ways other than by amending the Charter.

This chapter briefly examines the methods by which changes can be made in the United Nations. First, the formal methods available under the Charter of the United Nations are examined. Second, the informal methods employed since 1945 are surveyed.

3.1 Formal Methods Available under the Charter

Two different methods of amending the Charter of the United Nations were agreed upon at the San Francisco Conference of 1945. The first is the ordinary procedure of amendment set forth in article 108. The second is the comprehensive review by a general conference provided in article 109.

3.1.1 Ordinary Amending Process

Article 108 of the Charter outlines a two-step process that is to be followed for the ordinary amending process of the United Nations Charter. The first step is an adoption of the proposal by a two-thirds vote of the General Assembly. The second step is a ratification by two-thirds of the members of the United Nations, including all the permanent members of the Security Council. In connection with these two steps, three points are noted. First, a proposed amendment may be adopted by the General Assembly without any concurring action by the Security Council. The will of the majority of the two-thirds of the members of the United Nations prevails. No single state, whether small or super, can prevent an amendment from being adopted. Second, article 108 reiterates the principle of permanent members’ unanimity, since it requires that all the five permanent members of the Security Council must ratify the amendments. This means that no amendment can become effective if it is opposed by any of the permanent members. Any one of the permanent members can prevent the entry into force any amendment even if all other members of the United Nations ratify it. Third, after being ratified by the two-thirds of the members of the United Nations, including all the five permanent members on the Council, an amendment would become effective with respect to all members, even those that voted against it in the Assembly or failed to ratify it. The dissatisfied members have only one remedy that is to withdraw from the United Nations, although the Charter does not provide any provision for this regard.

Until 1963, none of the profound changes in the United Nations system that took place was brought about through the formal amendment process of the Charter. Formal amendments, however, were proposed on various occasion. During the first few sessions of the General Assembly, a few proposals were made to amend the Charter. One of these was a proposal introduced in 1946, to amend article 27, paragraph 3, to curtail the use of the veto, but it was withdrawn for lack of support²⁵. In 1956, following the great influx of new members, further proposals to amend the Charter were brought up in the General Assembly. The most significant were the following proposals: to amend article 61 to enlarge the Economic and Social Council, to amend article 23 to increase the number of the nonpermanent members on the

²³ See U.N. Charter, chapter XVIII, articles 108 & 109.

²⁴ See *infra*, Chapter Two, Section 1 (1), Ordinary Amending Process.

²⁵ See U.N. GAOR, First Session, 2nd Pt.C.1, Annex 7a, pp.323-324, U.N. Doc. A/C.1/34 (1946).

Security Council, and correspondingly to amend article 27 to increase the number of affirmative votes needed for a decision by the Security Council to be adopted.²⁶ The Cold War atmosphere prevented amendments to the Charter from getting the support of all five permanent members; of course, no amendment could come into effect without ratification by all of them.

The pressure to pass amendments to the Charter continued over the years until 1963 when an agreement was reached for this end. At its eighteenth session, the General Assembly adopted amendments to articles 23, 27 and 61.²⁷ The Security Council was expanded from 11 members to 15,²⁸ and corresponding the affirmative votes for the adoption of the Security Council resolutions from 7 to 9.²⁹ The number of the members of Economic and Social Council was raised from 18 and 27.³⁰ These amendments entered into force on August 1965 when the members of the United Nations, including the 5 permanent members on the Security Council, ratified them accordance with their constitutional processes.

When articles 23 and 27 were amended, the requirement of seven concurring votes by the Security Council for calling a conference to review the Charter in article 109, paragraph 1 was not changed. The General Assembly in 1965 adopted an amendment of this paragraph to conform to the new requirement of article 27, i.e., the nine concurring votes.³¹

The last amendment took place in 1971 when the General Assembly adopted a resolution raising the members of the Economic and Social Council from 27 to 54.³²

3.1.2 A General Conference for the Charter Review

Article 109 outlines a three-step process to be followed for reviewing the Charter by a general conference of the members of the United Nations. The first step is a call for holding a conference by a two-thirds vote of the members of the General Assembly and a concurring vote of nine members of the Security Council. The second step is an adoption of the alteration to the Charter by a two-thirds vote

²⁶ See U.N. GAOR, Eleventh Session, Annex (Agenda Items 56, 57 & 58), pp. 1-5; and U.N. Docs. A/3138, A/3140, A/3468/Rev. 1 & A/L.217/Rev.1 (1956).

²⁷ See G.A. Res. 1991 (XVIII), 18 U.N. GAOR Supp. No. 15, p. 21, U.N. Doc. A/5515 (1963).

²⁸ The 1945 text of article 23 (1) stipulated, "The Security Council shall consist of eleven Members of the United Nations." The 1963 text stipulates, "The Security Council shall consist of fifteen Members of the United Nations."

²⁹ The 1945 text of article 27 stipulated, "(2) Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members. (3) Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members." The 1963 text of article 27 stipulates, "(2) Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members. (3) Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members."

³⁰ The 1945 text of article 61 (1) stipulated, "The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly." The 1963 text of article 61 (1) stipulates, "The Economic and Social Council shall consist of twenty-seven Members of the United Nations elected by the General Assembly."

³¹ See G.A. Res. 2101 (XX), 20 U.N. GAOR Supp. No. 14, p. 90, U.N. Doc. A/6014 (1965). The amendment came into force on June 12, 1968. The 1945 Text of article 109 (1) stipulated, "A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at the date and place to be fixed by a two-third vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Members of the United Nations shall have one vote in the conference." The 1965 Text of article 109 (1) stipulates, "A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at the date and place to be fixed by a two-third vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Members of the United Nations shall have one vote in the conference."

³² See G.A. Res. 2847 (XXVI), 26 U.N. GAOR Supp. No. 29, p. 67, U.N. Doc. A/8429 (1971). The amendment came into force on September 24, 1973. The 1971 text of article 61 (1) stipulates, "The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly."

of the conference. The third step is a ratification of such alternation by two thirds of the members of the United Nations, including all five permanent members of the Security Council, in accordance with their constitutional process. In connection with these steps, four points are noted. First, the review of the Charter as a whole is not the business of the General Assembly, but of a “General Conference” of all members of the United Nations. This General Conference is a kind of constituent assembly that may be called to continue the work of the San Francisco Conference. Second, a reviewing conference could be called for any time. Third, none of the permanent members of the Security Council, nor all of them together, by their veto, can prevent the calling of a general conference. Fourth, any of the permanent members can prevent the entry into force of any alteration to the Charter by failing to ratify it.

It seems that, as far as amendments of the Charter are concerned, there is no difference between article 108 and article 109. Any amendment should be adopted by a two-thirds vote of either the General Assembly of the United Nations or the General Conference of the members of the United Nations. Moreover, even if “amendment” under article 108 or “alteration” under article 109 are adopted, it would come into force only if ratified by two-thirds of the members of the United Nations, including all five of the permanent members of the Security Council.

Paragraph 3 of article 109 outlines an additional specific one-time procedure for reviewing the Charter. It provides that if a conference has not been held before the tenth annual session of the General Assembly, “the proposal to call for such a conference shall be placed on the agenda of that session” and “the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council”.

The decision to include a specific provision for the “General Conference” to review the Charter was a product of a compromise between the position of the major powers and that of those who were dissatisfied with certain provisions of the Charter, especially, those of articles 23, 27 and 108. The objective of inserting such provision was to assure the dissatisfied states that there would be an opportunity for reviewing the Charter at some future time.

During the first three sessions of the General Assembly, proposals for the calling of a general conference to review the Charter were introduced.³³ None, however, was adopted because of the opposition of many members who argued that the time had not yet come to convene such a conference, and it was unwise to discuss amendments of the Charter in the light of the division among the major powers.

Because no conference to review the Charter was held prior the tenth session of the General assembly, the proposal to call such a conference was automatically placed on the agenda of the tenth session as required by paragraph 3 of article 109. The debate at that session revealed little enthusiasm and much reluctance by many members of the United Nations for calling such a conference.³⁴ The General Assembly adopted a resolution expressing the view what it would be “desirable to review the Charter in the light of experience gained in its operations”, but that such a review “should be conducted under auspicious international circumstances”.³⁵ In this resolution, the General Assembly did not fix the time or the place for the conference. However, a committee was

³³ See U.N. GAOR, First Session, C.1 2nd Pt., Annex 7b, pp. 324 & 326, U.N. Doc. A/C.1/49/Rev.1 (1946); and U.N. GAOR, Third Session, Ad. Hoc. Pol. C., Annex (Agenda Item 17), pp. 12-14, U.N. Doc. A/A.C.24/31 (1948).

³⁴ For the debate, see U.N. GAOR, Tenth Session, 542nd -547th Pt., pp. 296-370, U.N. Doc. A/P.V.542-547 (1955).

³⁵ See G.A. Res. 992(X), U.N. GAOR, Tenth Session, Supp. No. 19, p. 49, U.N. Doc. A/3116 (1955).

established to consider the matter in consultation with the Secretary-General. To this resolution, the Security Council gave its concurrence.³⁶

At its tenth session the General Assembly did not call for holding a conference to review the Charter as required by paragraph 3 of article 109. This could be understandable since paragraph 3 of article 109 did not guarantee that a conference would be held. The General Assembly was under no obligation to call a conference but merely to place the matter on the agenda of its tenth session.³⁷

It is important to mention that both articles 108 and 109 provide far too rigid procedure for amending the United Nations Charter. The process is just as long and just as difficult under one article as under the other. This explains why during the seventy-seven years history of the United Nations no substantial changes in this organization have taken place through the formal amending processes provided in the Charter. Profound changes in the United Nations system have been accomplished only through informal methods.

3.2 Informal Methods Used to Date

Because the formal amending procedures of the United Nations Charter are too rigid to allow necessary changes, and because the world political circumstances are not conducive to their use, other means have been found to achieve desired ends. The Charter has been subjected to changes in a variety of ways and to greater effect than are generally believed. It has been changed: (1) by the failure to implement or apply certain provisions; (2) through the liberal interpretations by various organs and members of the United Nations; (3) through the conclusion of supplementary or supporting treaties or agreements; and (4) through the creation of special organs and agencies.

3.2.1 Failure to Implement or Apply Certain Provisions

Several articles, which those who participated in the San Francisco Conference believed were highly important in making the United Nations an effective instruments for maintaining world peace were fallen into disuse. This was because organs and members of the organization disregarded or failed to implement or apply them. Perhaps the best examples are those articles relating to the military preparation of the United Nations. Article 43, which meant to be the heart of the collective security system provided for in the Charter and the teeth that put into collective security action under the United Nations, was disregarded. Under it, members of the United Nations are required to make available to the Security Council, in accordance with special agreements, the armed forces, assistance and facilities necessary for maintaining international peace and security. Unfortunately, these agreements did not come into existence; an article 43 remains a dead letter.

Equally dead are articles 44, 45, 46, and 47, which are related to the use of armed forces by the Security Council, and which are largely dependent on the entry into force articles 43. Article 44 requires the Security Council to invite a member state, not represented on it, to participate in its decisions concerning the employment of contingents of that member's armed forces. Article 45 requires members to make available national air force contingents for combined international enforcement action. Articles 46 and 47 entrusted the Security Council and the Military Staff Committee with the task of planning for the application, employment and command armed forces. Taken together, all these articles with article 43 are the cores of the collective security system of the United Nations as it was envisaged at the San Francisco by the drafters of the Charter.

The same fate is facing article 106 of the Charter. Under the heading "Transitional Security Arrangements", there is article 106 which was meant to cover the short transitional period anticipated before the making of the "special agreements" that

³⁶ See U.N. SCOR, Tenth Year, 707th Mtg., pp. 30-31, U.N. Doc. S/P.V. 707 (1955).

³⁷ See L. Goodrich, E. Hambro & A. Simons, *op. cit.*, pp. 644 & 646.

would give the United Nations forces necessary for its collective actions. Article 106 provides that pending the coming into force of such special agreements referred to in article 43 and before the exercise of the Security Council its responsibilities under article 42, the five permanent members of the Security Council should consult with one another with a view to such joint action on behalf of the Organization as may be necessary to maintain international peace and security. In short, this article gives the superpowers the joint responsibility for maintaining peace, on a transitional basis. The superpowers, however, because of the division among them have failed to give effect to this transitional arrangement.

3.2.2 Liberal Interpretations

The Charter of the United Nations, as any constitutional instrument, grows and takes on new meanings as the Organization accepts challenges and meets demands and needs.

The only provision in the Charter relating to its interpretation is the one implied in article 96. Under this article, the General Assembly or the Security Council may request the International Court of Justice “to give an advisory opinion on any legal question”; other organs of the United Nations and specialized agencies if authorized by the General Assembly may do so. Such opinion, however, have no binding legal effect. This flexibility in the Charter has led to several significant developments in the United Nations.

In practice and in line with the general understanding reached at the San Francisco Conference, the organs and member states of the United Nations have felt free to interpret the various articles of the Charter. Consequently, any interpretation of any provision of the Charter, which a majority of the members may believe to be reasonable, can prevail in any particular instance. This explains why the Charter has its liberal as well as its strict interpretation. The liberal interpretation, however, has been in ascendance much of the time. It has been very helpful in strengthening the roles of the General Assembly, in giving more of policy-making roles to the Secretary General and its staff, and in overcoming the deadlock in admitting new members to the United Nations.

The most significant development, which was due to a liberal interpretation of the Charter, related to all-important questions of voting in the Security Council. Article 27, paragraph 3, provides specifically that for other than procedural matters, decisions of the Council are to be made “by an affirmative vote of nine members including the concurring votes of the permanent members.” In the early history, the Security Council took the position that an abstention or an absence of a permanent member did not constitute a negative vote. This liberal interpretation of article 27, paragraph 3, has been the prevailing one since then. It was this interpretation, together with the absence of the Soviet Union from the Security Council, that made it possible for the Council to take action with respect to the North Korean attack against South Korea in 1950. The difference between this liberal interpretation of this article and the strict one is substantial. Under the strict interpretation when a permanent member abstains or is absent at the time of the vote is taken no decisions can be reached by the Security Council. This is clear illustration of how differently the Charter may be interpreted, and how an interpretation may make a difference.

Another illustration of how differently the Charter may be interpreted is found in paragraph 2 of article 27, which provides that decisions of the Security Council on procedural matters should be made by an affirmative vote of nine members. This article does not spell out the distinctions between the procedural and substantial matters. The five major powers agreed, at the San Francisco Conference, on the strict interpretation of “procedural matters”. They agreed that procedural matters were those involved with the organizational matters referred to in articles 28 to 32 of the Charter, such as the following: the adoption of the rules of procedure of the Security Council, the selection of the president of the Security Council, the time and place of

the Security Council meetings, the establishment of the subsidiary organs, and the adoption of conditions for the participation of a state that is not a member of the United Nations in the Security Council discussion. Furthermore, they agreed in their statement of June 7, 1945, that decisions of the Security Council that might have “major political consequences” should be made by the unanimous vote of the permanent members.³⁸ This narrow interpretation has not followed by the General Assembly that has been attempting to narrow the area within which the veto should apply. The General Assembly was inclined to define procedural questions very broadly. In its resolution of April 14, 1949, the General Assembly recommended to the Security Council that some thirty-one decisions should be considered procedural, and that the Council should conduct its business accordingly.³⁹ Included in the list were several decisions that previously been considered substantive, such as those relating to the pacific settlement of disputes and the admission of new members to the United Nations. Obviously, there is a substantial difference between the strict interpretation agreed on by the major powers at the San Francisco Conference and the liberal one urged on the Security Council by the General Assembly. Either of these interpretations could be applied; however, this is dependent on the members of the United Nations.

Another significant development, which was due to the liberal interpretation of the Charter, relates to the expanding nature of the political activities of the Secretary General. The articles of chapter XV relating to the role of the Secretary General leave the impression that his political functions are to be quite limited in scope. In practice, however, both the Security Council and the General Assembly have taken a broad view of his functions. The Secretary General is allowed to exercise an influential role in various fields. He makes statements before the Security Council and the General Assembly on a variety of questions. He has undisputed authority to place any item he considers necessary on the provisional agenda of both organs. He plays an effective and influential role with respect to peaceful settlement of disputes and peacekeeping operations, a role that those who participated in the San Francisco Conference did not foresee.

Still another demonstration of what interpretation may do is reflected in the sharp shift in the roles of the Security Council and the General Assembly. In the Charter of the United Nations, much emphasis is placed on the primary responsibility of the Security Council in the field of international peace and security. The Security Council is designed to be the most powerful and influential organ of the United Nations. It is designed to function continuously, to have armed forces at its disposal, and to make decisions binding on all members of the United Nations. The General Assembly, on the other hand, is designed for much less important roles. It is scheduled to convene in regular annual sessions, is not designed to have armed forces at its disposal and is only empowered to make recommendations not decisions binding on the members of the United Nations.

As the Security Council, during the early years of the United Nations had failed to act in certain instances, because of the division among its permanent members, the General Assembly had become a stronger and more important organ. The Assembly gradually played a much different role than had been foreseen by those drafted the Charter. Various devices, ways and means were employed to expand the Assembly activities and influence in about every field. The creation of the interim Committee in 1947 was meant to keep the General Assembly in virtually continuous session if necessary.⁴⁰ The adoption of the “Uniting for Peace” resolution in 1950 aimed to empower the General Assembly to take action against an aggressor in the event the Security Council failed to exercise its responsibility for maintaining international

³⁸ See Doc. 852, III/1/37(1), 11 U.N.C.I.O. Doc. 711 (1945).

³⁹ See G.A. Res. 267(III), U.N. Doc. A/900, p.7 (1949).

⁴⁰ See G.A. Res. 111(II), U.N. Doc A/519, p. 15 (1947); and G.A. Res. 295(IV), U.N. Doc. A/1251, p. 17 (1949).

peace and security.⁴¹ Moreover, this resolution aimed to make availability, at the disposal of the Assembly, armed forces. It asks member states of the United Nations to maintain within their national force's elements so trained, organized and equipped that they could promptly be available for service as United Nations units.

Today, the General Assembly can convene in an emergency session within 24 hours. It can make appropriate recommendations to members of the United Nations for collective measures, including the use of armed forces. This is made possible only by the liberal interpretations of the Charter provisions relating to the functions and powers of the General Assembly.

3.2.3 Conclusion of Supplementary or Supporting Agreements

The Charter has been subjected to changes because of numerous treaties and agreements that have been concluded by various states. Treaties and agreements have been used as devices to define in detail the general provisions of the Charter, to specify the rights and obligations of member states, to specify the powers and functions of the United Nations organs, and to lay down obligations and commitments that go beyond those contained in the Charter.

The most important example of such development is the establishment of regional and security arrangements or organizations. Article 52, paragraph 1 of the Charter provides that nothing in it shall preclude "the existence of regional arrangements or agencies" for dealing with "matters relating to the maintenance of international peace and security", provided that they are "consistent with the Purposes and Principles of the United Nations". Paragraph 2 of this article requires members to seek pacific settlement of local disputes through regional arrangement or agencies. Paragraph 3 requires the Security Council to encourage such behavior. Under article 53, the Security Council is required, where appropriate, to utilize such regional arrangements or agencies for enforcement action under its authority.

Despite its provisions for regional arrangements, the Charter was primarily designed to approach matters of collective security on a worldwide basis. Consequently, the primary responsibility for maintaining international peace and security was vested in the Security Council. However, because of the failure of the Security Council in assuming its responsibility, members of the United Nations, in search of an alternative, concluded numerous treaties and agreements establishing regional arrangements and organizations. Examples of such organizations are the following: the North Atlantic Treaty organization, the Warsaw Pact (collapsed in 1990), the Inter-America Treaty of Reciprocal Assistance, the Southeast Asia Treaty Organization, Organization of African Unity (Became African Union), the Arab States League, etc. By these treaties or agreements, the member states shifted the emphasis from universal collective security to regional security arrangements based on the principle of self-defense as expressed in article 51. Regional security arrangements constitute different techniques for joint action than the one that exists under the Charter.

Another important supplementary device to the Charter is the declarations accepting the compulsory jurisdiction of the International Court of Justice (ICJ).⁴² Although the Charter obliges members of the United Nations to settle their disputes by peaceful means referred to in article 33, it does not impose any particular means

⁴¹ See G.A. Res. 377(V), U.N. GAOR, Fifth Session, Supp. (No. 20), p. 10, U.N. Doc. A/1775 (1950).

⁴² Paragraph 2 of article 36 of the Statute of the ICJ stipulates: "The states parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the court in all legal disputes concerning:

a. the interpretation of a treaty,

b. any question of international law

c. the existence of any fact which, if established, would constitute a breach of international obligation;

d. the nature or extent of the reparation to be made for the breach of an international obligation."

This paragraph is referred to as "optional clause".

on the disputants. By acceding to the so-called optional clause of article 36 of the ICJ Statute, the states agree in advance to accept the jurisdiction of the Court with respect to legal disputers in which they may become involved. The declarations enlarge the competence of the ICJ by imposing on the states obligations over and above those already embodied in the Charter.

Still there are numerous resolutions and declarations adopted by various organs of the United Nations, and conventions concluded by states under the auspices of the United Nations, covering about every field, which are meant to supplement or support the Charter. These supplementary devices deal, for example, with: rights and obligations of states and other international legal persons; authority over land, sea and space; trade and development cooperation; human rights; peaceful settlement of international disputes; the use of force; environment; etc.. These devices play a role in the development of the provisions of the Charter.

3.2.4 Creation of Subsidiary Organs

Articles 22 and 29 of the Charter of the United Nations respectively authorize the General Assembly and the Security Council to establish such subsidiary organs as are deemed necessary for the performance of their respective functions. During the seventy-seven years of the United Nations history hundreds of committees, commissions, panels, special representatives, boards and agencies have been established. These subsidiary bodies have been assigned a wide variety of functions covering all areas of the Assembly and the Council responsibilities.

The General Assembly established many organs to assist it in carrying out its responsibilities in the administrative and financial field. Some have permanent status such as the Interim Committee, the Advisory Committee on Administrative and Budgetary Questions, the Committee on Contribution, and the Board of Auditors. Some important subsidiary organs created by the Assembly, e.g., the Collective Measures Committee and the International Law Commission, was assigned to undertake studies of a general character. Many operating agencies, e.g., the Relief and Works Agency for Palestine Refugees in the Near East, the Office of the United Nations High Commission for Refugees, and the Development Programme, were established to administer a variety of relief, rehabilitation, and assistance programs in the field.

In the field of peace and security, the General Assembly created many organs entrusted with a wide variety of functions. Some of a permanent nature, e.g., the Peace Observation Commission, and the Panel for Inquiry and Conciliation, were created to serve where they might be needed. Many *ad hoc* organs were created to deal with particular situations. Many were entrusted with investigatory functions. Others assigned to observe particular situations. Several subsidiary organs were assigned with functions of mediation, conciliation and good offices. In addition, the Assembly created military forces as its subsidiary organs for peacekeeping purposes.

To assist it in performing its responsibilities, the Security Council established its own subsidiary organs. It created standing commissions or committees of a permanent nature to assist it in particular aspects of its work or to deal with certain recurring matters, e.g., the Committee on the Admission of New Members. It established organs to deal with particular questions or situations for the task of investigation, observation, mediation, assisting in the implementation of its resolutions or peacekeeping.

The importance of the subsidiary organs created by the General Assembly and the Security Council rests on the fact that without the assistance provided by them main organs of the United Nations could not effectively discharge their responsibilities under the Charter. The establishment of such organs does not amend the Charter in any substantive way, but it does constitute an important feature of the developing United Nations system under the Charter.

4. CONCLUSION

We conclude from the foregoing research that the United Nations evolved and underwent changes during its 77 years. The 2022 United Nations is differently distinct than the 1945 United Nations. Changes took place within the United Nations system. The Charter was subjected to changes in a variety of ways. Certain articles fall into disuse by not being implemented or applied. Other Articles interpreted or applied, by various organs and members of the United Nations, in ways that the founders of the United Nations did not contemplate. Special organs and agencies were created. Supplementary or supporting treaties or agreements were concluded. The organs and procedures of the United Nations underwent an evolutionary growth through the process of trial and error.

Equally important, the membership of the Organization increased from 50 to 193 and the influence within it shifted from U.S.A to the Soviet Union and from the latter back to the U.S.A.

Although changes made to date affected the provisions of the Charter substantially, they left its text intact, except with regard to a few articles that were amended to meet certain needs.⁴³ To some extent, this was due to the difficulties inherent in the amending process, especially to the fact that any one of the five permanent members of the Security Council could veto a proposed amendment. This reality, however, has not precluded numerous proposals for reforming the United Nations to be proposed. Reforming the United Nations is still needed in order to have an organization capable to cope with the expectations of world peoples and nations in the twenty first century.

⁴³ Articles 23, 27, 61 and 109 were amended, *see supra* Chapter two, section 1 (1).