ABSTRACT

Twice in the twentieth century the scourge of war brought untold sorrow to mankind and after each war mankind pledged to establish conditions which would ensure a better world order — a world in which violence could be reduced significantly; peace and security could be ensured; and conditions for economic welfare, social justice and respect for human rights and fundamental freedoms could be created. Thus, the League of Nations came into existence after the First World War, which, unfortunately, failed and then came the United Nations, a revised version of the League — undoubtedly, improved in many respects and representing a fresh approach to the world problems with the purpose to maintain international peace and security; to develop friendly relations among nations; and to cooperate internationally in solving international problems of economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all.

The Security Council has been given the primary responsibility for the maintenance of international peace and security and the Member-States of the United Nations have agreed to accept and carry on the decisions of the Security Council. But due to excessive use of veto, the Security Council had been unable to decide matters relating to international peace and security.
It may be pointed out that the creation of the Unified Command in Korea by the Security Council was possible solely because of the fortuitous absence of the Soviet representative. Hence, it was realized by the General Assembly that to prevent matters relating to peace and security from being "frozen" on the Security Council agenda which reduced to "impotence" the organization as a whole, it should assume some of the responsibility of the council. Consequently, the General Assembly adopted three closely connected resolutions, the first of which is usually termed the "Uniting for Peace Resolution." Its intention was to create a nucleus of collective security outside the Security Council.

The adoption of the Uniting for Peace Resolution was virtually an amendment of the Charter making an additional provision as it were to Chapter VII, providing for the contingency of the failure by the Security Council to exercise its primary responsibility by reason of the lack of the unanimity of the Permanent members.

Thus, the importance of the Security had been lowered in the eyes of the nations and the General Assembly became the only hope for maintaining world order.

The General Assembly of the United Nations has become over the years the predominant political body of the world organization. The frequent inability of the Security Council to discharge its functions assigned to it by the Charter has brought
a change in the relative powers of the Security Council and the General Assembly. Member-states have increasingly extended the Assembly's role in questions involving the maintenance or restoration of international peace and security and many of them have looked with ever widening hope to this organ for the solution of their problems. Assembly resolution, moreover, while technically only recommendations, have been viewed by some member countries, with regard to certain matters and within certain limits as legally binding decisions.

The important changes in the priorities of the United Nations, too, have significant consequences for the role of its organs, particularly the General Assembly. The organization has come to give higher priority to economic and social development, decolonization and the elimination of racial discrimination than to the maintenance of international peace and security and the matters to which the highest priority is given, is primarily the responsibility of the General Assembly.

The shift of emphasis from the Security Council to the General Assembly has naturally changed the balance of power and influence. The Big Five do not enjoy the same privileged position which they have in the Security Council. This logically weakens their grip over the organization. Furthermore, as the result of the expansion of the membership of the General Assembly it has
grown from a body of fiftyone (51) members to one hundred
fiftynine (159) because the "Universality" not "Selectivity"
was to guide the principle of admission into the United Nations.
The majority of which is non-Western, underdeveloped and who
have gained their independence recently. Roughly three fifths of
the total membership belongs to the Afro-Asian regions. Many
of them belong to the Third World including ministates which
are underdeveloped and the product of the decolonization process.
They view full-membership in the organization as the final stamp
of approval on their independence. In addition, the Third-World
majority feels that further ministate membership would add to
their preponderance in the United Nations as their voting behaviour
reveals an anti-western attitude. It may be of interest to
describe briefly the change in voting behaviour in the General
Assembly since its establishment. In fact, the United States
Commanded an "automatic majority" or an "automatic two-third
majority" in the General Assembly during the years before 1955
and this exercised nearly complete control over the Assembly's
decisions. In the following years, from 1955 to 1960, the newly
admitted members behaviour lessened America's control but the
United States position was still strong. Finally, the considerable
increase in membership since 1960, it is said, has ended America's
dominance. Undoubtedly, so far as the voting results of the
General Assembly are concerned, the position of the USA is weaken:
after 1960 but in comparison to the USSR on the combined cate-
gories of cold-war, peace-keeping, arms control and disarmament
issues, the United States continued to be generally unsuccesful
However, anti-Western attitude of Third World - (which includes
microstates) has been a source of irritant for Western nations.
Naturally, it is a source of irritant to the Big Powers. Because
the Third World states now became more prominent framework of the
United Nations. Hence, the Big Powers become day-by-day disin-
terested in the functioning of the United Nations. Then there
is a need of structural and functional changes of the United Nations
Organs. Consequently, the amendment of the Charter in such a way
as to satisfy all - Big and Small - is needed.

The suggested amendments are summarised as follows:

(1) The idea of weighted voting has been suggested to arrest
or reverse the voting behaviour in the United Nations (General
Assembly) and for the survival of the United Nations one-nations-
one vote formula has to be changed.

(2) Universality not Selectivity should be the guiding prin-
ciple of admission in the United Nations. All peace-loving nations
are to be admitted. Consequently, the admission-process needs
amendment so that the admission of the peace-loving nations could
not be prevented unnecessarily.
(3) The privileged position of the permanent members in the Security Council enjoying veto power has also come in sharp criticism. The power is given to them. But this power should be amended in such a way that it is not unnecessarily abused.

(4) Article 2(7) i.e. provision for noninterference in domestic affairs have been suggested for amendment as under the pretext "domestic jurisdictions" nations try to prevent the UN to impose upon them some sort of amiable solution.

(5) The international court of justice lacks compulsory jurisdiction. Consequently, an international legal order through the judicial process is difficult to give the court. compulsory jurisdiction to make it an authoritative interpreter of the Charter, so the Charter needs amendment.

(6) In addition provision for the establishment of Permanent International Military Force is essential to help innocent states to rearm them in time to take on the aggressor. Hence, for this purpose the Charter needs amendment.

But seeking amendment of the Charter means opening a pandora's box and some of it, may even lead to the questioning of the basic postulates of the Charter and Big Powers' hegemony.
Hence any attempt to compel the Big Powers to agree with what they disagree will certainly not be in the interest of international community. A very cautious approach is therefore, required.

Changes in the United Nations system may come about in a variety of ways other than by amending the Charter. The Charter has been profoundly influenced by interpretation, custom and usage, the failure on the part of member states to implement certain articles, the conclusion of various treaties or agreements including regional defence pacts, and by the changed conditions in international situation. Furthermore, if the United Nations Charter is viewed as a "constitution" that creates a "government", it may be interpreted gradually changed by custom, and subject to a process of growth similar to that which has taken place with respect to the constitution of the most sovereign states. But if the Charter is viewed as a "treaty" or a "contract" it is not a flexible instrument and is not subject to the informal change in a fundamental sense. It is of course, virtually impossible, to draft any instrument whether it be called a treaty, a contract, or a constitution, that does not have some element of flexibility about it. A document such as the United Nations Charter is unavoidably more flexible in nature than many other written instruments.
Consequently, if the United Nations is to develop without amendment to the Charter, it is necessary to strike a balance somewhere between the extreme positions of loose and strict constitution. The idea that the Charter in an instrument so flexible that, if an amendment is not feasible, the same result may be obtained by interpretation or by the passage of special resolution, may be dangerous not only for individual member states but for the organization itself - even without the area of balance between two extremes of loose and strict construction there is considerable room for gradual growth and development. But this must be an evolutionary process accepted by the great majority of members. It is essential in considering the proposals that the techniques of change not endanger the proposals themselves.

However, from the above arguments we reach to the conclusion that the amendment of the Charter, is not the course likely to further the cause of world peace at present time. Since the nations of the world are entirely not ready now any more than in 1945, to turn the United Nations into a Super-national body, endowed with the military and economic power to enforce its decision upon unwilling members, it would be pointless to make alterations in the legal structure which did not correspond to the realities of the world community.
Any amendment of the Charter cannot prove a helpful method for strengthening the United Nations. Any change in the functions and operations of the United Nations should come about by way of convention and precedent. This is a slow process and in many ways an unsatisfactory limitations beyond which it cannot be used effectively; and to the extent that it creates a divergence between what the Charter says and what in practice the members presume it means, if makes for uncertainty, if not actual dishonesty, and weakens the effectiveness of the Charter as the fundamental law. Nonetheless, it is a process with which all constitutional states are familiar, and which indeed is essential if the constitution is to process the necessary flexibility, in adoption to the changing need of modern international society. So long as the process enables the United Nations to carryout more effectively its basic purposes, it will be a method through which its evolution can proceed in harmony with the development of world opinion, the ultimate foundation on which the United Nations must rest.

No analysis of the United Nations Charter and its operation in practice and no positive suggestions can lead to any substantial improvement in the work of the organization so long as there is suspicion and lack of good will and understanding among its members particularly amongst major powers. Even if the member state were able to reach agreement on important matters such as the limitation of armaments, world stability will remain precarious
until there is a change of heart. But the memberstates forget that under the provison of the Charter; it is the duty of the members of the United Nations to endeavour to remove causes of international friction; not increase them by answering one unjustified threat to the peace with another. Moreover, it should be at once help to cease tension and reduce bitterness in the United Nations now proceeding, and give real cause for hope that cooperation between all powers, great or small, will be achieved on a basis not of mere tolerance, but of real comradeship. So that the United Nations could be in a position to work effectively for peace and progress and there will be a healthy, happy and prosperous international society.

Fortunately, the present international situation is very hopeful. For the Super powers, owing to statemanship of Reagan and Gorbachey, the UN is no more a talking shop or debating club. The UN is acknowledged, once again; an instrument of peace rather than a platform of dissention. Therefore, the necessary amendments in this relaxed international situation, could be possibly made with the consent of the two Super-powers, of course necessarily to the satisfaction of the Third-World states, who, undoubtedly need the UN more than anyone else.