REVISION OF UNITED NATIONS CHARTER

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By
MASARRAT FATIMA
Roll. No. 74 PLM - 10
Enrolment No. H 7696

UNDER THE SUPERVISION OF
Dr. S. A. H. HAQQI
Professor & Head of the Department of Political Science
Dean, Faculty of Social Sciences

Department of Political Science
Aligarh Muslim University
ALIGARH (INDIA)
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A constitution needs amendment and revision to meet
the requirements of changing conditions. The process of
amendment may be either flexible or rigid. The Charter of the
United Nations is no exception to this rule. In the three
decades that have elapsed since the birth of the United Nations,
the political scene of the world has considerably changed.

The founders of the U.N.O. recognised the need for
flexibility of the Charter to cope with the changing situations
in the future. As Franklin D. Roosevelt, one of the founders
of the Organization, said the U.N. Charter is not a static
treaty; it can be amended and revised like a Constitution.

Much controversy was waged over a number of provisions
of the Charter at the San Francisco Conference of 1945 which
laid the foundation of the world organization. One group
favoured a rigid Charter. Another group stood for a flexible
Charter with a view that to meeting the exigencies of changing
times in future. After a heated debate a compromise formula
was adopted. In Chapter XVIII of the Charter Article 109 was
(particularly paragraph 3) included in order to satisfy the
delegates opposing a rigid procedure for amendment. They
were satisfied with the provision for holding a conference to
review the Charter.
The history of the United Nations reveals that the demand for revision of the Charter began even before it was signed. This movement, however, reached its peak on the occasion of the 10th Anniversary of the U.N.O. in 1955.

In the following pages an attempt has been made to study the problem of the revision of Charter as well as the impediments to this process. The present study also seeks to analyse the attitudes of various member governments, private as well as public institutions and also the views of experts on the question of revision of the Charter.

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MASARRAT FATIMA
CHAPTER I

A HISTORICAL RETROSPECTIVE OF U.N. CHARTER

Introduction

The world in 1945 had the highest expectations of the United Nations. The frame work of international society was so badly shattered by the second World War that Britain, Russia, the United States and China decided not to revive the League but, instead, to build a new general international organization. The official attitude of the major powers had made people believe that the new International organisation would bring permanent peace and prosperity. The United States, in contrast with its failure to join the League of Nations, played a major role throughout in the evolution of the new organization. Countless meetings and negotiations were held to this end. Much was made of the differences between the League of Nations and the new organization. Perhaps undue stress was laid on the differences — though they did exist — and perhaps too high hopes were fostered.

However, these high expectations have not come true and the performance of the United Nations has been, by and large, disappointing. It has not been able to play effectively

its assigned role. What was to be an instrument of world peace has proved to be a forum of world conflict. The General Assembly as well as the Security Council have been freely used not to resolve disputes, but to stimulate and exacerbate them. The emergence of the Cold War between the two power-blocs had a disastrous effect on the United Nations as an international organization for maintaining peace and security. At the same time, the unfortunate voting procedure prescribed for the Security Council has greatly contributed to preventing this most important organ of the United Nations from serving as an effective instrument of conciliation in major disputes. The Charter has created an illusory system of Collective Security.

The failure of the United Nations in some respects is to be imputed not to the Charter but to its Members. In this connection, the moment of the birth of the Charter is significant. The Charter was discussed in San Francisco in 1945, after the Common Victory over Germany and at the time of the Common effort to defeat Japan. It was created in a climate of opinion which expected the wartime Unity of the Allies to continue after the war. The signs of conflicts were cropping up


since the San Francisco Conference and even before it. But they were not yet understood in their real significance. It is true, that some uneasiness existed, in connection with the Russian attitude but generally the spirit of international co-operation and mutual trust prevailed.

A detailed examination cannot be made here of the growth of the Charter since 1945. But to provide a context within which changing commitments of United Nations Charter may be understood, it seems desirable to look at the process in general terms.

**The Important Landmarks in the Formation of the U.N.O.:**

The Charter of the United Nations, signed at San Francisco on June 26, 1945 by the representatives of fifty nations, was the product of an evolutionary development extending over a period of many decades, even centuries. It was the immediate result of proposals emanating from the careful study of the experience of the past; and of exchanges of views between the representatives of governments leading to the narrowing and final elimination of areas of disagreement.

Primarily the initiative in contemplating the establishment of a new international organization was taken by

the British Prime Minister Winston Churchill and the U.S. President Franklin D. Roosevelt. The two leaders realized at an early stage the importance of giving the people of the world some real hope of avoiding war in future. On August 9, 1941, the U.S. President suggested to the British Prime Minister, Mr. Churchill, that, "it would be well if they could draw up a joint declaration laying down certain broad principles which should guide our policies along the same road."

Mr. Churchill was perhaps more enthusiastic in this matter at the initial stage than the U.S. President Franklin D. Roosevelt. When they met off the coast of Newfoundland for their famous Atlantic meeting in the summer of 1941, Churchill was desirous that in their joint declaration they should give an "explicit expression" to their hope that some form of international organization should be created to provide a greater sense of security after the war. Mr. Roosevelt was unwilling at this time to subscribe to such an explicit commitment, chiefly, it would appear, because he was not convinced that congressional and public opinion in the United States was yet prepared for it.

Their joint conclusions were incorporated in the Atlantic Charter (August 14, 1941). The agreed declaration recognised


the need of some form of permanent international organization
by providing for the disarmament of aggressive nations "pending
the establishment of a wider and permanent system of general
security."

This was followed by the Washington Declaration of
January 1, 1942. This Declaration, signed by the representatives
of 26 states, subscribed to the purposes and principles
incorporated in the Atlantic Charter. The signatories to the
Washington Declaration were the following:

The United States, Great Britain, the U.S.S.R., China,
Australia, Belgium, Canada, Costa Rica, Cuba, Czechoslovakia,
the Dominican Republic, El-Salvador, Greece, Guatemala, Haiti,
Honduras, India, Luxemburg, the Netherlands, New Zealand,
Nicaragua, Norway, Panama, Poland, South Africa and Yugoslavia.

While the Government of the United States and the United
Kingdom had by the summer of 1943 reached the point where they
were prepared to seek the establishment of a permanent inter-
national organization to maintain international peace and
security, the position of the Soviet Union had not been clearly
defined. It was largely due to U.S. Secretary of State

7. Text in Goodrich and Hembro, Charter of the United Nations,
p. 569.

8. Ibid., p. 570.
Cordell Hull's persuasion that Mr. Roosevelt and Marshall Stalin agreed to commit themselves to the establishment of a general international organization.\

It is truly said that the United Nations Organization owes its origin in the Declaration General Security adopted at the Moscow Conference of October 31, 1943. At that Conference Mr. Vyacheslav Molotov of the USSR, Mr. Anthony Eden of the United Kingdom, and Mr. Cordell Hull of the United States, met under the Chairmanship of Molotov. Chinese Ambassador (to the Soviet Union) Mr. Foo Ping-Shung subsequently joined the declaration. The signatories declared:

"They (the Four Nations) recognize 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."


11. For text of Moscow Declaration, see Goodrich and Hambro, Declaration of Four Nations, pp. 571-72.
In this declaration for the first time the big powers agreed to the idea of an international organization based on the sovereignty and equality of its members. Four weeks later another Declaration was issued (December 1, 1943) from Teheran by the President of the U.S.A. and the Prime Ministers of Great Britain and the Soviet Union. Through the Teheran Declaration the U.S.A., Soviet Russia and Great Britain assumed the leadership in discharging that responsibility.

**Drafting the Blue Print of the U.N. Charter:**

The first blue print of the United Nations was prepared at a conference, known as Dumbarton Oaks in Washington. Conversations were first held between delegations of the United States, the United Kingdom and the Soviet Union. China was not allowed to participate in this conference as she was not then at war with Japan. The objection to China's participation was raised by the Soviet Union. Although the Soviet Government, however objected prior to the conference to including it (China) on the agenda, on the ground that China was not to be represented at the meeting and a Four-Power statement was therefore out of place. It was further argued that a three-Power statement could


be issued. Such a criticism was also taken into account by Churchill: "China is not a world power equal to Britain, the United States or Russia." But at that time United States was so interested to strengthen the China's political position that it wanted to include China as an official leader of the United Nations, even at the cost of getting no agreement on this time. The U.S.A., Great Britain and China met separately at Dumbarton Oaks in September-October, 1944. At the end of the Conference, proposals for the structure of a world organization were published. The proposals agreed upon by the four powers were embodied in a document entitled 'Proposals for the Establishment of a General International Organization' (October 7, 1944). But there was no agreement on many issues like voting procedure in the Security Council (veto) and a new system to replace the Mandate system of the League of Nations. In the course of these conversations it was finally agreed that the proposed organization should not be exclusively limited in its functions to the maintenance of international peace and security. Soviet Union wanted that the dominant and decisive role of the

major powers should be clearly established. Furthermore, the
Soviet Union insisted that in the field of peace and security
all of substantive decisions should require major power unanimity.
This meant that in the Security Council the five permanent
members would have a veto power on substantive decisions. (later
on, France also adopted those proposals hence the big five,
although France did not act as a sponsor because she had taken
no part in the Dumbarton Oaks Conference). The Soviet Union
wanted a guarantee that the problems which she had faced during
the membership of the League should not recur. The United
States and the United Kingdom agreed that the major powers should
be accorded a special role but they were not inclined to press
the principle in so far as the Soviet Union was concerned. The
United States, at least, wanted to recognize the principle of
equality 'in form if not in substance. At the Dumbarton Oaks
conference the general framework of the new organisation was
decided, but important questions were left to be decided at a
future meeting. We may say that the Dumbarton Oaks proposals
were in-complete in many respects.

The provision with respect to the non-self-governing
territories was not decided, largely due to the hostility of

Mr. Churchill. These controversial issues were decided at Yalta at a Conference between President Roosevelt, Prime Minister Churchill, and Premier Stalin. On February 11, 1945, the Conference announced that this point had been settled. The three leaders then went on to declare:

"We are resolved upon the earliest possible establishment with our Allies of a general international organization to maintain peace and security.......

"We have agreed that a Conference of United Nations should be called to meet at San Francisco ... on the twenty-fifth April 1945, to prepare the Charter of such an organization, along the lines proposed in the informal conversations of Dumbarton Oaks."

On March 5, 1945, the United States, in the name of the four sponsoring Governments (the Republic of China, the Soviet Union, the United Kingdom and the United States) issued invitations to forty-five other signatories of the Declaration by United Nations, in accordance with the Yalta agreement. It was decided that the material to be considered by the Conference

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should be Dumbarton Oaks Proposals, as supplemented by the Yalta Conference.

Subsequently, after heated exchanges between the Soviet Union on the one hand and the United States and the United Kingdom on the other, a division that was prophetic of things to come, the conference voted to invite the Governments of Argentina, the Byelorussian SSR, the Ukrainian SSR and Denmark to send representatives, thus bringing the total number of 20 participating Nations to fifty. Poland, not represented at the conference, signed it later and became one of the original 21 Member States. Finally in April 1945 a Conference was held in San Francisco and it laid the foundation of the United Nations. The Charter, signed by the representatives of fifty nations and ratified by China, France, the USSR, the United Kingdom and the United States, officially came into existence on 24 October 1945. The twenty fourth of October is now universally celebrated as the United Nations Day.

The negotiations at San Francisco were not quite smooth. The smaller states wanted to limit the discretionary powers of

the Security Council and especially the influence of the major powers to extend the rule of law, to enlarge the role of the General Assembly, and to extend United Nations functions in the economic and social field. Although 'the Dumbarton Oaks frame work remained virtually intact', important modifications were introduced as a result of bargaining. The Charter was finally adopted, partly as the result of pressure exercised by the middle and smaller countries. The specific areas of United Nations actions and the objectives to be achieved were more clearly defined. The functions and powers of the General Assembly and Economic and Social Council were extended and classified. Finally it was largely due to the pressure of the smaller states that the amendment provisions of the Dumbarton Oaks Proposals were revised, and "Article 106" was developed. It is the result of an attempt to set up a second method of amending the Charter different from and easier than that found in Article 108.

Main Characteristics of the U.N. Charter:

The emergence of an international organisation at a global level is a relatively recent phenomenon. The ideals of

22. For the full text see Chapter II, pp. 4-13.

world government, a universal empire and of a world citizenship had existed in all ages of history. But it remained confined to speculation and philosophy. Great empires have existed in the past, but they lacked the characteristics of an international organization in the sense we understand it today. The need for an international organization increased with the increase in the intensity and frequency of international relations. League of Nations is said to be the first universal international organization. But the inner contradictions between the policies of the major partners of the League led to its failure. The primary purpose in creating the new international organization (United Nations) was generally the same as that of the League of Nations, which was established "to promote international co-operation and to achieve international peace and security." (The Covenant of the League of Nations).

As Leland M. Goodrich observes "the United Nations does not represent a break with the past, but rather the continued application of old ideas and methods with some changes deemed necessary in the light of past experience."

While answering the question that why was the attempt not made to revise the covenant and continue the League in modified form. Mr. Leland M. Goodrich has stated as follows:

Firstly, "the League was associated in people's mind with failure, and it was thought wise to start with a clean break with the past, at least in form."

Secondly, "the two governments whose active participation was considered essential to the success of the new organization — the United States and the Soviet Union — for different reasons wished to start afresh."

In spite of the fact that new organization has many similarities with the League, it is obvious that in some respects it is different from its predecessor. There are, however, noticeable differences between some important provisions of the covenant and the charter, e.g. admission of new Members, voting, withdrawal of Members, Suspension of Members, privileges, maintenance of collective security, treatment of economic and social issues, etc. (A.C. Banerjee, Revision of Charter of U.N., p. 29.) The U.N. Charter represented a compromise between various principles — idealistic as well as practical. The U.N. Charter is a legal document based on a multilateral treaty. The U.N.O. however, is not merely a legal organization, it is also a political organization. The U.N.O. can ask the International Court of

Justice for legal advice, but it may or may not comply with it. The U.N.O. operates according to its own rules and procedures which it has the right to change.

It is true to say that the objectives of the Charter are more comprehensive and even far more radical than those of the covenant.

The preamble of the Charter contains the aims and objectives of the U.N. These are listed in Article I. Article 2 sets out principles of the U.N. Those principles have to do both with the nature and authority of the organization and the powers and duties of Members. The U.N. is based on the "sovereign equality" of all Members. It also includes certain obligations. Article 2, para 7 says that nothing contained in the present Charter shall authorise the U.N. to "intervene" in the matters which are essentially within the "domestic jurisdiction" of states. The Charter represents the desire of the member states to solve certain problems between themselves but to withhold certain matters which they prefer to regard as their domestic affairs. This has been a running controversy as to which matter is domestic.

International disputes under the Charter are to be resolved through one of the following methods: Enquiry,

negotiation, mediation, good offices, arbitration, judicial settlement.

The right to individual or collective self-defence (as through regional pacts like NATO, SEATO etc.) exists under the Charter, but the Security Council should be informed of such action and the Charter should be respected.

The International Court of Justice was made an integral part of the U.N. to promote the habit of adjudication through international agencies in a settled and established manner. The most characteristic feature of the United Nations system is the concentration of authority for purposes of international peace and security in the hand of the five permanent members of the Security Council. But in non-political activities the United Nations system is decentralized. Most of these activities are performed by autonomous specialized agencies. Under Article 57 of the Charter the various specialized agencies, established by inter governmental agreements and having wide international responsibilities in economic, social, cultural, educational, health and related fields are brought into relationship with the United Nations in accordance with the provisions of Article 63.


Is United Nations A Federal Set Up?

A federation has two sets of governments — a central government and governments of constituent units. There is no central government in the set up of the U.N. with nations. The General Assembly is not a legislative body as state parliaments, are. It does not make laws, it has no power to extract revenues from the U.N. Only the Security Council has some enforcing powers in a limited sense.

But still the U.N., to some extent, curtails the sovereignty of states. States are sovereign only in exclusion of those obligations which they have accepted under the U.N. Charter. However, the states, in actual practice, are far more sovereign than visualized under the U.N. Charter. The United Nations Charter thus established a world-wide organization not responsible to, or deriving power from, regional organizations.

The Charter in Practice — Trials and Dilemmas in Application:

The framers of the Charter of the United Nations, although convinced that they had done as well as they could expect to do in the circumstances, were not certain about the perfectness of the document. As the U.S. Secretary of State, described, "the

Charter was a human rather than a perfect instrument." In this connection many factors are responsible. But it is obvious that the failure of the United Nations in some respects is not due to imperfectness of its charter but to its Members especially major powers (Big five). Under the guise of tall talks of world peace and cooperation they pursued their parochial national interest. Certainly, these ideological conflicts and competing national interests left little room for the kind of cooperation necessary to the full effectiveness of the United Nations.

The Emergence of the Cold War:

One of the basic causes of the failure of unity among the major powers and a contributing cause to the weakening of the Western influence in the new organization was the emergence of Communism as an ideology challenging the basic assumptions and values of Western liberal democracy. The challenge was all the more effective because, after war the Soviet Union was one of the truly great military powers. At San Francisco


the deep seated conflicts which existed were largely subordinated, if only on the surface, to common efforts to establish an organization which all desired, or at least from which no one seemed to be excluded. But after the Charter was written and came into force, disagreements between Moscow and the West became more open and numerous. Mutual suspicion and distrust were obviously on the increase. Still, the note of ideological conflict was being lightly struck. Even during the debates in the first session of General Assembly on disarmament, there was no such propagandistic speeches which were to characterize later discussion of disarmament and other issues. By 1947-48, the Cold War was in full force. The incompatibility of communism and Western democratic values and principles came on the surface. Soviet Union started propaganda emphasizing the alleged abuses of the Western capitalist system, its denial of basic social and economic rights, and its exploitation of the subject colonial peoples. In response, the Western democracies, especially the United States, stepped up their efforts to show that in practice communism was the instrument of Soviet imperialism and meant the denial of basic human rights, the complete subordination of the individual to the state, and the complete subjection of millions of people to a totalitarian system based on exploitation of the many by the few and, of necessity, committed to efforts to maintain and extend its power by brute force. Differences became

34. Ibid., p. 44.
sharpened, and positions were taken on moral grounds. This struggle had a disastrous effect on the United Nations as an international organization for maintaining peace and security and affected profoundly the attitude of the United States towards the organisation.

The Possession by Both Side of Nuclear Weapons:

The Second factor which helped to divide the major powers after the war was the nature of their power relations, and the development of a condition of bipolarity which was encouraged by the ideological conflict between the two super powers (USSR and USA) and recent technological developments. Of these developments, that of atomic weapons has been the most important.

The appearance of the atomic bomb only a few weeks after the San Francisco Conference, however, created suspicions whether the new world organization had been endowed with sufficient powers to cope with new situations in which the threatened use of new weapons of mass destruction would be ever present. From the Soviet point of view, the fact that this weapon had

35. Ibid., pp. 44-45.
been secretly developed and used without previous consultation to bring Japan quickly to the knees may have seemed an added reason for dealing with the United States as a suspected and potential enemy instead of a trusted ally and collaborator. Meanwhile various suggestions were made for a world government or some other kind of Supranational authority to challenge the new situation. Day by day people were losing faith in the efficacy of this international organization, and voices were being raised for the revision of the U.N. Charter to make it a better instrument for the promotion of world peace, prosperity and security. There are certain inherent defects, and certain other factors which are proving to be the antithesis of the pacific settlement of disputes or the maintenance of security.

The Charter of the United Nations is in the words of Mr. Vollet, "over simplified in some respects and unnecessarily complex in others."

The Charter purposes and principles which were to provide guide lines to members in the discharge of their responsibilities as members were more in the nature of principles than rules or

law capable of judicial interpretation. In any case, it was made clear when the Charter was drafted that the interpretation of these purposes and principles was an act which individuals retained the right to perform.

The provision of veto for the "Big five" (U.S.A., U.S.S.R., China, U.K. and France) has been proved the main obstacle in the way of smooth working of United Nations. Which the major powers supposed to be necessary for the maintenance of international peace and security has proved to be a forum of Cold war between East and West.

The authority and functions of the United Nations have been limited by clause 3 of the Charter relating to the domestic jurisdiction.

The International Court of Justice has no compulsory jurisdiction over legal disputes arising between the individual Members.

The amending procedure of the Charter is too rigid. Although Article 108 establishes a somewhat different procedure, it is certain by no easier than that envisaged in Article 108. A permanent member can not, by its negative vote, prevent the convening of a General Conference, under the terms of paragraph 2

of Article 109, however, a permanent member can prevent an amendment to the Charter from coming into force by failing to satisfy it. The process of amendment is just as long and just as difficult under one article as under the other.

The time factor is important in another respect. When the U.N. Charter came into force in 1945, there were only 51 members. The membership has now reached about 144. At the San Francisco the role of smaller and middle state was not a brilliant one. But the emergence of new nations in Asia and Africa changed the power balance. The U.N. must change and learn to respond to new realities of international life if it is to be more effective. In the three decades that have elapsed since the United Nations was established, the world has not stood still. Important changes have taken place in the world political system. The United Nations has in the course of functioning in a changing world environment become a quite different organization from that which was envisaged in 1945. Many constitutional developments through informal changes have been taking place in the U.N. system. But it should be kept in mind that there are important differences in the results produced by such methods and by amendments. The informal

42. Wilcox & Nercy, Proposals for Changes in the U.N., pp. 27, 29, 30, 35.
changes are much less permanent in character, while a formal amendment is firmly embedded in the Charter for years to come. A formal amendment, once in effect, is binding on all the Members of the United Nations. Some may question the legality or the constitutionality of the changes so far made in the United Nations. The only provision in the Charter relating to its interpretation is the one implied in Article 106, under which the General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion "on any legal question." Such opinions, however, have no binding legal effect.

CHAPTER II

PROVISIONS FOR EFFECTING CHANGES IN THE U.N. CHARTER

FORMAL PROCEDURE OF THE AMENDMENT,

ARTICLE "108" AND "109"

On the occasion when the President of the United States presented the Charter of the United Nations to the Senate in 1945, he made a statement to the possibility of modifying the document in future to meet the changing needs. He said: 'Improvements will come in future as the United Nations gain experience with the machinery and methods which they have set up. For this is not a static treaty. It can be improved — and, as the years go by, it will be — just as our own constitution has been improved.'

This statement shows that the framers of the U.N. Charter realized the fact that the world of the future would require a flexible Charter. The necessity of incorporating a formal amending procedure was recognized at the very initial stage. The Dumbarton Oaks proposals contained the following provision for amendment of the Charter:

"Amendments should come into force for all members of the organization, when they have been adopted by a vote of two

thirds of the members of the General Assembly and satisfied in accordance with their respective constitutional process by the members of the organization, having permanent membership on the Security Council and by a majority of the other members of the organization.

At the San Francisco Conference, the formal amending process, which was bound up with the problem of the veto, became the subject of great controversy. Many of the provisions of the Charter — especially those relating to the privileged position of the great powers — were the result of uneasy compromises and had been agreed to only after long and painful negotiations. At the San Francisco Conference, two different methods of amending the Charter were finally agreed upon. One procedure is set forth in Article 106 and the other in Article 109. Article 108 is a modified version of the provision of the Dumbarton Oaks proposals and runs as follows:

"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 satisfied in accordance with their respective constitutional process by the members of the organization, having permanent membership on the Security Council and by a majority of the other members of the organization."

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"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 satisfied in accordance with their respective constitutional process by the members of the organization, having permanent membership on the Security Council and by a majority of the other members of the organization."


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."

Two distinct steps are incorporated in Article 108.

First Stage:

The procedure of amendment begins with the adoption of a resolution by the General Assembly. A qualified majority of two-thirds is necessary.

Second Stage:

Amendments adopted by the General Assembly do not come into force until ratification by two thirds of the membership, including ratification by all permanent members of the Security Council. This enables any of the Great Powers to veto an amendment, regardless of the overwhelming or, indeed, unanimous support it may have received from other Members of the Organization. On the other hand, once an amendment is ratified by the requisite majority, it becomes binding on all Members, not excepting those voted against it in the General Assembly or have withheld ratification.


It is clear that the initiative as well as the preliminary choice in regard to amendment lies with the General Assembly; the concurrence of the Security Council is not required at all. If the proposal is not acceptable to two thirds of the members of the General Assembly it fails. But the veto comes into play as soon as the initial stage is over. Thus any one of the permanent members can prevent the entry into force of an amendment even though it may be ratified by all other members of the U.N.O. Article 108 provides quite clearly that satisfied amendments "shall come into force for all Members of the United Nations."

Now a question arises that, does Article 108, then provide a flexible process of amendments? Different writers have given different views. In one sense, even though the five major powers (USA, USSR, UK, China, & France) have got the special privilege of veto, the amending process set forth in the Charter is a comparatively flexible one.

B.N. Mehrish observes that, "in some respects, the Charter of the United Nations is much like the constitution..."


of the United states. Both are fairly rigid in character because they contain rather difficult amendment procedures. The U.N. Charter like the U.S. constitution, was designed to lay a broad base for an institution, which might develop to meet changing needs.

The Inclusion of Article 108 in the Charter — A Political Expediency.

The procedure set forth in Article 108 was not enough, and a large number of participants — particularly 'the middle and smaller states' were not ratified with the Charter as it emerged at San Francisco Conference. Some delegates argued that they would be unable to secure ratification of the instrument in their states unless assurances could be given that with a reasonable period of time, there would be an opportunity to review the Charter and strengthen its provisions in the light of experience. For this Article 109 was developed, providing for a general conference for review or revision of the Charter. It was the result of an attempt to set up a second method of amending the Charter different from and easier than that found in Article 108. Apart from its rigidity, Article 108 provided only for 'peace meal' amendments,

9. Wilcox & Marcy, Proposals for Changes in the U.N., p. 27.
i.e. occasional modification of one Article or another; it offered little scope for a broad scrutiny of the provisions of the Charter in the light of its practical working.

1. "A General Conference of the Members of the United Nations shall 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/ffect when ratified in accordance with their respective constitutional process by two thirds of the 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.

Amendment to Article 109, which come into force in 1968, raised from seven to nine the number of votes required in the Security Council to convene a General Conference for reviewing the Charter.

Article 109 was introduced in the Charter after a prolonged and heated debate. On the opening day of the San Francisco Conference, the United States delegation agreed on the text of an article to be inserted in the Charter. This new Article provided that a General Conference to review the Charter might be called when-ever three quarters of the General Assembly and any seven members of the Security Council so voted. It also provided that any amendments recommended by a two thirds vote of such a conference would take effect when ratified by two thirds of the Members of the Organization, including the five permanent members of the Security Council. There are essentially the provisions of first two paragraph of Article 109, as they were accepted by the Conference. But some delegations at San Francisco Conference wished to go beyond that. They argued that the convening of the General Conference should be made easier, and a date for the Conference should be indicated. This point also became a controversy between two groups of delegates. Some insisted that a fixed date be set, preferably five or seven years after the establishment of the new organization. Other group of delegates, following the lead of Brazil and Canada, suggested (primarily this idea appeared by Brazil in a suggestion to require the General Assembly to meet every five years to consider Charter revision) that the Conference might be made mandatory at some undesignated time within a period of five to ten years. The sponsoring governments were bargained

down to a compromise formula enacted into Article 109 of the 13
Charter.

No guarantee was provided that the proposed General
Conference would be convened within a definite period of time,
it was laid down that 'the proposal to call such a Conference
shall be placed on the agenda' of the tenth annual session
of the General Assembly if such a General Conference had not
been held before that session. Thus a time limit of a kind
was introduced, but it did not mean that a General Conference
will be convened on any fixed date. The only assurance is that
the question of calling the conference will be placed on the
agenda of the General Assembly, after ten years have elapsed.
This in itself is not a concession of any great moment because
under the Rules of procedure of the Assembly, any Member has
the right to request that an item be placed on the agenda, and
the Assembly approves its agenda by a simple majority vote.

One significant concession, however, should be noted.
If ten years elapse, and the question of calling a General
Conference is automatically placed on the agenda of the Assembly,
the decision to call the Conference may be taken by a majority
vote of its members instead of the two thirds vote required

13. E.H. Mehmish, *International Organizations Structures and
Processes*, p. 387.
under paragraphs one of Article 109. This decision must be concurred in by an affirmative vote of any seven (now nine) members of the Security Council. A permanent member can not, by its negative vote, prevent the convening of a General Conference.

Basically, however, there is little difference from a legal point of view between Article 108 and Article 109. The General Conference contemplated in Article 108 has the same composition as the General Assembly referred to in Article 108. In both cases each Member of the United Nations would be represented and would have one vote likewise, any amendment approved by either the General Assembly or the General Conference would require a two thirds vote of the entire membership of the United Nations.

Any 'alteration' or 'amendment' would come into force under exactly the same procedures — namely, through ratification, in accordance with their constitutional processes, by two thirds of the Members of the United Nations including the five permanent members of the Security Council.

14. Wilcox and Marcy, p. 29.

Thus the privilege given to the permanent members of the Security Council under Article 108 remains in tact under Article 109(2).

Article 109, as it was finally adopted, provides no easier process, from a legal point of view, for changing the Charter than does Article 108. The process of amendment is just as long and just as difficult under one article as under the other. And there is no reason to suppose that a fundamental change in the Charter that has been rejected by the General Assembly would muster any more support in a General Conference called under Article 109.

But one important difference between Article 108 and 109 should be noted. Article 109 envisages a 'review' of the Charter, which might be something quite different from the revision or amendment contemplated in Article 108.

According to some commentators, 'the General Conference procedure would seem to have greater psychological than substantive importance. Psychological importance lies in the apparent readiness of the Great Powers to provide opportunities for reviewing the Charter periodically and in the expectation of

'the middle and smaller' countries that the privileges of the permanent members of the Security Council would be subject to assessment in the light of experience.

The inclusion of Article 109 in the Charter was treated by the Great Powers as a temporary political expedient, an unreal concession to the susceptibilities of the 'middle and smaller' Powers whose concurrence was necessary in 1945 for the establishment of an effective International Organization. Whatever their initial attitude might have been, the Great Powers were not prepared after 1946 to work the arrangement contemplated in Article 109 in a constructive and accommodating spirit.

Wilcox and Marcy argued that there are certain practical benefits of the amending procedure incorporated under Article 109. The proposals for constitutional amendment could be discussed more easily in a General Conference called for the purpose than in an ordinary session of the General Assembly in which the attention of the Members would be diverted to an 'over flowing agenda.'

They further argued, "the atmosphere in a General Conference, or indeed, in a special session of the General Assembly called for reviewing the Charter, should be much more conducive to a balance appraisal of the various arguments relating to review and revision. That would be the task of such a conference or special session. It would be convened for that specific purpose. Delegations would be briefed on the issues involved and would have instructions from their governments."

As far as theory is concerned this argument is not without substance, but historically it has been found to be wrong. On the whole, proposals for reviewing the Charter have been approached from the standpoint of political interest and the desire for a balance appraisal of the various arguments has played quite a major part in the controversy.

Thus, it is obvious that the great powers were not interested in Charter review particularly in matters which affected their privileged position. That is also the reason for introducing certain rigidities in the amending process of the Charter. These are two basic issues which the great powers

20. Ibid., pp. 30-31.
would not like to give up. One such issue is the balance of relationship between the five major powers, (U.S.A., U.S.S.R., U.K., China and France) and the other small and middle powers. The other basic issue is the relation between the great powers themselves. The 'veto' of the five permanent members of the Security Council is well safeguarded in the amending process of the Charter and they are not obliged to lose this privilege without their consent. It is well known that since the beginning the Soviet Union has consistently opposed any attempt at revision of Charter, particularly the attempt to modify the unanimity rule among the 'Big Powers'. But the attitude of the United States has been changing with the changing circumstances.

On the tenth Anniversary of the United Nations in 1955, The United States made extensive preparation for Charter review. The American Senate authorized a sub-committee of the Committee on Foreign Relations to study proposals on the Charter revision. But at 2323rd plenary meeting, of General Assembly, on 17th December 1974, the United States made a statement against the revision of the Charter:

"In the opinion of my delegation, it is far more likely to lead to a strengthening of the United Nations than any

attempt at whole sole review of the Charter."

"We do not view the Charter as some rigid, inflexible document which would force the realities of the present, the immediate past, or the future into a mould suitable only for the world of 1945."

In 1956, during the 10th session of the General Assembly, there was great interest in Charter revision. Many private organizations in the United States, such as the Brookings Institution, the Carnegie Endowment for International Peace, the International Law Association and the Commission to study the Organization of Peace, also manifested an interest in the problem of Charter revision. But the world opinion and international politics in 1956 was not in favour of holding the Conference. So far it has not been summoned and this item remains on the agenda of the General Assembly.

The U.N. Charter has been formally amended five times during the period of thirty years. Amendments to Article 23, 27 and 61 of the Charter were adopted by the General Assembly on December 17, 1963 and these entered into force on August 31,


\[\text{\textsuperscript{24} B.N. Mehrish, p. 360.}\]
1965, by which date a total of 95 states had ratified the amendments.

An amendment to Article 23 increased the membership of the Security Council from eleven to fifteen, five permanent members (U.S.A., U.S.S.R., U.K., China and France) and ten non-permanent members.

Article 27 of the Charter, as amended, provides nine votes for the adoption of resolution by the Security Council instead of seven. All procedural and non-procedural matters accordingly require nine votes for adoption; but resolution on non-procedural matters (i.e. substantive matter) are to be adopted by nine votes which should include the concurring votes of the five permanent members of the Security Council.

Under an amendment to Article 61 which took effect in 1965, the Economic and Social Council was enlarged from 18 to 27 members. In 1971, the Assembly approved a further amendment to increase the Council's membership to 54. The amendment entered into force in 1973.

Amendment to Article 109, which came into force in 1968, raised from seven to nine the number of votes required in the Security Council to convene a General Conference for reviewing
the Charter, (including date and place).

Informal Amendments of the U.N. Charter:

As far as the informal changes are concerned: United Nations with the passage of time and changing world environment became a different organization that was envisaged in 1945.

It is well known fact that when the procedure of amendments (formal) incorporated in a Charter or a constitution of an organization are too rigid to allow necessary changes, other ways and means will be found to achieve the desired ends. When certain provisions of the Charter have proved to be inapplicable, substitute arrangements have been improvised.

The Charter of the United Nations since it's birth has been subjected to variety of informal amendments: (1) through the non-implementation of certain provisions of the Charter, (ii) Through a process of informal Charter interpretation; (iii) Through the conclusion of supplementary treaties or organs agreements; and (iv) through the creation of 'Special/and agencies.'


These informal changes have affected the provision of the Charter although the text has been unchanged. In some cases they have created gaping holes in the document as it was drafted at San Francisco. In other cases they have merely filled the gaps. In still other cases they have charted new paths of progress for the U.N.

Some important articles of the Charter have already fallen into disuse. Others have been applied in a way that those who participated in the San Francisco had not imagined.

Non-implementation of Certain Provisions of the U.N. Charter:

In a number of instances, organs or Members of the United Nations have disregarded or have failed to implement certain provisions of the Charter. As a result, several articles which the framers believed were highly important in making the United Nations an effective instrument for maintaining world peace, have already fallen into disuse. The best example is Article 43. According to this Article (43) the members of the United Nations agreed to make available to the Security Council the armed forces, assistance and other facilities necessary for


the purpose of maintaining international peace and security. But due to the internal politics of the major powers, the agreements referred to in Article 43 have never come into existence and that provision of the Charter remains a dead letter. The similar situation exists with respect to Article 44, 45, 46, 48 and most of Article 47, which relate to the use of armed forces by the Security Council and which are largely contingent on the entry into force of Article 43.

The collective security system was put on test in Korea in 1950 and it was a failure. A major development thus took place in the U.N. System. It was the emergence of the peace keeping operational function known as 'preventive diplomacy.'

**Interpretations of the Charter By Various Members and Organs of the United Nations:**

Article 96 (1) of the Charter says: "The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any "legal question."

Under Article 96 (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

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29. Wilcox and Marcy, pp. 11-12.

the Court on legal questions arising within the scope of their activities."

This is the only provision in the Charter relating to its interpretation. The decisions of the International Court of Justice have no binding legal effects. In practice, the organs and Members of the United Nations have felt free to interpret the various articles of the Charter as they have seen fit. Consequently, any interpretation that a provision of the Charter might reasonably have, in the opinion of a majority of the Members, can prevail in any particular instance. This flexibility in the Charter had led to a number of developments. One of the most significant of these developments relates to the all important questions of voting in the Security Council. Article 27 (3) of the Charter provides that for other than procedural matters decisions of the Security Council are to be made by an affirmation vote of seven members (now nine) including the concurring votes of the permanent members."

There was no provision about the abstention of the permanent members. But when the Soviet Union was absent from the meeting of the Korea's question in 1950, a convention was developed that if a permanent member abstains then it is not

regarded as a veto. With only four permanent members present, the council had taken decision to solve the existing problem in a way hardly contemplated by the signatories of the Charter at the San Francisco Conference.

Thus the new interpretation of Article 27 (3) has introduced a substantial change in the council's procedure of voting.

Article 73 (e) is also interpreted in a way that it modified the provision regarding nonself government territories as not incorporated in the actual text. According to that Article the Member States are obligated to submit to the Secretary-General, "for information purposes, "data of a technical nature relating to the economic, social, and educational conditions in the non-self-governing territories for which they are responsible. This language does not grant to any U.N. organ the authority to deal with the information furnished or to make recommendations about it.

The General Assembly, however, has gone considerably beyond the letter of Article 73. In 1949 it created a Special Committee/Res. 332 (IV), Dec. 2, 1949. This resolution established the especial committee for a period of three years.

to examine the information transmitted and to submit reports thereon to the General Assembly.

The Assembly has gradually expanded its influence in the process of decolonization. Another significant change in the powers and functions of the U.N. has taken place in the interpretation of Article 2 (7) of the Charter, commonly called the 'domestic jurisdiction' clause, which has always been invoked by South Africa. The General Assembly has out-rightly condemned South Africa for its racial politics and its links with Western countries and has allowed its own interpretation to prevail.

The most important of the changes effected through 'informal amendments' relate to the shift of emphasis from the Security Council to the General Assembly. At the San Francisco Conference, much emphasis was placed on the primary responsibility of the council for the maintenance of world peace. It was so organized as to be able to function continuously. Armed forces were to be placed at its disposal. It could make decisions binding on all Member States. The Assembly, on the other hand, was designed to be a much less powerful organ. It was scheduled to meet in regular annual sessions. It was to have no armed forces at its disposal. It could not make decisions binding on Members. Its main weapons were discussion and debate and control

of the United Nations purse springs. By the 1950 it had become clear that the Security Council on account of lack of unanimity among its members was incapable of dealing with breaches of peace promptly. Failure of the Security Council had been witnessed in the case of Korean conflict when the U.S.A. passed a resolution in the absence of the U.S.S.R. "Uniting for Peace Resolution" was basically meant to provide the General Assembly with effective means to check the escalation of small disputes into large conflagration. By various devices, including the creation in 1947 of the Interim Committee, ways and means have been found to keep the Assembly in continuous session if necessary. This committee was established by a resolution of the General Assembly in 1947 for one year, continued in 1948 for another year, and re-established indefinitely by a resolution of the Assembly in November 1949. The purpose of this committee was to strengthen the Assembly to take action in certain cases.

Today, the Assembly may be convened in an emergency session within 24 hours. It may make (within certain limit) recommendations to the Members for collective measures, including

34. Wilcox and Marcy, p. 16.
37. Res. 295 (IV), Nov. 21, 1949.
Apart from the powers of the Assembly the influence exercised by the Secretary General has been one of the important developments within the United Nations.

**Supplementary Agreements:**

The Charter of the United Nations has been further developed by supplementary agreements entered into between its Members. There are many examples of such agreement. Article 57, for instance, provides that "various specialized agencies, established by inter governmental agreement and having wide international responsibilities" shall be brought into relationship with the United Nations; Article 63 describes how these agreements that have thus been entered into supplement the provisions of the Charter and anyone seeking to understand the exact nature of the relationship of the United Nations to the specialized agencies would need to become familiar with them.

Again, Article 79 states that "the terms of trusteeship for each territory to be placed under the trusteeship system" shall be defined in an agreement approved by the appropriate organ of the United Nations. These agreements supplement the

38. Wilcox and Marcy, p. 16.
Charter provisions regarding the powers and duties of administering authorities and must be considered an essential part of the Charter system.

Again Article 104-105 give the United Nations and its officials, and the representatives of Members rights, privileges, and immunities which are considered necessary to the functioning of the organization. These rights, privileges, and immunities are defined in detail in the convention on the Privileges, and Immunities of the United Nations, approved by the General Assembly on February 13, 1946, and the Agreement between the United Nations and the United States of America Regarding the Headquarters of the United Nations, signed June 26, 1947.

The most significant changes that have taken place as a result of the conclusion of such agreements as the Brussels Pact, the Inter-American (Rio) Treaty of Reciprocal Assistance, the North Atlantic Treaty, and the Southeast Asia Collective Defence Treaty. These agreements as a result of bilateral or multilateral treaties either fill up some gaps in the Charter or overlap it.

Creation of Special Organs:

The creation of a large number of "subsidiary organs" under the authority given to the General Assembly and the Security Council has some constitutional significance within the U.N. system.

Under the Article 22, "The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions."

Article 29 reads, "The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions."

Many standing committees and commissions have been set up under the Rules of Procedure of two bodies. As on March 1953 there were at least 38 subsidiary organs of the General Assembly and 3 of the Security Council.

These committees and commissions are largely designed to facilitate the proceedings of the two most important organs of the United Nations. Their authority cannot go beyond the authority possessed by the "parent organs" and they are accountable to it. However, they do constitute a significant part of

42. E.N. Mehrish, p. 304.
43. Wilcox and Marcy, p. 21.
the U.N. structure. Some of these are of a relatively permanent nature and other are ad-hoc organs. Interim committee of the General Assembly, the International law commission, and the Disarmament Commission, are some of the examples of the permanent commissions and committees, Commission for India and Pakistan, the Special Committee on the Balkans, the Palestine Conciliation Commission, the U.N. Commission for the Unification and Rehabilitation of Korea, and the Peace keeping operation in the Congo, (ONUC) were created on ad hoc basic.

The Soviet Union has vigorously opposed the creation of subsidiary organs on constitutional grounds especially Soviet Union and its satellites challenged the legality of the Interim Committee. They argued that this body was created with a view to circumvent the authority of the Security Council. They charged that the Committee possessed such broad powers that it was equal in rank with the Assembly and consequently did not constitute a "subsidiary organ" with-in the meaning of Article 44.

It has also challenged the legality of the U.N. Commission for the Unification and Rehabilitation of Korea and the Peace-keeping operation in the Congo. It has been argued by the Soviet Union that some of the changes that already have come about, many of which were developed as the result of American-leadership 44. Ibid., p. 22.
are of the type that should have been submitted for approval under the formal amending procedures provided in the Charter.

**Impact of the New Nations:**

Apart from these informal procedures for the constitutional development the balance of power of the U.N. has also changed due to the emergence of third world (Afro Asian Nations). The story of past thirty years since the birth of the United Nations charter - is highly concentrated history. It is the history of vast shift and realignment in power arrangements throughout the world.

The most significant change due to the emergence of the new nations has been the decline in the American predominant position in the U.N.

The influx of new members is certainly a blow to the U.S. ability to mobilize votes in the U.N. General Assembly for its policy of using that organ to further its security interests in the United Nations.

45. Ibid., p. 33.


This resulted in part from the fact that the majority of U.N. members at the time had a common interest in resisting what they perceived to be the threat of communism, this interest being expressed in their membership in various self defence arrangements such as the NATO and the Inter-American Treaty of Mutual Assistance. This support weakened, however, when the United States sought to use the General Assembly to organize resistance to military intervention by the People's Republic of China in Korea in 1950-1951. The danger of activating a wider war involving the Super Powers, with consequences made even more serious by the Soviet possession of nuclear weapons, caused many of the earlier supporters of the United States to become hesitant and to favour more conciliatory gestures. This attitude of the members of the General Assembly was strengthened and became dominant with the influx of new non-aligned states during 1960's.

In 1970, the U.S.A. used her veto for the first time. In early 1971, the U.S.A. joined the U.K. and France in leaving the Special Committee on Colonialism. In 1972, she succeeded in trimming about 15 percent of her obligatory share of the U.N. budget on the ground that she found herself over-burdened with much of the bill for peace keeping, mainly due to her involvement in Viet Nam.

At the U.N. General Assembly annual session in 1974 the United States and some of its allies were angered over certain decisions taken. The U.N. members belonging to the Third World were accused of being 'selfish and seekless.'

The United States and its allies further argued that at this session some 'frightening precedents' were created and 'a string of unconstitutional, illegal and arbitrary decision' were taken. To them the 'string of irresponsible acts and decisions' comprise the General Assembly's invitation to the Chief of the P.L.O., Yasser Arafat to address it and conferment of permanent observer status on the P.L.O., its refusal to permit South Africa to take its seat, and its near successful attempt to replace the Lon Nol regime by Prince Sihanouk's nominee as the Genuine representative of Khmer Republic (Cambodia). In UNESCO, Israel was charged of altering the historic character of Jerusalem and then excluded from membership of its European regional Committee. The U.S. distress upon the Assembly's actions in 1974 was expressed by U.S. Ambassador, Mr. John Scali, and is considered as "a sinister conspiracy" of the Communist members, Africans, Arabs and non-aligned nations to organize 'an anti Western Coalition' Commanding majority in the U.N. The USA also threatened to stop-funding the U.N.

What ever may be the United State's criticisms over the Assembly's actions in 1974, it is a fact that the U.N. can not
ignore the new realities of international politics. Another
significant factor that shaped event at the U.N. during 1974
was "the emergence of Arab Oil Power, further loosening of
western aid strings in the wake of its own economic crisis and
the marked diminution in Washington's role as a world leader.

It cannot be denied that political uncertainties during
two years of Watergate, the emergence of the present weak
leadership and its seeming helplessness in resolving its economic
crisis has affected the U.S.A. of the impressive figure it
cut in yesterday's word.

The U.N. is now a very different organization from what
it was in 1945. At the San Francisco Conference the U.N. Charter
was signed by the delegates of only 50 nations. Now the member-
ship has reached about 144. The new nations are demanding the
revision of the Charter in the light of changing needs and
circumstances. Certain provisions of the Charter have in fact
been amended through these informal procedures. But, of course,
to there are definite limits/such changes which could be brought
about by this method. They have to be carried out within the
legal and constitutional frame work of the Charter and cannot,
therefore, permit any basic change in the text of Charter.

Times, December 6, 1974.
50. B.N. Mehrish, International Organization Structures and
Processes, p.385.
51. Quoted in M.S. Rajan, The United Nations and Domestic
Jurisdiction, Asia Publishing House, Bombay, 11ed, 1961,
p.385.\textsuperscript{52}A.H. Feiler, The United Nations and World Community
The movement for revision of the Charter started even before the document was signed. At the San Francisco Conference, after the Yalta formula on voting in the Security Council was included in the Charter, most of the Latin American Republics, together with many other members of the Conference, declared themselves in favour of a thorough revision of the Charter after a certain period of time had elapsed. As the delegate of one of those Latin American countries put it, the veto right was reluctantly accepted, as a war time transaction for a transitional period. It was in recognition of this prevailing attitude that the present wording of Article 102(3) of the Charter was drafted, although it did not completely satisfy the wishes of a majority of middle and small states.

It has been said that the Charter was a compromise between the fears of the small and the hopes of the Great Powers; it has now become an attempt to reconcile the fears of the Great Powers and the hopes of the smaller ones.


After the San Francisco Conference, two Latin American delegations, those of Cuba and Argentina, took the initiative to submit, in 1947 and 1948, proposals for the calling of a general conference to amend Article 27 of the Charter. The Cuban delegation raised the question of the abolition of the veto in 1947, standing that, a year's experience had convinced that delegation, which had been the first to declare its opposition to the principle of unanimity at San Francisco of the fact that its objections were justified.

By a letter of 18 July 1947, the Argentine delegation requested that an item concerning 'convocation of a general conference under Article 109 of the Charter to abolish the privilege of the veto' be placed on the agenda of the Second session of the General Assembly. On 28 August, the Argentine delegation submitted a draft resolution which provided that the proposed general conference should be convened three days after the second session. These suggestions, however, did not get much support in the Assembly. Many members argued that the time had not come yet, and that any proposal for revising the Charter was premature.

The United States delegate stated in 1946 that his government did 'not favour a hasty attempt to amend the Charter.'

Between 1948 and 1953, when a general debate on review of the Charter took place during the course of the eighth session of the Assembly, the United Nations paid relatively little attention to the problem of amending the Charter. The most effective argument that has been used in opposition to suggestions that the Charter should be amended, has been that it would be more logical to wait until 1955 when Article 109 would automatically come into effect. But most of the countries did not stop pressing their point of view in favour of revision.

At its eighth session the General Assembly considered three items dealing with a possible review of the Charter.

Argentina, proposed that the Assembly entrust the Secretary General with the task of preparing a study of the interpretation of the Charter by various Members of the United Nations and other basic documentation.


6. Ibid., p. 39.

The Netherlands suggested that Member states be invited to submit their preliminary views on the amendments they planned to offer. Egypt proposed the creation of a special technical committee charged with the responsibility for undertaking certain necessary preparatory work. Various opponents to these ideas, including the Soviet bloc, argued that any preparatory work at so early a stage 'would be premature', 'harmful to the United Nations' and illegal under the Charter. The General Assembly by a vote of 54 to 5 adopted a resolution in November 1954 which requested the Secretary General to prepare and circulate among Members (a) a systematic compilation of the documents of the United Nations Conference on International Organization (San Francisco Conference); (b) a complete index of the documents of that Conference, and (c) a reportory of the Practice of United Nations Organs. Most of the documentation requested by the General Assembly was prepared by the Secretariat and circulated to member states before and during the tenth session of the Assembly and periodic supplements to the reportory have been issued.

It is significant that a number of Member states, including Israel, the Netherlands, New Zealand and the United Kingdom,

pointed out that the decision to undertake preparatory work should not be interpreted as favouring a general conference but rather as a step designed to help the tenth session of the Assembly decide the question in a logical manner.

The tenth session of the General Assembly on November 21, 1955, established a committee composed of all the members of the United Nations to consider, after consultation with the Secretary-General, the question fixing an appropriate time and place for a conference. The Committee was requested to report its recommendations to the twelfth session of the General Assembly in 1957; moreover, the Secretary General was requested to complete and continue the publication programme undertaken pursuant to the Assembly's resolution of November 27, 1953.

The representatives of the U.S.S.R. and Poland stated that their delegations would not be able to take part in the work of the Committee or in any action aimed at reviewing the Charter. In December 1955, the Security Council adopted a resolution in which it expressed its concurrence in the Assembly's decision.

Result of the Tenth Session of the General Assembly:

On the 10th Anniversary of the U.N. in 1955, there was great interest in Charter revision. The role of the United States was a brilliant one. The U.S. made extensive preparation for Charter review. The American Senate authorized a sub-committee of the Committee on Foreign Relations to study proposals on the Charter revision. Many private organizations in the United States, such as Brookings Institution, the International Law Association and the Commission to study the Organization of Peace, had made a great contribution in the problem of Charter revision. But the state of world opinion and international politics in 1955 was not auspicious for holding the Conference.

Since the beginning the Soviet Union has consistently exposed any provision for the revision of the Charter, particularly the matters which affected the privileged position of the major powers.

The Soviet Union and its satellites not only voted against the proposals but also against even placing the matter on the agenda of the Assembly. The Soviet representative Mr. Vyshinsky in September 1953 while attacking the suggestion

made by Secretary of State Mr. Dulles that a Conference for review of the Charter can be of major importance, said:

'There is very indication that the campaign for the revision of the Charter is to be turned into a cold-war campaign in order to arouse reactionary sentiments and thereby to increase international tension.'

In 542th Plenary Meeting of the tenth session of the General Assembly the delegate of the United Kingdom Sir Pierson Dixon stated: "The time has not yet come to hold a review conference, and that we should dismiss the problem of Charter review from our mind for another five, ten, or twenty years. But I do not agree with this view. The fact that a task is difficult does not mean that we should refuse to face it. So the conclusion that I draw is a different one: that we should move ahead, but with due circumspection."

United Kingdom although did not openly oppose the idea but adopted a cautious and non-committal attitude. The attitude of France was not much different from that of the United Kingdom. China Nationalist also did not show any interest in the matter largely because this could have upset her own position in the United Nations.


Although it is obvious that a majority of the Members of the U.N.O. were in favour of the conference, and some Latin American states even advocated the revision of the Charter. They expressed the view that they accepted the voting procedure in the Security Council as laid down in Article 27(3) "only on the understanding that reasonable use would be made of the veto and that veto would not be a permanent institution." The Arab-Asian states must be placed in the same category. During the eight and ninth session of the General Assembly, Egypt, Lebanon, Pakistan, the Philippines, and Syria spoke in favour of a Conference.

But as far as the Indian view is concerned, Mr. Krishna Menon, speaking on behalf of the Government of India, said at San Francisco and again during the tenth session of the General Assembly: 'On this question of revising the Charter I am asked to say, on behalf of the Government of India, that our general view is that if the Charter has to be revised, it would require agreement; if there was agreement, there would be no need for revision.' Wilcox and Marcy have given the details of the principal proposals, particularly those advocated by private

persons and agencies in the United States and by the Executive and Legislative branches of the United State's Government.

The Tendency to make the U.N. A Supranational Government:

The appearance of the atomic bomb only a few weeks after the San Francisco Conference, developed a greater urgency towards the supranationality of the U.N. The fear that man was developing the potentiality of self-destruction faster and more efficiently than had been anticipated at the San Francisco Conference seemed to mobilize support for those who believed that the United Nations should have been cast in a different mould. These factors led to a resurgence of proposals to strengthen the United Nations by giving it some of the attribute of a super state. A number of proposals of this kind have emerged supported by private groups and organizations, such as the United World Federalists, reached a peak in 1950, when a Sub-committee of the Senate Committee on Foreign Relations held lengthy hearings to consider proposals to revise the United Nations Charter. The sub-committee considered a variety of proposals four of which are based on the supranational principle in some form. These plans provided for (1) a federal world government with broad powers; (2) a federal world government of Limited Powers; (3) a revision of the Charter to eliminate the veto in matters of aggression, control of atomic and other
armament, and to establish an international police force; and (4) a federal union of the North Atlantic democracies.

It also considered a proposal for a supplementary pact under Article 51 of the charter to enable the United Nations to take more expenditures action against aggression.

The Plans for a World Federation:

Three of the principle groups urging world federal government are the United World Federalist, the World Association of Parliamentarians for World Government, and the Committee to Frame a World Constitution. World federation plans are based on the general proposition that peace can not be maintained so long as the world is organized as a group of sovereign, independent states.

The "ABC" Plan:

The Citizens Committee for United Nation's Reform, had given an idea for "ABC" - Plan.

"ABC Plan" consisted the following:

(1) Eliminate the great power veto; (2) Limit the manufacture of weapons by quantity and type so that they could

17. Wilcox and Marcy, (fn.5), pp. 57-59.
18. Ibid., pp. 61-62.
not be used for aggressive purposes; and (3) create a United Nations police force, backed by national contingents, capable by joint action of preventing aggression.

A number of proposals of this kind were not acceptable to the General Assembly. There was no assurance there supranational proposals, if adopted, would lead to democratic government.

Grenville Clark and Louis b. Sohn in world Peace Through World law, have given a comprehensive Plan to change existing international system into a new world order through disarmament under some measure of enforceable world law. They modified each and every Article of the Charter which was drafted and signed by the delegates of 50 nations at San Francisco Conference in 1945. The summary of the Plan is given here:

Main features of Clark and Sohn's Proposals:

(1) Membership: Through the revision of the provisions of the Charter relating to membership, is provided in order to further the universality of the United Nations.

(2) The General Assembly: A radical revision is proposed as to powers, composition and method of voting of the

General Assembly. The General Assembly would turn into a world Legislature.

(3) **The Security Council**: The Council would be replaced by an Executive Council, composed of seventeen Representatives elected by the General Assembly itself. This new and highly important organ would not only be chosen by the Assembly, but would also be responsible to and removable by the Assembly, and free from the veto power. The new Council would serve for the same four years terms as the Representatives in the Assembly. It would have the power to direct and control the world inspection service and the world peace force.

(4) **The Economic and Social Council and the Trustship Council**: These Councils would be continued, with important changes as to their composition and functions, and with much stronger financial support under the new revenue system.

(5) **The Disarmament Process**: Clark and Soin consider that general and complete disarmament is one of the essential pre-conditions for world peace and stability. They also consider it important for the world to accept an enforceable universal law against the use or threat of force in international relations. The disarmament plan also includes provisions for a United Nations Nuclear Energy Authority with dual functions: (a) to assist the Inspection Service in guarding against possible
diversion of nuclear materials to any war-making purpose, and
(b) to promote the world wide use of nuclear materials and
processes for peaceful purpose.

(6) **A World Police Force:** To punish or deter the
breakers of world law there would be a world police force.

(7) **The Judicial and Conciliation System:** There would
be a judicial or conciliation system for the peaceful settle­
ment of inter-state disputes and a world development authority
to reduce economic disparities between nations.

(8) **Enforcement and Penalties:** The plan envisages
a variety of enforcement measures, including the prosecution
in United Nations regional courts of individuals responsible for
a violation of the disarmament provisions.

(9) **World Development:** The plan further provides for
the establishment of a World Development Authority, whose func­
tion would be to assist in the economic and social development
of the under developed areas of the world, primarily through
grants - in aid and interest free loans. This authority would
be under the direction of a World Development Commission of five
members to be chosen with due regard to geographical distribu­
tion by the Economic and Social Council, subject to confirmation
by the General Assembly.
(10) **United Nations Revenue System**: There would be a new United Nations Revenue System to give financial support to various new agencies.

(11) **Privileges and Immunities**: For the successful operation of an effective world organization to maintain peace, a body of genuinely international servants of high morale is very essential. For this purpose there would be a guarantee to preserve the rights and privileges of all United Nations personnel and the limitations thereon.

(12) **Bill of Rights**: Clark and Sohn proposed for a Bill of Rights having a two-fold purpose: (a) to emphasize the limited scope of the strengthened United Nations by an explicit reservation to the Member Nations and their peoples of all powers not delegated by express language or clear implication; and (b) to guarantee that the strengthened United Nations shall not in any manner violate certain basic rights of the individuals, that is to say of any person in the world.

(13) **Ratification**: The proposed requirements of the revised charter are: (a) that ratification shall be by five sixth of the world's nations, including all the twelve largest nations (China, India, USA, USSR, and Brazil, France, West Germany, Indonesia, Italy, Japan, Pakistan, and the United Kingdom) (b) that each nation's ratification shall be by its own constitutional process.
(14) **Amendment:** Any future amendments would be submitted for ratification when adopted by a vote of two thirds of all the Representatives in the General Assembly, whether or not present or voting, or by a two thirds vote of a General Conference held for that purpose. In order for an amendment to come into force, ratification by four fifths of the member Nations would be required, including three fourths of the twelve member Nations entitled to fifteen or more representatives in the Assembly.

(15) **Continued Organs and Agencies:** Clark and Sohn emphasized that subsidiary organs and agencies have played important role and that it is essential to preserve and strengthen them.

As far as the significance of Clark and Sohn's proposals is concerned, they did not get much attention. Their proposals were not supposed to be accepted either by the Eastern bloc or Western bloc. While dealing with the problem of the Charter review they were more radical and optimistic. In reality these proposals could not get much support. Mr. B.F. Mehrish in International Organizations, Structures and Processes, has criticised: "The Clark Sohn proposals would be of some value for academic

interest and discussion only."

Rajni Kothari's Suggestions:

Dr. Rajni Kothari on the occasion of the American Society of International Law, expressed his ideas for the future world order. He suggested that inequality and dominance should be removed and the Big Powers should not use smaller and poor nations to safeguard their national interests. Small and middle States should get an opportunity to strengthen their political condition.

Dr. Kothari suggested that the following changes should be brought about in the nature of the international political system:

(1) There should be a complex of welfare and cultural institutions at the world level and a code of economic and social conduct.

(2) There should be an international political structure to represent all the nations of the world.

(3) There should be a set of institutions designed to protect human rights and standards of Justice, such as an

authoritative Court of Justice, a Council of World Justists and a Commission for Human Rights and Social Justice.

(4) There should be a world security system that will both enable a significant transfer of resources from "defence" to "development" and minimize condition of violence.

(5) Before 2000 A.D. total unclear disarmament and significant reduction of conventional arms should be achieved. Besides a World Armed Force - small in size and non continuous basis should be set up to curb genocidal violence.

Dr. Kothari's views are more or less similar to the proposals of Clark and Sohn. Dr. Kothari is radical and optimistic too. His views seem more theoretical and he does not take into account the realities of the current international situation.

The Charter of the United Nations, signed at San Francisco Conference on June 26, 1945 by the representatives of fifty nations, was not the task of one or two persons. It was a product of evolutionary development. Innumerable meetings and negotiations were held, controversial issues between big and smaller nations on the one hand and among major powers on the

other of course not permanently were solved. After various heated debates compromise formula was adopted.

Even though all the small states represented at the San Francisco Conference signed the Charter, they were not satisfied with it.

It is obvious that such radical changes as suggested by the proponents of World Order Models Project may not be either acceptable or practicable.

A detailed description of the proposals which have been made from time to time by governmental or non governmental agencies is not possible here. An examination of proposals, however, indicates that they can be categorised.

(1) Since the very beginning numerous suggestions have been made to abolish the veto power or at least to modify the principle of unanimity establishing an international police force, and by moving toward the creation of some kind of Supranational Organization. The struggle to curb the veto was resumed during the first session of the General Assembly which adopted a resolution asking the permanent members to make very effort to ensure that the use of the special voting privilege does not empele the Security Council in reaching decisions promptly. However, the efforts of the General Assembly to secure some limitations on the exercise of the veto had evidently proved
unsucessful. Great Powers were not and would not be interested in what affected their privileged position.

(2) Secondly there are proposals that would not change the nature of the system but would seek to improve its operations by giving life to articles of the Charter. The proponents of these proposals did not want to change the whole structure of the organization but they wanted to modify the Charter in order to meet the existing situation. Establishment of 'Interim Committees' in 1947, and the Uniting for Peace Resolution of November 3, 1950 etc., are the examples. Although the uniting for Peace Resolution has been subjected to scattering criticism from many directions. The Constitutional and legal validity of the resolution was challenged. It was asserted that the General Assembly is not competent to take enforcement action. But going to the spirit of the Charter, and not sticking to its letters, the resolution can be justified on grounds of the objectives of the U.N.O. and in the interest of international peace and security.

(3) Third type of proposals were to reduce the authority of the United Nations by limiting its activities in the field of enforcement action or in economic, social, and humanitarian matters.

(4) Fourthly there are suggestions to alter radically the nature of the present Organization, not by moving in direction
of supranationality, but rather by changing the composition of the United Nations through the expulsion of certain states or the withdrawal of others.

(5) Afro-Asian and Latin American states have demanded for economic and social change. They suggested that Economic System should be restructured. They had no contribution in U.N. Making. But now the world political scene has changed. The U.N. must change and learn to respond to new realities of international life if it is to be more effective.

(6) There are the plans to make the U.N.O. an Universal Organization by eliminating virtually all criteria for membership and by simplifying procedures for admission. However, in some cases, the applications of some entities had been rejected on political grounds. In the first four years of the Security Council's history the Soviet Union cast forty-three vetoes, almost half or 28 have been used to block the admission of new members. One of the main reasons for the excessive use of the veto by the Soviet Union was to oppose pro-Western policies as there was dominance of the West in the Security Council. Most of the countries have been vetoed on a political grounds.

Changes in the United Nations system may come about in a variety of ways other than by amending the charter. As pointed out earlier, the Charter has been profoundly influenced during the past thirty years by interpretation, custom and usage, the failure on the part of Member states to implement certain articles, the passage of various organic type resolutions by the General Assembly, the conclusion of various treaties or agreements including regional defence pacts, and by the emergence of new nations.

It is fortunately for the peace of the world that the Charter has been liberally interpreted. The most spectacular example of a liberal interpretation of the Charter occurred with the adoption of the Uniting for Peace Resolution. It provides that if the Security Council, because of the lack of unanimity of its five permanent members, fails to act on an apparent threat to the peace, breach of the peace, or act of aggression, the Assembly itself may take up the matter within twenty-four hours in emergency special session - and recommend collective measures, including, in the case of a breach of the peace or act of aggression, the use of armed force. The work of the Secretary General has expanded.

In the introduction to his annual report for the years 1968-69 the U.N. Secretary General Dag Hammarskjold said: 'The

statement of objectives in the Charter is binding, and so are the rules concerning the various organs and their competence, but it is not necessary to regard the procedure indicated in the Charter as limitative in purpose. They may be supplemented by others under the pressure of circumstances and in the light of experience if these additional procedures are not in Conflict with what is prescribed.

It is true that a written constitution such as the Charter can be changed by various means which are pointed out in details in Chapter II. But these informal changes which have been brought about in Charter more or less are under the constitutional limits. Some of the proposed changes, however, can only come by formal amendment: for example, a change in the formal amending process, and the grant of authority to enable the General Assembly to make decisions instead of recommendations. There is always a division of opinion in the General Assembly over the Charter review.

Many strong opponents of the Charter review criticised that the United Nations has shown a remarkable capacity to take on new tasks, to adjust to a changing world, and to meet new and unforeseen challenges with in the conceptional and organizational framework laid down by the Charter. And revision or

review of the Charter would make the organization weak.

The exponents of a review conference insisted that far-reaching changes have taken place in the world since the San Francisco Conference, that the Charter has become outmoded in some respects, and it must change to meet the realities of the new world. The most significant of these changes, which supporters of the review constantly referred, are the emergence of atomic and nuclear weapons, vast and continuing technological changes, the rapid birth of many new independent nations, closely inter-related global economic and social problems etc.

Secretary John Foster Dulles pointed out, that the Charter "was obsolete before it actually came into force."

Philippine representative Romulo has argued the case before the General Assembly as follows:

The United Nations was not built to cope with the problems of an atomic age in which we now live. Another way of putting this idea is to say that, in the short space of nine years, the Charter of the United Nations has become dangerously obsolete to the degree that under its existing provisions the organization is powerless to act effectively to forestall universal catastrophe.

But most of the proposals to review the Charter that have been made are directed to change the voting formula in Article 27, either by eliminating the veto or by modifying it in some particular respect. Many times veto was used on a political ground. Since the very beginning the excessive use of the veto by the Soviet Union was to oppose pro-Western policies. During the first decade Security Council was dominated by the Western powers, and most of the members were not friendly with Soviet Union.

By contrast, the U.S.A. used her veto for the first time in 1970. One of the main reasons was that the support by a majority in the Security Council as well as in General Assembly made it unnecessary for the United States to resort to the veto.

Thus it is obvious that many changes have taken place in the world political system. The political complexion of the United Nations has also changed. The U.N. must change and it should respond to voices of new nations which had hardly any role in the making of the U.N. Charter. After the tenth session of the General Assembly in 1955 there appears to have been some decrease in interest among the Member states regarding the idea of a conference. In 1974-75, more than twenty one years later, the winds of change has blown strongly across the United Nations.

That is why the General Assembly has recently appointed a Working Group, to make certain preparatory steps which might clear the way for an eventual review of the Charter. The details of the work of Ad-Hoc Committee is given in Chapter IV.
Establishment of Ad Hoc Committee on the Charter of United Nations:

In 1953, at the instance of the delegations of Argentina, Egypt and the Netherlands, the General Assembly adopted its first resolution on Charter review, a resolution which asked for certain preparatory steps to be taken which would facilitate the holding of a review conference under the provision of Article 109 paragraph 3 of the Charter.

Again in 1974-75, the General Assembly at its 2323rd Plenary meeting on the recommendation of the Sixth Committee adopted resolution 3349 (XXIX), which established a 42-member committee to discuss the observations received from Governments and to consider proposals that Governments might make, 'with a view to enhancing the ability of the United Nations to achieve its purposes.'

The Ad Hoc Committee on the Charter of the United Nations concluded a four-week session on 22 August during which it heard the views of representatives of 35 countries on enhancing

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the effectiveness of the Organization. The Committee adopted a report to the General Assembly containing a brief summary of views expressed but made no recommendation for action. The report was to be considered by the General Assembly at the session scheduled to begin on 16 September. The Committee began its work on 28 July. The following items were placed under the resolution of General Assembly adopted on 17 December 1974.

The General Assembly:

Recalling its resolutions 282 (X) of 21 November 1966 and 2286 (XXII) of 5 December 1967 concerning the procedure for the review of the Charter of the United Nations.

Recalling further its resolutions 2552 (XXIV) of 12 December 1969, 2687 (XXV) of 11 December 1970 and 2968 (XXVII) of 14 December 1972 entitled 'Need to consider suggestions, regarding the review of the Charter of the United Nations.' The Assembly mentioned five of its previous resolutions, but these resolutions do not include the resolution of 1963.

Taking note of the observations which were submitted by Governments in response to the inquiry made pursuant to resolutions 2687 (XXV) and 2968 (XXVII) and which are set out in the reports of the Secretary General.

Having heard the views expressed by Member States concerning the need to consider suggestions regarding the review of the Charter of the United Nations during the consideration of the item at various sessions of the General Assembly, including the twenty-fourth, twenty-fifth, twenty-seventh and twenty-ninth revisions.

Reaffirming its support for the purposes and principles set forth in the Charter.

1. Decides to establish an Ad Hoc Committee on the Charter of the United Nations, consisting of 42 members to be appointed by the President of the General Assembly with due regard for the principle of equitable geographical distribution, with the following aims:

   (a) To discuss in detail the observations received from Governments;

   (b) To consider any additional, specific proposals that Governments may make with a view to enhancing the ability of the United Nations to achieve its purpose;

   (c) To consider also other suggestions for the more effective functioning of the United Nations that may not require amendments to the Charter;

   (d) To enumerate the proposals which have aroused particular interest in the Ad Hoc Committee.

2. Invites Governments to submit or to bring up to date their observations pursuant to General Assembly resolution 2697 (XXV), if possible before 31 May 1975.

3. Invites the Secretary General to submit to the Ad Hoc Committee his views, as appropriate, on the experience acquired in the application of the provisions of the Charter with regard to the Secretariat.

4. Requests the Secretary-General to prepare, for the use of the Ad Hoc Committee, an analytical paper containing the observations received from Governments and the views expressed at the twenty-seventh and twenty-ninth sessions.

5. Requests the Ad Hoc Committee to submit a report on its work to the General Assembly at its thirtieth session.

6. Decides to include in the provisional agenda of its thirtieth session an item entitled 'Report of the Ad Hoc Committee on the Charter of the United Nations'.

The president of the General Assembly, after appropriate consultations, appointed the following 42 Member states as member of the Ad Hoc Committee: Algeria, Argentina, Brazil, China, Colombia, Congo, Cyprus, Czechoslovakia, Ecuador, El Salvador, Finland, France, German Democratic Republic, Germany (Federal Republic), Ghana, Greece, Guyana, India, Indonesia, Iran, Italy, Japan, Kenya, Liberia, Mexico, Nepal,
Nigeria, New Zealand, Pakistan, Philippines, Poland, Rwanda, Sierra Leone, Spain, Tunisia, Turkey, Union of Soviet Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Yugoslavia and Zambia.

The Ad Hoc Committee on the Charter of the United Nations met at United Nations Headquarters from 28 July to 22 August 1976. All the state members of the Ad Hoc Committee took part in its work. The Ad Hoc Committee devoted its 5th to 17th meetings, held between 4 and 20 August to a general debate, during which the following 35 Members made statements. Algeria, Argentina, Brazil, China, Columbia, Congo, Cyprus, Czechoslovakia, Ecuador, France, German Democratic Republic, Germany (Federal Republic), Greece, Guyana, India, Indonesia, Iran, Italy, Japan, Kenya, Mexico, New Zealand, Nigeria, Philippines, Poland, Rwanda, Sierra Leone, Spain, Tunisia, Turkey, Union of Soviet Socialist Republic, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia and Zambia.

Continuing Debate: New Proposals:

Algeria: The Government of Algeria stated that the review of the Charter is the most delicate question facing the
United Nations. The subject is such a sensitive one that there is a constant tendency to evade the issue and to concentrate on interpreting the original thinking behind the Charter, although the vast majority of the present Members of the United Nations had no part in its formulation. Government of Algeria pointed out the abuses of the veto privilege of the Major Powers. Although she is not against this privilege, "If the right of veto constitutes a privilege, it also entails duties and obligations which must be respected if international life is to proceed smoothly. It is hard to accept cases where a power with the right of veto uses it incompatible with international peace and Security."

Argentina: The Government of Argentina since the very beginning was in favour of a review conference. It argued that there is a general need to give an opportunity to all Members of the organization to express their views in the light of the experience gained and practice evolved over the years.

Brazil: The Brazilian Government also supported the view for a revision of United Nations Charter. The Dumbarton Oaks proposals omitted the idea of review. The idea appeared, then to have been originated by Brazil in a suggestion to require the General Assembly to meet every five years to consider Charter revision.
China: The Chinese delegate speaking on behalf of his Government, said, 'The review of the U.N. Charter is one of the major issues now facing the United Nations. During the last session, the United Nation's General Assembly adopted a resolution by overwhelming majority to establish an Ad Hoc Committee on the Charter of the United Nations. This is a result of victorious united struggle waged by the numerous small and medium countries, first and foremost the third world countries. In recent years, more and more countries in the world have attached importance to the question of the review of Charter.'

He further argued, 'the representatives of many countries have pointed out that since the charter was formulated 30 years ago tremendous changes have taken place in the world and that as the Charter can no longer reflect these changes in a number of respects, it is only natural that necessary revision should be made in the Charter on the basis of adherence to the purpose and principle of the Charter.'

In our related statement at the last session of the General Assembly, the Chinese delegation clearly pointed out that since the formulation of the United Nations Charter, tremendous changes have taken place both in the world situation and in the United Nations itself and that in particular with its
emergence and growing strength the third world is playing an
ever more important role in international affairs. However,
owing the super power control and obstruction the United Nations
has failed to reflect fully the just demand and views of the
numerous third world countries. The Chinese Government firmly
supports the reasonable stand and legitimate desire of the
medium countries for a change in the status quo of the United
Nations and the necessary revision to its Charter, and we are
ready to join other countries in a serious discussion of the
question of the review and revision of the Charter.

The Chinese delegate accused the two super powers of
not wanting to change their commanding role in the U.N., because
the U.S.A., the U.S.S.R. and the U.K. joined by France and other
states did not support the idea for revision of United Nations
Charter.

Colombia: The Government of Colombia charged that
Chapter XI and XII Chapter XIV and XV of the Charter are falling
into disuse. The Chapter X, on the Economic and Social Council,
must be reviewed so that it can become a far more effective
instrument of action.

Colombia proposed that, if doubts arise in the Security
Council or the General Assembly about the statehood of a country
wishing to become a Member of the United Nations, the matter should be decided by the International Court of Justice. Accordingly, the General Assembly should define the general conditions of statehood. It proposed that it would be desirable to eliminate the requirement referred to in Article 48, that of a two-thirds majority vote in the General Assembly and unanimity among the permanent members of the Security Council for the admission of a new state, 'since membership is neither a gift nor a favour, but a full right of a country which becomes a state, joins the organization and accepts its principles and rules.

At the San Francisco, Colombia very reluctantly approved the veto system, but it finally accepted it in a spirit of political realism as a reflection of the post-war situation.

Colombia suggested that unanimity of the five members of the Council, that is the veto, should not be required for appointments to fact finding missions or commissions of inquiry.

It further argued that Chapter VII of the Charter is not fully practiced and a 'Permanent Peace Keeping Force, should be established.

It suggested that the Trusteeship Council should be converted into a new body to be called the 'Human Rights and Trusteeship Council.'
Congo: The Congo Government proposed that the veto power of the Big Five should be abolished and all decisions should be adopted by a two thirds majority. It supported the revision of U.N. Charter as it is not a perfect document.

Cyprus: Cyprus proposed that Article 99 should be reformed and Article 53-106 - 107-109 also be deleted because it refers to an event which was due to occur 17 years ago. The tremendous technological development of the past 30 years have naturally affected the then existing outlook in several fields and established new priorities for the United Nations. U.N.O. must change but any wholesale or general review would lead to risks. Changes should be brought about in international economic order and the solution of social and other problems in keeping with the principles and the spirit of the Charter.

Czechoslovakia: The Government of Czechoslovakia is not in favour of reviewing the U.N. Charter but on solving real and pressing problems with regard to the strengthening of international peace and security, General and complete disarmament under effective international control etc. Czechoslovakia is satisfied with the working of the United Nations and observes that during the period of thirty years the organization has achieved great successes in realizing the aims laid down in the Charter.
Ecuador: According to Government of Ecuador, a serious and conscientious study of the Charter would be necessary, if it is recognised that the world of today is a different world from the one that existed when the Charter was born, and if it is further recognised that the Charter of the United Nations should change in some respects.

France: It is pointed out earlier that France opposed the revision of Charter by giving the argument against it: 'What is required is not a review of the Charter but the strict application of its provisions and full utilization of the possibilities that it affords.'

German Democratic Republic: The Government of German Democratic Republic is of the view that ineffectiveness of the United Nations in the peace and security matters is not the fault of the Charter, but lack of political will on the part of some Members of the organization. The only effective way to increase the effectiveness of the United Nations would, therefore, be to strictly fulfil its provisions. Any changes in the United Nations Charter imply the danger of new obstruction to the growing cooperation of the states.

The Federal Republic of Germany:

The Federal Republic stated that: 'We shall have to act like a good and considerable doctor who tries to cure his patient
by using the least innocuous drug first. Surgery, even of the most skilful and sophisticated nature, should not be applied where there is the slightest danger of the patient's vitality being diminished or even completely destroyed.'

The Federal Republic favoured the limited changes to specific provisions of the Charter, and that many of the obvious shortcomings might be cured, given the political will of all concerned, with in the existing framework of the Charter which is in itself an efficient instrument of change. Necessary adjustments might even be achieved by adding something to the existing structure rather than by altering it.

**Greece:** The Government of Greece thought that in case there were specific proposals regarding revision or improvement of certain parts of the Charter, there should be accompanied by a concrete assessment as to how these proposals, if accepted, would enhance the implementation of the resolution and decisions adopted by United Nations organs, particularly by those entrusted with the maintenance of peace and security.

**Guyana:** Guyana proposed to transform the Trusteeship Council into a human rights Council; and to make the International Court of Justice enable to enforce international law or to settle international disputes.
India: According to Indian Government the Charter of the United Nations have been reviewed and elaborated by means of legal instruments such as declarations, definitions, treaties etc. There are also many United Nations Committees, Commissions and other organs that are currently examining the working of different areas of the Charter and applying them to cope with new problems not envisaged when the Charter was written. There are many problems to be solved but to change and revise the wholesale Charter is not the only alternative.

It is more important in the view of Indian Government to find practical solutions to the problems facing than revising the Charter, which can not be an end in itself.

Indonesia: Indonesian Government is of the view that some of the failure may be the truth of a lack of political will on the part of some of the Members, it is equally true that they may be the result of structural inadequacies of the Charter. The Charter was drafted 30 years ago to serve the needs of the international community after the Second World War. Tremendous changes and developments on the international scene have occurred since, changes and developments which have in fact profoundly affected the functioning of the organization itself. The Charter must be able to cope with those changes and developments and to respond adequately to new challenges and problems of global
magnitude. For the organization to continue more effective, it is necessary to undertake a review of the Charter for the purposes of seeking measures whereby its shortcomings could be remedied. Such a review would entail an exchange of views and a thorough evaluation of the proposals made during the exchange, which may or may not lead towards a revision.

Indonesia argued that permanent members of the Security Council have abused their privilege of veto to block the admission of legally qualified States or to block the will of the majority of the Members to implement certain principles and objectives of the U.N., including those embodied in the Universal Declaration of Human Rights. It suggested that the Ad Hoc Committee should consider the possibility of finding a way to limit the use of veto, and there should be a formula based on special majority rule — in which the unanimity of all permanent members would not be required for decisions on certain matters other than enforcement actions contemplated in Article 42-54 of the Charter. It further suggested that a change in the structure of Security Council will indeed lead towards more effective functioning of the Council. There should also be a standing commission which would provide the members with a broader choice of procedure for settling disputes. The main function of such a commission would be to act as a third party...
in a dispute. The procedures to solve the disputes should be peaceful.

**Iran:** According to Iranian delegate the Charter is a sound and workable legal instrument and has shown ample capacity for adaptation to changing circumstances. Various changes have taken place in order to accommodate the structure of various organs to the increased membership of the United Nations.

Iran is of the view that the very root of international problems lies in the continuing economic disparity between the 'have and have not' and the anachronistic nature of the international economic order. It is obvious that the very root of international crises lies in the structural maladjustment of the international economic system. A new set up of international economic relationship based on the equality and common interest of all countries would be more desirable. The existing economic order is to be revised. The Government of Iran appreciated the changes which were brought about twice in the structure of the Economic and Social Council.

**Italy:** The views of the Italian Government are more or less similar with those which argued that it is not necessarily true that the only possible cures, the amendment of rules written in the Charter.
The Government of Japan supported the need to review the charter by giving arguments that at the San Francisco Conference more emphasis was given to the problem of peace and security, but today not only are peace and security indivisible but the problem of "economic development", "inflation" "environment and resources" which have become matters of global concern, require global solutions in the frame work of the United Nations.

Kenya: By simply-ting the problem of revision of United Nations Charter, the Government of Kenya stated that "The proposed revision of Charter is, therefore, a matter of discussion, negotiation and argument. It is not the intention of the sponsors of the resolution to impose their will on others, but it is their intention that, given good will and understanding, the review should be undertaken without much difficulty. It is with this in view that my delegation, together with others, has put forward certain suggestions for consideration in connexion with the review of the Charter."

Mexico: Mexico's delegate expressed his view that revision of the Charter may bring some differences among the members of the United Nations. In Mexico's view that the fact of the matter is that the differences which divide us are the product of differences in the policies of sovereign states, and not of defects of this organization. Thirdly, the United Nations
Charter is a dynamic document and it has been possible to keep it up to date through a clear and important process of interpretation. In the view of Mexico, the structural changes which do not require an amendment to the United Nations Charter. Changes in the United Nations system may come about in a variety of ways other than by amending the Charter such as by 'non-application' of certain Articles of the Charter, for example, Article 43, Article 106 and Article 23, paragraph (1). Another method is the 'interpretation' of one or more Articles of the Charter, the most obvious and important of these undoubtedly that applied to chapter XII of the United Nations Charter.

Mexico is of the view that the Chapter on economic and social principles could be brought up to date with a series of elements approved up to now by the international community. It suggested a remedy that the Charter must be brought up to date, but this can be done through a slow and careful process which will not create greater confrontation than already exists, and through a process of negotiation which the Chairman of this committee and a group of representatives could very well lead. The government of Mexico advised to delete some of the provisions of the present Charter.

_New Zealand:_ New Zealand did not favour for a 'top to bottom' revision of the Charter. Neither, on the other hand, did it approve that the Charter should be treated as 'sacrosanct'. Specific provision is made in the Charter for its amendment and
for its review by a general Conference. New Zealand criticised the veto power and its abuses and called it a 'faulty premise' in the Charter. The Government of New Zealand favoured a change in Article 4, paragraph 2, of the Charter which would make admission of a new Member subject only to a two thirds majority vote in the Security Council and the General Assembly. A change in the present voting procedure would be desirable. Unanimity rule should not be abolished but some modification should be there. New Zealand did not favour to extend the privileges of permanent membership beyond the present five as some of the governments (India-Japan, West Germany, Brazil) are willing to play a leading role in the United Nations with that of some of the present permanent members of the Security Council. New Zealand favoured to remove the references to enemy states in Article 53 and the deletion of Chapter XVII, and further, Trusteeship system should be transformed into a human rights Council. The structure of Economic and Social Council should be expanded.

Nigeria: Nigeria objected that since the United Nations Charter came into effect, the world has undergone changes. According to some Members of Organization that the U.N. is perfect and therefore should not be made subject to review. This position contradicts the spirit and letter of Article 109, Paragraphs I and II, of the Charter in which the
founding fathers of the Organization in their wisdom made provision for the review and alteration of the Charter. They showed awareness of the fact that the world situation will continue to change as the world continues to mature. The Charter of United Nations should be changed to deal with the new problems not existing at the San Francisco Conference.

The Government of Nigeria is of the view that there is need to consider amending Article 27, Paragraph 3, so as to remove the veto power which has proved a major hindrance to Security Council actions and effectiveness. Nigeria further suggested that if the veto institution can not be abolished, then the privilege of veto should be extended to two regional groups of Africa and Latin America. Permanent membership of the Security Council should also be abolished and all members of the Security Council should be on a nonpermanent basis. If it is not possible the permanent membership should be given to two regional groups of Africa and Latin America too.

Philippines: In the view of Philippines it would be unrealistic in such a changing world, to expect an organization established in 1945 to be adequate in meeting all the challenges of the remainder of this century. These changes, including the rapid birth of many new independent nations, the impact of nuclear weapons, vast and continuing technological changes, closely interrelated global economic and social problems, to
maintain only a few, require an examination of the adequacy of the United Nations in the present day world. Philippines Government proposed for a: (a) standing conciliation and arbitration commission (b) the process of peace-keeping by observa-
tion and interposition should be spelled out in general terms and given a place in the United Nations Charter. (c) with respect to the Security Council both membership and its procedure should be amended, including that aspect involving the principle of unanimity. (d) The Philippine's Government also advocated, the strengthening of the International Court of Justice and the Economic and Social Council. (e) The Government of Philippines proposed the creation of a human rights Council.

**Poland:** Poland is not in favour of review or revision of U.N. Charter. In the view of the Polish Government strict respect by all the states for the purposes and principles of the Charter is the best way to strengthen this organization, to increase its role and make it a better and more effective instrument of co-operation among states, regardless of their size, level of development and political, economic and social systems. Given more good will and understanding, that better goal will be achieved with the present frame work of the Charter.

**Rwanda:** Rwanda is against the veto power, because the exercise of the veto has often relegated to the back ground or totally disregarded the principle of international community
(third world). The failure of the United Nations to have an impact on the South African political system and the Rhodesian rebellion constitutes an indisputable example of how the exercise of veto has consistently been an impediment to the moral conduct of the organization and its humanitarian concerns. It is therefore the view of the Rwanda that, now that post-war conditions no longer prevail, it is not only timely but necessary to adopt the statute of the United Nations. There is no need for leaving the guardianship of the United Nations in the hands of a few Member states. The Government of Rwanda stated:

'For, just a very child has to be cared for and reared by his parents or some one else until he becomes an adult, so in the beginning, the organization may also have needed such God parents. In the view of my delegation, the United Nations, which is 30 years old, is sufficiently mature to do without that guardianship and to build up its strength on new foundations adopted to the current international situation. We shall not delve into the reason why its maturity was not recognised earlier, when, for example, it reached the age of 18, the age at which all minors (at least in Rwanda) are emancipated and gain the right to exercise their civic rights and duties.'

Rwanda further commented: 'But we know that some children are precocious and others remain under their parents wings. Even
beyond the age of 18. Is that to be the case with our organization, which at the age of 30 is still under the guardianship of a few members although the circumstances justifying that guardianship no longer exist?

Rwanda observed that the revision of the United Nations Charter is a way of building a more peaceful and realistic world.

**Sierra Leone:** The Government of Sierra Leone has criticised the views of the delegates who were against the revision of the Charter. Sierra Leone demanded to modify the provisions which are essentially related with the privileged position of the big five.

**Tunisia:** The Tunisian Government proposed that the General Assembly as the Plenary organ in which all states are represented, should be vested with greater power. Security Council is often swayed by its internal contradictions, the most recent example of this being its latest decisions on the question of South Africa and Namibia.

In the support of his views the delegate of Tunisian Government reported the statement of President - Habib Bourguiba:

'The most important and most immediate of these problems is to restore the authority and prestige of our organization by recognizing fully its responsibilities under the Charter and by
giving it the means to assume those responsibilities. Of course, the world has changed a great deal in 25 years; the organization has changed too. Therefore, it is necessary to find the adjustments which take into account those changes, especially the new forces for peace and progress that have released by decolonization.

**Turkey:** Turkish Government considered that it is not possible to undertake a total review under present international conditions. But it was interested more in discussions which will enhance the effectiveness and the authority of the organization.

**U.S.S.R.** Since the very beginning the Soviet Union has consistently opposed any attempt at revision of Charter. The attitude of U.S.S.R. is still more or less the same. U.S.S.R. wanted to make its position clear and argued that Charter is not an ordinary international agreement whose revision would affect the interests of only two states or a group of states. The Charter represents a unique universal treaty which, through legal and political means, protects the interests and rights of all states, without exception, regardless of whether they belong to the socialist or Capitalist social and economic system. The revision of the basic provisions of the United Nations Charter may have the most serious consequences for all Members of the international community and what is more important may irreparably damage the cause of strengthening world peace.
According to the Soviet Government the United Nations Charter has proved a remarkable capacity to take on new tasks, to adjust to a changing world, and to meet new and unforeseen problems with in the conceptual and organizational frame work laid down in the Charter. The increased membership of the United Nations is evidence not of the short comings of the Charter but of its strength and its acceptability to new states. The process of decolonization is the result of implementation of the Charter's purposes and human principles.

The membership of Security Council (ordinary membership) and the Economic and Social Council has changed. This is a response by the United Nations to the influx of new members.

The U.S.S.R. observed that the principle of unanimity plays a positive role in dealing with questions of maintenance of international peace and security, and Soviet Union vigorously objected any and all attempts to alter that principle. It is opposed to even raising the question of revision of the Charter.

The United States of America: United States advised that it is far more important to lead to a strengthening the United Nations than any attempt at whole sale review of the Charter. The Charter which was drafted at the San Francisco Conference was meant to stand the tests of time, to grow, bend and develop with the evolution of history and it is not a rigid document, it is rather flexible.
United Kingdom of Great Britain and Northern Ireland:
The U.K. supported the view of Indian Government that there are ways of achieving particular structural and functional changes without amending the Charter. No one can claim that charter is perfect document but can the process of review be pursued with endangering the structure and arrangements it provides? It is not desirable in the eyes of U.K. to revise the Charter of the United Nations.

Yugoslavia: Yugoslavia is of the view that if the United Nations has not been very successful in some of its various endeavours, it is not only because of any inherent defect of the Charter but also because of the unwillingness of some Member states to fully observe the principle of the Charter.

Zambia: The Government of Zambia is against the veto power as given to the five permanent member of the U.N.O. Zambia argued that the fate of the world should not be entrusted in the hands of five permanent members of the Security Council because their narrow interest are opposed to the interest and wishes of the vast majority of the peoples of the world. Big Powers should give up the veto power in the interests of world peace and Security. Zambia stated: 'As a state guided by humanism, Zambia values human life and welfare above ideology.'
It suggested that it is the time the five permanent members of the Security Council began to serve over the world instead of their narrow national interests. It further subjected that permanent membership of the Security Council should be altered to enable their world countries to be represented.

Zambia suggested a remedy that this might be on a rotational basis or through an equitable geographical representation.

Here Zambia agreed with the viewpoint of the Nigerian Government which also gave the same suggestions.

Turkey: Turkish Government argued that many of states which attended the San Francisco Conference adopted the U.N. Charter with the hope that it would be reviewed in the future. Paragraph 3 of Article 109 of the Charter was included in it as a compromise in order to satisfy the countries opposing some of the provisions of the Charter and insisting on convening a Charter review conference after a certain period of time. The possibility of convening a conference to conduct a 'general review' of the Charter was provided, apart from the provision of Article 109, by General Assembly resolution - 992 (X) of 21 November 1955, which stated that a review was desirable and that
a committee should be appointed to consider the question of fixing the time and place for a conference. According to the same resolution, the review 'should be conducted under auspicious international circumstances.' Although 20 years have passed since the adoption of this resolution, it was not possible to convene such a conference. In fact any conference for the purpose of reviewing the Charter involves the risk of weakening the effectiveness and authority of the United Nations instead of enhancing it.

Establishment of Special Committee on the U.N. Charter:

The summary of the proposals stated that there was a fundamental divergence of opinion on the necessity for carrying out a review of the Charter and that the Ad hoc Committee was unable to enumerate proposals but agreed to present the 35 statements. In addition to the observations of Governments on the Charter review the Committee had before it a note by the Secretary General setting forth his views on experience acquired in application of Charter provisions with regard to the Secretariat and a working paper submitted by Mexico proposing establishment of two subcommittees - one to study proposed amendments to the Charter; the other to consider proposals to

increase the ability of the United Nations to achieve its aims. The Committee took no action on that proposal. The committee adopted a report to the General Assembly containing a brief summary of views expressed but no recommendations for action. The report had to be considered by the General Assembly at the session scheduled to begin 16 September. The Assembly decided by consensus on 15 December that the Ad Hoc Committee established pursuant to Assembly resolution 3349 (XXIX) of 17 December 1974 should be reconvened as a special committee on the Charter of the United Nations and on the strengthening of the role of the organization to examine in detail the observations received from Governments concerning suggestions and proposals regarding the Charter, and strengthening of the role of the United Nations with regard to maintenance and consolidation of international peace and security, development of cooperation among all nations and promotion of international law in relation between states. The committee was requested to examine the proposals which had been made or would be made with a view to according priority to consideration of areas on which general agreement was possible. The Assembly decided to enlarge the 42 members committee by including five additional Member states: Barbados, Belgium, Egypt, Iraq and Romania.

The Secretary General was requested to prepare for the use of the Committee an analytical study of Government's views with respect to aspect of United Nations functioning, including those relating specifically to the Charter. The Assembly asked the Committee to submit a report on its work, an item which will be include in the thirty first Assembly session. The resolution was recommended by the sixth committee following the Committee's consideration of report of the Ad Hoc Committee on the Charter of the United Nations.

It was sponsored in the Committee by Bangladesh, Bolivia, Brazil, Indonesia, Chile, Colombia, El Salvador, Greece, Iran, Italy, Japan, Kenya, Lesotho, Madagascar, Mali, Mexico, New Zealand, Nigeria, Philippines, Romania, Sierra Leone, Spain, Tunisia, United Republic of Tanzania, Uruguay, Yemen, Yugoslavia, and Zambia.

During the debate in the committee, a divergence of opinion on the question was revealed. One group of countries favoured a gradual process of examination of different Charter provisions and of their validity in the situation with a view to enhancing the effectiveness of the United Nations in maintaining international peace and security. They placed special emphasis on the necessity of identifying areas of possible general agreement regarding revision or review and stated that,
in view of the delicate nature of the problem, changes should be agreed upon after detailed examination. One principle argument put forward in support of a review was that the majority of Members states had not taken part in the establishment of the organization at the San Francisco Conference and that its structure was insufficient for existing their influence in its activities and the Charter must be adopted to changes which had taken place since 1945. In a view of a number of delegations, the veto in the Security Council contradicted the principle of sovereign equality of states and was based on relations of domination and oppression, characteristics of a world where some state made all the decisions.

A number of the countries, on the other hand, defended the permanence of the principles and purposes of the Charter and expressed opposition to attempts to revise it under current conditions. They supported the strengthening of the United Nations role and the effectiveness of its activities based on strict and scrupulous observance of the Charter purposes and principles. They held that the division of responsibilities between the General Assembly and the Security Council was based on the reality of the two socio-political systems existing in the contemporary world and held that the cardinal principle of the unanimity of the permanent members of the Security Council had served and continued to serve as a strong barrier to the use of the Security Council for purposes contrary to maintenance of international peace and security.
The purpose of this study has been to trace the origins of the United Nations Organization and to examine the factors and forces behind the movement for the revision of its Charter which came into effect on October 24, 1945. It has been seen in Chapter I and again in Chapter III that the contemporary demand for revision of the Charter is nothing new as it constitutes a revival of the old demands made even before the Charter itself was signed.

Since the very beginning voices have been raised either to revise the whole Charter or at least to modify some of the provisions of the document which are essentially related with the privileges and positions of the Major Powers.

The United Nations Charter contained certain inherent defects and certain other factors which have proved to be the antithesis of the Organization. The United Nations came into existence some 30 years ago with high expectations that it would eventually prove more effective than its predecessor, the League of Nations, to maintain international peace and security, to promote the economic and social advancement and much else. The Charter of the United Nations, like other great documents, was the product of a turbulent era. It was
drafted toward the end of greatest war in history. It con-
templated an arrangement by which the great powers, allies of
the Second World War, could live in harmony and in common
agreement.

But it was a miscalculation in 1945 to assume that the
five Great Powers would remain united. It was another mistake
to assume that the increasing membership of the United Nations
would be content with the domination of the big five. Under
Article 108 and 109 there are provisions for the amendment and
revision of the Charter. The conference envisaged for in
Article 109, paragraph 3 of the Charter has never been convened.

Many of the smaller states which attended the San Francisco
Conference signed the U.N. Charter with the hope that it would
be reviewed in the future. The present wording of Article 109(3)
of the Charter was included to satisfy the countries opposing
some of the provisions of the Charter. It was believed that
Article 109 was flexible enough to amend and revise the Charter
in future easily. But the founders of the U.N. Charter were wise
enough to safeguard their special privileges and positions and
they did not wish to lose their privileges without their own
consent.

The irresponsible use of the veto in the Security Council
has done great harm to the prestige of the United Nations and
has pressurized the Members to change the existing U.N. system. As a result, numerous proposals have been made and fresh moves are in the offing. But none of the proposals has been perfect enough to fully satisfy all the Member states.

An analysis of the proposals reviewed in this study indicates that they can be grouped into four broad categories. Firstly, there are the views of the various Member states who believe that the Charter of the United Nations has proved a remarkably flexible document capable of growth and adoption in response to changing conditions and the emerging need of the international community. The basic purposes and principles as laid down in the Charter, are as valid today as they were 30 years ago. At the same time, changes have occurred through a process of interpretation, customs and usages. Hence the Charter is not in need of any drastic revision. They oppose the very idea of revision of the Charter. Secondly, there are the staunch proponents of the revision who suggested that the Charter need certain radical changes to meet the existing situations. They argued that the Organization created at San Francisco Conference has had to face, and to attempt to deal with, situations and problems which either did not exist or were not fore seen in 1945, or which it was then hoped, too optimistically, would not occur. The emergence of the nuclear weapons, rapid birth of many independent states, exploration of
outer space by the Major Powers, are some of the examples of unforeseen problems at the San Francisco Conference. Thirdly, there are various suggestions to modify some of the provisions in order to make the Charter a more up-to-date and effective document. Finally, there are advices calling for reducing the tension existing between the Member states and to create a friendly atmosphere which would secure international collaboration. Accordingly, the responsibility for ills and failures of the organization should be ascribed to the Members rather than its Charter. Therefore, it is not necessary to amend the Charter but it is only essential to minimize the global tension and to create a sense of morality among the members.

It is partly true that the root of the trouble lies in the controversy between the two power blocs into which most of the Member states are divided. Today several other power centres exist. In an examination of the role of the U.N.O. in the handling of international disputes one may say that the U.N.O. has succeeded, to some extent. But the U.N.O. has not proved to be more effective to achieve the peace and prosperity for which it was founded, the phrase which occurs no less than 31 times in the Charter. As Professor S.A.H. Haqqi has observed: 'If the League of Nations had been powerless and failed to properly deal with Italy's invasion of Ethiopia; the Civil War in Spain; Japan's attack on China; the rape of Austria and
Czechoslovakia; the Second World War, the U.N.O. could not or would not stop and prevent Dutch aggression in Indonesia, French imperialism in Indo China and North Africa, racial discrimination and oppression in South Africa; cropping up of the huge ring of military bases in Germany, Greece, the Near East and the Middle East, the Pacific Islands and Japan; the remilitarisation and the absorption of East Europe by Russia; the violation of peace treaties by Hungary, Romania and Bulgaria and above all the division of the world into two blocs.

But, at the same time, the significance of the U.N.O. can not be denied. The Organization has played a constructive role in many fields. In the following cases U.N.O. played an 'extensive' role:

- Indonesian Independence, 1945-49
- Palestine, 1945-49
- Kashmir, 1947 to present
- Korea, 1947-53
- South Africa, 1948 to present
- China: Taiwan, the U.N., 1950-71
- Indonesia and West Irian, 1960-62
- Cyprus, 1954-59 and 1963 to present
- Suez, 1956


Lebanon and Jordan, 1958
Congo, 1960-63
Morocco - Mauritania, 1958-69
Yemen, 1962-67
Gibraltar, 1963 to present
Indonesia - Malaysia, 1963-66
Rhodesia, 1965 to present
Arab-Israeli Conflict, 1967 to present

In the economic and social field the U.N.O. has also achieved a lot. The Charter authorized the U.N.O. to promote cooperation in the solution of 'international problems of an economic, social, and humanitarian character'; established the Economic and Social Council as the organ to carry out these responsibilities. ECOSOC is also assisted in the performance of its substantive duties by a series of functional commissions. Apart from these committees and commissions there are 'Special bodies.' One of them is the United Nations International Children's Emergency Fund (UNICEF), which enjoys a certain amount of independence from ECOSOC control. The work of the United Nations at the regional level in the economic and social field is something to be reckoned with. The Economic and Social Council of the U.N. together with the United Nations Educational, Scientific and Cultural Organization (U.N.E.S.C.O.), and other specialised agencies promotes better social, economic,
educational and health conditions and respect for human rights and fundamental freedoms for all. The educational and scientific missions of the UNESCO are at work in different parts of the world to advise governments on public school education and to make scientific knowledge available to meet economic needs.

Nations may ignore the significance of United Nations for a moment, but usually return to it as the only means to meet the world problems. The membership of the organization is increasing day by day. As the third decades of the United Nations elapsed, one hundred and forty four (144) nations are bound by obligation of the Charter. Recently Surinam and Comoro have got membership of the U.N. More nations are willing to get the membership of the Organization.

The future of the United Nations depends upon the extent it strives to become an effective organization away from the power politics. In order to strengthen the United Nations, it is generally suggested that, the veto power of the Big Five, in the Security Council should be minimised. The use of the word 'Major Powers' or 'Big Five' creates a sense of inferiority in the other nations. This is also against the principles of the U.N. Charter which is based on the basic 'Principle of Sovereign Equality of all its Members.'

The only provision in the Charter, relating to its interpretation is the one incorporated in Article 96, under which the General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion 'on any legal question.' Such opinions, however, have no binding legal effect. In practice, the organs and Members of the United Nations have felt free to interpret the various articles of Charter as they have seen fit.

This condition should not prevail, only the International Court of Justice should have the power to interpret the U.N. Charter. The Court should be given compulsory jurisdiction over all disputes.

The production of atomic weapons and other weapons of mass destruction must be prohibited. Atomic energy should be under the control of the United Nations.

The domestic jurisdiction clause of the Charter seriously restricts the authority of the organization. The U.N. Charter did not authorize the organization to 'intervene in matters which are essentially within the domestic jurisdiction of any state.'

5. Ibid., Chapter XIV, Article 96.


7. Ibid., Chapter I, Article 2(7).
It is very difficult to contemplate that when a particular matter of national concern becomes a concern of international politics, it is suggested that paragraph 7 of Article 2 of the Charter should be modified.

The Members of the United Nations should have an open mind with regard to the admission of new nations. Politics should not enter into the question of admission of new members. All peace-loving States ready to accept the obligation of membership should be admitted into the U.N.

The provision of Article 109(3) of the Charter should be made operative. With the emergence of new nations it has becomes quite possible to convene a general conference for the revision of the U.N. Charter as provided in the Article 109(3). In the making of the U.N. Charter the new nations had hardly any voice. The United Nation, therefore, must respond to their feelings and aspirations.

Above all, the most important pointis to develop a sense of Constitutionalism among the Member states. The first and foremost requirement is not to draft a perfect document but to respect the aims and principles of the Charter. For example, in Great Britain a great part of the Constitution is unwritten. Usages and conventions play an important role.
They do not have any legal force behind them but they are obeyed and respected like the written provision of the Constitution. Because the British people have a sense of constitutionalism.

Last but not the least, under these circumstances, we can say that although the U.N. Organisation does not fulfill all the hopes it was created with, it also does not mean that it has been a useless entity or no longer needed. The U.N. Organization came into existence about thirty years ago, and since then the situation has changed a lot. The third world states generally, and most of the Afro-Asian states, particularly, are demanding that the U.N. Charter be revised according to their wishes and the needs of changing time. They demand certain modifications in the Charter and are stressing the need to accord due importance to Economic and Social systems built in the Charter.

During these thirty years of the life of the U.N.O., only five amendments in its constitution have been made. There also have been certain changes in informal ways, which have been described earlier. But at the moment it is essential to use the Article 109(3) of the Charter and a general conference be called to discuss the difficulties in the revision of the Charter and to find such a solution which satisfy all the big and small nations.
The wishes of the majority of the members can not be suppressed for a long time. Today the situation has changed and the power balance has shifted from a minority to the majority of the international community. United States does not hold the same position today, which it held in 1955. Small states, have also learnt a lot from their experience during this period and they are no longer prepared to dance to the tunes of the few big powers. Today they do not approve of the special privileges accorded to five major powers 30 years ago. These privileges could be justified at the San Francisco Conference but not today.

However, we still can not deny that to incorporate any new provision, the consent of these five big powers is still required. And these five permanent (The U.S.A., U.S.S.R., U.K., China and France) of the Security Council should take note of the changing world condition and adopt flexible attitudes. Because they cannot, forever, sit with an stiff upper lip. If not today, tomorrow they will be forced to give in to the wishes of the Third World, for no body can deny the historical fact that the voice of the majority can be suppressed with power only for a short while and not for all time to come.
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