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U.N.O Security Council and General Assembly

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ABSTRACT

The United Nations Organization (UNO) is a global institution conceived to execute the law, guarantee security and civil rights, and encourage economic development and social advancement for nations throughout the globe. It currently has 193 member nations and two established spectator institution that is restricted from voting. Its base is situated in Manhattan City.

United Nations Security Council, established in 1945, imposed the preservation of international peace and security, also accepting new members to the UN and accepting any advances to the UN charter. And UN General Assembly is the principal ruling body of the organization and is the most representative body too in the UN.

This Article briefly discusses two of the six principal organs of the United Nations that is about Security Council and General assembly, along with various means of settlement with the object of bringing awareness among readers of the significance of the UN Security Council and General Assembly playing its role in preserving International Peace and Collective Security.

After reading the entire article, the reader will understand the importance of the UN Security Council and General Assembly and get a brief idea of other aspects of International Law about the Security Council and General Assembly.

Keywords: *international peace, collective security, UN Charter, UN General Assembly, UN Security Council*

I. INTRODUCTION

On the relationship of collective security with the peaceful settlement of disputes, there are 2 views. The initial view is both terms are two sides of the same coin. The other view is that they are opposed to each other.

The first part of Article 1 of the U.N. Charter says that the U.N.O. aims to resolve disputes peacefully to maintain international peace and security.

So, B.V. Cohen says, 'Collective Security and Peaceful Settlement are inseparable', but non-aligned nations hold the view that all problems, however complex can be solved by peaceful

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negotiations.

A peaceful settlement is more likely to succeed when disputing parties have equal strength. From the position of weakness, disputes cannot be negotiated with success.

So collectively organized strong nations can help in a better way for peaceful settlement of disputes.

II. MEANS OF SETTLEMENT

Settlement of international disputes can be classified into:

1) Peaceful means of Settlement:

(a) Negotiation:

Negotiation is initiated and directed to effect and understanding between two or more states to settle a dispute.

(b) Good office and mediation:

In both these methods of settlement usually a friendly third state assists in bringing about an amicable solution to the dispute.

(c) Conciliation:

Conciliation means the reference of a dispute to a commission or committee to make a report with proposals to the parties for settlement of such proposals contained in the report is not binding.

(d) Enquiry:

Inquiry is a form of amicable settlement of international disputes whereby facts are investigated and a way for a negotiated adjustment is prepared.

(e) Arbitration:

It signifies the reference of the dispute to an individual or small group of individuals to whom the parties state their respective cases and whose decision they are bound to obey. The procedure of international arbitration is the same as in Municipal law.

The Hague Conference codified the law of arbitration and laid the foundation for the establishment of the Permanent Court of Arbitration.

(f) Judicial Settlement:

An international dispute can be settled using a Judicial Tribunal.

After the First World War, the Permanent Court of International Justice was established under

the provisions of the League of Nations. It was replaced by the International Court of Justice after the charter of the United Nations was adopted.

(g) Settlement under the auspices of the United Nations Organization:

Article 2 of the charter imposes an obligation on the members of the organization to settle their disputes by peaceful means and to refrain from threats of war or the use of force.

2) Forcible means of settlement (Sanction in International law):

When the states fail to agree to solve their disputes by peaceful methods, they may take recourse to forcible means.

a. Retrosion:

Retrosion is retaliation by a state against a discourteous or inequitable act of another state. E.g., Severance of diplomatic relations, revocation of diplomatic privileges, etc.

b. Reprisals:

Reprisals are the retaliating measures adopted by a state for obtaining redress from another state. E.g., Boycott of the goods of a particular state, an embargo, or seizure of property or person.

c. Pacific blockade:

The pacific blockade intended to coerce states for obtaining redress from another state. E.g., Boycott of the goods of a particular state, a blockage, or the seizure of property or person.

d. War:

War generally means armed conflicts. When other measures fail, the aggrieved state may impose terms of settlement on the delinquent state by waging war.²

III. ROLE OF THE GENERAL ASSEMBLY IN THE PRESERVATION OF PEACE AND COLLECTIVE SECURITY

1. It has powers of investigation, discussion, and recommendation of matters affecting world peace.
2. It reviews and recommends measures to be taken against matters affecting international peace.
3. As a legislative body, it enacts rules to preserve peace and prevent aggression.
4. As an executive organ, it takes enforcement action e.g., the Korean war and Suez Crisis.

² *Means of Settlement of International Disputes Under Human Rights Law- LAWNN*, (Apr. 10, 2016), <https://www.lawnn.com/settlement-of-international-disputes/>.

5. As a conciliative body, it settles disputes by intervention. E.g., disputes in Greece, Spain, and Congo.
6. As an administrative body, it brings about friendly relations and strengthens cooperation among members of nations in the economic, social, and cultural spheres
7. A quasi-legislative body, it drafts declarations and conventions for the preservation of peace, e.g., the Hague Convention and Geneva Convention.
8. As world parliament, it acts in a limited sense by holding frequent meetings of state representatives, thus dissolving controversies and common problems.³

IV. ROLE OF THE SECURITY COUNCIL IN THE PRESERVATION OF PEACE AND COLLECTIVE SECURITY:

The main function of the Security Council is to bring about and maintain international peace and security. It is the only function for which it has been established. To increase its efficiency, it is built around this core of big powers.

- 1) Even a non-member may bring a dispute before Security Council if it endangers international peace and security.
- 2) It may admit a state, not represented in the Security Council or even a non-member of the United Nations to participate in discussion with the vote.
- 3) To assist Security Council, there is a military staff committee with the chief of staff of the 5 permanent members.

Under Article 106 of the charter, the permanent members of the Security Council may provide the necessary troop by way of transitional arrangement for the maintenance of peace. E.g., Korean War.

- 4) Security Council has supervisory functions regarding the strategic areas (trust territories). Trusteeship Council assists Security Council to maintain peace in these territories.
- 5) Security Council intervenes in the domestic jurisdiction when matters threaten international peace and security.

³ *Role of Security Council in the maintenance of international peace and security: current position* - Ipleaders (Nov. 11, 2021), <https://blog.ipleaders.in/role-of-security-council-in-the-maintenance-of-international-peace-and-security-current-position/#Conclusion>.

- 6) Security Council is competent to bring about the resolution of disputes by pacific modes of settlement. It suggests the actual term of settlement if disputing parties so desire.
- 7) Security Council is competent to resort to preventive and enforcement measures and competent to apply coercive procedures like (i) Economic cut off, (ii) Communication cut off (iii) Diplomatic cut off.
- 8) It can launch coercive measures like embargo and block measures.⁴

V. UNITED NATIONS PEACEKEEPING

The peace-keeping activities for maintaining international peace and security by United Nations Organization are called ‘UN peacekeeping operations.’

This helps to avoid conflicts between fighting Nations. It includes observation and supervision by UN authorities and also military operations by deploying armed forces which are protective and defensive in nature.

Initially, there was no peacekeeping force available to the United Nations. However, under para 51 of the security council, the UNO can ask its members to send the troops and resources at short notice and such an arrangement is called a ‘standby arrangement system’.

It is the Security Council that decides the peacekeeping operations, but if any member exercises the veto power, then the general assembly decides the peacekeeping.

Generally, the peacekeeping operations are conducted with the consent of the hostile Nations and the financial support for such operation are through the voluntary contributions of the member states of UNO.

In practice, peacekeeping operations have proved to be very useful to stop the fighting and create conditions for peacemaking.⁵

VI. RELATIONSHIP BETWEEN GENERAL ASSEMBLY AND SECURITY COUNCIL IN CHARTER AND ACTUAL PRACTICE

1. In the Charter:

a) Security Council:

- i) Security Council is primarily responsible for the maintenance of international peace and security.

⁴ <https://www.un.org/securitycouncil/sanctions/information>.

⁵ *United Nations Peacekeeping: Force, Formation, Finance and India's Role*, (Nov. 20, 2020), <https://byjus.com/free-ias-prep/united-nations-peacekeeping/>.

- ii) Security Council is the agent for the maintenance of world peace.
- iii) Security Council is the decision-making body and the decision is binding on all members.
- iv) Members are under a legal duty to assist Security Council in preventive and enforcement measures. Even non-members are required to maintain peace.

So, as per the above analysis, Security Council could work very satisfactorily i.e., the charter provides a scheme for effective and collective security.

b) General Assembly:

- i) It is competent to discuss and recommend matters affecting international peace.
- ii) It is only a recommendatory body and not a decision-making body.
- iii) General Assembly can draw the attention of the Security Council to an international breach of peace, etc.
- iv) When the matter is in Security Council, the General assembly should not discuss it, but the Security Council must notify the items involved in the agenda to General Assembly.
- v) General Assembly can discuss a matter pending before Security Council but it cannot make any recommendation.
- vi) Security Council may refer a dispute to the General assembly for a recommendation that is not binding on the Security Council.

So, under the U.N. Charter, the general assembly organ is only a subsidiary organ of the Security Council. The general assembly meets only at yearly intervals. So, it is difficult to deal with questions affecting peace effectively but Security Council is permanently in session and also could preserve peace effectively.⁶

2. Veto and double veto by permanent members of the Security Council: (Voting Procedure of the Security Council)

Veto power:

The matters for discussion and approval by Security Council are divided into procedural matters

⁶ Muhammad Amir Says, *Difference Between UN Security Council and UN General Assembly*, Compare the Difference Between Similar Terms <https://www.differencebetween.com/difference-between-un-security-council-and-un-general-assembly/>.

and non-procedural matters.

In procedural matters, the final decision is by majority voting of the 15 members of the Council.

In non-procedural matters, for the final decision, the majority voting of 15 members including the concurrent (unanimous) voting of all the five permanent members namely the USA, USSR, UK, France, and Communist China is necessary.

It means that no decision can be taken by the Council on non-procedural matters if any permanent member casts a dissenting vote. So, if a permanent member wishes, then no decision could be taken by the Council on any particular issue.

Thus, by the dissenting vote of a permanent member, the proposal is considered to be vetoed, i.e., it could not be validly adopted. This power of the permanent members is known as the veto power.

In the San Francisco Conference held for establishing UNO, the small nations feared that the Security Council would become powerless if there are clashes among the permanent members.

But the five great power unanimously insisted that they should have the veto power as they considered that they were mainly responsible for maintaining world peace.

So, the smaller nations had no alternative but to concede to the demand of the veto power by the five big nations, mainly for the reason of setting up a World Organization- UNO.

In practice, due to the existence of veto power, many international problems could not be resolved by the Security Council.⁷

Criticism of the Veto Power:

- a. Veto power discriminates the permanent members and non-permanent members of the Security Council.
- b. Veto power affects the principle of sovereign equality of member states.
- c. Due to veto, world peace and order are left just in the hands of five permanent members of the Security Council, and the interests and wishes of the vast majority of the peoples of the world are ignored.
- d. Because of veto no action be taken against the permanent members. E.g., the Iraq attack by the USA in 2003.⁸

⁷ *Veto Power and Double Veto Power*, Lawsisto Article News (Apr. 18, 2020), <https://lawsisto.com/artcileread/NDk1/VETO-POWER-AND-DOUBLE-VETO-POWER>.

⁸ *Criticism of the United Nations*, Wikipedia (Sept. 18, 2009), https://en.wikipedia.org/wiki/Criticism_of_the_United_Nations.

Double veto:

The veto power could be exercised by the permanent members of the Security Council on two different occasions.

A permanent member can first assert that the matter is not a procedural but only a non-procedural matter by exercising his veto.

Thus, when the matter becomes non-procedural, it may again exercise veto power at the time of taking the decision.

Because of the double veto powers, the Council cannot take a decision even on procedural matters. The right of double veto was exercised in the Spanish, Czechoslovak, Greek, etc.⁹

3. Steps were taken by General Assembly:

To fill up the gap in collective security due to 'veto' power in the Security Council assembly moved forward and assumed jurisdiction and took the following steps:

- a) General assembly considered annual session meeting little assembly of long duration. It allowed special sessions.
- b) If created little assembly i.e., Interim Committee. It is intended to hold the fort when the general assembly is not in session. Its function is to report to the general assembly on international tension affecting world peace.

4. Uniting for Peace Resolution:

Since there was frequent non-operation among the permanent members of the Security Council, it could not successfully perform its main function of maintenance of peace and order. It became a weak organization and this was evident in the Korean Conflict of 1950.

Though the security council decided that North Korea was an aggressor and hence military action had to be immediately taken against Korea to repel its aggression against South Korea, Russia exercised its veto power and hence the Security Council could not take any action.

Because of this setback, on the initiative of the USA and the Western countries, the General Assembly passed the 'Uniting for peace Resolution' on November 3, 1950.

Effect of Resolution of the General Assembly:

The main provisions of this resolution are as follows:

⁹ (Oct. 28, 2019), <https://centerforunreform.org/2019/10/28/the-veto-and-the-un-security-council/>.

- a) Whenever the Security Council cannot take any action on account of the exercise of veto or otherwise, then a special emergency session of the General Assembly can be called by the affirmative votes of nine members of the Security Council or by the majority of the members of the General Assembly.
- b) If the Security Council fails to prevent any aggression or to take any action in respect of any breach of peace, the General Assembly may consider this matter.
- c) This resolution empowered the General Assembly to take collective measures including using the armed forces to maintain peace and security.
- d) A 14-member peace observation Commission was established to supervise conflict areas and submit a report to the General Assembly. This Commission could go to the conflict area when the affected State gives its consent.
- e) Each member was asked to maintain its armed forces fully equipped so that the same could be made available to the United Nations at its demand.
- f) A 14- member Collective Measures Committee was also established under the resolution to study and report the matters relating to international peace and security.

The General Assembly passed three resolutions to enable her to deal with threats to international peace and security.

- i) Peace Observation Commission
- ii) Collective Measures Committee
- iii) Additional Measures Committee 1951

Thus, the objective of the resolution was to improve the machinery of the United Nations for preserving peace and order.

Validity of uniting for peace resolution:

The resolution is valid for the following reasons:

1. Under Article 10 of the Charter, the General Assembly is empowered to consider any matter within the scope of the Charter.
2. Though Article 24 provides that the primary responsibility for the maintenance of international peace and Security is with the Security Council, it does not mean that if Security Council fails to perform its responsibility, the UNO cannot take any action to preserve peace.

Thus, uniting for peace resolution is a valid resolution and is not inconsistent with the provisions of the UN Charter. Though the uniting for peace resolution is valid in theory, the power can be successfully used only when there is cooperation among the permanent members of the Security Council.

Under uniting for peace resolution, the general assembly successfully acted in Suez, Hungary, and Syria.¹⁰

VII. CONCLUSION

Each organ of the United Nations is allocated with certain specified functions and as such general assembly's act equating itself to Security Council may be inaccurate theoretically. But due to the practicality of circumstances, the general assembly had to assume itself with more powers to nullify the effect of the near paralysis of the Security Council. According to Lippmann, despite the diversity of conflicts and changes in way of the united nation survives. It is more deeply rooted and tenaciously adopted than it was, earlier.

¹⁰<https://unitar.org/sites/default/files/media/file/1.%20Relationship%20of%20the%20Security%20Council%20to%20the%20General%20Assembly%20.pdf>.

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