ABSTRACT

Iraq's invasion of Kuwait and the resultant war in the Persian Gulf is considered to be a high watermark in the contemporary history of international relations in general and that of the United Nations in particular. The challenge posed to international order by the Iraqi invasion prompted unprecedented, quick and clear response. Surprisingly, the United Nations, generally known as a dormant body to respond timely to armed conflicts quickly rose up to appraise the development. Within no time a diplomatic and military coalition comprised of 33 nations was created - a phenomenon of unity, organization and military - political cohesiveness had no parallel in post second world war international affairs. The United Nations response to Iraq-Kuwait conflict was novel and unprecedented because no other conflict in the world arena since the inception of the United Nations caused such an active and vigorous resort to the charter framework for the collective enforcement of international peace and security. It was a unique kind of UN's collective security action in which the United States of America and not United Nations, played the central role.

The Cold War antagonisms between the two super powers severely damaged the ideal of collective security. The United Nations' accomplishments, during the Cold War, were modest and only occasionally - when the Soviet Union was absent from the Security Council. Apart from Korean crisis, the only enforcement actions under chapter-VIII of the UN charter adopted by the Security Council were a mandatory embargo of the white breakaway regime of Rhodesia (passed in 1969 and extended in 1968 and 1976) and a mandatory arms embargo declared against South Africa in 1977.

But with the end of the Cold War and subsequent demise of the Soviet Union, the potentialities of the Security Council was rediscovered. The Iraqi
invasion of Kuwait was not only the most blatant case to come before the Security Council, but also the first serious test case after the change in the Soviet policy. Without the protection of the Soviet Veto, Iraq was exposed to an international consensus of unusual strength. The result was the most extensive use ever of the Council's powers. Mandatory sanctions of unprecedented scope were adopted with near universal support and were implemented with the most effective enforcement ever put in place. Following this, a large and diverse coalition of countries contributed a multilateral fighting force that was able to bring in overwhelming superiority over Iraq.

It is against this backdrop the Gulf War and the United Nations response become important to analyse. Various other aspects of the United Nations and its role in the Gulf War and its aftermath need to be examined. Was the UN Charter invoked for its genuine objectives or it was manipulated by the United States? Were the sanctions given enough time before resorting to use of force? Were the provisions under chapter VII of the Charter distorted and used selectively? Can the UN be used as an instrument of any member-state's policy? What were the actual aims of the US? Was it just the liberation of Kuwait or the destruction of Iraq as the war finally showed? What is the rationale of continuation of sanctions against Iraq after liberation of Kuwait? Whether sanctions have achieved their desired goals or have missed the target? What is the justification of frequent bombing of the Iraqi targets by the US? Did the handling of the crisis indicate that the two cardinal principles of the UN Charter - “to save the succeeding generations from the scourge of war” and “to maintain international peace and security” are contradictory? And finally, has the UN lost credibility or vindicated its status as the organ of the international community with primary responsibility for international peace and security?
This work is an endeavour to make a detail study of the above raised questions and to find the answers. This study has been divided into six chapters. The first chapter provides a historical overview of Iraq’s claim over Kuwait and prelude to August 2, invasion. Chapter II deals with the Iraqi invasion of Kuwait and the Gulf War. Chapter III deals with the UN role in the Gulf crisis and examines the controversy over legality of the UN actions. Chapter IV provides an overview of global response to the Gulf crisis. Chapter V and VI deal with economic sanctions and arms inspection imbroglio. A summary of all discussions and some suggestions to improve collective security system of the UN have been presented in the conclusion. And also a new Iraq policy has been suggested.

A great deal has been written about the causes leading to the Iraqi attack and annexing of Kuwait in August 1990. Some of them undoubtedly lie in the historical claims and counter-claims, boundary disputes, controversy over the quantum of oil production in the Rumailah oil fields, Kuwait’s attempt to subvert OPEC’s oil prices by over production resulting in the loss of oil revenue to Iraq etc. Iraqi President Saddam Hussein claimed that Arab states of the Gulf had robbed Iraq of $14 billion by depressing oil prices in the international market and Kuwait had exploited its southern Rumailah oil field stealing oil worth $2-4 billion. But unfortunately the world community including Arab countries either failed to understand the validity of Iraq’s grievances or they did not want to get involved in finding an acceptable solution to the Iraqi claims. Many dubbed Iraqi action motivated by its financial difficulties in the aftermath of the Iran-Iraq war and pursuit of regional hegemony.

Whatever be the causes Iraq fell into the trap by marching its troops into Kuwait on August 2, 1990 violating all rules of international legitimacy, lofty Islamic and Arab values and the principles of good neighbourhood which constitute a pillar in international relations. Paradoxically all this happened at a time
when the world was witnessing a most impressive scene of international rapprochement. This mistake of Iraqi leadership led to the beginning of grief and miseries of the innocent Iraqi people - who had hardly any control over decisions taken by their leadership.

The international response to Iraq’s invasion was swift and harsh. Within hours Iraq’s assets were frozen worldwide and the Security Council showing unprecedented unanimity called for an immediate and unconditional Iraqi withdrawal and within days economic sanctions were imposed. But defiant Iraqi leadership instead linked its withdrawal from Kuwait to Israeli withdrawal from the occupied Arab territories, which paid little dividends even among many Arab-Islamic states. In a strategic move Iraq, hoping to forestall an imminent American attack, took all foreign nationals in Iraq and Kuwait into custody and confined them in strategic places to be used as human shields and their release conditional upon withdrawal of the US forces from Saudi Arabia and end of its economic boycott. All these last minute tactical moves by Iraq could not prevent or deter multinational forces from taking military action against it.

Once Iraq failed to implement the Security Council Resolution 660 of August 2, 1990, UN instruments of peaceful dispute settlement were quickly turned into instruments of coercion. Non-negotiable resolutions that succeeded each other swiftly became tools of waging war. Most notorious of all resolutions passed by the Security Council to dislodge Iraq from Kuwait was Resolution 678 authorizing the use of force as an ultimate action to achieve effective and desired end. There is a great deal of controversy and confusion about the legitimacy of authorization of use of force under Resolution 678. The resolution ignored the provision mentioned in chapter VII of the charter which specially empower the Security Council (not any member state) to involve in use of force and to conduct the operation under the Military Staff Committee and under the UN flag. It was
also in contravention of Article 27(3), which requires that an important resolution of the Security Council must have the concurrence of the five permanent members. Since China abstained it implied that it did not concur. Moreover it was evidently clear from the war that the Security Council had very little control over the war authorized by it. No other than the then UN Secretary General Perez De Cuellar himself admitted that “the council which has authorized all this, is informed only after the military actions have taken place”. The disproportionate authority exercised by the United States over decision making and implementation has subverted the authority and credibility of the United Nations. It was also feared that the United Nations was acquiescing too readily in US use of force. For many this authorization was illegitimate, unwise, or merely constituting a multilateral veneer for unilateral action.

The Iraqi invasion of Kuwait undoubtedly represented a blatant challenge to the body of rules governing inter-state behaviour, as laid down in the UN charter. But what the U.S. and its allies did in the name of upholding it and maintaining international peace and security in the region was not less blatant challenge. The way the war was fought by the US and allies not only demonstrated the utter helplessness of the Security Council but also exposed them. It would be a grave mistake to believe that the primary purpose of the US initiated war on Iraq was the eviction of Iraq from Kuwait. The eviction was no more than a means to various ends. It is plain enough that the United States has no principle (as opposed to tactical) objection to aggression by sovereign states against others, and so the reasons for the onslaught on Iraq must be sought elsewhere. The Iraqi misadventure was not the first or only occasion when a UN member had committed a grave violation of its charter principles. The US did not work to activate the UN in military opposition to the Israeli invasion of Lebanon and other Arab lands, to the Indonesian invasion of East Timor; or various South African invasion of Namibia,
Angola and Mozambique. Indeed, there is ample evidence that it conspired, to various degrees, in such invasions; and, of course, the US itself has invaded many sovereign states (notable Grenada and Panama in recent years).

The war on Iraq realistically viewed was intended to serve a number of purposes. It was useful to demonstrate to the world that any grave threat to American interests would not be tolerated, particularly where these required the unimpeded supply of fuel to the world’s most energy profligate nation. It was useful also to signal the new global power structure, the ‘new world other’ in which a post-cold war United States could operate without the bothersome constraint of another global super power. It was to educate the world about post-Soviet political realities.

The UN response to the Iraqi invasion confirmed the international ascendancy of the United States. The US seemed to have exploited the Council and the UN Charter as a tool of foreign policy goals and the UN was an instrument in American hands. Entire operation was controlled by the United States. With the break up of the Soviet Union as an effective deterrent power to the US the latter emerged as supreme international actor in new international order. During the whole Gulf crisis Security Council functioned under the US’s will. Not even a single veto was exercised by any permanent member to avoid incurring US ill will. The whole world was clamouring against the shameful role of the UN in the Gulf Crisis. The UN was deaf and dumb, limp, and life-less - a rubber stamp in the hands of the major powers of the world. It was for the first time an individual had been authorized to take military action against another member under the umbrella of the UN. The US was a singular importance in the Gulf war as the sole surviving super power with the military superiority to conduct such a military operation even with little or no support of its allies. The UN was made a scape goat and had to take the blame for unlawful acts, omissions and commissions of
its member states. The UN role was ineffective and inadequate.

The cease-fire agreement (Resolution 687 of April 3, 1991) signed between the United Nations and the Iraqi government, which ended the Gulf War failed to bring any relief to innocent Iraqi people who were forced to pay the price of madness of their leadership. The resolution 687 put yet another 'unjust and hard' conditions on the Iraqi people. The unconditional acceptance of various provision contained in it was made a precondition to formal cease-fire. The main provisions of the resolution included payment of reparation by Iraq, continuation of the sanctions, UN guarantee of the boundaries and Iraq’s co-operation in the destruction of its nuclear, biological weapons or weapons based technology and facility. These conditions were never freely negotiated but rather formulated unilaterally and imposed on Iraq under chapter vii. of the UN charter.

The UN cease-fire resolution 687 made it obligatory upon Iraq to destroy all its weapons of mass destruction under international supervision and monitoring. Despite almost a decade of hard work of inspecting every nook and corner of Iraq in search of weapons of mass destruction the UN team has failed to give a certificate, so that sanctions could be lifted. The process has now reached a worrisome impasse, setting Iraq, the US and Britain and for that matter, the UN on a prolonged course of military confrontation, at the cost of making the region more unpredictable and volatile than has been the case historically and imperilling the chances of creating a stable Post-Cold War World Order.

The UN weapons inspection resolutions are so punitive and humiliating that any slight attempt to erode them by Saddam Hussein has led air attacks and bombings by the US and its allies. Air strikes; through misinterpreting the UN resolutions, on Iraq has become almost a routine feature. Taken as whole, there is ample evidence to suggest that the US and a few of its European allies have arrogated to themselves the exclusive right to interpret and implement the UN
resolutions without recourse to the Security Council. This constitute a clear usurpation of the functioning and authority of the United Nations.

The UN as an international organization working for international peace and security, should not surrender itself to the will of a superpower or allow itself to be used as an instrument for achieving certain self interests of that power. The UN has to play its role reflecting the wishes of the international community. It should bring an end to the dilapidation that Iraq is affected with. The Iraqi people should not be punished for the madness of Saddam. They are the victim of Saddam's insanity and US' vindictive attitude. The situation that the Iraqi people are passing through now is more than what human being can bear. Thus the UN must do something to ameliorate their condition. The UN will and not the desire of the US should prevail. The UN must be accorded full scope to act as it was intended to act, with any ultimate decision to employ force being made by the Security Council in accordance with the Charter.