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Our way to peace  
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# OUR WAY TO PEACE

A STUDY OF THE UNITED NATIONS CHARTER



ROBERT A. GRAHAM, S.J.

WILLIAM L. LUCEY, S.J.

JAMES L. BURKE, S.J.

AN AMERICA PRESS PUBLICATION



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### THE CATHOLIC MIND

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# OUR WAY TO PEACE IN THE ATOMIC AGE

A STUDY OF THE UNITED NATIONS CHARTER

*By*

ROBERT A. GRAHAM, S. J.

Research Section, Institute of Social Order

*With the Collaboration of*

WILLIAM L. LUCEY, S. J.

Professor of Diplomatic History

Holy Cross College

*And*

JAMES L. BURKE, S. J.

Chairman, Department of History and Government

Boston College

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Text of the United Nations Charter

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## 1.

**How The Charter Came To Be**

*We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and* (PREAMBLE OF THE CHARTER).

On June 26, 1945, after nine difficult weeks, the delegates to the San Francisco United Nations Conference on International Organization completed their work. The Charter had been drafted and approved by each of the fifty nations represented. Ratification by the United States, Great Britain, the Soviet Union, France and China, and by a majority of the other signatory states was the only step that yet remained before the Charter would become operative.

Few were fully satisfied with the final form of the Charter. Despite the expressed determination to save succeeding generations from the scourge of war, many, even among the delegates themselves, realized that the document did not fully measure up to the desires and expectations of the peoples of all nations. Yet a Charter had been written; an international organization had been launched; that in itself was a triumph. It was the triumph of the clearly articulated conviction of the vast majority of civilized peoples that there was no hope of outlawing war or of a just and enduring peace until the natural community of nations was effectively organized. In the preamble the Charter did recognize its dependence upon that conviction. The delegates had been constantly reminded, when mutual fears and distrust and selfish nationalism threatened to disrupt their work, that they must succeed in making at least a start towards an organized community of nations. For a better understanding of the Charter the roots of that conviction are here briefly described.

**Papal Call**

The task of organizing the community of nations was from the start a dismal prospect. Secularism had so sapped the strength of Western civilization that the unity of the human race and dignity of man had

become forgotten or derided realities. To a world deep in despair and frustration came a call to the conscience of mankind to unite in a program of reconstruction—reconstruction of the home, of national life, of international order. In his Christmas Allocution of 1939—surely a time when few leaders were thinking of reconstruction—and in six succeeding messages, Pius XII urged and encouraged all men and all nations to rally to this generation's greatest task.

He made clear what should be done. Nations and their leaders must repudiate the game of power politics which generates wars by arousing fear and distrust, must abandon the ways of state absolutism and cold national selfishness which ignores or denies the moral order of rights and obligations of nations as well as of individuals. Permanent international institutions were needed to assure all nations, great and small, their right to life and independence; governments, too, which would guarantee the fundamental rights of every human person and which would restore the integrity and vitality of the family as the basic unit of civil society.

He made clear that the task was a compelling one. "There lies on all states and nations," he said at Christmas of 1944, "the duty of doing everything to ban wars of aggression, once and for all time, as legitimate solutions of international disputes and as a means of realizing national aspirations." That duty, he added, "brooks no delay, no procrastination, no hesitation, no subterfuge." And elsewhere he emphasized vigorously: "If ever a generation has had to appreciate in the depths of its conscience the call, 'War on war,' it is certainly the present generation."

### **After the Papal Call**

In England shortly after the first Christmas Allocution of 1939, the Anglicans joined with the Catholics of England in accepting the Five Points as the moral basis of a new world order. In the United States, the Federal Council of Churches put forward their "Pillars of Peace," a program calling for the restoration and practical recognition of morality in national and international life. These separate efforts culminated finally in the Catholic, Jewish and Protestant *Declaration on World Peace*, issued on October 7, 1943.

Scholars and members of the learned professions, encouraged by the Department of State, directed their studies to the fundamentals and the machinery of a workable international organization. Among these groups was the Commission to Study the Organization of Peace,

whose recommendations may be taken as typical. Its Fourth Report, issued in November of 1943, contained suggestions on the prevention of aggression by a sound system of collective security, on the Court as the supreme judicial tribunal, on economic and social collaboration among nations, on colonial trusteeships, on regional organizations and the control of armaments.

### **Isolationism Loses Ground**

In short, it was gradually becoming clear that if anything was to be salvaged from the ghastly expenditures of human and material values in the war, some progressive, systematic and world-wide program was needed to put the world back on an even keel and to prevent future crises. Gradually the traditional antipathy of Americans to world organization began to relax.

By the fall of 1943 public opinion had sufficiently crystallized to permit the State Department to assume a more active leadership in formulating plans for an international security organization. In September of this year the Post-War Advisory Council of the Republican Party, with cautious phrases, had recommended "responsible participation by the United States in cooperative organization among sovereign nations to prevent military aggression and to attain permanent peace with organized justice in a free world." Congress readily acknowledged the trend of opinion when the Fulbright Resolution on September 21, and the Connally Resolution on November 3, each supporting American participation in a general international organization, were passed with virtual unanimity in the House and the Senate.

### **Strategy of a Realistic Approach**

How were the responsible officials of this country to go about the task of bringing about such an international system? For various reasons it was accepted that the initiative would have to come from the United States and not from Great Britain or Russia. From the beginning it was realized that nations, the major Powers particularly, were not ready to make the sacrifice of sovereignty involved in a strong international government. A super-state with its own police force and other paraphernalia of coercive power was ruled out from the start, and the people were told so. From the beginning, too, it was realized that unless the plan, both in its fundamentals and in its chief details, had the support of all the major Powers it was doomed to failure from the start.

Secretary of State Cordell Hull reminded the nation of this fact in a radio address of April 9, 1944. "It is obvious," he said, "that no matter how brilliant and desirable any course may seem it is wholly impracticable and impossible unless it is a course which finds basic acceptance, not only by our allies but by the people of this country . . . A proposal is worse than useless if it is not acceptable to those nations who must share with us the responsibility for its execution." In particular, no plan for world peace could subsist unless it could count on the continuing unity of the successful wartime coalition of the Big Three—the United States, Great Britain and the Soviet Union.

It was first necessary to discover whether these three Powers agreed in desiring such an international organization, and then to discover whether they could agree on further details. The first meeting of minds took place at the Moscow Conference of Foreign Ministers, late in October, 1943. The four Powers there represented (China was included) recognized "the necessity of establishing at the earliest practicable date a general international organization, based on the principle of the sovereign equality of all peace-loving states, and open to membership by all such states, large and small, for the maintenance of international peace and security."

A year later these signatories met at an estate in Washington, called Dumbarton Oaks, to discuss a draft of the charter for such an organization. It was the aim of the conferees at this time to discover whether the four Powers could agree on a common draft. The go-ahead signal which was flashed when the Dumbarton Oaks proposals were released to the world meant that such an agreement had been achieved. Subsequently at the Crimea Conference, San Francisco was selected as the site of a United Nations Conference on International Organization, and April 25, 1944 as the day of the opening session. Invitations were sent to all the United Nations.

### **Improvements at San Francisco**

The American public and the other United Nations were invited to study the Dumbarton Oaks proposals with a view to their amendment and improvement later at San Francisco. The invitation was taken at its face value and the proposals were honestly and severely analyzed and criticized. The American public was especially displeased with the privileges and immunities which the major Powers awarded to themselves. Criticism was leveled at the almost honorary functions of

the Assembly. Demands were made for wider scope given to removing the economic and social causes of war, and for the promotion of respect for human rights based on the dignity of man. A better organization could be created and a better one was demanded. When the delegates of the 46-odd United Nations got down to business at San Francisco they were presented with a bulky document containing a thousand pages of amendments, proposals and comments.

The United Nations Charter is considerably different, for the better, from the Dumbarton Oaks draft proposals. This was the result that the delegates at San Francisco could point to at the end of nine weeks. Jan Christiaan Smuts, seventy-five years old and actively participating in an organized effort among nations for the second time within twenty-five years, said of the preamble composed by him and presented to the Conference: "I think we should say in the very forefront of this document that this was a human struggle, that this was a struggle for the human person, for the soul of man, for the fundamental rights which are basic to our civilization." It is for the future to reveal definitely whether the United Nations Charter is a worthy monument of that struggle. For the present we can only examine the contents and ideals of the Charter for the hopes and guidance they may inspire in us. That is the purpose of the following chapters.

### Topics for Discussion

1. "We are not thinking of a super-state," said President Roosevelt as early as June 15, 1944. He meant that the projected organization was not to have a world legislature, world supreme court, world police force, in short it was not to be a world government. Can you give reasons why this country did not even attempt to plan a world government, or a world federation along the lines of our own Federal Union?

2. At San Francisco there were present, as official consultants to the American delegation, representatives of Catholic, Protestant and Jewish bodies. Contrast this with the exclusion of religion at Versailles in 1919.

3. The preamble of the Charter differs from the following text in that it expresses the motivation that led to the United Nations, while the remaining articles express rules of conduct and the machinery for international peace. Discuss the relation of motivation—the will to peace—to machinery. Is it true that a relatively weak machinery supported by a strong will to peace is more effective than strong machinery that stands idle for lack of sincere good will? Do you believe that any organization can be successful if the members lack good faith and a sense of justice?

4. When Secretary Hull said that any future organization must find basic acceptance not only by our Allies but by the people of this country, he was thinking; *a*) of public opinion, *b*) of the United States Senate. Explain why.

## 2.

### **What is the United Nations Supposed to Do?**

When surveying the ground on which they wished to build the new organization, the planners of the State Department saw before them two obvious facts. One of these was the crying need of civilization for some method of settling disputes peacefully and of removing the causes of war. The other was the inveterate jealousy that every nation has for its own liberty and independence.

Despite many "peace plans" evolved during the war by private persons and groups, no serious thought was ever given to a world state or world federation. However appealing such plans might seem in the blueprint, they were in fact basically worthless, for practically every one of them was based on the sacrifice of liberty and independence of each state. This sacrifice, for good or for ill, the peoples of the world were not yet ready to make. It will always be a matter of sheer speculation whether the dropping of the atomic bomb on Hiroshima would have provoked any change in the Charter of San Francisco. Nor in fact is it by any means clear that world government is the sole solution to the problem of war in the immediate coming future.

### **Sovereignty Virtually Intact**

At a very early stage, then, it was determined that the new organization would not attempt to curtail the sovereignty of the Members. The organization was to be based on the sovereign equality of all its members, large and small. This is what President Roosevelt had in mind when on June 15, 1944, he said: "We are not thinking of a super-state with its own police forces and other paraphernalia of coercive power." It was to be an international organization whose purpose was to be the maintenance of peace and possessing adequate resources to meet the needs of preventing war. It was not to be a substitute for the national states, nor was it to take over the prerogatives of national states.

Unfortunately much of the criticism of the United Nations is based on the mistaken assumption that the Organization is meant to do

what it can only do by supplanting the national states or in some measure detracting from their sovereignty. Many of the shortcomings of the United Nations arise from the unwillingness of the states to surrender their traditional sovereignty. It is therefore unfair to blame the Charter for making sovereign equality the starting point of its objectives. The planners at Dumbarton Oaks and San Francisco had to adapt the style of their edifice to the desires of the prospective tenants. It could not be an architect's dream.

The United Nations, therefore, cannot legislate, tax, pass judgment, imprison, or exercise other prerogatives of sovereignty whether over individuals or over nations. It can only assist the national states to solve common problems arising out of their common stake in peace. It aims to provide effective machinery by which the member nations, through joint and planned use of their military forces, shall be able to stamp out the first sparks of aggression anywhere in the world. But if it does not aim at interfering with sovereignty, it also intends that this sovereignty should not express itself in terms detrimental to international peace.

### **Purposes**

How the United Nations Charter wants to 1) protect the sovereignty of all member states, and also 2) prevent that sovereignty from being a menace to world peace, becomes crystal clear from an analysis of the Purposes enumerated in four paragraphs of Article 1 of the Charter. Taken in reverse order the four Purposes (really five) represent a rising ladder of difficulty in international collaboration, ending with the application of military sanctions.

#### **To Aid Coordination**

a) Consultation and coordination is the minimum of international collaboration. The United Nations is "to be a center for harmonizing the actions of nations" for attaining the common ends of peace. Such a "center" is obviously no threat to national sovereignty. Coordination is a recognized operation between independent groups to eliminate duplication or to improve mutual effectiveness. But it is the first step toward the solution of international issues. It contemplates both political and non-political problems.

#### **To Achieve Functional Cooperation**

b) The next aim which the Organization puts before itself is achieving actual cooperation in solving such largely non-political problems

as trade and commerce, currency, standards of living, human rights and welfare. The expression "to achieve international cooperation" used in the Charter is significant. It serves to emphasize the idea that its function is to make the cooperation possible, not to give final effect and form to that cooperation. The ultimate decision remains with the individual Members. This action envisioned in this paragraph of the Charter is often called "functional cooperation." It consists in the solution of specific technical or other non-political problems through international agreements. The International Monetary Fund and International Bank for Reconstruction and Development are an example of this kind of "functional cooperation." The Food and Agricultural Organization is another. In both of these cases the final decision, as in all functional cooperation, must come from the acceptance of the individual states.

### **To Promote Friendly Relations**

c) A third and more difficult purpose of the United Nations lies in the political field of international diplomacy. The Organization aims "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples . . ." The national honor and vital interest have always played a decisive role in international diplomacy. As the Charter approaches this delicate subject, it is careful to add assurances of respect for the equal rights of nations and their independence. Here will come conferences and agreements for armaments control, the development of the international law of war and peace, as well as other issues directly connected with the security and rights of nations.

### **To Settle Disputes**

d) This activity in the political field is exercised most especially in the settlement of disputes between nations. The United Nations is meant "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 the peace." Here is question not of developing good relations generally as in c) but in helping to settle specific disputes which demand a prompt and definitive remedy. As to the manner in which these disputes are to be settled, only general terms are given. But the Charter envisions settlements 1) by *peaceful means*, and 2) in conformity with the principles of *justice and international law*.

### **To Prevent and Remove Threats to the Peace**

e) We are already in the field of political objectives, always the arena of intense national jealousy. The climax is reached when the United Nations asserts that its purpose is to see that national sovereignty shall not express itself in terms detrimental to international peace. It intends "to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace."

The expression "effective collective measures" is in fact the key to the spirit of the whole Charter. The United Nations is primarily a security organization. It is to be endowed with adequate power to prevent war. "Effective" measures, in the mind of the framers of the Charter, meant three things: 1) *promptness* of action, 2) *certainty* of action, and 3) *decisiveness* of action. This promptness, certainty and decisiveness were to be the chief deterrent to any potential aggressors. It might even be said these qualities are the ultimate motivation for the nations to cooperate in achieving the other ends of the Organization, since they make any adventure into aggression a hazardous policy.

### **No Delays That Favor the Aggressor**

In connection with the effectiveness of the measures which the United Nations is designed to take, it is pertinent to note that, whereas the peaceful settlement of disputes described under *d*) must be done in conformity with the principles of justice and international law, no such limitation is appended to the process of "effective collective measures." This does not mean that the United Nations can take action in disregard of all rules of right and equity, but only that no special due process is envisioned. The action taken under this head is regarded like the function of an administrative tribunal exercising justice, summarily but not in substance arbitrarily or unreasonably. In the event of an act of aggression, procedural delays would favor only the aggressor.

Only the peaceful processes of settling disputes, therefore, are to be treated "in conformity with the principles of justice and international law," in the sense explained. This interpretation is no quibble. At San Francisco, the Egyptian delegate sought to place the phrase so as to modify "effective collective action." The major Powers opposed this amendment on the score that it would prevent really effective action. Said Lord Cranborne on that occasion: "The present placing

of these words . . . insures in the first place that the actual business of maintaining peace and preventing the guns beginning to go off should not in any circumstances be delayed." Harold E. Stassen, American delegate, supported the objection by contrasting the duties of the policeman, whose function is to suppress breaches of the peace as soon as they occur, and that of the jury, which hears the evidence. The United Nations needs a policeman, as well as a judge and jury.

The United Nations, whose Charter was drawn up at San Francisco, is an Organization for the promotion of international peace and security. In simple language, it aims to abolish war and its causes. It does not attempt to alter the political structure of the world by the creation of world or federal government. It rather aims to create for the national states the best facilities for cooperating with each other in the fulfillment of their common hopes. It does not take from the states responsibility for the advancement of human welfare, except indeed as the existence of peace between nations is the basic condition of all human welfare. How these purposes are implemented, and whether they are realized effectively or laudably, is the burden of later chapters.

### Topics for Discussion

1. "It was very difficult, practically impossible, to draw a sharp and clear-cut distinction between what should be included under Purposes, Principles, or Preamble," said the Committee at San Francisco. The "Preamble" sets forth the declared common intentions which brought the conferees together. The "Purposes" constitute the *raison d'etre* of the Organization, the cause and object of the Charter. The "Principles" are the methods and regulating norms according to which the Organization and its Members shall do their duty and endeavor to achieve their common ends. All three have equal legal validity, but the Chapter on Purposes is the key one. What are the five Purposes of the United Nations?

2. On examining the whole of Article 1 is it not clear that the national state continues to be the chief unit of international relations? Do you discern any intent to take over the prerogatives of sovereignty? Do you regard the unimpaired sovereignty of the national state as a weakness of the Charter, or a strong point? Give the reasons for your conclusion.

3. Consultation and coordination is the most elementary type of international collaboration. It can be had without an organization. What then does the United Nations provide by way of improvement in this respect?

4. What organ of the United Nations is especially charged with the duties of achieving international cooperation of the type mentioned in paragraph 3?

5. "The Committee understands that the principle of equal rights of peoples and that of self-determination are two complementary parts of one standard of conduct; [and] . . . that an essential element of the principle in question is a free and genuine expression of the will of the people which avoids cases of the alleged

expression of the popular will, such as those used for their own ends by Germany and Italy in later years." Apply this official commentary to specific bogus plebiscites which have taken place in Europe.

6. Referring to article 1, paragraph 1, the Committee explains why "justice" was left out in the first part: "Adding justice after peace and security brings in at that juncture of the text a notion which lacks in clarity, and welds it together with the more clear and almost tangible notion of peace and security." Why is "justice" a notion that "lacks in clarity?" Why is "peace and security" an "almost tangible notion?"

7. The Committee continues: "The concept of justice and international law can thus find a more appropriate place in context with the last part of the [first] paragraph dealing with disputes and situations. There, it can find a real scope to operate, a more precise expression and a more practical field of application. There was no intention to let this notion of justice and international law lose any of its weight or strength, as an over-ruling norm of the whole Charter." Is this point well-taken?

8. Article 24, paragraph 2, states that the Security Council is obliged to act "in accordance with the Purposes and Principles of the United Nations". Discuss the way in which this provision will work to control the big Power domination of the Council. Is it true to say that the Security Council can act against the intent of those who signed the Charter?

9. One of the improvements over the Dumbarton Oaks proposals was the insertion of the promotion and encouragement of human rights and fundamental freedoms as one of the Purposes of the Organization. In other words, human rights is not regarded now as merely an incidental of international relations, but is one of the key reasons for which the United Nations was founded. Discuss the significance of this change.

[Articles 2-6]

### 3.

## The Rules of the Game

After the declaration of Purposes of the United Nations there follows a series of seven Principles. These paragraphs are not meant to be merely ideals. They are working rules to guide the United Nations. It is in these working rules that the moral relevance of the Organization comes more sharply into view. Four particularly striking concepts run through these principles.

### Sovereign Equality

#### Rights of States

The United Nations is based on the "principle of the sovereign equality of all its Members." Sovereign equality, according to the official interpretation of the Committee which elaborated this section at San Francisco, embraces: a) the juridical equality of states; b) respect for the juridic personality of the state; c) respect for the territorial integrity and political independence of the state. Sovereign equality does not mean equality which disregards the material, political or economic differentiations among nations. It is rather an equality based upon the juridical status of the nation.

In the first point of his Christmas Allocution of 1939, the Holy Father spoke of assuring "to every nation, large and small, powerful or weak, its right to life and independence." In other words, before the bar of justice all nations are equal. The life of a state is its juridical personality. This life cannot be snuffed out nor can a state be deprived of the prerogatives of its existence—its territorial integrity and its freedom from subservience to another state—without injustice.

#### Rights of International Community

Sovereign equality is a safeguard of justice. Nothing was clearer at San Francisco, however, than the determination that the rights and independence of individual states should not be asserted at the expense of international order. The international community has rights, too. The delegates felt that it was little short of futility to further accentuate divisions among the nations at the moment when the crying

need was for reducing divisions. The League of Nations learned what damage could be done to peace by exaggerated leeway given to nationalism and self-determination. Much of Europe's chaos could be laid at the door of such divisiveness. It can be safely predicted that nationalism and its concomitant, the self-determination of nations, will undergo considerable deflation in coming decades. So also the concept of sovereign equality will not be interpreted in a sense that will deprive the United Nations of its cohesion and its right to regulate international affairs in the interests of world order.<sup>1</sup>

### **Domestic Matters**

Closely connected with the principle of sovereign equality is another principle which states that the United Nations is not authorized to intervene in matters which are essentially within the domestic jurisdiction of any state, "or to require the Members to submit such matters to settlement," except where the application of enforcement measures to maintain peace is at issue.

This prohibition is actually just a precautionary statement and does not add anything substantial to the principle of sovereign equality. But in view of the wide scope of action given to the United Nations, particularly in social and economic matters, it was necessary to make assurance doubly sure that treasured national policies, such as immigration or labor standards, or cultural or educational customs should not become the object of international pressure. It contains a rule and an exception, both of which are proper to an *international* organization. Stated positively, the principle means 1) that each state retains entire liberty of action in matters essentially internal, and 2) that the United Nations may intervene nevertheless in matters affecting the application of enforcement measures.

### **Good Faith**

Each Member undertakes to fulfill its obligations "in good faith." In the second point of his 1940 Christmas Allocution, Pius XII called for a return to "fidelity in the observance of agreements." Treaties must be kept. The collapse of the treaty system and the decline of faith in the pledged word of nations was at the bottom of the collapse of international morality that preceded World War II.

The diplomat responsible at San Francisco for the insertion of

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<sup>1</sup> Not only the Ukrainian S.S.R. and the White Russian S.S.R. are full-fledged Members of the United Nations, but also India, Syria and Lebanon. Yet none of these could be regarded as having sovereign independence in the usually accepted sense. The Charter uses the term "Member" whenever possible, in preference to "state." Here is a problem for the political scientist.

this phrase, Senor Jesus Maria Yepes, of Colombia, pointed out that this phrase is an attack on the false political philosophy which makes the interests of the state, whether legitimate or not legitimate, the supreme moderator of international life. "For that school good faith does not count," he said on June 15, "It did not count for Bismarck, the Iron Chancellor, who said that all international treaties constituted just a provision of a short duration and that it was limited by the interest of the state itself . . . Was it not the authentic successor of those princes of bad faith who coined that cynical phrase: Right is what is useful to my German people? The United Nations must react against such inadmissible concepts and must proclaim that international life requires a minimum of morality as a norm of conduct for peoples." This minimum of morality is fidelity to the pledged word. As Westlake, the great English jurist, has said: "Good faith is the great moral ligament which binds together the states of the world in a system of law."

### **Renouncing the Use or Threat of Force**

Power politics is the use of force or threat of force to achieve national policy. In the Charter of the United Nations a sincere and explicit effort is made to abolish the use of force in international relations, or at least to channel it into a legitimate course. In the words that have been a recurring theme in Papal utterances since the days of Benedict XV, "the moral force of right must be substituted for the material force of arms."

The Members accept the obligation to settle their international disputes by peaceful and just methods, and "to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any manner inconsistent with the Purposes of the United Nations." If these pledges are carried out, then obviously there will be an end of war. It is the task of the United Nations to see that they are carried out. Right here is the legal justification of the enforcement measures which the Security Council is empowered to take against all disturbers of world peace.

It should be noted that the international disputes of Members are to be settled in such a way that not only peace and security, but also justice, are not endangered. It will not be peace at any price. This rules out any possible notion on the part of the big Powers that peace and security can be maintained without regard for justice. This feature

of the Charter was inserted on the insistence of the small states who know from experience that the big Powers have the habit of sacrificing the small countries in order to preserve peace among the large ones. This happened, for instance, when Britain and France agreed to the German seizure of the Sudetenland. Other instances easily come to mind.

## **Collective Help End of Neutrality**

Another theme close to the heart of Pius XII is the solidarity of the human race and our need to help each other as brothers of one family. In the Charter each Member undertakes "to give the United Nations every assistance in any action it takes in accordance with the present Charter," and to refrain from giving "assistance to any state against which the United Nations is taking preventive or enforcement action." Even non-Members are liable to action to ensure that they do not impede effective action.

Such a principle means that the former idea of neutrality has undergone substantial change, as regards both Members and non-Members of the United Nations. It reflects the idea that international peace is a concern of all, and no nation may hold itself aloof in maintaining the peace of the world. No Member or non-Member may any longer invoke neutrality in order to avoid contributing its share to the maintenance of peace. For instance, should Germany again become an aggressor, Sweden, even as a non-Member, would not be permitted to ship lumber or steel to Germany. If she insisted on her title as a neutral, Swedish ships or ports could be bombarded on the authority of the Security Council, to prevent such aid being sent to a nation against which enforcement action is being taken. In like manner member states are obliged to contribute positively to the action of the Security Council. In a truly international community there can be no neutrality.

## **Membership Dispute**

Not unrelated to the problem of the solidarity of the human society is the question of membership in the United Nations. In their Statement of November 16, 1944, the Bishops said, "The international institution must be universal. It must seek to include, with due regard to basic equality of rights, all the nations, large and small, strong and weak."

There is an international community to which all nations belong whether they realize it or not, whether they wish it or not. The sooner the United Nations counts all countries within its fold the better it will be for the cohesion of the Organization. If the United Nations remains merely a continuation of the victorious war-time coalition, excluding the defeated Axis members and also those states which chose to exercise their then existing neutrality rights, there will be doubt as to the genuine right of the Organization to speak in the name of the whole international community. Doubt and disloyalty will begin to gnaw at the heart of the United Nations. It will lose that inner strength of conviction in the nobility of its own cause. This was the catastrophe that befell the League of Nations.

It was a view strongly stressed by many delegations at the San Francisco Conference that membership in the United Nations should be universal. This means particularly that there should be no provisions either for expulsion or withdrawal. After considerable debate, however, it was agreed that the right of withdrawal should be left implicit, but that the Organization should have the power to expel a Member which has "persistently violated the Principles contained in the present Charter." It was felt that the Organization should have the power of disciplining its members, including the extreme sanction of expulsion.

### **Peace-Loving States**

When a state applies for membership (which is effected by a decision of the General Assembly upon the recommendation of the Security Council) it must accept the obligations contained in the Charter and, moreover, must be able to convince the Organization it is "able and willing to carry out these obligations." (Art. 4) E.g., the applications must show evidence of their willingness to abandon their rights of neutrality and to bear their share in enforcing peace. Also, by their national institutions and domestic policies give evidence that they are fundamentally peace-loving and not likely to make world conquest a national mission.

### **Topics for Discussion**

1. Edward Hallett Carr has written that the expression "sovereign equality of all peace-loving states" must be regarded as evidence "either of a high degree of political simplicity or of a scarcely less discouraging readiness to pander to popular superstition." In the modern world dominated by a few great Powers what can be the true meaning of sovereign equality?

2. "Each sovereign nation, large and small, is in law and under law, the equal of every other nation. The principle of sovereign equality of all peace-loving states, irrespective of size and strength...will be the foundation stone." Are these words of Cordell Hull verified in the Principles of the Charter? How can they be reconciled with the privileged position of the great Powers in the Security Council?

3. States have obligations to the world community. Discuss how the threat of the atomic bomb serves to emphasize these obligations, as against the right of national sovereignty.

4. Discussing "good faith," Lord Cranborne said at San Francisco, "We were faced, in the years before the war, with the spectacle of one great nation, Germany, which made breaches of faith the basis of her whole foreign policy, and who used each successive repudiation of her pledged word as a jumping off place for further aggression and infamies." Can you list the events referred to?

5. The emphasis in this Chapter on Principles is the *pacific* settlement of disputes. Compare the procedure of the Security Council (Art. 33-38) to see how this is applied.

6. Joseph Paul-Boncour, delegate of France, said that "participation in the Organization implies commitments which are incompatible with a neutral state." Verify this by specific instances in the Principles.

7. Examine Article 2, paragraph 2, for its relevance on the solidarity of the international community. "The paragraph," says the Committee report of the San Francisco Conference, "means also that if all Members of the Organization fulfil their obligations, all Members receive the benefit. Thus, the non-fulfilment of the duties and obligations by one state deprives not only that state but all the others, of some of the benefits."

8. In supporting the idea of universal membership, excluding no states whatever, the Venezuela delegation said that "politically, the best way of controlling dangerous states is precisely to include them in the membership of the Organization...and subject them as Members thereof to all the necessary conditions of vigilance and prevention." Can you suggest some way by which a dangerous state could be better controlled as a Member than as a non-Member?

9. An interpretative commentary on Art. 4, paragraph 1, relating to admission of new Members, states that it does not apply "to the states whose regimes have been established with the help of military forces belonging to countries which have waged war against the United Nations, as long as those regimes are in power." The intent of this interpretation, which was accepted by the Conference, was to exclude the Franco government of Spain. The Spanish reply that this cannot apply to the Franco regime. What do you think of the interpretation? What do you think of the Spanish reply?

10. An official statement of the Conference says: "The highest duty of the nations which will become Members is to continue their cooperation within the Organization for the preservation of international peace and security...Yet it is not the purpose of the Organization to compel that Member to continue its cooperation in the Organization." Discuss: *a*) The duty of the United States to remain an active Member of the United Nations; *b*) The circumstances which would make our withdrawal from the Organization legitimate.

[Articles 7-22]

## 4.

### **The General Assembly**

#### **Functions and Powers**

The Charter establishes five principal organs. These are: the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of Justice, and the Secretariate.

The most representative organ of the United Nations is the General Assembly. In its activities each Member of the United Nations has one vote, though a Member may send from one to five delegates. Meetings are to be held annually or oftener at the request either of a majority of the Members or of a vote of the Security Council. In all of the voting done in the Assembly, there is never any question of special prerogatives for any Member. Each Member has one vote and the vote of no special Member is needed to constitute the required majority.

#### **Function in Maintaining Peace**

The General Assembly has legislative power in the sense that after discussion it may formulate recommendations for acceptance by the appropriate parties. Since the task of maintaining international peace and security is the special prerogative of the Security Council, the activity of the Assembly in this matter is somewhat curtailed. It may discuss and formulate principles of cooperation in the maintenance of international peace and security. These principles will include those concerning disarmament, the specific rules on which are the prerogative of the Security Council.

As to specific questions relating to the maintenance of international peace and security, brought before it by the Security Council or by Members and even non-Members, the General Assembly is authorized both to discuss and to formulate general recommendations by a two-thirds vote. These recommendations may be made to the Members involved or to the Security Council or to both. This power is always

subject to the proviso that the recommendations shall not be made when the Security Council has the same situation under consideration. Also, without going so far as to make specific recommendations, the Assembly is free to point out these troublesome situations to the Security Council by a majority vote.

### **Power Over Dangerous Situations**

A second category of cases in which the Assembly is authorized to act are situations "regardless of origin," deemed likely to impair the general welfare or friendly relations among nations. (Art. 14). This provision covers agreements among states that are obsolete and fraught with potential danger, as well as those that are clearly unconscionable. Because action on such situations, which need corrective measures, might be ignored or vetoed by the Security Council, the Assembly is authorized to make recommendations on them to the parties involved. These recommendations are reached by majority vote.

### **Power to Promote International Welfare**

Where immediate or proximate danger to international peace and security is not involved, the Assembly is less restricted in its authority to discuss and formulate international agreements. It may discuss and make recommendations on "any question or any matter within the scope of the present Charter or relating to the powers and functions of any organs" of the United Nations (Art. 10). Here, as elsewhere, recommendations are to be held in abeyance if the Security Council is actually considering, in accordance with the functions assigned to it, the same specific problem.

To clarify what this broad power of recommendation implies, the Charter indicates that the Assembly is to study and to make recommendations which will promote international cooperation in political matters, and to aid in the development and codification of international law. While the Assembly is also given similar authority in the field of economic, social, cultural, educational, humanitarian and trusteeship activities, it is furnished with both the Economic and Social Council and the Trusteeship Council as instruments for the discussion and formulation of proposals in those matters. Decisions in the Assembly on these problems are by majority vote.

### **Role in Amending Process**

Akin to this last function is the task of formulating, by a two-thirds

vote, amendments to the Charter. Likewise similar is the right to call, by a two-thirds vote a special convention to review the provisions of the United Nations charter (Art. 109). This action of the Assembly must also be agreed upon by a vote of any seven members of the Security Council. If this convention has not been held before the tenth annual session of the Assembly, it may be voted for in the Assembly by a mere majority vote. But seven votes are still required for the coordinate action in the Security Council.

### **Service Agency**

Another important aspect of the work of the Assembly is service and supervision. The Assembly is a service agency inasmuch as it elects by a two-thirds vote the members of the Economic and Social Council, the non-permanent members of the Security Council and the added members of the Trusteeship Council. Separately from the Security Council it also chooses the judges of the International Court of Justice, by a majority vote.

### **Supervisory Authority**

By a two-thirds vote, in its supervisory capacity, the Assembly admits new Members of the United Nations, suspends or expels Members, and may permit voting in the Assembly by a Member which can present adequate explanations in case of arrears in payment of its financial obligations to the Organization. Another aspect of the supervisory work consists in deciding, again by a two-thirds vote, on budgetary matters.

The Assembly receives and considers annual and special reports from the Security Council. These reports must include an account of the measures decided upon or taken by the Council to maintain international peace and security. The Assembly also receives reports from the other organs. It has responsibility for the functions of the Organization set forth in Articles 55 to 60, in reference to economic and social cooperation. It examines the administrative budgets of the specialized agencies, with a view to making recommendations to these agencies.

### **Estimate of the General Assembly**

In a dynamic world community in which there is more and more need of agreement upon rules, it is imperative that there be a permanent international body in which these international regulations can

be formulated in an opportune and satisfactory fashion. As long as the United Nations is an organization of sovereign states, this necessary international organ will not legislate directly, i.e., its determinations will not be automatically effective on member states. It will merely be a body capable of formulating draft proposals for later acceptance by the member states. In the Assembly, the need for such a permanent international drafting body has been met.

Theoretically such a drafting group would interest itself in proposals not merely of political matters, but also of those that are economic and social. For reasons gleaned from the experience of the League of Nations, the Assembly has been provided with a special Economic and Social Council to draft proposals in those fields. The Assembly will concern itself with those topics that are political, among which is the codification of international law.

### **Lacuna**

There is a curious lacuna in the Charter's provisions about the formulation and later ratification of these draft proposals. When the Assembly and the Security Council formulate proposed amendments to the United Nations Charter, it is made explicit that these amendments come into force for all Members of the United Nations when adopted by two-thirds of the Members, including the Big Five. But no similar provision is made for the coming into force of draft proposals.

It might be advantageous if all such draft proposals were binding on all Members once they are ratified by a majority or a special majority. Even if this situation is not to obtain, and if the draft proposal is to be binding only on the ratifying Members, it is unfortunate that there is no clause in the Charter indicating how many states must ratify a draft proposal of the Assembly before it is binding even on the ratifying states. One must conclude that a provision such as this last one will be contained in each separate draft proposal. It would be preferable to have this matter written explicitly into the Charter.

### **Peaceful Change**

Another important need of the international community is a body to deal with shorter range problems where change in status is required because some specific treaty provision is obsolete or unconscionable. To make provisions for such modifications in treaties was one of the explicit reasons why Pope Pius XII favored international collaborative institutions.

There was much discussion at San Francisco about vesting in the Assembly power to deal with every and any situation likely to impair the general welfare or friendly relations among nations. It was finally determined to allocate to the Assembly power to deal with any situation *regardless of origin*, and to make this power not merely that of discussion but also of recommendation. It is not, however, made explicit to whom this recommendation may be made, but it may be assumed from similar passages elsewhere that it is to the interested parties, or to the Security Council or to both.

This power of discussion and recommendation about critical situations permits the Assembly, where there is no possibility of veto, to serve as an international forum and even as a sort of international mediation body. There is, however, no authority in the Assembly to see that its recommendation brings about a peaceful change in the obsolete or unconscionable treaty agreement. If matters worsen, the role of the Assembly is finished, and the problem devolves upon the Security Council.

### **Assembly and Catholic Principles**

In speaking of the General Assembly in their statement of April 14, 1945, the Archbishops and Bishops of the Administrative Board of the National Catholic Welfare Conference criticized the Dumbarton Oaks proposals because "the functions of the General Assembly are too restricted." They expressed the hope that "the Security Council will be made more responsible to the General Assembly and, in time, will become merely its Executive Committee."

In the Charter's final form the functions of the Assembly have been clearly widened. Instead of the vague authorization to adjust situations likely to impair the general welfare, Article 14 of the Charter, as previously explained, authorizes the Assembly to "recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations."

In the Dumbarton Oaks proposals the Assembly was permitted to make recommendations to promote international cooperation in political, economic, and social fields. Article 13 of the Charter makes this

authority more specific. Studies and recommendations may be made for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 10 of the Charter vests the Assembly with a new power to discuss any questions or any matters within the scope of the Charter or relating to the powers and functions of its organs. To this power of discussion is added the authority to make recommendations about them to the Members of the United Nations, to the Security Council, or to both. Another new power given to the Assembly at the San Francisco Conference is its role in the matter of trusteeships, which is explained elsewhere.

As originally planned, the Assembly would receive and consider annual and special reports from the Security Council. It is now provided that these reports are not to be mere jejune accounts but are to supply information about the measures that the Security Council has decided upon to take to maintain international peace and security.

### **Final Judgment**

In many ways the Assembly will always be second to the Security Council since the whole framework of the United Nations supposes that the maintenance of international peace and security is the special prerogative of the Security Council. If the Assembly is to be judged fairly, it must not be judged as to its lesser authority in that area of international life, but on its power to formulate for the Members of the United Nations draft proposals on matters not immediately threatening international peace and security, but calculated to make international living such that there are fewer and fewer jeopardies to international peace and security. If this is the real power given to the Assembly in Articles 10 and 13, then the present Charter has made a notable advance in the organization of the international community.

## Topics for Discussion

1. In its favorable report the Senate Committee on Foreign Relations had this to say about the General Assembly: "The General Assembly will not be a legislative or lawmaking body. The General Assembly, nevertheless, will be an important forum where the public opinion of the world may be brought to bear effectively upon any matter within the scope of the Charter or which relates to the powers and functions of any of the organs provided for in the Charter." It will be, in effect, the "town meeting of the world." Discuss the role of the Assembly as an effective forum for world opinion, despite its lack of lawmaking power.

2. The same report has this comment on peaceful change: "The powers of the General Assembly and those of the Security Council, backed in the first case by the Assembly's prestige as the forum of the United Nations, and, in the other by the Council's position and particularly by the unity of the five permanent members, affords grounds for believing that, where called for, change may be brought about peacefully under the aegis of the United Nations. Discuss whether the Papal program for a system of peaceful change is fulfilled in this instance.

3. One critic wrote of the original Dumbarton Oaks proposals that the proposed Organization "cannot legislate on serious problems...has nothing to administer...cannot enforce anything..." With the provisions of Article 14 in mind, do you believe this criticism is still valid in the improved Charter?

4. One of the improvements introduced into the Dumbarton Oaks proposals at San Francisco was to authorize the General Assembly to encourage "the progressive development of international law and its codification." Discuss the importance of this provision for creating a truly juridical international order.

5. To what extent is the Security Council accountable to the General Assembly? Read Articles 10 and 15 carefully in this connection.

6. To what extent is the Security Council not accountable to the General Assembly? Read Articles 12 and 24 with reference to the primary responsibility conferred on the Council in order to ensure prompt and effective action.

7. The General Assembly is the most representative and democratic organ of the United Nations, from the point of view of membership and voting procedure. Can you give additional reasons why the Bishops in their statement of April 14 expressed the hope that "the Security Council will be made more responsible to the General Assembly?"

## 5. The Security Council Description

### **Membership, Responsibilities and Procedure. (23-32)**

The Security Council is the organ of the United Nations responsible for the maintenance of peace. This Council, composed of five permanent members (the United States, Britain, Russia, France and China) and six other members elected by the Assembly for a two year period of service, acts in the name of the United Nations in discharging its primary responsibility of maintaining peace and security. The Council is, however, duty bound to act in accordance with the purposes and principles of the Charter and to submit annual reports of its activities to the Assembly. The Assembly, on the other hand, is not free to elect the non-permanent members of the Council at random; due regard must be observed for geographical representation of the Members of the Organization and the ability of the Member to contribute to this organ's primary responsibility—the keeping of peace by force if need be.

Each member of the Council is entitled to one representative and one vote in its deliberations; although it must function continuously, meetings may be held at any place the tide of events warrants and a member of the Council may be represented by some one other than the regularly designated person.

Decisions on matters of procedure (Art. 28) are made by the consent of *any* seven members, while other decisions are made by a majority of seven which includes the affirmative vote of all five permanent members. Each of the permanent members, then, has a veto in non-procedural decisions. There are a few exceptions to the use of this veto; it can not be used in the pacific settlement of a dispute by a permanent member that is a party to *that dispute* (Art. 27), and in the election of a judge of the International Court of Justice.

### **Pacific Settlement of Disputes. (33-38)**

International disputes must be settled peacefully and justly. All nations accept this obligation of joint, just and peaceful settlement of their international disputes and differences, and the Big Five are not

exceptions; they accept this obligation along with all other members. Parties to disputes must settle their differences among themselves by any peaceful method of their choice: negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or resort to regional agencies.<sup>1</sup>

Any dispute endangering international peace and security ceases to be the exclusive concern of the immediate parties involved, and accordingly any Member of the United Nations can call such a dispute to the attention of the Security Council or the Assembly. However, if the Council has taken cognizance of the situation the Assembly cannot act by making any recommendations on the situation.

Any unsettled dispute or situation that threatens the peace is the proper concern of the Security Council. If the parties are unable to settle it peacefully themselves, the dispute must be referred to the Council, but the Council need not wait until the parties refer the dispute to them. It may investigate any dispute to discover whether its continuance endangers the peace; it may call on the parties to settle it by some peaceful method; it may recommend the method of settlement and, if necessary, recommend the terms of settlement.

### **Action Against Breaches of the Peace. (39-51)**

The Council is empowered to remove threats and to heal breaches of the peace and end acts of aggression. Measures short of armed force (embargo, severance of diplomatic relations, demonstrations, etc.) and the actual use of military forces may be used to achieve this objective. The military power at the disposal of the Council is contributed by the Members of the Organization, but the main bulk of the power will come from the members of the Council, especially the five permanent members, the great military nations of the world. However, the contribution of each Member will be determined by an agreement with

<sup>1</sup> A brief description of each of these methods of settling disputes might be helpful:

a. *Negotiation*: an understanding or settlement reached by the representatives of the parties to the dispute through ordinary diplomatic channels.

b. *Inquiry*: a commission appointed to investigate and report on disputed facts.

c. *Mediation*: A neutral third party attempts to settle the dispute; in accepting the mediation of a third party the parties to the dispute do not usually obligate themselves to accept the proposed settlement.

d. *Conciliation*: submission of disputes to an impartial third party to examine all aspects of the dispute and to submit a solution which, without having the binding character of arbitration or a court, should commend itself to the parties on the basis of equity and mutual concession.

e. *Arbitration*: The submission of an international dispute to an umpire or tribunal chosen by the parties to the controversy, judgment being rendered *ex aequo et bono*, i.e., according to common sense and fair play. Usually the parties agree to accept the award.

f. *Judicial settlement*: submission of an international dispute to a tribunal of judges for a judgment based on international law. Such disputes are called legal or justiciable.

g. *Regional agencies*: courts of justice, arbitration tribunals, commissions, etc. established by regional organization for the peaceful settlement of disputes.

the Security Council, although the agreement may be bi-lateral (between the Council and one Member) or multi-lateral (between the Council and two or more Members). In any given situation, the Council decides what nations must contribute their quota and how much of their quota, for a breach of the peace may only require the aid of Members in a certain geographical area. These armed forces of the nations will be under the Council's agent, the Military Staff Committee, which is responsible for its actions to the Council.

Since a state may be confronted with serious economic problems by complying with these preventive and enforcement measures of the Council, she has a right to seek a solution to her problems from the Council. The nations also retain their right to defend themselves, either singly or collectively, against an armed attack until the Council has taken the necessary measures to maintain peace.

## **Observations on the Security Council**

### **Core of Criticism**

Much of the sound and legitimate criticism of the United Nations Charter is aimed at the predominance of the Big Five in the Organization. This control is centralized in the Security Council.

For an understanding of the present Charter one should bear in mind the reality of the situation. Since not even the first steps in the organizing of the community of nations could be taken without the participation of the few world Powers, the conditions laid down by these nations had to be met and satisfied. They were unwilling to admit much external restraint on their own exercise of military might at their disposal; they demanded a latitude of action for themselves which they denied to others, and this latitude, first claimed in the Dumbarton Oaks Proposals but whittled down as much as possible under present conditions at the San Francisco Conference, was finally and reluctantly accepted by the other nations. For if they did not accept the conditions, as Peter Fraser, Prime Minister of New Zealand, explained, there would be no charter at all.

This concession to the major Powers of the world has admittedly weakened the Charter as a security organization. It does *not* provide for a system of collective security, for it offers no assurances of protection against the aggressions of any of the five big Powers. But it is well to remember that the less powerful nations have even less security outside the Charter. For the big nations have, as we shall see, placed some restraints on the exercise of their might, and there

is some hope, once they have taken the first step, that they will in time place sufficient restraints on their power to permit not only protection of the strong from the weak but protection of the weak from the strong.

### **Idea Acceptable**

An international organization with any promise of maintaining peace must provide the means for the prompt use of adequate armed force against peace-breakers and aggressors. All must agree that an essential of any peace organization is an organ invested by common consent with the power and the function, as Pius XII said at Christmas, 1944, "to smother in its germinal state any threat of isolated or collective aggression." The League of Nations was clearly defective on this score, for its provision for unanimity in both the Assembly and Council prevented the use of force in a crisis.

It is reasonable, then, to entrust this responsibility to a Council of limited membership, empowered to use force in the name of the Organization and provided with sufficient military power to act quickly and effectively. Since the promise of peace depends largely on big nations with mighty military and economic power at their disposal, their responsibility demands and deserves a position of prominence in this Council. This is by no means the admission that might is right; it is the recognition that the power to do great good (or great evil) involves equally great responsibilities.

The Security Council of the United Nations Charter satisfies many of these reasonable provisions for a workable peace organization. Unfortunately, however, some features of this organ are objectionable.

### **Objectionable Features**

The serious defects of the Security Council are no secret; they are due to the insistence of the big Powers that the United Nations will not use military measures and other sanctions against them and that their armed forces will never be used against any other nation without their own explicit approval and consent. Accordingly, the Council is not amply responsible, as it should be, to the Organization for its decisions and actions, and the five permanent members enjoy the privilege of veto in most of the important functions of the Council. It is true that the Charter demands that the Council act in full accordance with the purposes and principles of the Organization, and, as we shall see, some restraints are imposed on its actions. But these restraints are defective in many respects.

The privilege of the veto is still more serious. While the primary

responsibility of the Council is the maintenance of international peace, this provision for unanimity among the five permanent members in any important decision, grants each of them immunity from any enforcement action, permits any one of them the right to prevent sanctions against a patent aggressor, and even allows each of the five, provided it is not a party to the dispute, to thwart the peaceful settlement of disputes through the mediation of the Council. A security organization that could permit another Manchurian aggression is patently defective.

The veto, it must be admitted, weakens the Charter as a security organization. It does not provide for a system of collective security—the security of all nations against aggression from any quarter. As long as the veto remains in the possession of the five permanent members of the Council, other nations have no assurance that patent aggressions on their territorial integrity and political independence will be prevented or suppressed by the action of the Council. Although the peoples of the United Nations were determined “to save succeeding generations from the scourge of war” by taking effective measures “for the suppression of acts of aggression,” the Charter *does not provide* for effective measures against the aggression of any of the five permanent members of the Council.

Since all nations are greatly concerned about their own security and are fully aware they can not rely on their own defenses, where will they seek this security? They will seek the security they themselves cannot provide in bi-lateral and multi-lateral military pacts with one of the five major Powers. The Charter almost compels them to do so. This is not indeed much of an advance over the system of the past and is certainly a far cry from the system of collective security which in the words of the Atlantic Charter would “afford to all nations the means of dwelling in safety within their own boundaries.”

### **Restraints on the Security Council**

Though the veto does weaken the Charter as a security organization, the five permanent members of the Council have accepted certain restraints on their freedom of action and inadequate as these are they should be known and used to their best advantage.

The Charter *does not approve* of arbitrary and unjust actions by the Security Council, nor are the Members of the United Nations asked to subscribe to any foul play by this organ which acts in their name. All the members of the Council accept the obligation of making its decisions in accordance with the purposes and principles of the

Charter (Art. 25). They must respect justice and be guided by international law in making their decisions; they must not violate the territorial integrity and political independence of states and the human rights and fundamental freedoms of individuals in keeping peace among nations. Only when the Council acts in accordance with the purposes and principles of the Charter does it act in the name of all the United Nations.

Secondly, the big Powers will be a check on each other. The United States, Great Britain and Russia have admitted France and China to the same position and privileges they themselves enjoy, although the present military and economic powers of these two nations do not warrant this high place. These five nations will naturally check the domination of any one, and any one can prevent the abuse of the Council's powers by the other or by any combination of the five; the five permanent members may in turn be curbed by the six members elected by the Assembly. In the nature of things, these six nations will pay some attention to the desires and demands of the Assembly which elects them, and though it may be objected that these six nations will hesitate to oppose and obstruct the will of the Big Five, the history of the San Francisco Conference amply proves that big nations can be successfully opposed.

Moreover, the Council must make annual reports on its activities to the Assembly (Art. 24, iii), and the Assembly in turn is free to discuss, comment on and criticize these activities and decisions of the Council. This freedom of criticism can be a powerful weapon in thwarting any abuse of privileges by the Council. It may, by arousing the conscience of the world and keeping it on the alert, curb the aggressive tendencies of unrestrained military power more successfully than the threat of the sword.

Finally, each nation retains the "inherent right" of self-defense which may be exercised individually or collectively (Art. 51). It may be that this article will supply the collective action against aggression which indeed is a crime against the community of nations as well as the nation immediately attacked.<sup>1</sup>

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<sup>1</sup> The agreement between the United States, Great Britain, Russia and France, signed on August 8, 1945, concerning trials for war criminals has gone a long way in making aggression an international crime. To plot or launch a war of aggression is a crime for which responsible individuals may be convicted and punished. On the principle that "planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances" are *crimes against peace*, some of the European war criminals would be placed on trial. Justice Robert H. Jackson considers this instrument an important step forward "in fixing individual responsibility of war mongering, among whatever peoples, as an international crime."

### Provisions for Armed Forces

Article 43 is the foundation of the security system of the Charter. It is the powerhouse of the Charter, supplying the Security Council with the forces needed to maintain peace.

Each nation, in ratifying the Charter, willingly and knowingly accepts the obligation imposed by this Article of supplying armed forces whenever the Council decides that force must be used to keep or restore the peace. The Article itself does not specify how much each Member will make available at the call of the Council, but each Member must implement this obligation by an agreement with the Council—an agreement which will determine its quota as to the number and types of forces and the nature of other military facilities and assistance. Failure to do so would be a clear manifestation of indifference to the Charter and the equivalent of a denial of its previous ratification. The quotas will vary with nations, depending on the military and economic power and geographical position of each nation. However, much of the military power at the disposal of the Council will come from its own members, for they are the most powerful nations of the world.

If the United States as a nation is really anxious that the Charter prove its worth, the full implications of ratification must be appreciated. Though there may be honest differences of opinion on the methods of procedure, the Senate debates on ratification (July 23 to July 28, 1945) succeeded in indicating the essential steps for the full implementation of the Charter and the probable methods of procedure. Let us see what they are.

*The United States must supply the Security Council with a quota of armed forces.* There is no disputing this pledge. It is derived from membership in an organization whose purpose is to “take effective collective measures for the prevention and removal of threats to the peace” and in which each Member engages, as in Article 43, 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 peace and security.”

*Neither the Charter nor the Security Council determines the quota of any Member.* Each nation must, after the Charter becomes operative, make with the Security Council an agreement which will exactly define the extent of its military aid. The President will negotiate this agreement for the United States. It is well to remember that this agreement

will not be committing the full war powers and military forces of this nation; these can only be used after a declaration of war by Congress. It will be a policing force, proportionate to our strength and position in world affairs and on conditions acceptable to the United States.

*This agreement, negotiated by the President, must then be approved by Congress.* During the debates on ratification some Senators insisted that this agreement should be considered a treaty and accordingly should be sent to the Senate, as the Charter itself, for ratification by a two-thirds vote. Other Senators disputed this view, contending that this military agreement should be considered like the Bretton Woods Agreement and hence need only be approved by a majority of both houses of Congress. Otherwise, they argued, the Charter would merely be a "treaty to make a treaty." Before the debates were over the President made the position of the administration clear: he intended to submit the agreement to Congress for approval by a simple majority. Once approved by Congress, this limited armed force could be used by the Security Council without restrictions of time and place and without further Congressional approval, provided, of course, our delegate in the Council consented to the decision of the Council to use force.

### **Power and Position of the Delegate**

Our delegate to the Security Council will henceforth be one of the most important and influential persons in the conduct of this nation's international relations. He will be concerned constantly with a multitude of problems and situations which threaten or actually disturb the peaceful relations between all nations; his vote in the Council will decide when our quota of forces will be used to enforce the decisions of that body. All these problems and situations he must handle for the best interests and security of our nation and of the entire world.

It is, of course, the nation as such, and not the delegate, which is a member of the Council, and the Charter permits the nation to control its delegate as it so desires. Since the Council functions continuously, each member must have a representative at the seat of the government for this purpose. But a nation may be represented *at any meeting* of the Council by whomsoever it wishes; our delegates need not in every instance be our representative resident at the seat of the United Nations.

The functions of the delegate clearly indicate who the representative of the United States must be. He will be concerned with problems

of international affairs: investigating disputes and differences between nations, recommending procedures for settling such disputes, determining breaches of the peace and acts of aggression, deciding on the need or expediency of severing diplomatic relations or of imposing blockades or even the use of force to maintain peace among nations. These are all matters of foreign relations, and under our constitution the President has the exclusive power of conducting foreign or international relations. More and more an important share of our international relations will be carried on and determined within the Council.

Our delegate, then, must be working with our President. His recommendations and decisions cannot be at cross purpose with and divorced from the policies and decisions of our President who alone has the constitutional power to conduct international relations. Our delegate in the Council is, for all practical purposes, our President acting either directly and personally, whenever he considers the situation sufficiently serious, or through a representative directly responsible to him—his Secretary of State or an accredited diplomat. Congress in creating his office must clearly define the delegate's dependence on the Executive of this nation.

There is no denying that this means a formidable concentration of power in the hands of the President as our delegate in the Security Council. Can it be entrusted safely to one person? The demand of many highly esteemed public leaders that the President be immediately responsible, in some matters, to the nation through Congress is easily understandable and should not lightly be disregarded. We like to have political power sanely controlled. Control, however, does not mean obstruction; whenever and wherever freedom of action is needed for the successful operation of the Council it must be granted. What is desired is reasonable accountability where great power is entrusted to an individual and an assurance of harmony between the President and Congress when decisions of the Council call for congressional action.

Just as the Council must make annual reports of its activities to the Assembly, this nation has a right to expect periodically a complete account of affairs from its delegate. But this is not enough. Congress should always be informed whenever our quota of limited armed forces might be used. There is always the possibility that the situation will require more than our quota and even the full war powers which can only become available by an act of Congress. Congress must be

willing and ready to reinforce our quota, for without congressional support the use of the limited armed forces might be futile and dangerous. Congress, then, has a right to be kept adequately informed, with due regard for necessary secrecy, in those situations which are likely to lead to the use of American forces.

### Topics for Discussion

1. "The merit of the present Charter lies in the fact that its words correspond with the realities. What in the abstract are defects become in reality merits. The Charter was deliberately made to mirror the hopes and fears, the trusts and distrusts, the strength and infirmities of the human environment in which it must live and work." This analysis by John Foster Dulles applies particularly to the Security Council. With this in mind answer these questions:

a) What five nations are permanent members of the Council and why have they been granted this privilege?

b) Why does not the Charter establish a "system of collective security?" What feature of the Security Council has prevented the establishing of such a system? If such a system is desirable, then why did the delegates at San Francisco fail to establish one?

c) In what circumstances do the five permanent members possess a veto power?

2. "One incisive question is being asked about these arrangements for preventing aggression. It arises out of the constant possibility that a single great power may veto action. If that happens, would action taken by another Member, who is convinced that justice and prudence alike demand military measures, constitute an illegal use of force?" How would you answer this question posed by Prof. Percy E. Corbett?

3. The Security Council has power to formulate plans for the control of armaments. However, as the report to the Senate says: "They will be only plans—only recommendations to the governments—and every country, including our own, will be free to accept or to reject them according to its conception of its national interest." In other words, no nation is required to give up its national armaments, the badge of sovereignty. As long as this attitude persists will it be possible to have a truly collective system of security?

4. What action can the Security Council take when an international dispute or situation threatens the peace? Apply this to:

a) disputes involving two countries not permanent members of the Security Council;

b) disputes involving one permanent member of the Council and one or several countries not permanent members of the Council;

c) disputes involving two permanent members of the Council;

d) disputes involving a Member of the United Nations and a non-Member.

5. Is it true to say that the Charter imposes no restraints upon the five permanent members of the Security Council? To answer this, study the voting provisions of Article 27.

6. How does the Security Council get the military power needed to keep the peace? Explain how Article 43 would work out in practice. Are the "agreements" there mentioned to be considered as "treaties", i.e., requiring a two-thirds vote of the Senate?

## 6.

# Regionalism's Contribution to World Peace

## Role of the Neighborhood

An important effect of the United Nations Charter will be a new emphasis given to the principle of regionalism. For the United States this has special importance because of its bearing on the Monroe Doctrine. For the world it means the first realistic step towards a truly international community based on law.

The League of Nations did not make proper allowance for local solutions of a crisis. There was no community of interest sufficiently evident or strong to make the people of a sovereign state undertake sacrifices to remedy a distant injustice when its own security was not directly threatened. John Eppstein has recently written: "It was all very well to speak of collective action against aggression. But why should villagers in an English county or a Norwegian fjord sally forth to drive the Japanese from Manchuria in 1931, or (say) cattle ranchers of Brazil hurry to the aid of Ethiopians in 1935? Why should South African Boers risk their lives because Hitler decided to re-occupy the Rhineland in 1936?" (cf. *International Reconstruction*, p. 11.). This reluctance was fatal because in the League of Nations unanimity was necessary among all the members for every important decision. The United Nations Charter has given free scope to the intermediate agencies which operate on the principle of regionalism.

## Principles of Regionalism

The provisions on regionalism contained in the Charter are based on three principles: 1) Encouragement of regional agencies as an important way of settling local disputes by peaceful means; 2) Recognition that members of a regional group may legitimately make provisions among themselves for their collective security; 3) Emphasis that the world organization retains paramount authority in all enforcement action in case of threats to peace.

1. Article 52, therefore, states that nothing in the Charter precludes the existence of regional arrangements or agencies for dealing with

such matters relating to the maintenance of international security as are appropriate for regional action. Specific encouragement is given to Members of the United Nations who are parties to such regional arrangements to achieve pacific settlement of local disputes through such agencies or through such arrangements. And the Security Council itself is directed to promote the pacific settlement of local disputes through such regional arrangements or by such regional agencies.

2. Article 51 recognizes that nothing in the Charter impairs the "inherent right of individual or collective self-defense" if an armed attack occurs against a Member of the United Nations *until* the Security Council has taken the measures necessary to maintain international peace and security. This recognizes the right of parties to a regional arrangement to make provisions among themselves for collective self-defense.

3. Article 53 states that no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council. Where exceptions are given, as in Article 51, this is conditioned by the warning that such measures taken under the exceptions must be immediately reported to the Security Council, which retains at all times its full authority and responsibility to take any action it deems necessary in accordance with its powers under the Charter.

An exception of its own kind, and of a temporary nature, refers to mutual assistance pacts which have been or may in the future be entered into and directed against "renewal of aggressive policy" on the part of Germany and Japan. This refers to armistice and treaty provisions made by the victorious Powers to prevent the return of German and Japanese militarism. In these cases full freedom exists, as far as enforcement action is concerned, from the otherwise paramount authority of the Security Council.

### **What is Regionalism?**

What is a "regional arrangement" or a "regional agency"? The Charter does not define these vague expressions. Actually two entirely different types of systems seem to be embraced in the language of the Charter. One context refers to an organization, strictly speaking. Another refers to a purely military alliance. A true regional organization denotes the existence of a permanent center devoted to broad objectives of welfare and friendly relations. Its duration is

perpetual because resting on permanent factors of geography, language, culture, etc. Its operation is continual because it works toward positive aims. The definition of "regional arrangement" which the Egyptians once proposed for incorporation into the Charter brings out this idea very clearly.

In this amendment regional arrangements would have been defined as "organizations of a permanent nature grouping in a given geographical area several countries which by reason of their proximity, community of interests, of cultural, linguistic, historical or spiritual affinities, make themselves jointly responsible for the pacific settlement of any disputes which may arise between them and for the maintenance of peace and security in their region, as well as for the safeguarding of their interests and the development of their economic and cultural relations."

### **Purple Patch**

Quite different from regional organizations are the traditional military alliances which the Charter also includes under the term "regional arrangements." The pacts for mutual assistance against the defeated Axis are nothing new, although the Charter shrinks from calling them by their old names. These pacts do not constitute genuine regionalism. They are the outcome of fortuitous political circumstances and do not rest on positive factors but only on the need of military assistance. These alliances are for *ad hoc* security needs, and even when relatively permanent do not envision the solution of common problems, but only military aid or concerted military action when such problems can be solved only in war. Even when concluded for long periods they are an expression of the old order based on balance of power. In short, the inclusion of such alliances in the Charter is a purple patch and incompatible with the concept of international organization for peace. Fortunately the pacts to which these provisions apply will become obsolete in the course of time, with the passing of the peculiar political circumstances which called them into being.

### **Regionalism in the Americas**

The United Nations Charter does not create any regional organizations, but it accepts them where they exist and encourages the creation of others in the future; and it defines their position in the pattern of general world security. Of prime importance is this to the solid-

arity of the Western hemisphere. The American Republics had long been developing a sense of solidarity which led at length to the Pan-American Union.

With a view to further strengthening this solidarity the Inter-American Conference on Problems of War and Peace issued on March 3, 1945, the Act of Chapultepec. This consisted of declarations of reciprocal assistance and American solidarity. It declared the principle that every attack of a state against the integrity or the inviolability of the territory, or against the sovereignty or political independence of an American state shall be considered as an act of aggression against the other states adhering to the Act. To carry this declaration further, the signatory states agreed to consider the establishment of a treaty establishing definite procedures to carry out this collective program of hemispheric defense.

But meanwhile, the Act of Chapultepec constitutes a "regional arrangement" in the sense of the United Nations Charter. Its activities and procedures are to be consistent with the purposes and principles of the general international organization. In addition to provisions for collective security, the juridical equality of all the members is affirmed. Also it is affirmed that any difference or dispute between the American nations, whatever its nature or origin, shall be settled by the methods of conciliation, or full arbitration, or through international justice.

The Monroe Doctrine is essentially a doctrine of non-intervention in the affairs of the Americas by a non-American Power. On examination of the Act of Chapultepec, it is clear that the Monroe Doctrine is not only preserved but strengthened. The provisions for collective security contained in the Declaration of March 3 are clearly aimed at preventing the kind of intervention, whether military or political, which it was the aim of the Monroe Doctrine to prevent.

### **Enforcement Rights of Regions**

Obviously, however, the program of collective military action envisioned in its regional arrangement could be ineffective if the consent of the Security Council were required. Lacking one vote of the permanent members, say that of China, which has remote interest in South America, the whole hemispheric defense system could be paralyzed. For this reason Article 51 of the Charter was inserted, regarding the inherent right of individual or collective self-defense.

The phraseology of Article 51 is not clear, of itself, with regard to enforcement action through regional arrangements or regional agencies. The expression "collective self-defense" is new and vague. But the interpretations accepted at the San Francisco Conference leave no doubt that it referred particularly to the system of hemispheric defense set up in the Act of Chapultepec. Said Senator Vandenberg: "We here recognize the inherent right of self-defense—whether singly or collectively—which permits any sovereign state among us, or any qualified regional group of states, to ward off attack pending adequate action by the parent body."

### **League of Arab States**

There is another regional system which deserves consideration. This is the League of Arab States which was set up on March 22, 1945, consisting of the Middle-East states of Syria, Transjordan, Iraq, Saudi Arabia, Lebanon, Egypt and Yemen. This pact provides a definite pattern for the peaceful settlement of disputes among its members. Compulsory arbitration is a special feature. It also provides for consultation among the members in the event of a threat to the security of any member of the League. In proposing its definition for a "regional organization," given above, the Egyptian delegation had its own League of Arab States particularly in mind. Another type of regional arrangement is the agreement concluded between Australia and New Zealand on January 21, 1944, providing for collaboration for defense and for cooperation in matters of common concern in the Southwest and South Pacific areas.

### **Future of Regionalism**

The political effect of such regional groups, operating to preserve peace independently of the power-minded Security Council of the general organization, will be one of the most significant phenomena to watch in the future. Taking the idea of regional organization envisioned in the Act of Chapultepec and in the League of Arab States, several promising developments can be expected. Regionalism's ideal is cooperation in the solution of common problems. In this respect it is no different from general world cooperation. But circumstances make it possible for the regional organization to aim at much more than the world Organization can hope to achieve.

First of all, we find in the regional organization a genuine juridical

equality of all the members. There are no states with privileges. This means that it possesses a juridical equality far beyond the political orientation of the United Nations. There is compulsory jurisdiction of the system's court. The spirit of collective security is so strong that every attack of a state against the integrity or inviolability of the territory, or against the sovereignty or political independence of any of the members is considered, *ipso facto*, an attack upon the other members. This is not true for the world Organization. Regionalism is the breach through which the attack against the doctrine of absolute sovereignty can be more successfully made. Nations will surrender, and are surrendering, their jealously guarded prerogatives more willingly to a regional organization with which they have a sense of greater solidarity, than to a global organization.

In short, we find in the regional organization the features of a juridical institution for international security that are so obviously lacking in the United Nations. The progressive development of international law will be made more easy by the many precedents that will be set in the regional courts. A sense of solidarity that the world organization has yet to achieve may gradually permeate the world from the example of the regional organizations. Above all, the privileges which the regional systems now possess for settling their own disputes peaceably, and even to enforce them by sanctions, will in effect diminish the importance of the Security Council. The rise of regionalism in the decades to come may well mean a shift of the center of gravity from the power-minded Security Council to the more juridical institutions of regional organizations. This development, it should be noted, will take place within the general framework of the United Nations Charter whose merit it is to have recognized the role that regionalism can play in world peace.

### Topics for Discussion

1. In his report to the President, Mr. Stettinius said: "The provisions on regional arrangements adopted at San Francisco insure the preservation of the Inter-American system based on the Good Neighbor Policy as an integral and valuable element of an effective collective security system on a world-wide basis." Show how the principle of regionalism in the Charter is an "integral" and "valuable" element in the general United Nations system.

2. The Senate Foreign Relations Committee reported to Congress that "the Monroe Doctrine remains completely unimpaired and the purposes and objectives of the Charter strengthen rather than weaken the doctrine." Show how the en-

forcement provisions of the Charter enable the American Republics to, a) prevent military aggression against the Western Hemisphere, b) prevent political aggression against any American Republic by a non-American Power.

3. Dr. Francisco Castillo Najera, of Mexico, said on June 13 at San Francisco: "The system which governs us today is not an ephemeral or circumstantial accident; it is the imperative of our community of ideals and of interests. These ideals and interests impose on us the fulfillment of an identical historical mission. We have consolidated Pan Americanism as the result of great concerted efforts to establish mutual confidence and mutual understanding; we have understood that the world-wide and inescapable laws of interdependence bring us together in such a way that to attempt to side-track them is to condemn ourselves to decadence and ruin at a time when destiny calls us to the fullness of international life, prodigal in its benefits for our peoples." What are the aims of Pan Americanism?

4. Grayson Kirk has said: "During the period of the League of Nations...it was argued that formal recognition should be given to the undoubted fact that many, if not most, States were more willing to contribute actively to the suppression of a threat to the peace in regions where their own national interests were directly and obviously involved, than in the case of disputes occurring in regions remote from their national interests." Show how this "formal recognition" is present in the Chapter on Regionalism.

5. The same writer explains the dangers of such arrangements "...on the ground that it would open the way for alliance and a return of the balance of power system which would, in the long run, be in substantial opposition to the League concept of collective security on a global basis." Do you think this criticism is valid, or if valid, have the Charter provisions on regional enforcement adequately safeguarded the return to alliances and balance of power?

6. The League of Arab States says: In the case "aggression is committed by a member state, the vote of that state will not be counted in determining unanimity." Contrast this with Article 27 of the Charter. Should there arise a dispute that does not involve the independence of a state, its sovereignty or its territorial integrity, and should the two contending parties apply to the council for the settlement of this dispute, the decision of the Council shall then be effective and obligatory. The states involved do not participate in the decisions. Contrast this with the failure of the International Court of Justice to establish compulsory jurisdiction.

7. Study further the differences between regional arrangements and mutual assistance pacts.

8. In his testimony before the Senate Foreign Relations Committee, Leo Pasvolksy said: "The Monroe Doctrine is a doctrine of non-intervention. Now the whole international Organization is based on the principle of non-intervention, so that as long as the Organization functions, the Monroe Doctrine does not need to come into play." But in the event the Organization does not function, what provisions of the Charter allow the self-protective measures to be invoked?

## 7.

### **Removing the Causes of War**

Wars do not arise solely out of the pride of dynasties or the personal ambitions of great dictators and captains of war. They also arise from inward pressure of an economic and social character. The Covenant of the League of Nations was concerned almost exclusively with the political causes of war. But the interim between the two World Wars has abundantly demonstrated that economic and social maladies are as much to blame for international unrest as political ambitions. For this reason the delegates at the San Francisco Conference determined to give as wide a scope as possible to the solution of these non-political problems. The Preamble, the Purposes of the United Nations, and the functions of the General Assembly all bear evidence of this conviction. In the Social and Economic Council this conviction is very much in evidence.

#### **Description**

##### **Aims**

Chapter IX of the Charter enumerates three particular objectives in which conditions of stability and well-being are especially necessary for peaceful and friendly relations among states. These are: 1) "higher standards of living, full employment, and conditions of economic and social progress and development"; 2) "solutions of international economic, social, health and related problems; and international cultural and educational cooperation"; 3) "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." This rather broad program is entrusted to one of the principal organs of the United Nations, the Social and Economic Council, which operates under the authority of the General Assembly.

##### **Composition and Voting**

This Council consists of eighteen Members, of the United Nations elected by the General Assembly. Each member of the Council is entitled to only one representative. Membership in the Council is so

arranged that each state is elected for a term of three years, with eligibility for re-election. The terms of office of six of the members expires every two years. Each member has one vote. Decisions are made by a majority of the members present and voting. No one state has any special voting privileges. No set times are indicated for the meetings. These are apparently to be left for the Council itself to determine. But a majority of the members will be able to convoke a meeting.

### **What it Does**

The functions and powers of the Social and Economic Council are principally technical in nature. In the Dumbarton Oaks proposals it was provided that the representatives on the Council should consist of experts. This condition was removed after some debate in San Francisco, but it remains true that the work of the Council is not policy making in the broad sense. Its activities, to a large degree, are subject to the approval of the General Assembly under whose authority it works.

The Council may make or initiate "studies and reports" with respect to international problems in the fields described above. It may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies. Particular reference is made to its right to make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all. It may draw up draft conventions for submission to the General Assembly. And it may call international conferences on matters within its competence. It may also perform other functions assigned to it in other sections of the Charter, for example, in relation to the trusteeship system, or such as may be assigned to it by the General Assembly.

### **Specialized Agencies**

An important phase of the work of the Social and Economic Council will be its relations with the "specialized agencies." These are organizations established by intergovernmental agreement and having wide international responsibilities as defined in their own basic instruments or constitutions. It is the intention of the Charter that all such specialized agencies should be brought into relationship with the United Nations through the Economic and Social Council. The Council may

coordinate their activities through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations. It may take appropriate steps to obtain regular reports from the specialized agencies, especially on the steps taken to give effect to its own recommendations and those of the General Assembly. The Council may communicate to the Assembly its observations on these reports submitted by the specialized agencies. In this connection it is to be noted that by Article 17, paragraph 3, the Assembly has the right to examine the administrative budget of these specialized agencies, with a view to making recommendations to the agencies concerned.

From these provisions of the Charter, it is evident that a considerable measure of control is to be exercised over the specialized agencies by the Social and Economic Council. What are some instances of agencies which are to be thus brought into relationship with the United Nations? One of these is the Food and Agriculture Organization established for the purpose of improving world conditions of nutrition and standards of living. Another is the International Monetary Fund and the International Bank for Reconstruction and Development, set up at the Bretton Woods Conference to aid international currency stabilization as well as to provide loans for postwar world reconstruction. Still another is the International Civil Aviation Organization. Another is the Educational, Scientific and Cultural Organization of the United Nations. A proposed specialized agency is the European Central Inland Transport Organization. The International Labor Organization established in connection with the League of Nations is also regarded as a specialized agency.

It is obvious that the list of specialized agencies which may spring up in the future can cover an extremely broad field, any field, in fact, which presents a serious problem of international import. It will be the important function of the Social and Economic Council to coordinate these multifarious activities through consultation and recommendations. In order to strengthen its coordinating power, the Council is authorized to make its recommendations not only to the organizations themselves but also to the General Assembly and to the Members of the United Nations. Nevertheless, it was not intended at San Francisco that the Council should in any way deprive the specialized agencies of their responsibilities in their own field as defined in the statute or basic instrument on which they were set up.

## **Commissions**

To aid it in making the necessary studies and recommendations, the Council is authorized to establish its own commissions in the social and economic fields, and for the promotion of human rights. In general, it may set up any commissions required for the performance of its duties. In short, the Social and Economic Council is adequately equipped as an administrative agency to attack the non-political causes of war through the solution of problems and the promotion of ideas affecting international good relations.

## **Opportunity for Small Nations**

The philosophy behind the idea of social and economic collaboration reflects the awareness of new factors in modern life. The United Nations wishes not only to suppress outbreaks against the peace, it wishes also to ferret out the deeper causes of those conflicts and to abolish them wherever possible. In this respect the League of Nations Covenant was sadly lacking. In this field, the United Nations regains the prestige which it loses to many people in the political and power-minded Security Council.

In the Social and Economic Council the small and so-called middle nations have full opportunity to make their valuable contribution to removing the causes of war. While power may be the possession of the great states, intelligence and leadership is the common property of all nations. The small nations particularly, who must rely upon peaceful processes for their survival and are distinguished for good judgment, are expected to make their chief contribution to the United Nations in the field of social and economic collaboration. In the pre-political stage of international peace the small and middle Powers will play an important role.

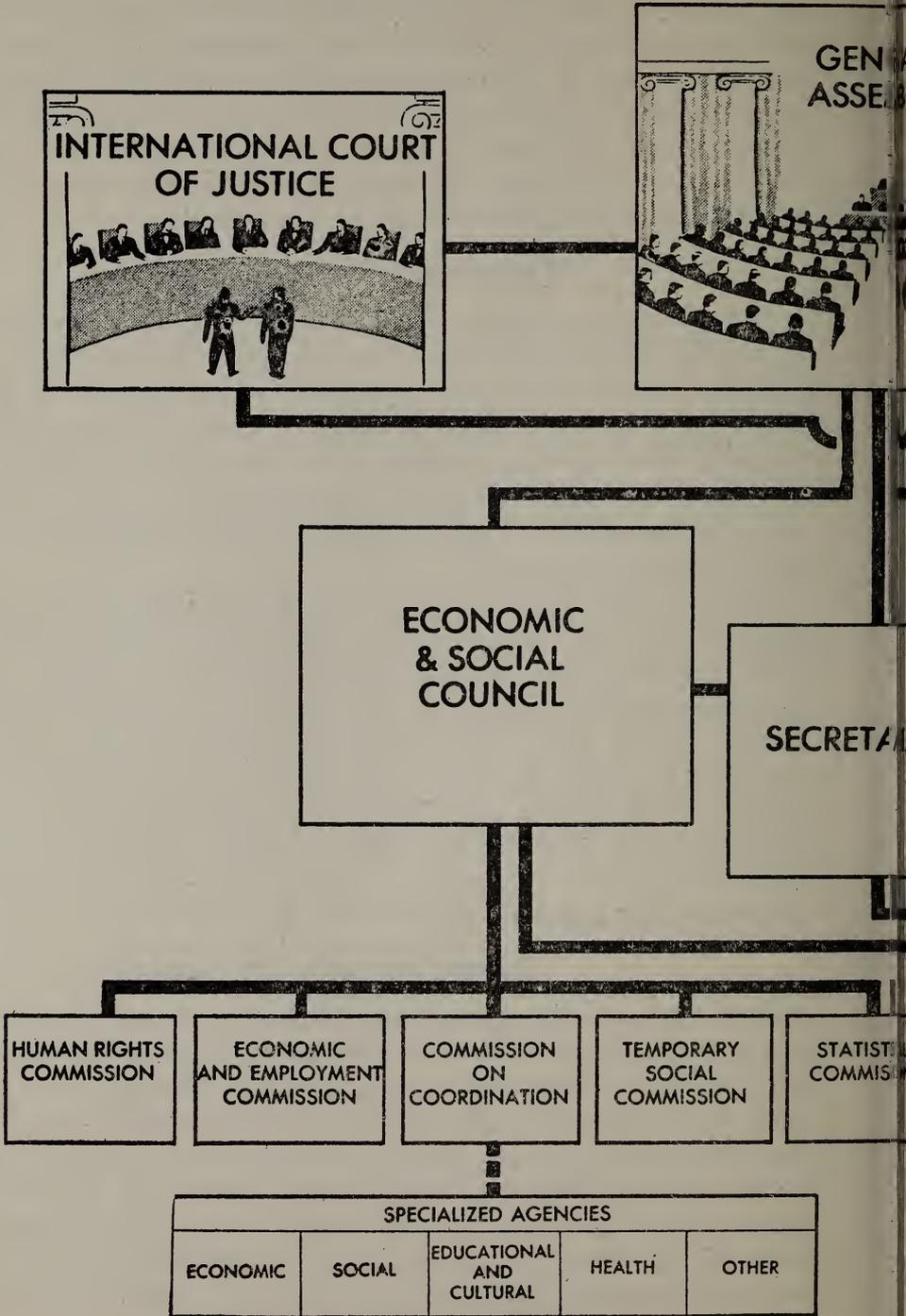
## **Expanding Role of Council**

The work of the Social and Economic Council is positive. The work of the Security Council is negative. It may well be that in time the Security Council and its enforcement functions will become less and less important. But as international collaboration grows, the Social and Economic Council will find itself burdened with more and more responsibilities. As this comes about, the General Assembly, under which the Council works, will assume an importance surpassing that of the Security Council. If in individual instances social and economic collaboration may not seem to contribute conspicuously

# ORGANIZATION OF THE UNITED NATIONS

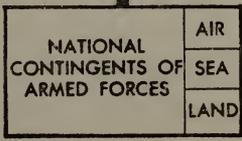
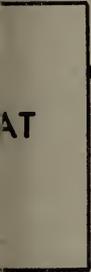
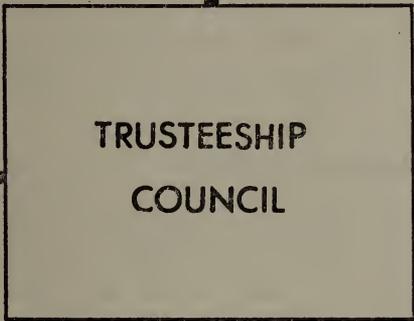
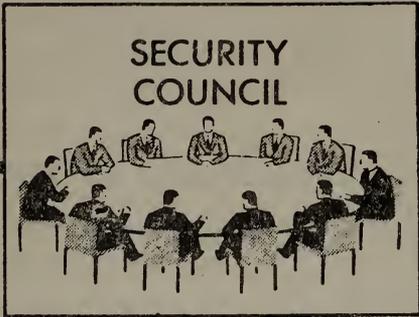
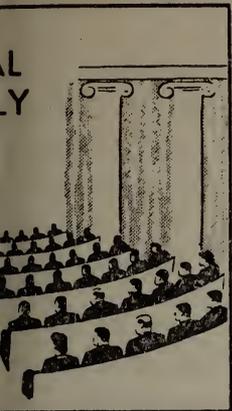
AS DEFINED IN THE CHARTER OF THE UNITED NATIONS

EXECUTIVE ORGANIZATION



# UNITED NATIONS

AND PROPOSED IN THE  
COMMITTEE



to world peace, this is more than made up, in the long run, by the multiplicity of such activities and their fundamental nature.

So broad in fact is the scope of the work envisioned for the Council that at San Francisco the delegates refrained from being too specific. They feared that in attempting to enumerate in great detail the functions of the Council they might possibly limit the Council. Consequently they stated that commissions should be set up in the social and economic fields, and such other fields as fall within the competence of the Council.

### **Commission on Human Rights**

There was one exception. The Charter makes mandatory the creation of a Commission on Human Rights. When queried at a press conference in San Francisco as to the reason for this exception, Sir Ramaswami Mudaliar, chairman of the Committee which recommended the step, replied that the delegates believed that at the basis of all social and economic collaboration, as indeed at the root of all causes of war, was the paramount importance of the human person. They therefore believed that this commission was in a class by itself and that in specifying it by name no prejudice was given to any other possible commissions.

### **Pius XII on Human Rights**

What are "human rights and fundamental freedoms?" Here, no doubt, there is room for a great amount of discussion. In this field Catholics can aid much in clarifying for the world the still vague concepts and hopes inspired by these words. In his Christmas address of 1942, Pius XII has supplied rich material for study. Particularly important is his own "Bill of Rights." These include: "the right to maintain and develop one's corporal, intellectual and moral life and especially the right to religious formation and education; the right to worship God in private and public and to carry on religious works of charity; the right to marry and to achieve the aim of married life; the right to conjugal and domestic society; the right to work, as the indispensable means toward the maintenance of family life; the right to free choice of a state of life, and hence, too, of the priesthood or Religious life; the right to the use of material goods, in keeping with his duties and social limitations."

These are all rights based on the inherent spiritual dignity of the human person. Catholics can aid in restoring to mankind its lost

respect for humanity by insisting that these rights are basic. Unfortunately human rights and fundamental freedoms are too often regarded as mere legal entities, stripped of moral or spiritual content.

### **Tasks of the Commission**

One of the first tasks for the Commission on Human Rights will be the elaboration of an international bill of rights. It is hoped that this bill of rights can be submitted to the Member nations, with a view to incorporation in their fundamental law. This, however, is a far distant goal. The chief value of the Commission will be in its educative work in clarifying for the world the idea of human dignity and in advancing freedoms all over the world. The men who are chosen for this Commission should be of the highest reputation and character so that their judgments will carry great weight. Needless to say, religious leaders should be among those named.

Among the "fundamental freedoms" are freedom of information, of press, of radio and screen. The American Law Institute, through a specially appointed international committee, has issued a "Statement of Essential Human Rights." Included in an enumeration of eighteen such rights are: freedom to form associations, fair trial, reasonable conditions of work, adequate food and housing, social security, equal protection of the law. A very important freedom is "freedom from the abuse of freedom." Human sacrifice, polygamy, blasphemy, libel, utterances provocative of panic, mob violence, insurrection or war are uses of freedom to subvert freedom.

### **A Nation's Ideology**

Low international morale is a cause or at least a condition of war. It is not the primary function of civil authority to promote morality for its own sake. That is the responsibility of the Church and the home. But one of the lessons of World War II has been that what a nation does to its own people has an important bearing on world order. As the Bishops of the United States said in their distinguished Statement on International Order: ". . . the ideology of a nation in its internal life is a concern of the international community. To reject this principle is tantamount to maintaining that the violation of the innate rights of men in a country by its own government has no relation to world peace." It is to be hoped that this awareness so evident in the United Nations Charter will be fully implemented in the years to come. It might well be said that of all the activities

of the Organization, none will be of more importance or interest to Catholics than the Commission on Human Rights. Catholic participation in the work of this phase of the United Nations is imperative.

### Topics for Discussion

1. "The social and economic Chapter has been transformed. In its first draft it was a somewhat anemic document. Now it is a full blooded document which should carry to the peoples of the world a hope that in the days to come wars cannot only be prevented by force but the conditions which make wars possible will themselves be gradually removed." (Herbert Vere Evatt, Australian Delegation). Verify this assertion by comparing the corresponding sections of the Charter and the Dumbarton Oaks Proposals.

2. "I regard the most important achievement of this Chapter as consisting in the pledge which all the nations will give that they will endeavor to do their utmost to cooperate so that full employment... may be realized. It takes a war to prove how precious, how vital is the labor of men and women." (Herbert Vere Evatt). Discuss how the Charter hopes to promote full employment.

3. "The Economic and Social Council will have before it an opportunity which may never again present itself, to study the ways and means of promoting among the United Nations the cooperation necessary to bring about a freeing of the channels of international trade through the reduction of excessive tariffs, and of excessive consumption taxes, and the elimination of artificial and discriminatory restrictions, including quotas, import controls, subsidies and the like, and it is to be hoped that this shall be one of the first tasks to be undertaken by the Council once it begins to function." (Emilio A. Godoy, Peruvian Delegation). How would the Council go about solving these problems mentioned?

4. "France agrees entirely that full employment is one of the important essentials for the peace of the world. We also consider, however, that you cannot guarantee full employment in any country unless you have the necessary raw materials to keep your industries going." (Raoul Aglion, French Delegation). Discuss the role of raw materials in international relations and world peace.

5. "One of the weaknesses of the League of Nations Covenant was that it did not pay any particular attention to this supremely important subject of the economic and social conditions in our countries. We have learned our lesson." (Jan Christiaan Smuts, South African Delegation). Examine the League of Nations Covenant to verify this statement.

6. "Gentlemen, we should not delude ourselves into thinking that if we can solve our economic and social problems, that in itself will result in no more war. It won't..." (G. Myrddin Evans, British Delegation). What *will* result?

7. "We are all asked to be realists, we are asked to recognize various factors in the world set up as it exists today. There is one great reality, one fundamental factor, one eternal verity which all religions teach, which must be remembered by all of us, the dignity of the common man, the fundamental human rights of all beings all over the world." (Sir Ramaswami Mudaliar, Delegate of India). Discuss the significance of the dignity of the human person as the moral foundation of an international organization.

## 8.

### **To End Imperialism**

There are lands and peoples on this earth classified as "dependent." These regions and their peoples do not possess self-government or independence either because long years of exploitation have prevented the development of native political institutions or because their retarded economic development makes them unable to stand by themselves. This situation developed in the era of exploration and discovery, particularly in the past two centuries, in which the colonial empires of Great Britain, the Netherlands, France and Belgium were founded. One of the great problems of international order is the future of these dependent areas.

#### **Difficulty of the Task**

The United Nations Charter projects the most extensive program to end imperialistic exploitation that has yet been conceived. The realization of this program will be one of the continuing tasks of the United Nations. But it will not be an easy one. Because we did not have a tradition of exploration and expansion abroad, as did the European colonial Powers, and because our national economy was not based on overseas possessions, the United States did not find it too difficult, despite initial indecision, to promise and to fulfil in large measure the independence of the Philippines. But for other countries, the liquidation of an empire is no trifling issue.

After World War I a step in the direction of advancing the welfare of dependent territories was taken when the former German and Turkish dependencies were parceled out under mandate to the several Allied countries. These mandatory Powers undertook certain obligations to the native populations. But the League of Nations Covenant made no attempt to attack the problem of imperialism generally. Each of the colonial Powers remained, as before, sole judge of the policy it would pursue in its own territories. There was no joint declaration of policy applicable to all dependent territories.

In 1919 it was relatively easy to inaugurate a progressive policy in the case of lands newly detached from defeated Germany and Turkey. It was not so easy to get the victorious Powers to agree on a common policy, still less to commit themselves to a measure of accountability

to the world community. But in 1945 this was the merit and achievement of the San Francisco Charter.

### **Joint Declaration of Colonial Policy**

The problem of the dependent or non-self-governing territories had to be approached in two ways. The Charter, therefore, contains two sections on this subject. The first section (Chapter XI) deals with non-self-governing territories as such, whether under trusteeship or not. The second section (Chapters XII, XIII) deals with an international trusteeship system for certain categories of lands.

In a general declaration of policy all the Members of the United Nations possessing dependent territories, whether as colonies proper, or as mandates or trust territories, accept the basic principle that the interests of the inhabitants of these territories are paramount. And they accept as a sacred trust the obligation to follow a policy consistent with this principle, that is, to promote to the utmost the well-being of the natives.

#### **Specific Commitments**

The specific forms in which the interests of the inhabitants are to be safeguarded are: 1) their political, economic, social and educational advancement. By political advancement is meant particularly the development of self-government and the realization of political aspirations; then, 2) the just treatment of the natives and their protection against abuses. The colonial Powers agree also to cooperate with one another with a view to the practical achievement of the social, economic and scientific purposes of these policies. They agree to submit regularly to the Secretary-General information of a technical nature on conditions in their respective territories.

This declaration of policy subscribed to by all actual and prospective Members of the United Nations who have or assume responsibility for the administration of dependent territories, is cast in rather broad language. It must be acknowledged that in a problem involving such diversified lands, ranging from the most primitive areas in the Pacific and Central Africa to such highly civilized countries as Ceylon, Malta, and Java, only very broad outlines of policy are possible. A good deal of latitude is left for the colonial Powers.

#### **Self-Government vs. Independence**

This fact received emphasis at San Francisco when demands were made that "independence" be made an objective of all colonial policy. Objecting to this proposal, several countries took the stand that to

project independence as a universal goal of all colonial policy would be in some instances disruptive of stability and steady progress. It was asserted that the term "self-government" should be used instead, along with the additional pledge to "take due account of the political aspirations of the peoples." Where these political aspirations included complete independence, then due account was to be taken of that fact. But it was not the intent of the San Francisco Conference to promote disorder by prematurely proclaiming independence for all peoples.

### **Trusteeship System**

A special group of dependent territories are considered in the second section. These are the territories which are to be put under a trusteeship system. The trusteeship system applies to the following categories: a) territories now held under mandate; b) territories which may be detached from enemy states as a result of the Second World War; c) territories voluntarily placed under the trusteeship system. It should be emphasized, however, that no territories in these categories are automatically put under the trusteeship system. What dependent territories shall be made trust territories, and on what terms, are matters for subsequent agreement among the countries directly concerned.

The difference between the administration of non-self-governing territories under the trusteeship system and those outside of the system is one of the *purposes* more sharply defined, *supervision* more rigid and effective, *international control* more evident.

### **Purposes**

The purposes of the trusteeship system are the same as those laid down in the general declaration for all dependent territories. But independence as well as self-government is explicitly named as a goal, according to the peculiar circumstances of each territory. In addition, the trusteeship system aims to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. Equal treatment in social, economic, and commercial matters for all Members of the United Nations is also included in the objectives of the system.

### **Supervision**

The supervision of the trust territories is based on individual agreements entered into between the Organization and the administering authority. These agreements, while varying according to the particular

territory, will necessarily be based on the principles of the trusteeship system as a whole. To assure greater vigilance in the execution of these agreements a Trusteeship Council is established as one of the principal organs of the United Nations.

It will be the duty of the Trusteeship Council, under the General Assembly, to: *a)* consider reports, *b)* accept petitions, *c)* provide for periodic visits to the trust territories, *d)* take these and other actions in conformity with the terms of the trusteeship agreements. It is important to note that the Trusteeship Council has authority to formulate a questionnaire on the political, economic, social and educational advancement of the inhabitants of each trust territory. The administering authority must make an annual report to the General Assembly on the basis of this questionnaire.

### **International Control**

The international control is seen in the composition of this Trusteeship Council. This is made up of: *a)* those Members of the United Nations administering trust territories, *b)* those permanent members of the Security Council which do not administer any trust territories, *c)* as many other Members of the United Nations elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not. The effect of this arrangement is to remove the suspicion that the Trusteeship Council is controlled by the colonial Powers acting as a bloc in their own selfish interests. Decisions in the Trusteeship Council are by a majority of the members present and voting. There are no veto prerogatives for any member.

### **Strategic Provisions**

There is one especially significant feature of the United Nations trusteeship system that makes it different from the mandates system set up under the League of Nations Covenant. This has to do with military and strategic considerations. Under the United Nations system the trust territory can be utilized in the maintenance of international peace and security. The administering authority may make use of volunteer forces, facilities, and assistance from the trust territory (Art. 84).

But more than this, the trusteeship system provides a distinction

between a strategic and non-strategic area or areas. In accordance with these provisions, it will be possible to set aside areas of military importance, such as landing fields or harbors. These areas, which may be large or small, and may include part or all of the trust territory, operate under special regulations, calculated to enhance their strategic value for the administering authority.

All functions of the United Nations relating to such areas are exercised by the Security Council, not by the General Assembly. The Council, however, does not possess the same powers as the Assembly with respect to reports, questionnaires and the right of visitation. The Security Council (or the Trusteeship Council) may not visit, nor receive reports, nor ask for an accounting from the administering authority, unless the trusteeship agreement gives this right explicitly. The Security Council may, however, utilize the Trusteeship Council in relation to the inhabitants living within the areas designated as strategic.

### **Another Purple Patch**

The distinction between strategic and non-strategic areas, with the restricted authority over the former, is another purple patch in the plan for an international security organization. It is due to the insistence of our Navy Department which felt that the strategic Pacific islands which had been seized from the Japanese at great cost should by all means be retained by the United States. On the other hand, to claim outright possession of these islands would be aggrandizement of a kind renounced in the Atlantic Charter, but particularly with reference to Japan in the Cairo Declaration of December 1, 1943. The distinction between strategic and non-strategic areas in the United Nations trusteeship system was the resulting compromise. It involves thinly disguised aggrandizement.

For all practical intents and purposes, the strategic areas are under the undivided control of the administering authority. It is important to note also that the initiative in designating the strategic areas rests with the parties directly concerned and not with the United Nations (cf. Art. 79). The Security Council can alter or amend such an agreement, but each of the permanent members possesses a veto. As Senator Tom Connally reported to the Foreign Relations Committee: "It was our attitude that if we are in possession of an island which we have acquired from Japan at the cost of blood and treasure we can retain possession of it . . . until we consent that it go under

the trusteeship; and when we do agree that it go under trusteeship, we have the right to stipulate the terms under which it will go there." Under these circumstances it is understandable why the Navy Department has expressed its satisfaction with the strategic provisions of the trusteeship system.

### Topics for Discussion

1. In his report to the President on the results of the San Francisco Conference, Mr. Stettinius said that three basic principles relating to dependent territories were embodied in the Charter. These were:

1) That colonial powers are accountable to the world community for the well-being of their dependent peoples;

2) That the political, economic, social and educational advancement of dependent peoples is a primary concern;

3) That dependent territories must be so administered as to contribute to the maintenance of international peace and security. Verify these assertions in the text of the Charter.

2. "The interests of the inhabitants...are paramount." A British statement has defined paramountcy thus: "[Paramountcy] means no more than that the interests of the overwhelming majority of the indigenous population should not be subordinated to those of a minority belonging to another race, however important in itself." Discuss past colonial policy of exploitation in reference to this principle.

3. What is the difference between "independence" and "self-government?"

4. Referring to Article 73, b, General Romulo, Philippines delegate said: "Independence...is here in the deed, if not in the word." Do you agree with Romulo's interpretation of this paragraph?

5. Discuss in relation to post-war disturbances in Indonesia, this statement of the Lt. Governor General of the Dutch East Indies: "When the development of economic, social and political institutions in a dependent territory has reached a certain stage, the achievement of the final goal is inevitable...The realization of self-government may take the form of a continued equal partnership within one commonwealth or that of an independent nation. That is for the inhabitants of the territory to decide, but a realization of self-government will come as inevitably as noon follows dawn."

6. India is not considered as a dependent territory and therefore the provisions of this section do not apply. Explain. Do these provisions apply to Porto Rico, Hawaii, Guam, Alaska, the Virgin Islands? If not, why not?

7. What was the Jones Act of 1916? The Jones Act of 1918? Are the Philippines independent?

8. Secretary of the Navy Forrestal has said with reference to the trusteeship system: "The military and strategic implications of this Charter as a whole are in accord with the military interests of the United States." Applying this to the Pacific Islands, show why the Navy is satisfied with the trusteeship provisions relating to strategic bases.

9. President Truman declared to American troops in Berlin that "there is not one piece of territory...we want out of this war." Can this be reconciled with our desires for the Japanese outlying islands, like Okinawa and Iwo?

[Articles 92-96; Statute]

## 9.

# The International Court of Justice

## Description

The Charter and its accompanying Statute of the International Court of Justice establishes a new international tribunal. All states signing the Charter of United Nations are *ipso facto* parties to the Statute. Other states may also adhere to this Statute on conditions laid down by the Assembly at the recommendation of the Security Council. The mere existence of the International Court of Justice is not meant to preclude the possibility of other international tribunals.

### Personnel and Tenure

This new Court consists of fifteen judges of fifteen different national states serving a nine year term, with eligibility for reelection. No state is automatically entitled to have a judge of its nationality on the Court. That all of the terms of the judges will not expire at the same time, the tenure of the original fifteen judges are to be so arranged by lot that the terms of five expire after three years, and the terms of five more expire after six years. All judges elected because of deaths, resignations or removals are to fill out the unexpired terms of their predecessors. The normal meeting place is The Hague, but the Court may hold sessions elsewhere as need arises.

### Nomination and Election

Nominations are made by the national groups that constitute the panel of the Permanent Court of Arbitration, or by similar national groups where none exists. Each national group may suggest the names of four people, qualified for the bench in their native country. Of these four no more than two shall be of their own nationality. The election is by a separate and concurrent majority vote of both the Assembly and the Security Council, with no state enjoying any veto power. If after one session, the full personnel has not been elected, two more voting sessions may be held. If the total number of judges has not been elected, special machinery is arranged for. As a last resort, the judges already elected choose the remaining judges from

the list originally submitted by the national groups. The judges themselves select their own presiding officer, their own vice-presiding officer, as well as the officials of the Court.

### **Jurisdiction**

The Court may handle all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in the treaties and conventions in force. Any party to the Statute may agree under the so-called optional clause to accept automatically the compulsory jurisdiction of the Court in certain categories of *legal* cases. These categories include: 1) the interpretation of a treaty; 2) any question of international law; 3) the existence of a fact, which, if established, would constitute a breach of an international obligation; 4) the nature and extent of the reparations to be made for the breach of an international obligation. This agreement to accept compulsory jurisdiction may be made unconditionally, or on the condition that the opposing party has accepted it, or on conditions which exclude some legal disputes. A time limit for this permission may also be included. The acceptances made under the World Court charter are transferred to the new court.

The Court shall decide cases falling under its mandatory or optional jurisdiction according to international law. This is to be done by applying general and particular international conventions, international custom, general principles of law recognized by civilized countries, judicial decisions and the teachings of publicists. Moreover, if both parties agree, the Court may also settle these cases *ex aequo et bono*, i.e., according to common sense and fair play.

### **Advisory Opinions**

The International Court of Justice is also authorized to give advisory opinions, but this authority is limited to legal questions. Requests for such opinions may be made by the Security Council and the Assembly. Other public organs of the United Nations may also be authorized by the Assembly to request an advisory opinion on legal questions about the scope of their activities.

### **Voting and Decisions**

Decisions are reached by a majority vote of the judges participating in the case. Decisions are to be accompanied by opinions, and provision is made for dissenting opinions. There is no appeal from a

judgment, but provision is made that within ten years a case may be reopened when hitherto unknown evidence is available.

For its task of adjudication there is lodged in the Court authority to decide doubts about its adjudication, doubts about the meaning and scope of its decisions, and doubts on the title of third parties to intervene. It may also make its own procedural rules.

### Sanctions

Every state that adheres to the Charter binds itself to accept the judgment of the Court. If a state fails to comply, the other state may have recourse to the Security Council, which "may, if it deems necessary, make recommendations, or decide upon measures to be taken to give effect to the judgment."

### Observations on the Court

In the organization of the international community, provision should be made whereby states, which have controversies arising out of the meaning and application of general or specific agreements, *should* be able to settle them before an international tribunal. This tribunal should preferably be permanent so that the controversy may be settled without waiting for a court to be established. A permanent tribunal can also build a body of decisions to serve as judicial precedents. This much is provided for in the United Nations Charter. It establishes the International Court of Justice where states in controversy *may* agree to adjudicate either by an agreement made in advance or by an agreement reached after the controversy has arisen. This jurisdiction is voluntary, not mandatory.

### Provision for Legal Disputes

A world system is more juridical if there is agreement in advance between states that, whenever a *legal* dispute arises between them, an independent tribunal has automatically jurisdiction to hear and settle such controversies. By the so-called optional clause a state may pledge that, whenever a *legal* dispute arises between itself and another, it will automatically accept the compulsory jurisdiction of the International Court of Justice, providing the opposite party has done the same. States should be urged to vest this jurisdiction in the new tribunal and to omit further qualifying provisos. If a dispute is legal, no state is surrendering a genuine sovereignty in accepting the compulsory jurisdiction of the Court.

### Non-Legal Disputes

This possible and laudable settlement of legal disputes leaves untouched the numerous potential controversies not covered by any agreements. It is true that the power of the Assembly and of its subsidiary Councils to formulate and propose for adoption new international agreements will narrow more and more the areas of international life not covered by agreements. But there will still arise controversies, not provided for by international arrangement, which can cause bad blood in the international community. Where these disputes are susceptible of judicial settlement, the Charter has provided that these controversies may be brought to the Court. For the Charter *allows* parties in conflict to refer to the Court "any disputes," not merely those of a legal character. Such cases are not capable, however, of being included under the so-called optional clause, since they are not legal. If the parties agree to adjudicate these non-legal disputes, the Court can apply merely norms already recognized, as international law, custom, and principles. Only if it is explicitly authorized each time by the parties themselves can the Court settle such cases *ex aequo et bono*, or according to common sense and fair play.

Now this term, while commonly employed in reference to the competence of a court, has not as sharp a contour as might be hoped. It may be said that the expression means that a court is dispensed from remaining fenced within the ambit of positive law. It may render a decision based on considerations of fair play and good faith. In so adjudicating, a court must avoid what is capricious or arbitrary.

It is desirable that, when controversies arise not covered by existing law or by agreements, these be brought before the International Court of Justice, by voluntarily vesting the Court with jurisdiction *ex aequo et bono*. When the Court with a lapse of time has exercised this authority often and satisfactorily enough, an effort should be made to vest this *ex aequo et bono* authority automatically rather than optionally in the Court.

### Arbitration

The admission should be candidly made that the vesting of this power in the International Court of Justice, whether by explicit agreement of the parties or by the explicit terms of the Charter, is the vesting of arbitral power in a tribunal otherwise purely judicial. While in theory judicial and arbitral functions are properly segregated,

a strong body of opinion contends that a judicial court does not necessarily do itself or the community a disservice by exercising arbitral power under the title of jurisdiction *ex aequo et bono*. It must be remembered that nowhere in the Charter is explicit machinery provided for international arbitration. Rather than deplore its absence or permit the task to go by default to the political organs of the United Nations, it appears preferable to abide by the suggestion made above that the *ex aequo et bono* exercise of power by the International Court be encouraged in the settlements of these non-legal disputes.

### **Enforcement**

When a decision of the International Court of Justice has been rendered, there is always the possibility that one party may ignore it. Provision is made in the Charter for referring the problem of enforcement to the Security Council. This body may determine that the harm to be caused in enforced settlement is worse than the harm done by leaving a court decision unsanctioned. The Court might, moreover, believe that the weight of public opinion, enlightened by the appeal to the Security Council, will bring the defaulting state into line.

In some instance, however, the Security Council might believe that applying a sanction to the disobedient state is the proper course of action. But one of the major Powers decides to exercise its veto. Now the question as to whether a judicial decision is to be enforced is not the proper place for a political veto. Even if action to sanction the judgment of the Court is not always automatic, and is to require a vote in the Security Council, no one or two large Powers should be vested with authority to prevent action which the rest are willing to take. This is to depart too far from the juridical character which should characterize international institutions.

### **A New Tribunal**

Any comparative reading of the text of the present Statute and the statute of the World Court reveals few differences between the two. Under the new dispensation it is not required to join the *new* court by action separate from adherence to the United Nations Organization. The reason, then, for establishing a new tribunal which so faithfully models itself on the old should be sought. The reason was not legal or academic, but political. Rather than incorporate into the United Nations structure the World Court with its adhering states, it was

preferred to set up a court which had as its automatic adherents only those states which were signatories to the United Nations Charter. Thus, states outside the United Nations, who desired to adhere to the statute of the new International Court of Justice, must either join the United Nations on conditions satisfactory to its originators, or adhere separately to the new court also on terms agreeable to the same group. The judgment to establish this new tribunal is, therefore, bottomed less on the desire to have numerous states belonging to a world court than it is to have the authority to decide on what terms outside states shall be received into the newly constituted international community. If the terms are reasonable, no difficulty is necessarily entailed. It will be these concrete conditions, therefore, that will need to be scrutinized and pilloried if the victorious coalition uses its military victory to apply principles against which it warred.

### **The Court and Catholic Principles**

To help understand to what extent the portions of the Charter setting up a world court have measured up to the expectations of the American Catholic Bishops we shall quote the pertinent passages from the statement issued on Nov. 16, 1944 by the Catholic Bishops of the United States and signed in their names by the Administrative Board of the National Catholic Welfare Conference:

In the international organization there should be a World Court to which justiciable (legal) disputes among nations must be submitted. Its authority should not be merely advisory but strictly judicial.

The World Court should be empowered to render decisions in cases submitted to it by any party in interest or by the international organization. It must have authority to refer its decisions to the international organization for execution. It would be useless to set up a World Court and either deny it the right to demand the execution of its decisions or make the execution of them subject to the discretion of the international organization . . . Moreover, obligatory arbitration of international disputes which threaten world peace would mark a signal advance in international relations.

It is fairly clear from the description and analysis of the Court of International Justice that much progress remains to be made. Jurisdiction over legal disputes is not compulsory, although it can be made so by engagements entered into before specific controversies arise. The Court in addition to being able to give advisory opinions, where these are useful, is also vested with real judicial authority, i.e., power to settle a case with finality. Only states can be parties to cases before the Court, but a state in international practice can take up the cause

of one of its nationals. Decisions of the Court are sanctionable by the Security Council, where there is failure of one party to abide by the decisions, but the Council's vote on this subject is susceptible to the exercise of the veto. Arbitration is furnished, but on a voluntary basis by granting the Court jurisdiction *ex aequo et bono*. The Court, then, with its good points can still be vastly improved.

### Topics for Discussion

1. "If the peoples of the world are truly 'determined to save succeeding generations from the scourge of war' the Court can be a powerful aid in that endeavor. It can furnish solutions of many international disputes which, if left to fester, might jeopardize the world's peace. Even a perfect tribunal will not serve this end, however, unless there be a willingness among men to seek justice and to abide by its dispensations. That willingness depends less upon the structure of the temple of justice than upon the spirit in which it is visited." This is the analysis of Manley O. Hudson, only American Judge of the Permanent Court of International Justice. Discuss the importance of regular judicial procedure in international peace.

2. The new Court set up by the Charter does not automatically possess compulsory jurisdiction. No State can be compelled to submit its case before the Court. Do you regard this as a serious shortcoming?

3. One report at San Francisco revealed the "existence of a great volume of support for extending the international legal order by recognizing immediately throughout the membership of the new Organization the compulsory jurisdiction of the Court." If there was such support for compulsory jurisdiction, why does the Charter not provide for such compulsory jurisdiction? The chief opponents were the United States and the Soviet Union. Can you give reasons for their opposition?

4. Should this country act to accept the so-called "Optional Clause" by which we agree to accept the compulsory jurisdiction of the Court?

5. What can the Court do if its decisions are not complied with? Read Article 94. Do you think these provisions give sufficient sanction to the Court's decisions?

6. Is there danger that the very power of the Security Council to sanction the decisions of the International Court of Justice will "engender a practice of deferring satisfaction until the winning party lodges complaint with the Council" and "degenerate into a mode of reopening cases in a totally different type of forum?" That is to say, is international law improved when a case can be in effect appealed from a legal forum to a political forum?

7. Judge Hudson says, "The creation of a new Court was, in reality, little more than a re-christening and a re-orientation of the old one." Can you give legal and political reasons why a new Court was established instead of continuing the World Court of the old League?

8. States and not individuals are parties before the United Nations Court. How will this Court protect the "fundamental human rights" which the United Nations are pledged to support?

9. The Court can handle only legal disputes. What other kinds of disputes are there? What organ handles these?

## 10.

### **General Provisions**

The last five Chapters of the United Nations Charter deal with the Secretariat, Miscellaneous Provisions, Transitional Security Arrangements, Amendments, and Ratification and Signature. While some of these deal in part with purely technical details, others are of fundamental importance.

#### **Secretariat**

One of the principal organs of the Organization is the Secretariat. At its head is the Secretary-General. This official is appointed by the General Assembly on recommendation of the Security Council. He is the chief administrative officer of the Organization and upon him rests the responsibility for the smooth functioning of the machinery of the United Nations. But besides being Secretary-General of the Organization he is also Secretary-General at all meetings of the General Assembly and of the three Councils.

An important additional function assigned to the Secretary-General is the right to bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. This is a function that was not possessed by its counterpart in the League of Nations. On account of this political power the Secretary-General must be elected only upon recommendation of the Security Council. And on this issue the five permanent members possess a veto. The General Assembly, however, is not obliged to accept the candidate thus presented by the Security Council.

The United Nations Charter aims to achieve a genuinely international civil service. It therefore provides that in the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They must preserve their position as international officials responsible only to the Organization by refraining from any action which might reflect on this. And on their part the

Members of the United Nations undertake to respect the exclusively international character of the responsibilities of the Secretariat and not seek to influence their nations on the staff.

There is no question of a citizen, say of the United States, casting off his citizenship and loyalty to his own country. An American who is a member of the Secretariat does not become an expatriate. Rather he serves his own country in its international responsibilities to all nations. In a truly international organization the member states have a right to demand this loyalty to the international interest, as defined in the Charter.

### **Miscellaneous Provisions**

Among the miscellaneous provisions are those odds and ends which could not be classified with matters treated elsewhere in the Charter. Here included are provisions relating to possible conflict between the obligations of the Members of the United Nations under the Charter, and their obligations under any other international agreement. The former shall prevail. The United Nations is also to enjoy in the territory of each of its Members all necessary legal capacity. This includes privileges and immunities for the Organization and for representatives and officials.

Article 102 of this Chapter recalls the great outcry against secret treaties which arose after the first World War on the revelation of the treaties between Russia, Great Britain and France in 1918. The League of Nations Covenant, therefore, attempted to abolish secret treaties by requiring that all treaties had to be registered with the League under pain of their invalidity. However well-intentioned, this provision did not effectively check the making of secret treaties.

At San Francisco it was determined that every treaty and international agreement entered into by any Member of the United Nations after the Charter comes into force should be, as soon as possible, registered with the Secretariat and published by it. But as a sanction for such registration it was provided only that treaties or agreements not so registered could not be invoked before any organ of the United Nations. This means that unregistered agreements cannot be adduced before the International Court of Justice, or the Security Council or General Assembly, by any aggrieved Member as the basis of any plea. As far as the United Nations is concerned, such treaties or agreements are non-existent.

## Transitional Security Arrangements

Two Articles, 106 and 107, are the content of Chapter XVII which is entitled "Transitional Security Arrangements." The first of these provides that until the Security Council is fully equipped to maintain peace and security through military agreements reached with the Members, the five permanent members of the Security Council shall consult with one another and, as occasion requires, with other Members of the United Nations, with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security. The second states: "Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action." Except for details of drafting and the addition of the name of France, these two articles remained unchanged from the Dumbarton Oaks conversations of the United States, Great Britain, Russia and China.

A good deal of international politics since the end of the war is explained by these two Articles. It is obvious that the Security Council would not be fully operative for some time after the end of the war. It was necessary to endow the victorious military Powers, particularly the Big Three, with the necessary authority to take over temporarily the duties of the Council. But this goes even deeper. The Big Three wanted to have a free hand in making the peace with the defeated Axis.

The occupation of Germany and Japan was to be the sole responsibility of the major Powers according to agreements entered into among themselves. Clearly there was no intention of leaving these questions, so essential for the pacification of the world, to the unpredictable actions of an untried United Nations Organization. Therefore, as a result of Articles 106 and 107, the business of winding up World War II is outside the competence of the United Nations. Whatever peace treaties emerge out of the war, whatever settlements are agreed to among the major victorious Powers, are not the object of the United Nations. Similarly, the occupation arrangements for Germany and Japan (or Italy, Hungary, Bulgaria, Rumania, and Finland) remain unaffected by any provision of the Charter, as long as those arrangements continue in force at the discretion of the Governments having responsibility for the occupation.

The sooner Chapter XVII becomes a dead letter the better. Under its provisions the major Powers operate outside the purposes and principles of international cooperation. It can be used as a pretext for continuing the old-style method of power politics into the indefinite future. It is to the credit of the Charter that the great Powers will with reluctance abandon the latitude given to them in these transitional provisions. This reluctance is an implicit tribute that the Charter is in fact a restraint upon the freedom of action traditionally sought by great Powers. Meanwhile, however, there is no difficulty in accepting the necessity, even the wisdom of such transitional arrangements. The necessity of accepting these terms comes from the fact that the Big Three feel that having won the war by themselves, they should have the prime say in the terms of peace taken to prevent another outbreak.

The wisdom of these transitional arrangements comes from the fact that the major political problem of the postwar era is whether the victorious Allies can hold together as they did in the war. The United Nations itself is based upon the continuing cooperation of the major Powers. That question is being first answered in the joint policies followed with respect to the defeated Axis, outside the framework of the Charter.

### **Amendments**

Those who at San Francisco were dissatisfied with the Charter as it stood gave special attention to the amendment process. The regular process of amendment is through a vote of two-thirds of the members of the General Assembly. It comes into force when it has been ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations. Included in this two-thirds must be the five permanent members of the Security Council. Thus the Charter can undergo change and new obligations can be imposed upon one-third of the Members, with the exception of the United States, Great Britain, Russia, France and China. However, the dissenting Members can withdraw from the United Nations should the new change involve burdens which they cannot or will not sustain.

A special process of amendment is through a General Conference called for the specific purpose of reviewing the Charter. This can be called at a date and place fixed by a two-thirds vote of the members of the General Assembly and by a vote of *any seven* members of the

Security Council. Amendments effected at such a General Conference take effect in the same way as described in the previous paragraph.

Should such a General Conference not be held before the tenth annual session of the General Assembly, the proposal to call such a conference is by mandate of the Charter to be placed on the agenda of that session of the General Assembly. And in this instance the majority of the General Assembly instead of a two-thirds vote, will be sufficient (with the concurrence of *any seven* members of the Security Council) to convoke such a Conference.

Back of this provision for a General Conference at the end of ten years is the opposition of the small and middle Powers to the veto prerogatives of the five permanent members of the Security Council. When they finally gave in to the firm demands of the Big Five, they did so frankly, in the interests of the success of the San Francisco Conference. But they did not withdraw from the principle. To their mind the acceptance of the veto was compensated somewhat by the prospect that the whole issue could be re-opened at a later date. In short, they wanted another try at breaking the hegemony of the big Powers in the Security Council, at least to a modification of the all-embracing veto in peaceful settlements. They, therefore, proposed that a constitutional convention should be called at a specified date in the future. They pointed out that the ordinary process of amendment gave too much power to the Security Council to stall any possible action. The major Powers argued, and with some plausibility, that it was not in the interest of the stability of the United Nations to consider the Articles of the Charter as merely provisional. They, therefore, resisted the implication that the veto provisions or any other provisions in the Charter that were regarded as unsatisfactory were merely temporary. As a compromise, therefore, between these contentions, it was agreed that the question of a General Conference should be raised after ten years. And a mere majority of the Assembly would be enough to convoke the Conference. It was only on this assurance that the veto rights of the five permanent members of the Security Council finally received sufficient votes at San Francisco.

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The final chapter deals with the Ratification and Signature. It becomes (largely) inoperative upon the completion of Ratification.

## 11.

**Adding Up the Charter**

Does the United Nations Charter meet the challenge of peace? Does the Charter promise peace to the peoples of the world? Will it introduce the new era for which peoples have been longing through the centuries by satisfying, in the words of the American Bishops, the "hope of a world at peace, a world of sovereign states cooperating in assuring all men the full enjoyment of their rights, a world of free men and free nations with their freedom secured under law"?

These are natural questions and they deserve honest, candid answers. Now that human life on this earth has been suddenly catapulted into the atomic age they will be asked with dread seriousness. The consequences of an atomic world war need no borrowings from an overwrought imagination. Today the human race is faced with the dilemma of peace or perish, and unfortunately the new atomic energy does not lend much aid to the task of making and maintaining peace among nations. Making a good peace still remains far more difficult than making war, and the maintaining of a good peace will still remain a harder road than maintaining unity under the necessity of surviving against a common enemy. How far, then, does the United Nations Charter solve the world's present dilemma of peace or perish?

Many persons have even gone so far as to proclaim that the United Nations Charter is already "obsolete" and should be scrapped in favor of a world government. Such proposals are an invitation to chaos. Dread fear hangs over all nations at the prospect of annihilation in the event of atomic war. But this fear is no different in essence, only greater in degree, from the fear which prompted the establishment of the United Nations. The new fear does not do away with the problems which prevented the United Nations from being a stronger security organization. To make the long jump towards world government is to overlook the potent forces which still roam this world with their uncontrolled ability to wreck the peace. We will have a stronger Charter and perhaps a world government capable of handling the problem of atomic energy whenever the great Powers want that stronger Charter. If the great Powers are unwilling to use the amendment machinery of

the United Nations for the establishment of a real international organization in which no nation is above the law, any talk about a world government is clearly academic.

In estimating the prospects of peace from the Charter a few preliminary observations are in order. It would be well for all of us to realize that the Charter, as a document, solves nothing. The great problems of peace cannot be solved by the mere writing and acceptance of a document. The ratification of the Charter by all the nations of the world does not end wars and bring with it lasting peace. The drafting and ratification are necessary but preliminary steps in the process of peace making. The Charter is an instrument intended to be used in the spirit of good faith by nations and by men. Unless it is used as intended it can do little good and may do much harm.

By no means is it a perfect instrument. The analysis of the Charter in the preceding pages has made that sufficiently clear. The Charter is a product of a world convulsion which saw a group of mixed and in some instances sharply divided nations united under the compulsion of survival against the aggression of a common evil enemy. It would have been utopian to have expected a perfect instrument out of such a world convulsion.

The Charter, as was reasonably expected, reflects the revolutionary shift in political power whereby the war has left us a world of a few great world Powers and many middle and small nations, most of whom are physically and spiritually exhausted. Two nations, the United States and Russia, both controlling and commanding enormous resources, have emerged from the war as world Powers, while Great Britain, greatly weakened despite two victories in two world wars, still retains a claim to her former position as a great Power. The result of this revolution is reflected in the most disquieting feature of the Charter—the dominant position of the major Powers in the Security Council. We can best face the task before us by realizing that the Charter is the offspring of both realism and idealism and that it must operate in a world which will long suffer from the ferment and disorders of a revolution.

The task of this generation can be stated in simple terms. Our hope in the face of the terrifying dilemma of peace or perish is an organized community of free nations with their freedom under law, an organized community of nations willing and able to face and grapple with the causes of war and the problems of peace. This generation

must proceed along the road as far and as fast as present world conditions permit; it must move towards the goal by the international cooperation provided in the United Nations Charter. It is the best that can be realized now and under present conditions and we must use it for its worth, deriving from it the many benefits that can be achieved from continual, sincere cooperation within its framework. It is a great improvement over the Dumbarton Oaks Proposals and really more impressive than the public was inclined to judge as it came from San Francisco piecemeal and somewhat the worse for disputes and differences.

It is admittedly defective. It does not provide for that system of collective security for *all* nations against *any* aggression which the peoples of the world so ardently desire. Its security system can hardly work at all unless there is at least a minimum of continual cooperation between the five major Powers which are the permanent members of the Security Council. Unless they can discover a *modus vivendi* within the framework of the Charter it will not function properly.

But granted the continual cooperation among the major Powers, the Charter does provide the machinery and the means for removing the causes of war and solving the many problems of peace. The Security Council provides the machinery for continual consultation and consideration of all serious disputes and disturbing situations in the world and methods of settling them without recourse to violence. The Assembly may take the lead in the progressive development and codification of international law. The Social and Economic Council offers the means of solving through international cooperation all the economic, social and humanitarian problems which provoke wars. It may become eventually more important than the Security Council in preventing another world war; with reasonable support from the Member nations it can deal successfully with the basic causes of war before they become disturbing diplomatic and political problems.

The Court, standing for the rule of reason and justice over the rule of might, is a tribunal from which all nations may obtain a just settlement of their legal disputes and, if they wish, their serious political differences. The Trusteeship Council strikes at the evils of imperialism and if properly used will prepare colonial and dependent areas and peoples for self-government while protecting and promoting their interests. Fortunately, these four last organs are not

dominated by the big Powers, and full rein is given to intelligent leadership which is not a monopoly of great states.

And the Charter can be improved. Against the gloomy expectations of even well-informed men, the original plan for a world organization was improved at San Francisco. Those improvements were a testimony of the influence of well-directed, articulate public opinion on the leaders of nations. More improvements can be made, if the people are so determined, by the General Conference that probably will be held in ten years for the purpose of reviewing and revising the Charter. Some of the defects are already apparent; experience will disclose others. The removal of these serious flaws and the gradual improvement of the Charter should be the concern of all who sincerely hope to see an organized community of free nations with their freedom established under law. No responsible individual is free to ignore the tremendous challenge before us. On all states and on all peoples there lies the duty in the words of Pius XII:

...of doing everything to ban wars of aggression, once and for all time, as legitimate solutions of international disputes and as a means of realizing national aspirations. That duty brooks no delay, no procrastination, no hesitation, no subterfuge.

Many attempts in this direction have been seen in the past. They all failed. And they will all fail always, until the saner section of mankind has the firm determination, the holy obstinacy, like an obligation in conscience, to fulfill this mission which past ages have not undertaken with sufficient gravity and resolution.

If a generation has ever had to appreciate in the depths of its conscience the call: "War on war," it is certainly the present generation.

No nation on this earth is in a more favorable position to take the lead in this generation's mission than the United States. The peoples of the United Nations are determined "to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . ." Whether this noble determination is successful depends in a large part on the leadership of our nation under the Charter.

# CHARTER

## of The United Nations

**We the peoples of the United Nations determined**

to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of 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 neighbors, and

to unite our strength to maintain international peace and security, and

to insure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

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

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

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

## Chapter I

# Purposes and Principles

### Article 1

The purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the 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 the peace;

2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international cooperation 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; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

### **Article 2**

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.

2. All Members, in order to ensure to 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. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

7. Nothing contained in the present Charter shall authorize 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 matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

## **Chapter II**

# **Membership**

### **Article 3**

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

### **Article 4**

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter, and, in the judgment of the Organization, are able and willing to carry out these obligations.

2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

### **Article 5**

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

### **Article 6**

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

## **Chapter III**

# **Organs**

### **Article 7**

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

### **Article 8**

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

## **Chapter IV**

# **The General Assembly**

## **COMPOSITION**

### **Article 9**

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly.

## **FUNCTIONS AND POWERS**

### **Article 10**

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

### **Article 11**

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles

governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

### **Article 12**

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

### **Articles 13**

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

### **Article 14**

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

### **Article 15**

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

### **Article 16**

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

### **Article 17**

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

## **VOTING**

### **Article 18**

1. Each member of the General Assembly shall have one vote.

2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.

3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

### **Article 19**

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

## **PROCEDURE**

### **Article 20**

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

### **Article 21**

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

### **Article 22**

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

## **Chapter V**

# **The Security Council**

### **COMPOSITION**

### **Article 23**

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

## **FUNCTIONS AND POWERS**

### **Article 24**

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council 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.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

**Article 25**

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

**Article 26**

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

**VOTING****Article 27**

1. Each member of the Security Council shall have one vote.
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; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

**PROCEDURE****Article 28**

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

**Article 29**

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

**Article 30**

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

**Article 31**

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

**Article 32**

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

## Chapter VI

# Pacific Settlement of Disputes

### **Article 33**

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

### **Article 34**

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

### **Article 35**

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

### **Article 36**

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

### **Article 37**

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

### **Article 38**

Without prejudice to the provisions of Articles 33 to 37, the Security Council

may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

## Chapter VII

# Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression

### **Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

### **Article 40**

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

### **Article 41**

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communications, and the severance of diplomatic relations.

### **Article 42**

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

### **Article 43**

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 peace 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 the signatory states in accordance with their respective constitutional processes.

#### **Article 44**

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

#### **Article 45**

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

#### **Article 46**

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

#### **Article 47**

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

#### **Article 48**

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

**Article 49**

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

**Article 50**

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

**Article 51**

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

**Chapter VIII****Regional Arrangements****Article 52**

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.

2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.

3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

**Article 53**

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

### **Article 54**

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

## **Chapter IX**

# **International Economic and Social Cooperation**

### **Article 55**

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

a. higher standards of living, full employment, and conditions of economic and social progress and development;

b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

### **Article 56**

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

### **Article 57**

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

### **Article 58**

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

### **Article 59**

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

### **Article 60**

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

## Chapter X

# The Economic and Social Council

### COMPOSITION

#### **Article 61**

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.
3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of two years, in accordance with arrangements made by the General Assembly.
4. Each member of the Economic and Social Council shall have one representative.

### FUNCTIONS AND POWERS

#### **Article 62**

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

#### **Article 63**

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

#### **Article 64**

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.
2. It may communicate its observations on these reports to the General Assembly.

### **Article 65**

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

### **Article 66**

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

## **VOTING**

### **Article 67**

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

## **PROCEDURE**

### **Article 68**

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

### **Article 69**

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

### **Article 70**

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

### **Article 71**

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

### **Article 72**

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

## Chapter XI

# Declaration Regarding Non-Self-Governing Territories

### **Article 73**

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;

b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;

c. to further international peace and security;

d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and

e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

### **Article 74**

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

## Chapter XII

# International Trusteeship System

### **Article 75**

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

### **Article 76**

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

### **Article 77**

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements:

- a. territories now held under mandate;
- b. territories which may be detached from enemy states as a result of the Second World War; and
- c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

### **Article 78**

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

### **Article 79**

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

### **Article 80**

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing

mandated and other territories under the trusteeship system as provided for in Article 77.

### **Article 81**

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

### **Article 82**

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

### **Article 83**

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

### **Article 84**

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

### **Article 85**

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

## **Chapter XIII**

# **The Trusteeship Council**

### **COMPOSITION**

### **Article 86**

1. The Trusteeship Council shall consist of the following Members of the United Nations:

- a. those Members administering trust territories;

b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and

c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.

2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

## FUNCTIONS AND POWERS

### **Article 87**

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

a. consider reports submitted by the administering authority;

b. accept petitions and examine them in consultation with the administering authority;

c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and

d. take these and other actions in conformity with the terms of the trusteeship agreements.

### **Article 88**

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

## VOTING

### **Article 89**

1. Each member of the Trusteeship Council shall have one vote.

2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

## PROCEDURE

### **Article 90**

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.

2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

### **Article 91**

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

## Chapter XIV

# The International Court of Justice

### Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

### Article 93

1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

### Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

### Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

### Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

## Chapter XV

# The Secretariat

### Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

### Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of

the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

#### **Article 99**

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

#### **Article 100**

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.

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.

#### **Article 101**

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

## **Chapter XVI**

### **Miscellaneous Provisions**

#### **Article 102**

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

#### **Article 103**

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

#### **Article 104**

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

### **Article 105**

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

## **Chapter XVII**

# **Transitional Security Arrangements**

### **Article 106**

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

### **Article 107**

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

## **Chapter XVIII**

# **Amendments**

### **Article 108**

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

### **Article 109**

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.
2. Any alteration of the present Charter recommended by a two-thirds vote

of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.

3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, 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.

## Chapter XIX

# Ratification and Signature

### **Article 110**

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.

2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.

3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.

4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

### **Article 111**

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

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