Law of the United Nations

Reading the UN Charter

By

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Preface

The Charter of the United Nations stands as one of the most ambitious legal and moral instruments ever devised by the international community. Conceived in the immediate aftermath of a cataclysmic world war, it sought to rescue succeeding generations from the scourge of conflict by embedding peace, security, cooperation, and respect for human dignity into a single constitutional framework for global governance. Yet, noble aspiration does not immunize an instrument from structural fragility. Over the decades since 1945, the Charter has revealed a series of systemic deficiencies—some latent at its inception, others accentuated by geopolitical evolution—which now challenge its credibility, effectiveness, and legitimacy as the cornerstone of the international legal order.

At the heart of these deficiencies lies the veto power vested in the five permanent members of the Security Council. What was originally intended as a pragmatic concession to political reality has hardened into a juridical anomaly. The veto was designed to ensure that the Organization would not take coercive action against a major power, thereby risking another global war. In that sense, it was conceived as a mechanism of restraint. In practice, however, it has become an instrument of obstruction. Rather than safeguarding collective security, the veto has frequently undermined it by enabling a single state to paralyze the will of the international community. The repeated use of vetoes to shield allies or protect narrow national interests has transformed the Security Council from a guardian of peace into, at times, a theatre of geopolitical rivalry.

The Syrian conflict offers a stark illustration. Over the course of that prolonged humanitarian catastrophe, millions were displaced, entire cities reduced to rubble, and allegations of war crimes mounted with alarming regularity. Yet the Security Council remained largely impotent, its resolutions diluted or defeated by repeated vetoes. Similarly, in the context of the Israeli–Palestinian conflict, the veto has been used to block resolutions

addressing civilian protection and humanitarian access. These instances do not merely reflect political disagreement; they expose a structural flaw whereby legal authority is subordinated to power politics. The Charter, in granting an unqualified veto, failed to anticipate the moral cost of such paralysis when mass suffering demands timely and decisive action.

Beyond the veto itself, the broader governance structure established by the Charter reveals an enduring imbalance in power distribution. The permanence of the Security Council's composition reflects the geopolitical realities of 1945 rather than the pluralistic world of today. The privileged status of the permanent five has created what many scholars describe as a reform deadlock: those who benefit most from the existing system possess the legal means to prevent its transformation. This self-entrenching design has rendered the Charter remarkably resistant to adaptation, even as the international system has undergone profound change. Decolonization, the rise of new economic powers, and the increasing interdependence of States have all reshaped global politics, yet the Charter's core decision-making architecture remains largely frozen in time.

This rigidity is compounded by the Charter's limited provisions for accountability. While the principle of sovereign equality is affirmed in Article 2, the practical operation of the Organization often belies this ideal. There is no comprehensive mechanism to hold powerful States accountable for actions that contravene the spirit, if not the letter, of the Charter. The absence of clear standards governing extraterritorial jurisdiction, coupled with weak enforcement of the non-intervention principle, has allowed selective interpretation and application of international norms. Military interventions, economic coercion, and unilateral sanctions are frequently justified through contested legal arguments, with little prospect of impartial adjudication or effective remedy within the UN system itself.

One of the most troubling manifestations of these weaknesses emerges in the humanitarian sphere. The Charter does not impose legal constraints on the use of the veto in situations involving mass atrocities. As a result,

the protection of civilians can be subordinated to strategic calculations. This legal vacuum has led to repeated instances where the international community has been unable to act decisively in the face of genocide, crimes against humanity, or widespread war crimes. The failure to prevent or halt such atrocities erodes not only the credibility of the United Nations but also the normative foundations of international law. It raises a profound ethical question: can an organization that is structurally incapable of responding to humanity's gravest crises still claim moral authority?

The Charter's inflexibility further exacerbates these challenges. Article 108 establishes an amendment procedure that requires the concurrence of all permanent members of the Security Council. While this was intended to preserve stability, it has effectively rendered meaningful reform unattainable. The world for which the Charter was drafted was one of bipolar rivalry and limited membership. Today's international community comprises 193 States, confronting security threats that range from cyber warfare and terrorism to climate change and pandemics. These challenges transcend traditional notions of interstate conflict, yet the Charter offers limited tools for collective action in such domains. The inability to recalibrate institutional structures to meet contemporary realities has left the Organization perpetually reacting rather than proactively shaping global governance.

Institutional paralysis is perhaps most evident in the relationship between the Security Council and the General Assembly. The Charter grants the Council primary responsibility for the maintenance of international peace and security, including the authority to adopt binding resolutions. The General Assembly, by contrast, functions as a deliberative body whose resolutions, though reflective of broader international opinion, lack legal force. This bifurcation creates a legitimacy gap. When the Security Council is immobilized by vetoes, the General Assembly may articulate the collective conscience of the international community, but it lacks the means to translate that consensus into action. The Russian invasion of Ukraine underscored this dilemma. While the General Assembly overwhelmingly condemned the aggression, the Security Council was unable

to act decisively due to the veto of one of its permanent members, thereby exposing the structural contradiction at the core of the Charter.

Representation and legitimacy form another axis along which the Charter's deficiencies are increasingly apparent. The permanent membership of the Security Council reflects a bygone era in which power was concentrated in a handful of States. Entire regions, most notably Africa, remain without permanent representation despite their numerical strength and growing geopolitical significance. Emerging powers in Asia and Latin America similarly find themselves marginalized in the most consequential decision-making forum of the Organization. This lack of representativeness undermines the perceived fairness of the system and fuels skepticism about the UN's capacity to act as an impartial arbiter of global affairs. The Charter provides no realistic pathway for addressing these legitimacy deficits, reinforcing the sense that the Organization is structurally ill-equipped to reflect contemporary global realities.

Taken together, these deficiencies point to a deeper malaise: the tension between law and power in the international system. The Charter aspires to regulate the use of force, promote cooperation, and uphold human rights, yet it operates within a political environment where power disparities remain decisive. The persistence of veto-driven paralysis, governance imbalances, humanitarian inaction, and representational inequities suggests that the Charter's legal architecture has not kept pace with the moral and political evolution of the international community. Calls for reform are therefore both inevitable and justified. Proposals ranging from voluntary veto restraint in humanitarian crises to expanded Security Council membership have been advanced with increasing urgency.

Yet the prospects for substantive reform remain bleak. The very mechanisms designed to ensure stability now impede transformation. Strategic interests, geopolitical rivalry, and institutional inertia combine to preserve the status quo. In this sense, the Charter is both a triumph and a tragedy: a testament to humanity's aspiration for collective order, and a reminder of the enduring constraints imposed by power politics. Whether

the United Nations can transcend these limitations will depend not only on legal ingenuity but also on political will. Until then, the Charter will continue to embody a paradox—an instrument of hope constrained by the very structures that sustain it.

The above notwithstanding, The United Nations, through its Charter has had its positive moments. It is therefore sad that, at the time this book was being written, Antonio Guterres, Secretary General of the Organization, made an impassioned plea to member States that the United Nations was running out of funding and requested States to submit their contributions. This warning, that the Organization is running out of funding, coupled with his public appeal to Member States to settle unpaid assessed contributions, is more than an administrative lament. It is a moment of existential candour that invites reflection on what the United Nations is, what it does, and what it risks becoming if political indifference continues to hollow out its financial foundations. To speak of a funding crisis is not merely to speak of budgetary shortfalls; it is to speak of a potential erosion of multilateral resolve, of collective responsibility, and of faith in an institution that was never meant to be ornamental, rhetorical, or episodic in its relevance.

From its inception, the United Nations was conceived as a moral and legal response to catastrophe. It was born not of optimism but of exhaustion—after a century that had twice nearly extinguished civilization through industrialized warfare. Kofi Annan's remark that "we share a common destiny. We can master it only if we face it together" captures with quiet precision the philosophical premise of the United Nations. The Organization exists because fragmentation is fatal in a world where problems no longer respect borders. Annan's words were not aspirational poetry; they were a statement of operational necessity. The United Nations was designed as the institutional embodiment of that shared destiny, imperfect yet indispensable.

Ban Ki-moon echoed this realism when he observed that if the United Nations did not exist, a similar institution would have to be created.

The statement is revealing in its restraint. It does not claim perfection, nor does it deny dysfunction. Instead, it acknowledges inevitability. The international system, in its modern form, cannot function without a permanent, universal forum where States meet not as adversaries alone, but as co-inhabitants of a fragile planet. The question, therefore, is not whether the United Nations is flawless, but whether the world can afford its weakening through neglect, underfunding, or cynical disengagement.

Those who dismiss the United Nations as a "talking shop" misunderstand both its scale and its function. The UN is not merely a debating chamber; it is a vast workshop in which the often invisible labour of international cooperation is carried out daily. Words spoken in the General Assembly may capture headlines, but they represent only a fraction of the Organization's work. Beneath the surface of diplomatic rhetoric lies a machinery of implementation, expertise, and field-based action that touches lives in ways that rarely make the evening news.

The United Nations operates simultaneously in three interlocking dimensions. First, there is the United Nations of governments, where sovereign States articulate interests, negotiate norms, and contest power. This is the UN most visible to the public, and also the most criticized. Second, there is the United Nations of staff—approximately 37,000 professionals working in over 170 countries—who translate mandates into action. Third, there is the United Nations of associated non-governmental organizations, experts, academics, and consultants who form a dense ecosystem of knowledge, advocacy, and implementation. To speak of the UN as a single monolith is therefore to misunderstand its plural nature. It is less a pyramid than a network.

It is within the second and third of these "UNs" that funding shortfalls are most acutely felt. UN staff are not abstract bureaucrats; they are agronomists helping farmers improve crop yields in arid regions, health workers training women in prenatal care, engineers designing sustainable housing, educators establishing schools in refugee camps, logisticians distributing vaccines, and specialists setting global standards—from airworthi-

ness of aircraft to maritime safety. These activities do not pause politely when political will falters. Human need is not cyclical; it is continuous.

Multilateralism, at its core, is about hope, opportunity, and human dignity. It is the belief that collective action can mitigate suffering even when it cannot eliminate it. In the twenty-first century, this belief has been tested as never before. The United Nations of 1945 did not confront a global refugee population of unprecedented scale, nor did it anticipate a pandemic capable of halting the world economy in a matter of weeks. COVID-19 exposed not only vulnerabilities in national health systems but also the indispensability of global coordination—on data sharing, vaccine distribution, and public health norms. The UN system, particularly through the World Health Organization and humanitarian agencies, became both a focal point of cooperation and, unfairly at times, a lightning rod for political frustration.

Similarly, the emergence of transnational terrorist organizations, cyber terrorism, human trafficking networks, and climate-induced displacement represents a category of threat that traditional notions of sovereignty were never designed to address. Climate change, in particular, is not merely an environmental issue; it is a multiplier of instability, intensifying food insecurity, water scarcity, and forced migration. These are precisely the kinds of problems that cannot be solved unilaterally. Yet they are also the kinds of problems that demand sustained funding, long-term planning, and institutional memory—qualities that are undermined when the Organization is forced to operate hand-to-mouth.

The irony is that many of the UN's greatest successes are invisible because they are preventative. One does not see the wars that did not happen, the famines that were averted, or the diseases that were contained. The United Nations played constructive roles at pivotal moments of history: during the Suez Canal crisis, where diplomatic engagement prevented escalation; in the Korean War, where collective security principles were tested; and in the broader processes that accompanied the dismantling of the Berlin Wall and the end of the Cold War's most rigid divisions. These

were not moments of triumphalism but of careful, often understated, institutional engagement.

Peacekeeping, symbolized by the UN's "Blue Berets," remains one of the Organization's most tangible expressions of solidarity. Peacekeepers are deployed not because peace exists, but because its absence threatens to metastasize. They operate under constrained mandates, in dangerous environments, often with limited resources. Yet their presence has saved countless lives and provided fragile breathing space for political processes to take root. To underfund peacekeeping is not to punish an institution; it is to endanger civilians who rely on its protective presence.

Beyond crisis response, the United Nations has invested in the intellectual infrastructure of global governance. The United Nations Intellectual History Project (UNHIP) reflects a recognition that institutions must understand their own evolution to remain relevant. Ideas matter in international law and politics. The Sustainable Development Goals represent another such intellectual and moral framework—an attempt to articulate a shared vision of progress that integrates economic growth, social inclusion, and environmental protection. These goals are aspirational, but they are also operational, guiding policies, funding priorities, and partnerships across the globe.

Critics may argue that the UN tries to do too much, that its mandates are diffuse, or that it lacks enforcement power. There is truth in these observations, but they do not negate the Organization's necessity. The UN was never intended to be a world government. It is a forum, a facilitator, a standard-setter, and, at times, a moral compass. Its strength lies not in coercion but in coordination. To judge it by the standards of a centralized authority is to misunderstand its design.

The funding crisis, therefore, is not merely a technical issue of unpaid dues; it is a symptom of a deeper ambivalence toward multilateralism itself. When States withhold contributions, they are not simply balancing domestic budgets; they are signaling a retreat from shared responsibility. This retreat is often justified in the language of national interest, yet it is

precisely the enlightened national interest that the United Nations seeks to articulate—one that recognizes interdependence as a fact, not a choice.

Is the United Nations running out of steam? The answer depends less on the institution than on its Member States. Institutions do not tire; commitments do. The UN continues to generate ideas, deploy expertise, and adapt to new challenges. What it lacks, increasingly, is the political and financial backing commensurate with the expectations placed upon it. There is a profound asymmetry between what the world asks of the United Nations and what it is willing to invest in it.

The question is not whether the United Nations deserves funding, but whether the world is prepared to pay the price of its absence or enfeeblement. History suggests that when cooperation collapses, the cost is measured not in currency but in lives. The United Nations remains, for all its flaws, the most ambitious experiment in organized hope that humanity has ever undertaken. To allow it to wither through neglect would not be an act of realism, but of collective amnesia.

My perspective on the United Nations is not formed from distance, abstraction, or episodic observation. It has been shaped over a quarter of a century spent within one of its specialized agencies—the International Civil Aviation Organization—where multilateralism is not a slogan but a daily discipline. For nearly twenty-five years, I observed, participated in, and contributed to the policy-making, treaty-making, regulatory, training, and technical assistance functions of ICAO, an institution that exemplifies what the United Nations can achieve when States choose cooperation over fragmentation. From that vantage point, the assertion that the UN is merely a "talking shop" is not only inaccurate; it is profoundly uninformed.

ICAO was established by the Chicago Convention of 1944, even before the United Nations itself formally came into existence. Yet it was seamlessly integrated into the UN system as a specialized agency, reflecting the foresight of States that understood aviation would be inherently international in character. Aircraft do not recognize borders in the way armies

do, and neither can aviation safety, security, or environmental protection be confined within national silos. Over the years, I have seen how ICAO has served as a global forum where 193 Member States—large and small, developed and developing—sit as equals to develop standards, policies, and practices that make global air transport not only possible, but safe, secure, efficient, and increasingly sustainable.

One of the most compelling demonstrations of the value of the United Nations system is ICAO's role in treaty-making and norm creation. The development of international air law is not a theoretical exercise; it governs real aircraft, real passengers, and real risks. ICAO has been at the center of negotiating, modernizing, and interpreting legal instruments that regulate everything from accident investigation to unlawful interference. Through annexes to the Chicago Convention and related treaties, ICAO has given the world a coherent legal and technical architecture that allows an aircraft registered in one state, piloted by a crew licensed in another, maintained in a third, and flying through the airspace of several others to operate under a harmonized system of rules. This level of legal integration would be inconceivable without a multilateral institutional framework.

Equally significant is ICAO's role in the development of the rules of the air. These rules are not static; they evolve with technology, traffic density, and operational complexity. I have witnessed how technical experts from across the globe contribute to these rules, bringing with them diverse operational experiences while subordinating narrow national preferences to global safety imperatives. The result is a system in which pilots and air traffic controllers, regardless of nationality, operate under common expectations. This is multilateralism in its most practical form—quiet, technical, and life-preserving.

Accident investigation is another area where ICAO's contribution underscores the indispensability of the UN system. Aviation accidents are tragedies, but they are also opportunities for learning. ICAO's standards ensure that investigations are conducted not to apportion blame, but

to identify causes and prevent recurrence. I have seen how States with limited technical capacity are supported through ICAO guidance and expertise, enabling them to conduct credible investigations that contribute to global safety knowledge. The sharing of accident data across borders reflects a level of trust and cooperation that few other sectors have achieved, and it rests squarely on the legitimacy and neutrality of a UN specialized agency.

Dispute settlement between States is often overlooked as a function of ICAO, yet it is one of its most constitutionally significant roles. Under the Chicago Convention, ICAO provides mechanisms for resolving disputes relating to the interpretation or application of the Convention. These disputes, if left unmanaged, could escalate into political or economic retaliation. Instead, ICAO offers a structured, legal pathway that reinforces the rule of law in international aviation. My experience has shown that States are far more willing to accept outcomes when the forum is perceived as impartial, expert-driven, and insulated from power politics—precisely the qualities the United Nations system is designed to provide.

Environmental regulation in aviation is perhaps one of the most demanding tests of multilateral governance in the modern era. Aircraft engine emissions and noise are global concerns with local impacts. ICAO's work in developing global standards for noise certification and emissions, including its leadership in market-based measures such as CORSIA, demonstrates how a UN agency can balance environmental responsibility with economic and technological realities. These negotiations are complex, often contentious, and deeply political. Yet they have produced results that no single state, or even a small group of States, could have achieved alone. This is multilateralism not as idealism, but as necessity.

Technical assistance and training are among ICAO's most transformative contributions, particularly for developing States. Over the years, I have seen how ICAO training programs have built regulatory capacity, improved oversight, and enhanced safety outcomes in regions that would otherwise struggle to meet international standards. Training civil

aviation authorities, assisting in the drafting of aviation legislation, and providing expertise in airport certification or air navigation services are not glamorous activities, but they are foundational. They embody the UN's commitment to human dignity by ensuring that safety is not a privilege of wealthier nations, but a global public good.

The sustainable development of aviation is another domain where ICAO's alignment with broader UN objectives is unmistakable. Aviation is both a driver of economic growth and a source of environmental concern. ICAO has consistently framed aviation development within the context of the UN's Sustainable Development Goals, recognizing aviation's role in poverty reduction, connectivity, disaster response, and social inclusion. I have observed how ICAO initiatives support access to air transport for remote communities, facilitate humanitarian relief, and enable economic participation in a globalized world. These are outcomes that resonate far beyond runways and airspace.

Beyond these core functions, ICAO has demonstrated its value as a convenor of expertise and innovation. The Organization has provided leadership in areas such as aviation cybersecurity, recognizing early that digital vulnerabilities could have physical consequences. It has addressed the integration of remotely piloted aircraft systems into civil airspace, striking a balance between innovation, safety, and privacy. It has engaged with public health authorities, most notably during global health emergencies, to develop aviation-related measures that protect public health while preserving essential connectivity. Each of these areas illustrates how a specialized UN agency adapts to emerging challenges while maintaining its foundational mandate.

What makes ICAO's achievements particularly instructive is that they are the product of cooperation among 193 Member States. Consensus-building is often slow and frustrating, but it yields outcomes that are durable and widely accepted. I have seen States with vastly different political systems, economic capacities, and strategic interests agree on technical standards because they recognize a shared interest in safety and effi-

ciency. This culture of cooperation does not arise spontaneously; it is cultivated through institutional continuity, professional expertise, and mutual respect—qualities nurtured within the UN system.

These experiences inform my broader view of the United Nations. The funding challenges now confronting the Organization threaten not only administrative efficiency but institutional memory and professional capacity. Specialized agencies like ICAO depend on predictable funding to sustain long-term programs, retain expertise, and respond to emerging risks. When contributions are delayed or withheld, the consequences are not abstract. Training programs are postponed, technical assistance missions are curtailed, and regulatory development slows. The cost of these disruptions is borne not by the institution alone, but by States and individuals who rely on its work.

From my vantage point, the United Nations is not running out of relevance or ideas; it is at risk of being starved of the means to implement them. The UN system, at its best, is a repository of collective wisdom and a catalyst for cooperative action. ICAO's record demonstrates that when States invest politically and financially in multilateral institutions, the returns are tangible, measurable, and global in impact.

If there were no United Nations, the world would have to invent one—not out of sentiment, but out of necessity. Aviation alone would compel it. The same logic applies to health, climate, migration, and peace. My experience within ICAO confirms that the UN's greatest strength lies not in its rhetoric, but in its capacity to translate shared interests into shared rules. To weaken that capacity through neglect would be to misunderstand the very lessons that history, and practice, have already taught us.

The book *Reading the United Nations Charter* presents itself not merely as a commentary on a foundational legal instrument, but as an intellectual invitation to engage with the constitutional conscience of the international community. It proceeds from the premise that the Charter of the United Nations is not a static treaty frozen in the political anxieties of 1945, but a living juridical text whose words continue to speak—sometimes clearly,

sometimes ambiguously—to the evolving moral and legal expectations of humankind. This book therefore does not read the Charter as an artifact of diplomatic history alone; it reads it as law, as philosophy, and as an unfinished promise.

The opening chapters trace how the United Nations came into being, not in the simplistic narrative of victors benevolently designing a peace system, but through a convergence of fear, idealism, pragmatism, and exhaustion. The book situates the Charter within the long genealogy of collective security, beginning with early philosophical reflections on perpetual peace and moving through the failure of the League of Nations. It carefully explains how the League's structural weaknesses—particularly the absence of universal membership and effective enforcement—haunted the architects of the United Nations. Yet it also demonstrates that the UN did not emerge as a clean break from the past. Rather, it was a negotiated compromise between sovereign equality and great-power privilege, between legal normativity and political realism. The Dumbarton Oaks proposals, the Yalta understandings, and the San Francisco Conference are examined not as mere preparatory stages, but as moments where law was consciously bent to accommodate power, in the hope that power would in turn submit, at least partially, to law.

In explaining the historical birth of the Organization, the book emphasizes that the Charter was drafted in the shadow of catastrophe. The trauma of two world wars, the Holocaust, and the atomic bomb shaped not only the text but also its silences. Certain concepts—such as human rights and self-determination—were included in aspirational language precisely because States were unwilling or unable to define their full legal implications. The book makes clear that these silences were not oversights; they were deliberate acts of constructive ambiguity. What follows from this insight is one of the book's central themes: that much of the Charter's interpretive richness lies not only in what it says, but in what it leaves unsaid.

Having established this historical and philosophical backdrop, the book turns to the law of the United Nations as a distinct branch of international law. It explains that the Charter is neither an ordinary multilateral treaty nor a mere political declaration. It is a constitutional instrument that creates organs, allocates powers, and establishes a hierarchy of norms. Particular attention is given to Article 103, which gives primacy to Charter obligations over other treaty commitments. The book explores how this provision elevates the Charter to a quasi-supranational status, while simultaneously noting the tension this creates in a decentralized international legal system that lacks a global sovereign. Through judicial decisions, advisory opinions of the International Court of Justice, and state practice, the book demonstrates how the law of the United Nations has developed incrementally, often through interpretation rather than formal amendment.

The chapters devoted to the purposes and principles of the United Nations underscore their normative centrality. The book reads Articles 1 and 2 not as ceremonial preambles, but as operative clauses that inform the interpretation of the entire Charter. It explores how the commitment to international peace and security coexists uneasily with the principles of sovereign equality and non-intervention. Rather than treating these principles as mutually exclusive, the book shows how they exist in a state of permanent tension, requiring constant balancing rather than definitive resolution. The prohibition of the use of force is examined as one of the most revolutionary norms of modern international law, while also being one of the most contested in practice. The book does not shy away from acknowledging how frequently this norm has been strained, reinterpreted, or bypassed, but it insists that legal erosion should not be mistaken for legal irrelevance.

In its detailed commentary on the institutional provisions of the Charter, the book adopts a methodical and reflective approach. The General Assembly is presented as the deliberative heart of the Organization, embodying the principle of sovereign equality and providing a forum for the articulation of global consensus. The book explains how Assembly

resolutions, though formally non-binding, have played a significant role in the development of customary international law, particularly in areas such as decolonization, human rights, and sustainable development. It highlights the paradox of an organ that is rich in legitimacy but poor in enforcement power, and suggests that this imbalance is not accidental but structural.

The Security Council receives particularly close scrutiny. The book explains its primary responsibility for the maintenance of international peace and security while candidly addressing the legal and moral controversies surrounding the veto power. Each relevant provision is analyzed not only in terms of its textual meaning but also through the lens of practice. The book explains how the Council has, over time, expanded its interpretation of what constitutes a threat to peace, encompassing internal conflicts, terrorism, and even health emergencies. At the same time, it confronts the persistent problem of selective action and inaction, showing how the Council's effectiveness is often contingent on geopolitical alignment rather than legal clarity.

The chapters on peaceful settlement of disputes and enforcement measures under Chapters VI and VII illustrate the Charter's preference for diplomacy over coercion. The book carefully explains the graduated nature of these mechanisms, from negotiation and mediation to sanctions and, in exceptional circumstances, the use of force. It emphasizes that the Charter was designed to make war legally difficult, procedurally constrained, and morally suspect. Yet it also acknowledges that enforcement depends on political will, and that the Charter cannot compel unity where it does not exist.

The International Court of Justice is examined as the judicial conscience of the United Nations system. The book explains its dual role in contentious cases and advisory opinions, highlighting how its jurisprudence has clarified key aspects of Charter law, including self-defense, the legal consequences of unlawful occupation, and the responsibilities of international organizations. At the same time, the book is candid about the Court's

limitations, particularly the voluntary nature of its jurisdiction and the uneven compliance with its judgments. Rather than portraying these limitations as failures, the book situates them within the broader reality of an international system that remains fundamentally state-centric.

Subsequent chapters address the Secretariat and the role of the Secretary-General, portraying the office as one of quiet constitutional significance. The book explains how the Secretary-General's authority, though not coercive, derives from moral persuasion, institutional memory, and the ability to place issues on the international agenda. Through examples of past Secretaries-General, the book illustrates how personal integrity and interpretive courage can expand the practical meaning of Charter provisions without formal legal change.

Throughout its commentary on individual provisions, *Reading the United Nations Charter* adopts a consistent interpretive philosophy. It treats the Charter as a teleological instrument, to be read in light of its purposes rather than confined to a narrow literalism. Drawing implicitly on the Vienna Convention on the Law of Treaties, the book emphasizes good faith interpretation, object and purpose, and subsequent practice as essential tools for understanding the Charter's evolution. This approach allows the reader to see the Charter not as a failed promise, but as an ongoing project—one whose success depends on how seriously States choose to take its normative commitments.

In explaining what is to come in the book, I make clear that this is not a manual for institutional reform nor a polemic against power politics. It is, instead, an exercise in legal literacy and moral reflection. By guiding the reader provision by provision through the Charter, the book seeks to demystify its language while deepening respect for its ambition. It invites lawyers, diplomats, scholars, and informed citizens alike to read the Charter not as distant rhetoric but as a text that shapes real decisions, real conflicts, and real human lives.

Ultimately, *Reading the United Nations Charter* suggests that the future of the Organization does not lie solely in amendment or restructuring, but

in interpretation, restraint, and renewed fidelity to principle. The Charter, the book argues, already contains within it the seeds of a more just international order. Whether those seeds flourish depends less on textual revision than on the willingness of States to read the Charter honestly, apply it consistently, and accept that law, even in an imperfect world, remains humanity's most durable language of hope.

Chapter One

How the United Nations Came Into Being

1. Precursers to the United Nations

It is recalled that the etymological origins of the term *United Nations* are deeply embedded in the crucible of the twentieth century's most devastating conflict, the World War II. It was during this epochal struggle that the phrase was first invoked not as an institutional label but as a political expression of solidarity among those States that had resolved to resist the expansionist ambitions of the Axis powers—namely Germany, Italy and Japan. The phrase "United Nations" was employed as a rhetorical and strategic construct by the Allied powers to signify unity of purpose against tyranny and militarism. What began as a wartime appellation would later evolve into the name of the most ambitious experiment in global governance ever attempted.

The expression itself was first formally articulated by Franklin D. Roosevelt, President of the United States, who recognized that the moral and political cohesion of the anti-Axis alliance required not merely military coordination but also a conceptual identity that could transcend national boundaries. Roosevelt's formulation was both pragmatic and visionary. It recognized the exigencies of war while simultaneously gesturing toward the possibility of a post-war order founded upon collective responsibility for peace and security. Thus, the term "United Nations" represented more than a wartime coalition; it embodied a normative aspiration that the devastation wrought by global conflict could be transmuted into an architecture of international cooperation.

This aspiration was concretized on 1 January 1942 with the signing of the Declaration by United Nations by twenty-six States that had pledged their resources and political will to the defeat of the Axis powers. The

Declaration was both a strategic and moral covenant. Its signatories—including the United States, the United Kingdom, the Soviet Union and the China—committed themselves not only to prosecute the war to its conclusion but also to refrain from entering into separate peace agreements with the enemy. In essence, the Declaration established the foundational principle of solidarity among the Allied powers and affirmed that the struggle against aggression was a collective undertaking.

The significance of the 1942 Declaration extends beyond its wartime context. It represented the embryonic stage of what would eventually become the post-war institutional order. By bringing together a coalition of States under a common banner, it laid the psychological and diplomatic groundwork for the creation of an international organization designed to maintain peace after the war's conclusion. In this sense, the Declaration functioned as a precursor to the institutionalization of collective security that would later emerge in the form of the United Nations.

The intellectual and diplomatic trajectory from wartime alliance to permanent international organization began to assume concrete form during the Dumbarton Oaks Conference held in August and October 1944 in Washington, D.C.. The conference was convened at a historic estate known as Dumbarton Oaks and brought together representatives of the four principal Allied powers: the United States, the United Kingdom, the Soviet Union and the China. These States, often referred to as the "Four Policemen" in Rooseveltian parlance, were entrusted with the responsibility of designing the institutional framework for the post-war international order.

The deliberations at Dumbarton Oaks were marked by both ambition and complexity. The participating States were united in their recognition that the failure of the League of Nations had demonstrated the inadequacy of earlier approaches to collective security. The League's inability to prevent aggression during the interwar period—most notably the invasions of Ethiopia by Italy and China by Japan—served as a sobering reminder that an international organization without effective enforcement mechanisms

could not guarantee peace. Consequently, the architects of the new organization sought to design a system that would reconcile the principles of sovereign equality with the geopolitical realities of great-power influence.

At Dumbarton Oaks the essential structure of the future United Nations was conceptualized. The proposals envisaged the establishment of a General Assembly representing all member States, a Security Council entrusted with primary responsibility for the maintenance of international peace and security, an International Court of Justice to adjudicate disputes, and a Secretariat to administer the organization's functions. Additionally, the framework contemplated specialized agencies that would address economic, social and humanitarian issues, thereby recognizing that peace could not be sustained solely through military deterrence but required the cultivation of social and economic stability.

Yet despite the progress achieved at Dumbarton Oaks, the conference was unable to resolve two critical issues that lay at the heart of the proposed institutional design. The first concerned the voting procedure within the Security Council, particularly the extent to which the great powers would exercise special privileges in decision-making. The second—and closely related—issue was the question of the veto.

The veto represented perhaps the most controversial feature of the proposed system. The great powers insisted that they could not be expected to participate in an international organization that might authorize enforcement actions against them or against their fundamental interests. From their perspective, the failure of the League of Nations had been partly attributable to the absence of the major powers—most notably the United States—and they were determined that the new organization should not repeat this mistake. Accordingly, the great powers demanded a mechanism that would allow them to prevent decisions they regarded as inimical to their national security.

Smaller States, however, viewed the veto with apprehension. They feared that granting such authority to a limited number of States would undermine the principle of sovereign equality and potentially paralyze the

organization in moments of crisis. The debate over the veto thus reflected a fundamental tension between idealism and realism in international relations. On one hand was the aspiration for an egalitarian system in which all States would participate on equal terms; on the other was the pragmatic recognition that the cooperation of the major powers was indispensable to the effectiveness of any collective security arrangement.

The impasse reached at Dumbarton Oaks necessitated further negotiations among the Allied leaders. These discussions culminated in the Yalta Conference held in February 1945 in the Crimean resort of Yalta. The conference brought together three of the most influential figures of the wartime alliance: Franklin D. Roosevelt, Winston Churchill and Joseph Stalin. Although the primary focus of the meeting concerned the final phases of the war and the political reorganization of post-war Europe, the participants also addressed the unresolved questions relating to the proposed United Nations.

At Yalta the leaders reached a crucial compromise regarding the voting procedure in the Security Council. It was agreed that each of the five permanent members—eventually comprising the United States, the United Kingdom, the Soviet Union, China and France—would possess the right to veto substantive decisions of the Council. However, the veto would not apply to procedural matters. This arrangement, often described as the "Yalta formula," sought to strike a balance between the prerogatives of the great powers and the need for operational functionality within the Council.

From a jurisprudential perspective, the veto has remained one of the most debated features of the United Nations system. Critics argue that it entrenches a hierarchy among States and enables geopolitical rivalries to obstruct collective action. Proponents, however, contend that the veto constitutes a necessary accommodation to political reality, ensuring that the organization retains the participation of the major powers whose cooperation is essential to the enforcement of international peace.

With the major institutional questions resolved, the process of establishing the new organization advanced to its culminating stage in the United Nations Conference on International Organization held in April–June 1945 in San Francisco. The conference, commonly referred to as the San Francisco Conference, represented a remarkable gathering of fifty States determined to shape the normative foundations of the post-war international order.

The San Francisco Conference was not merely a diplomatic event but an intellectual enterprise in which jurists, diplomats and policymakers collaborated to craft the constitutional charter of the future United Nations. Delegations debated the scope of the organization's authority, the balance between State sovereignty and collective responsibility, and the mechanisms through which peace and security could be preserved.

Among the most significant outcomes of the conference was the finalization of the Charter of the United Nations, signed on 26 June 1945. The Charter articulated a set of principles that would guide the organization's activities: the sovereign equality of States, the peaceful settlement of disputes, the prohibition of the use of force except in self-defense or under Security Council authorization, and the promotion of human rights and social progress.

The Charter also reflected the lessons of history. Its preamble begins with the solemn resolve "to save succeeding generations from the scourge of war," an unmistakable reference to the catastrophic experiences of the first half of the twentieth century. By embedding this aspiration within a legally binding document, the founders sought to transform the moral impulse for peace into an institutional framework capable of sustaining international cooperation.

The United Nations officially came into existence on 24 October 1945 when the Charter was ratified by the requisite number of States, including the five permanent members of the Security Council. From that moment onward, the wartime alliance known as the United Nations evolved into a

permanent international organization entrusted with the formidable task of maintaining global peace and security.

The historical trajectory from the wartime Declaration of 1942 through the Dumbarton Oaks proposals, the Yalta negotiations and the San Francisco Conference reveals the intricate interplay between political pragmatism and normative aspiration. The founders of the United Nations were acutely aware that international peace could not be sustained by idealism alone. The institutional architecture they devised therefore incorporated mechanisms—such as the veto—that acknowledged the realities of power politics while striving to preserve the legitimacy of collective decision-making.

From a teleological perspective, the creation of the United Nations can be understood as an attempt to reconcile the sovereign autonomy of States with the imperative of global governance. The organization was conceived as a forum in which States could deliberate upon matters of common concern and coordinate their actions in the pursuit of peace, development and human dignity. Yet the compromises embedded in its design also ensured that the United Nations would reflect the geopolitical dynamics of the era in which it was created.

Indeed, the enduring tension between the principles of equality and power continues to shape the organization's evolution. The Security Council's structure, conceived in the context of the 1945 balance of power, has increasingly been questioned by States that argue for a more representative and democratic system. Debates concerning Security Council reform, the expansion of permanent membership and the limitation of the veto illustrate the ongoing struggle to adapt the institution to contemporary realities.

Nevertheless, the historical circumstances surrounding the creation of the United Nations underscore a profound truth: the organization emerged not from abstract theory but from the lived experience of global catastrophe. The architects of the post-war order understood that the absence of effective mechanisms for collective security had contributed to the

outbreak of war. Their response was to construct an institutional framework through which States could cooperate in preventing future conflicts.

In reflecting upon the origins of the United Nations, one is reminded that its founding conferences—Dumbarton Oaks, Yalta and San Francisco—represent more than diplomatic milestones. They symbolize humanity's determination to transform the devastation of war into an opportunity for institutional innovation. The United Nations stands as both a testament to that aspiration and a reminder of the persistent challenges inherent in the pursuit of global peace.

Thus, the etymological journey of the phrase "United Nations" from wartime slogan to institutional identity encapsulates a remarkable transformation in international relations. What began as a declaration of unity among nations at war evolved into the constitutional foundation of a global organization dedicated to the preservation of peace. The conferences that shaped its creation remain enduring landmarks in the history of diplomacy, illustrating how the convergence of political will, legal imagination and historical necessity gave birth to an institution that continues to influence the trajectory of world affairs.

The idea that the international community could be organized around shared norms, collective responsibility, and institutionalized cooperation did not arise suddenly in the ashes of the Second World War. Rather, it represents the culmination of centuries of intellectual ferment, political experiment, and legal imagination. The roots of what would eventually become the United Nations can be traced back to the sixteenth century, when European scholars and Statesmen began to grapple seriously with the question of how sovereign entities might coexist in an increasingly interconnected world. This was the age in which the foundations of modern international law were laid by jurists such as Francisco de Vitoria, Francisco Suárez, and later Hugo Grotius, whose seminal work *De Jure Belli ac Pacis* sought to civilize war by subjecting it to legal and moral restraint. These early thinkers, writing against the backdrop of religious wars and imperial expansion, articulated the revolutionary notion that

States, like individuals, were bound by law, and that relations among them could be regulated by principles of justice, consent, and reciprocity. Although their writings did not create institutions in the modern sense, they planted the intellectual seeds of international organization by asserting that order among nations was both possible and desirable.

As Europe emerged from the protracted conflicts of the seventeenth and eighteenth centuries, culminating in the devastation of the Napoleonic Wars, the abstract theories of international law began to find tentative institutional expression. The Congress of Vienna in 1815 marked a decisive moment in this evolution. There, the major European powers sought not merely to redraw territorial boundaries, but to establish a durable system of collective management of international relations. The Concert of Europe, which emerged from this process, was not an organization endowed with a charter or a permanent secretariat, but it nevertheless represented a significant innovation. Under the Concert, European leaders convened periodically in multilateral conferences to resolve disputes, coordinate policies, and maintain a balance of power that was thought essential to peace. This practice of consultation and collective decision-making reflected an early recognition that unilateral action by great powers could destabilize the international system, and that shared responsibility, however imperfectly realized, was preferable to unrestrained rivalry. In this sense, the Concert of Europe can be seen as a precursor to later international organizations, embodying the principle that peace required not only military deterrence but also diplomatic dialogue and institutionalized cooperation.

Yet the Concert of Europe was limited both in scope and in ambition. It was essentially a club of great powers, indifferent to the aspirations of smaller States and peoples, and grounded more in pragmatic power politics than in universal legal principles. Its relative success in preserving peace among the major European States for several decades did not translate into a broader commitment to collective security or the rule of law on a global scale. That more ambitious vision would have to await the cataclysm of the First World War, a conflict of unprecedented scale