CHAPTER - II

THE GENERAL ASSEMBLY'S STRENGTHENED POSITION
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In judging the work of the United Nations organization it should always be stressed that the General Assembly has no legislative or executive powers. It is not a world government, run in accordance with a party system, with one party in power responsible to a world electorate having a common basic approach to the international problems under consideration. It is a world forum where diverse views are publicly expressed. Its strength lies in open discussion, in persuasion in the molding of public opinion. At the most, the General Assembly can only make recommendations to member governments or to the other organs of the United Nations. The moral force of such recommendation is of course very great but the General Assembly has no means of enforcing direct compliance with its requests. So, however, it was for the first importance to ensure that the most democratic organ of the United Nations, the General Assembly, should have the widest possible powers of discussion and recommendation, so that the pressure of world public opinion could be brought to bear upon countries not living up to their international obligations.

2. Ibid., p. 19.
Yet the General Assembly has already acquired an atmosphere of its own, and the long and difficult process of building up a common, corporate spirit is well under way. If anyone doubts whether the United Nations Organization has a future, he should remember that the mere existence of this complex International machinery is itself a fact of great importance. It is much harder to start to move a heavy object than to keep it moving; indeed, once started, it may in some circumstances be difficult to stop. The creation of the United Nations is thus not only a splendid achievement in itself; there is also some guarantee of continuance. For a machine, once created and started to tend to keep on working. It acquires a certain inertia or even stability. Positive action to stop or destroy it.

However, if the work of the Security Council since the establishment of the United Nations has been largely frustrated, leading to a sense of disappointment and pessimism, the work of the General Assembly, on the other hand, has been successful. By and large, however, no one who has participated in the debates which have taken place in the Assembly and in its main

committee will deny that the Assembly has in fact become a vital world forum, where all subjects within the scope of the Charter can be and is being kept fully informed on the international problems of the day. Not only does the Assembly help to shape world opinion. It is itself shaped by world opinion. It is the most democratic organ of the United Nations, and it can and does act as a watch dog. If the other organs are working badly, the Assembly soon recommend action to deal with the situation.

Hence the growing strength of the United Nations reads an official report "is due to the evolution of the General Assembly into one of the strongest force for peace that the world has ever seen". The General Assembly has also been described as the supreme source of International initiative. However, the General Assembly writes prof. Schuman, "is no more a legislative body than any other conference of diplomats. Its delegates talk, listen, support, study, discuss, purpose, vote etc what they do not, and in the nature of the case cannot do is to make rules of law binding on individuals. Apart from moral persuasion neither can they make rules binding on any government which declines to approve".


Consequently, 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. Article 24(1) provides: "In order to ensure prompt and effective action by the United Nations, its members confer on the Security Council primary responsibility for the maintenance of International peace and Security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

The important function which the Security Council has been assigned to discharge "gives the impression that it is the central organ of the United Nations" and, in fact, it has been, though Setalvad emphatically argues that the pivotal organ of the United Nations is the General Assembly (undoubtedly it has become now). He says, "a look at the Charter is in my view, enough to show that having regard to the multitude of very important functions entrusted to it, all designed to ensure lessening the possibilities of war, it is the General Assembly which is the pivotal organ of the United Nations".

8. Ibid.
Apart from the functions assigned to the General Assembly, the frequent inability of the Security Council to decide matters relating to international peace and security owing to excessive use of veto, the importance of the Security Council has been lowered in the eyes of the nations and the General Assembly became the only hope of maintaining world order.

However, the use of veto has been widely considered as very frequent and this was quickly identified as the prime reason for the inefficiency of the Security Council in discharging its primary responsibility for the maintenance of peace and Security. Consequently, the secondary responsibility of the General Assembly has been pressed into service to remedy the situation. Furthermore, the need for the increasing participation of the General Assembly in the maintenance of world peace felt as early as 1945 and efforts were made to the effect at the San Francisco conference while drafting the Charter of the United Nations. The US Department of States proposal of 1944 for a general international organization suggested a strict separation of the respective roles of the General


Assembly and the Security Council in the management of post-war problems of international order. The tentative proposals of the United States submitted for the consideration of the other participants of the Dumbarton Oaks. The Conference of 1944 gave the Council the prime responsibility for the peaceful settlement of international disputes, for the prevention of threats to peace and breaches of peace, and for such other activities as might be necessary for the maintenance of international peace and security, and empowered the assembly to deal with matters not allocated to other organs. The proposal specified that the assembly was:

(a) to make on its own initiative or on request of a member-state, reports on, and recommendation for the peaceful adjustment of any situation or controversy, the continuation of which it deems likely to impair the general welfare,

(b) to assist to executive council, upon its request, in listing the cooperation under consideration in or decided upon by the Council with respect to:
1. The settlement of a dispute the continuation of which is likely to endanger security or to lead to breach of the peace.

2. The maintenance or restoration of peace.

3. Any other matter within the jurisdiction of the Council.

The Dumbarton Oak proposal of 1944 clearly demarcated the respective powers of the General Assembly and the Security Council on questions of peace and Security - and assigned to the Security Council a greater sphere of activity, limiting the powers of the General Assembly to discussion and recommendation on any matter relating to the maintenance of peace and security that was being dealt with by the Security Council.

This meant wide scope for the deliberation of the General Assembly but a limited, spontaneous role for the General Assembly in matters of peace. It means the Assembly inferring itself just to those aspects of peace-keeping, which involved long-range rather than immediate problems.

11. Post-War Foreign Policy Preparation Department of State publication, 3580, pp. 596-608.

However, at the San Francisco Conference, systematic and vigorous attempts were made by the smaller powers for an enlarged role in the General Assembly and for a veto-free Security Council at least on pacific settlement of international dispute. Under the leadership of H.V. Evatt of Australia, the smaller powers made concerted efforts at San Francisco to enlarge the role of General Assembly in the maintenance of peace and security and make it comparable that of League Assembly. Paul, K. Walp observed that the small states decided to work together in order to convince the great powers that the assembly should be given specific powers.

The small states proposed many changes and additions to the Dumbarton Oaks proposal in order to confer on the General Assembly adequate powers to make it a centre of activity. The Mexican delegate said that "the Assembly should have all the powers that ought to belong to it in a democratic system."

13. 111/1 Documentary 486 (English)
15. UN Conference on International Organization, UN Docs., Vol. 9, p. 271.
The representative of Philippines added "... if the security Council by reason of non-concurrence of one permanent member fails to arrive at a decision ... the matter in question be submitted to the General Assembly for final decision. Decision of the General Assembly on matters submitted to it by the Security Council should be made by an affirmative vote of three fourths of all the members.

But the great powers did not accede to demands of smaller powers. The US representative thus explained the viewpoint of his country. The Security Council was to be a representative body of the assembly, just as the assembly was to be a representative body of various countries, and pleaded, that the assembly should not encroach on the Council, since it was inconceivable that any action of the Council would be contrary to the wishes of the majority of the Assembly.

All proposals to confer on the General Assembly a status equal to that of the Security Council in the performance of the task of maintaining peace and security were, therefore, rejected by the great powers.


17. UN Docs, Vol. 12, p. 316.
Australia tabled a proposal which ran as follows:
"the General Assembly should be authorised to consider any matter within the sphere of international relations' and "that the Assembly should not be banned from making a recommendation on the matter as the functions assigned to it".

Though this proposal was supported by most of the smaller powers and endorsed by the British and US delegation, it came to nothing on account of the opposition of the Soviet Union.

A.A. Gromyko of the Soviet Union insisted on keeping the scope of the Assembly's authority limited, and agreed that the world "within the sphere of international relations", afforded the Assembly such a wide range of discussion and recommendation as to interfere with "the principle of sovereignty of nations which has been agreed to as fundamental to the organization. The Soviet Union therefore rejected the Australian proposal.

The representative of Australia then proposed a modification of the proposal which runs as follows: "the General Assembly should be authorized to consider any matter which effects

18. UN Docs, Vol. 9, p. 266.
the maintenance of international peace and security".

This changed revision was also not acceptable by the Soviet delegate. However, after a prolonged discussion a compromise was reached. Thus at San Francisco the jurisdiction of the General Assembly in the field of peace and Security was enlarged by the inclusion of article 10 and 14 alongwith article 11. After the inclusion of these articles the Assembly's powers in relation to international peace and security become very broad. However, Article 10 runs as follows:

"The General Assembly may discuss any question within the scope of the Charter or relating to the powers and functions of any organs provided for in the present Charter, and except as provided in Article 12, may make recommendations to the member of the United Nations or to the Security Council or to both any such question or matters".

And Article 11 provides:

1. The General Assembly may consider the general principles of cooperation in the maintenance of International peace and security, including the principles
governing disarmament and may make recommendations with regard to such principles to the members of the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of International peace and Security before it by any matter of the United Nations or by the Security Council, or by a state which is not a member of the United Nations in accordance with Article 35, paragraph 2 and except as provided in Article 12, may make recommendations with regard to such questions to the state or states concerned or to the Security Council or to both. Any such question, on which action is necessary, shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situation which are likely to endanger International peace and Security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 20.
Not only thanks to the efforts of the smaller powers, many other articles were added to the UN Charter such as Article 2(7), 44, 51, etc.

Thus the main concern of the San Francisco Conference was the "separation of powers" between the General Assembly and the Security Council of United Nations. This separation of powers "was in either contrast with the practice of the League of Nations. This separation of powers "was in either contrast with the practice of the League of Nations, for the League Covenant provided for concurrent jurisdiction to both the Assembly and the Council as regards the scope of their activities. Professor H.F. Haviland, Jr. observes that in economic and social affairs the assembly was made supreme, and that in the exercise of force under the United Nations the Security Council was made supreme.

However, it may be pointed out that Security Council failed in its primary responsibilities in maintaining peace and security owing to the frequent use of veto by the Big

20. Brownlie Ian (Ed.), op.cit., p. 6;
Five powers and was unable to resolve the deadlock in the military staff committee over the "principles of equality" in the organization of an international force "to provide teeth" to the United Nations. Evatt, therefore, suggested that the use of the right of veto should be restricted only to the Chapter VII and that it should have no application to Chapter VI of the Charter. The Representative of Cuba submitted a proposal for "the calling of a general conference of the members of the United Nations in accordance with Article 109 of the Charter in order to modify Article 27 of the Charter in order to eliminate the so-called veto privilege". But the Soviet Union opposed the suggestion vehemently. Gormyko said that the abolition of the veto would mean the end of the United Nations. A.Y. Vyshinsky asserted that power of veto constituted the cornerstone of the United Nations. He further quoted from the document submitted by President Franklin D. Roosevelt at Yalta under the heading "Analysis of

23. UN Year Book, 1947, p. 131.
the American proposal "in which he had said "that the right of veto is in complete conformity with the special responsibility of the great powers to maintain world peace. Further, he quoted from a speech made by the US Secretary of State in 1944 to the effect that the government would not remain one day in the United Nations without retaining the veto power. In the light of these criticism, therefore, John Foster Dulles, the representative of United States, felt that no amendment of the Charter could be effected without the arrangement of the Five Permanent Members and that the Assembly would have to act very cautiously. However, the general consensus was thus inclined to the view that no amendment was possible in Article 27.

This deadlock in the Security Council passed the way for two developments within the framework of the United Nations. The first of these two developments was the establishment of regional organization under the provision of self-defence within the UN Charter and the second was the US proposal to establish an "Interim committee" of the General Assembly. The deliberative life of the Interim Committee ended when in

25. GAOR, Session 1, plen. mtg 69, p. 1237.
26. GAOR, Session 2, First cilee mtg. 113, p. 485.
1950 "the Uniting for Peace Resolution secured a broader role for the General Assembly.

Right at the outset the United Nations became a casualty of the East-West conflict. This is brought out by the election of the non-permanent members of the Security Council and the controversy over the participation of the new regime of Poland in the activities of the organization. The Security Council failed to act even on the very first issue that came up before it "the Iranian complaint against the USSR", the Soviet Union felt that the Iranian complaint had been cooked up by the Western powers. As a retaliatory measure, it complained to the Security Council against the presence of British troops in Greece and the problem of Indonesia. The Security Council was failed to solve these problems. Further, India also preferred to knock at the door of the General Assembly rather than the Security Council on the issue of the treatment of Indians in the Union of South Africa. Consequently, it is significant to note that in the first half of 1946 the Security Council dealt with eight political issues, whereas the General Assembly discussed only two. But in the next twelve months the General

27. UN Doc. A/c. 1/196.
Assembly considered as many as eighteen problems. Whereas the Security Council only five. Thus the General Assembly though only Secondary in the matters of international peace and security, afforded a better chance for the implementation of the idea of collective Security. Hence it fell to the General Assembly to consider the main problems of international peace and security and there are a few instances when the General Assembly performed acts similar to those permitted the Security Council under Article 39 and 40 before the passage of the "Uniting For Peace Resolution". Some such questions are as follows:

**Spanish Questions:**

The Cold war which can be said to have begun after the Conference in February 1946, widened the gulf between the Soviet Union and the West. At Potsdam in July 1945, J.V. Stalin the then Prime Minister of the Soviet Union, brought up the question of Sapin. He proposed that the three governments - the government of Britain, the Soviet Union, and the United States ... should break of diplomatic relations with Franco's Spain because, in his views, "the Spain government" was a danger to the peace

settlement. This proposal was rejected by the American President and the British Prime Minister. The reason was obvious, "The Blue Division" of Spain had helped the German forces on the Eastern front against the Soviet Union. At the same time Spain had played a very delicate game against Axis encroachment through its policy of neutrality, and this policy had observed the allied cause well. Even of Spain had openly entered the war on their side, the Allies would not have gained so much. By not consenting to the occupation of Gibralter by the axis forces, Spain had enabled the allies to keep the Mediterranean open. Though seemingly Axis-oriented Spain had acted in a manner favourable to allied victory. Besides Franco's hatred of communism was an open fact. Britain and the United States, therefore, did not wish to alienate Franco's Spain. Also, they could hardly ignore the geopolitical importance of Spain. A hostile Spain might well tilt the balance against West in the East-West conflict. The Security Council failed to tackle the issue.

Franco Regime was a direct threat to the World Peace "because of the conflicting stands taken by Britain and Soviet

30. Ibid.
On November 4, 1946, the Security Council unanimously decided to remove the "situation in Spain" from its agenda and to place all records and documents relating to it at the disposal of the General Assembly.

A General Assembly included the "situation in Spain" in its agenda as "Relations between Spain and the United Nations". The first committee and the General Assembly discussed the issue of international peace and security and reached the conclusion that the Fascist government of Spain headed by Franco was a government imposed by force upon the Spanish people with the aid of axis powers and that it not represent the Spanish people, they, therefore recommended that if within a reasonable time, there is not established a government which derives its authority from the consent of the government committed to respect freedom of speech, religion and assembly and to prompt holding of an election in which the Spanish people, free from force and intimidation and regardless of party, may express their will, the Security Council would consider adequate measures to be taken in order to remedy the situation.

31. General Assembly Resolution 39(1)
The General Assembly adopted this far-reaching resolution and called upon all the members of the United Nations immediately to recall their Ambassadors and Ministers plenipotentiary accredited there.

The representative of Argentina, Bolivia, Columbia the Somnian Republic, Ecuador, Egypt, Ed Salvador, Peru and the Union of South Africa were of the opinion that the resolution violated Article 2(7) of the Charter. Argentina sent its Ambassador to Spain and defended its action on the ground that the United Nations was not authorized to intervene in matters within the domestic jurisdiction of any state. The Indian delegate criticized this act as undermining the prestige of the United Nations.

When the question came up again for discussion in the second session of the General Assembly, the proposal to reaffirm the General Assembly's earlier action was defeated. The General Assembly United itself to expressing confidence that the Security Council would "exercise its responsibilities". In the same meeting, it also rejected the polish draft resolution demanding

32. General Assembly Resolution 39(1).
34. UN Documentary, A/860.
that all member-states should cease to export arms, ammunition, and strategic material to Spain and also refrain from entering into an agreement with the Franco regime. On the other hand, it was argued that the demand for economic sanctions went beyond the competence of the General Assembly and was exclusively a matter for the Security Council.

The Western powers, under the pressure of the cold war, realized the strategic importance of Spain in any future war. A friendly Spain was essential to the effectiveness of the North Atlantic defence system as it held the key to an effective control of the Mediterranean area. The delegates of Peru and the Dominican Republic, therefore, requested the General Assembly to consider General Assembly resolution 39(1). The Communist group of states opposed the idea. They said that they found no valid reason for a change in the basic position that the General Assembly had taken earlier. However, the General Assembly reversed its position in the height of Article 35 2(7) by adopting another resolution on November 4, 1950. By this resolution it left its members free to maintain diplomatic and other relations with Spain. It also authorized the specialized Agencies of the organization to decide for themselves.

35. General Assembly Resolution 386(v).
whether Spain should be allowed to participate in their work. The sixth session of the General Assembly did not even discuss the Spanish question. The Fascist regime in Spain thus escaped unscattered because of power politics in the United Nations.

The Palestine Question:

After the first World War Palestine was placed under the League of Nations mandate with Great Britain as the mandatory power. When the country was placed under the mandate, the majority of the population consisted of Palestinian Arabs. Under the mandatory system, however, large number of Jews migrated to Palestine from every corner of the World. Jews migrated on a mass scale because under the Balfour Declaration, the British government had committed itself to the establishment of national home for Jews in Palestine. The massive Jews influx gave rise to tensions between the Arabs and the Jews. The British failed to bring about a compromise between the Arabs and the Jews. On April 2, 1947, they brought the problem of Palestine before the General Assembly of the United Nations. The General Assembly held its first special session to deal with the "Palestine question". It appointed a Special Committee (UNSCOP) to investigate the problem, to examine its pros and cons, and to submit

36. General Assembly Resolution 386(v).

* Balfour Declaration of 1914 for creation of national home for Jews in Palestine.
proposals for a solution of the dispute. The Arab countries wanted the immediate "Termination of the mandate over Palestine and declaration of its independence" to be included in the agenda of the General Assembly Under the provision of Article 18(2). But their demand was not accepted by the UNSCOP. The UNSCOP submitted two reports on August 31, 1947. One was a minority report submitted by the representatives of India, Iran, and Yugoslavia recommended a "bi-national federal state". The other was the majority report containing a plan for "partition of Palestine" into Jews and Arab states with economic union.

The General Assembly created an adhoc political committee to consider the report of UNSCOP. On November 29, 1947 in its second special session, it adopted recommendation of the Adhoc Committee for the partition plan recommended in the majority report. It put Jerusalem under a special international regime to be administered by the United Nations.

37. UN Documentary A/364.
38. Article 18, Para 2.
39. UN Documentary A/364.
40. General Assembly Resolution 181(11)
41. Ibid.
The General Assembly also established a Palestine Commission to implement the Palestine Plan and requested the Security Council to assist the implementation of the plan. In doing so it invoked Article 10 as well as Article 14. In the Preamble of the General Assembly resolution 181(11), it was the language of Article 14 that was used. The authority of the General Assembly to carry out partition was therefore, challenged by the Arab countries. S.E.M. Faris Alhoury of Syria said:

"What is the capacity of the General Assembly regarding mandated territories? We turn to the Chapter XII of the Charter. All the Articles concerning mandated territories are there. Let us look at the Chapter XII of the Charter. In the United Nations entitled in its General Assembly, or its committees, to make recommendations to the mandatory power, and to what extent and within what limits? Recommendations would be made to the mandatory power either to terminate the mandate
and recognize the independence of the mandated territory, or submitted a trusteeship agreement. There is no other way in which the General Assembly could make recommendations. It was argued that if the General Assembly recommended a partition of the country, it would be ultra-vires and that it would not be binding from the legal point of view.*

The Palestine commission failed to implement the General Assembly resolution because the Security Council was not able to give it the armed forces it needed to execute the plan. It soon became clear that the plan was unfeasible. The Arab attitude was hostile and uncompromising to the partition idea, although the Jews expressed their willingness to assist in the implementation of the plan. Also the United Kingdom plainly informed the Palestine commissioned that it would not transfer any authority to it till the date of termination of the mandate, i.e. May 15, 1948. The Palestine Commission was not, therefore, able to enter Palestine, and it informed the Security Council that there was a strong likelihood

42. GAOR, Session 1, Plen. mtg. 70, p. 22.
of the collapse of the Security ... on the termination of the
mandate unless adequate means are made available to the
commission for the exercise of its authority. The Security
Council found itself unable to translate into practice this
political decision of the General Assembly. On April 1948,
it approved the UN resolution requesting the Security-General
to convene a special session of the General Assembly to
consider further the question of the future government of
Palestine.

Accordingly a second special session of the General
Assembly was called on April 16, 1948. The General Assembly
also failed to approve a trusteeship or any other solution of
the problem. The Palestine Commission was thereupon relieved
of further responsibility. The General Assembly recommended
that a UN mediator be appointed in Palestine by the Five Great
Powers. The Soviet Representative said:

"Palestine consists of two people, the Arabs and
the Jews. Both have historical roots in Palestine
and each of which plays an important part in the

43. UN Documentary, A/AC. 21/9.
44. Ibid., S/705
economy and cultural life of the country.
The solution of the problem lies in a single Arab-Jewish state with equal rights.
If it is not possible, then the partition of the Palestine was a necessary condition of peace into two autonomous states, one Jewish and one Arab.  

But the Arabs and the Western powers were inclined to work the scheme just a few hours before the decision of the Security Council in favour of the Partition of Palestine. The British government laid down its mandate in that country. Before the United Nations could move in and implement its partition plan, the Jewish agency proclaimed an independent state of Israel within the boundaries recommended by the General Assembly. The US government immediately recognized the new state of Israel. The armed forces of Egypt, Iraq, Transjordan and Syria, and the Lebanon crossed the frontiers of Israel, and widespread fighting broke out. The Security Council called for an immediate cease-fire. The United Nations Truce Supervision Organization (UNTSO) was created at that time to supervise the

45. GA Resolution 186(S-11)
armistice. From 1949 until 1956 an uneasy truce existed with many complaints to the Security Council concerning incidents and clashes. The refugee situation was also acute and defied solution. However, the Security Council was able through its agency UNTSO, to arrange for armistice agreements between the Arab and Israel. These arrangements worked until the Suez crisis in 1956.

The Greek Question:

After the second world war, pro-Soviet governments were established in East European countries. These were regarded as a political danger to the Western world in the Balkan region. The communist party of Greece also started a guerrilla movement against the military dictatorship of its country, with the help of Albania, Bulgaria and Yugoslavia. This was unacceptable to the Western powers. The result was the proclamation of the Truman Doctrine. On December 1946, the Greek government made a complaint against their communist neighbour to the Security Council. But despite a long and heated debate the Security Council was unable to solve the problem. Then the United States proposed that the "Greek question" should be

47. UN Documentary, S/137.
transferred to the General Assembly under the heading "threats to the political independence and territorial integrity of Greece". Despite the opposition of the Soviet bloc, the General Assembly established a United Nations special committee on the Balkans (UNSCOB) to assist in bringing about a peaceful settlement of the problem. UNSCOB reported in 1948, and was upheld by the third Assembly, that the continued support of guerrilla activity by Albania, Bulgaria and Yugoslavia constituted a threat to the political independence and territorial integrity of Greece and to peace in the Balkans. However, in 1951 the situation was clarified and large-scale guerrilla fighting had ceased, due largely to the defection of Yugoslavia from the Soviet bloc. The UNSCOB was dissolved in 1951 and the following year the Peace Observation Commission (established by the 'uniting for Peace' resolution) created a sub-commission on the Balkans at the request of the General Assembly. It continued to observe the frontier situation until its dissolution in 1954.

48. UN Documentary, A/344.
The General Assembly and its machinery of observation and conciliation performed adequately throughout its first real political undertaking inspite of Soviet obstructionism. The UNSCOB offered multilateral comfort and support to Greece and provided substantial on the spot frontier reports for several years to the General Assembly.

The General Assembly of the United Nations, as observed by a keen analyst of the United Nations system has become over the years the predominant political body of the world organization. The frequent inability of the Security Council to discharge 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 General 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 solution of their problems. General 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.

51. Falk and Mendlovitz (edt.) op.cit., p. 227.
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. No wonder, the Soviet Union opposed the resolution vehemently. The Resolution empowered the General Assembly that:

"If the Security Council because of the lack of the unanimity of the Permanent members fail to exercise its primary responsibility for the

maintenance of international peace and security
in any act of aggression, the General Assembly will
consider the matter immediately with a view to
making appropriate recommendations to members for
collective measures, including in the case of a
breach of the peace or act of aggression, the use
of armed force when necessary, to maintain or restore
international peace and security. If not in session
at the time, the General Assembly may meet in an
emergency special session within twenty-four hours
of the request therefore..."

Furthermore, the resolution provided for the following
six changes in the organization and procedure:

1. The authority to transfer a peace and security issue
to the General Assembly if the Security Council was
blocked by veto.

2. The capacity to call emergency session of the General
Assembly if necessary for the purpose.

see Goodrich, I.M., Edward and Simons, A.P., Charter of the
United Nations; Commentary at Documents, Columbia University
p. 32; Nicholas H.C., United Nations as a political Institu-
3. A recommendation to member-states that each member maintain within its national armed forces elements trained for service as a UN Unit.

4. A peace observation Committee.

5. A panel of military experts.

6. A collective measures committee.

Thus, the adoption of the 'Uniting for Peace Resolution' was the logical culmination of series of efforts to increase the political authority of the General Assembly for which the Korean context provided the immediate occasion.

The adoption of the Uniting for Peace Resolution, Setalvad points out, "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 unanimity of the permanent members".

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58. Ibid., p. 32.
However, Andrew G. Vyshinsky criticized all the three resolutions. Vyshinsky said that the Secretary-General then would be the commander-in-chief of the armed forces of the General Assembly ... riding on a white horse ..." and definitely the resolutions strengthened the position of the General Assembly.

In addition to this transfer-device greatly enlarged the functions and competence of the General Assembly. It is the important shift of emergency power from veto-ridden security council to the veto-less General Assembly. Thus the General Assembly played an important role in the matter of peace and security as an alternative body of the Security Council. The validity of the famous resolution and its impact on the organization will be evaluated by reference to some cases in which the Uniting for Peace Resolution was invoked: The first application of the Uniting for Peace Resolution followed soon after, when on February 1, 1951 the General Assembly passed a resolution finding "that the Central People's Government of the People's Republic of China, by giving direct and assistance to those who are already committing aggression in Korea and by engaging in hostilities against the UN forces there,


60. Ibid., 347.
has itself engaged in hostalities against the UN forces there, has itself engaged in aggression in Korea. The General Assembly adopted on February 1, 1951, the following resolution.

"Noting that the Security Council, because of the lack of the unanimity of the Permanent members, has failed to exercise its primary responsibility for the maintenance of international peace and security in regard to the Chinese communist intervention in Korea,

"Noting that the Central People's Republic of China has not accepted United Nations proposals to bring about a cessation of hostalities in Korea with a view to peaceful settlement, and that its armed forces continue their invasion of Korea and their large-scale attack upon United Nations forces there,

"1 Finds that the Central People's Government of the People's Republic of China, by giving direct/and assistance to those who were already committing aggression in Korea and by engaging in hostalities

against United Nations forces there has itself engaged in aggression in Korea;

"2 Calls upon the Central People's Government of the People's Republic of China to cause its forces and nationals in Korea to cease hostilities against the United Nations forces and to withdraw in Korea;

"3 Affirms the determination of the United Nations to continue action in Korea to meet the aggression;

"4 Calls upon all states and authorities to continue to lend every assistance to the United Nations action in Korea;

"5 Calls upon all states and authorities to refrain from giving any assistance to the aggression in Korea".

By passing this resolution, the General Assembly took a further step forward. It took upon itself the determination of the existence of an act of aggression which was under Article 39, declared by the Charter to be the function of the Security Council. For Article 39 provides:

63. Setalvad, M.C., op.cit., p. 38.
"The Security Council shall determine the existence of any threat to the peace, breach of peace, act of aggression and shall make recommendation, or decide what measures shall be taken in accordance with Articles 41 and 42 to maintain or restore international peace and security."

However, an important point about the Korean war calls for comment. It was the first war in history to be fought in the name of the world organization and for the first time the concept of collective security, as envisaged in the UN Charter, was put to test. Western leaders hailed the event as "a historical progress towards the establishment of a viable system of collective security" demonstrating the fact that the United Nations is adoptable to the role of enforcement as well as that of conciliation.

A dispassionate study of the whole Korean episode, however, will make it clear that Korean conflict did not so much mark a turning point towards collective security as showed

64. Bullen, I., op. cit., p. 12.

hardening of the attitude on the part of the Western powers and the communist bloc alike. The two giants clashed to have a trial of brute strength and separated without getting their respective superiority decided. The two could realize the strength of each other and since neither of them was strong enough to subdue the other they agreed on an armistice neither side allowed to spread its domination.

The UN intervention in Korea succeeded in repelling the Communists from South Korea but it failed to settle the dispute; on the other hand the conflict and the way in which armistic agreement bringing the war to the position of a belligerent and lowered its prestige as an effective world organization.

While the Korean operation were still continued, a crisis arose in the Middle East when Israel invaded in the Sinai Peninsula of Egypt. This was followed by the Anglo-French attack on Egypt, so that the Arab-Israeli conflict and the problem of the Suez canal became a mixed and complicated problem. Egypt's vital importance was due to the Suez canal connecting the Red Sea and Mediterranean sea. Suez canal had been owned and run by an international company with French and Ottoman interest in control. Actually, the British have never owned the canal. It

67. Ibid., p. 60.
68. Setalvad, M.C., op.cit., p. 39.
has continued to be owned and operated by the Suez Canal Company, an International joint stock concern with an Egyptian Charter and a lease which was valid until 1968. At the time, the Canal was legally scheduled to be turned over, free to the Egyptian government. Most of the Stockholders are French and its directors are principally British and French. The Administrative head office was located in Paris. But with 44 percent of the Stock, the British government has always been the largest single shareholder and, as a result, has had a strong voice in the operation of the canal and has received a major share of company’s proceeds. The status of the canal was established by the Constantinople convention of 1988 which was signed by Austria-Hungary, France, Germany, Great Britain, Italy, the Netherlands, the Ottoman Empire, Russia and Spain.69

On July 26, 1956 President Camal Abdel Nasser of Egypt announced the nationalization of the canal and a plan to finance the dam from income derived from Egyptian operation of the canal. Since more than half of the oil needed for the economy of Western Europe proceed through the Canal, reaction to the seizure was immediate. So the incident of the Egyptian nationalization of the Suez Canal was brought before the Security Council on

September 23, 1956 at the request of France and the United Kingdom. The Security Council met immediately placed the item on the agenda, and proceeded to examine the situation in the usual manner. But the Security Council was failed to exercise its responsibility to maintain international peace and security due to the "lack of the unanimity of the permanent members - that is because of a "veto" and "the matter was transferred to an emergency meeting of the General Assembly under the 'Uniting for Peace' Resolution."

On November 1, 1956, the General Assembly began its first emergency special session with the subject matter limited to the Suez crisis. On the following day a resolution was adopted calling for a cease-fire, a withdrawal of forces, and prompt action towards re-opening the canal. The British and the French indicated that they would comply only if a United Nations force moved into the area to ensure the carrying out of details concerning the armistice and the re-opening of the canal. The General Assembly requested the Secretary-General to observe and report promptly on the effect of the resolution.

The next emergency meeting of the General Assembly took place covering a plan for a United Nations Emergency Force (UNEF). The General Assembly adopted the resolution "establishing a United Nations Command for the force, headed by General Burns, who was to recruit officers ... who shall be nationals of countries having permanent members in Security Council". The U.K. French Paratroops had already begun to drop in the canal zone, and it seemed at one time that France and the United Kingdom were not inclined to accept the cease-fire. However, Soviet threats of intervention and pressure from various countries including those of the commonwealth and, more than anything else, the pressure from the United States resulted in the announcement that although UK-French troops had landed in Egypt, France and the United Kingdom would comply with the cease-fire resolution. The General Assembly, however, continued its steps for the establishment of the UNEF. The basic function given to the UNEF was to supervise the cessation of hostilities in accordance with the General Assembly resolution of November 2, 1956. INSpite of the best effort of the General Assembly through UNEF the crisis of Suez canal has not been solved. The significant question of what would happen should UNEF be requested

74. Setalvad, M.C., op.cit., p. 42.
to leave Egyptian territory was unanswered. Egyptian reparation demands from Israel, Britain and France remained unsolved. An ominous note was injected into the unsettled situation with the sale of Soviet submarines to Egypt in 1957. Consequently, the United Nations continue to face grave problems in this area.

On October 23, 1956 a peaceful demonstration took place in Budapest. One of the principal demands was the removal of the Soviet troops stationed in Hungary. However, in order to quell the disturbances, the Soviet Union moved into Hungary a large units of armed forces. The Soviet tanks joined with the police inflicting heavy casualties on Hungarian citizens. Hungarian authorities wanted to negotiate with the USSR for the withdrawal of Soviet troops. But the result was unsuccessful and the fighting continued. The United States, the United Kingdom and France requested the summoning of an urgent meeting of the Security Council to discuss "the situation created by the foreign military forces in Hungary violently repressing the rights of Hungarian people". Inspite of Soviet protest the matter was adopted on the agenda of the Security Council.

75. Goodspeed, S.S., op.cit., p. 266.

76. Setalvad, M.C., op.cit., p. 44, See also Goodspeed, S.S., op.cit., p. 266.
The Security Council discussed the situation fully. However, on November 3, 1956 the United States introduced under this draft resolution which would have called upon the Soviet Union to "desist forthwith from any kind of intervention" in Hungary, and to withdraw its armed forces without delay". It also affirmed the right of Hungarian people to a government responsive to its independence and well-being dedicated to its independence and well-being. The Soviet Union, however, cast a negative vote while other Council's member voted in its favour. So the Security Council could not take decision on Hungarian situation. The Security Council then by a procedure of vote which did not require the unanimity of the Permanent members, decided to call a special session of the General Assembly to "make appropriate recommendations concerning the situation in Hungary' since the Security Council had been unable to exercise its responsibility for the maintenance of international peace and security. The Soviet Union of course, protested both the original inscription of the Hungarian item on the agenda of the Security Council and its subsequent transfer to the General Assembly. However, the General Assembly met in an emergency session and passed the US Resolution. The Secretary

General was requested to observe the situation directly "through representatives appointed by him to report thereon to the General Assembly and as soon as possible suggest methods to bring an end to the foreign intervention in Hungary ..."

On November 9, 1956 the General Assembly again called upon the Soviet Union to withdraw its forces from Hungary and recommended that free elections should be held in Hungary under United Nation auspices, and built their own form of government which they want to establish.

Further, the emergency special session of the General Assembly transferred the Hungarian situation to the agenda of the Assembly's regular session. During both the emergency and regular session the Soviet Union opposed the United Nations intervention in Hungary on the ground that it is domestic matter which under the Charter the General Assembly could not enter into. From time to time the General Assembly appoint observer committees and passed certain resolution for the withdrawal of Soviet troops from Hungary. But in spite of such resolution the General Assembly was unsuccessful and the Soviet troops still remained in Hungary. The General Assembly thereafter established a five member committee (Australia, Ceylon, Denmark, Tunisia and Uruguay) to investigate the Soviet-crush Hungarian revolt. At

one of its session the General Assembly endorsed the report of the Committee. Among other things the General Assembly resolution noted that the events which took place in October and November 1956, constituted a spontaneous national uprising; that the present Hungarian regime had been imposed upon the Hungarian People by the armed intervention of the USSR, that the human rights and freedoms guaranteed by the treaty of Peace with Hungary, and that the Soviet Union had carried out mass deportations of Hungarian citizens to the USSR. In addition, the resolution called upon the USSR and the Hungarian authorities to desist from repressive measures against the Hungarian Population, to respect that country's liberty and independence, and ensure the return of the deportees. The report itself had indicated clearly that there was no evidence to support the Soviet charge that the uprising was fomented and helped by reactionary circles in Hungary and 'Western impartialists'.

However, the action of the General Assembly proved fruitless in the matter of Hungarian crisis. Inspite of all its efforts because the action complained against one of the Permanent member and none of the Permanent members were prepared to

take the risk of fighting a war with the Soviet Union over Hungary.

In July 1960 due to the break down of internal law and order only a few days latter after the Congo became independent brought a telegram from the Congolese President and the Prime Minister requesting the Secretary-General of the United Nations "to an urgent dispatch of military assistance". The Secretary-General reported the matter to the Security Council. The Security Council adopted a resolution authorising the Secretary-General "to take necessary steps, in consultations with the government of the Congo, to provide the government with such military assistance as may be necessary, until, through the efforts of the Congolese government with the technical assistance of the United Nations, the national security force may be able, in the opinion of the Government, to meet fully their tasks'.

Within the Republic of the Congo, there were three rival political groups - the Presidential group, Prime Minister's group and army led by the chief of the staff. In these circumstances, the Security-General was confronted with the problem of

80. Setalvad, M.C., op.cit., p. 47.
how to implement his mandate and to whom to give the assistance stipulated in the decision of the Security Council. As Dag Hammerskjold himself said, "the Congo crisis ... put the Secretariat under the heaviest strain which it has ever had to face." So, however, Hammerskjold himself requested on 13th July meeting of the Security Council, for the first time for the recommendation of the creation of ONUC (from the French title, 'For e de l' organization des Nations Unies au Congo') and Hammerskjold himself said later, that "the only additional guidance was provided by a set of principles ... which had been evolved during the experience of the United Nations Emergency force (UNEF) and which he had told the Security Council would again adopt. On July 22, 1960, the Security Council approved the UN Congo operation (ONUC), along the lines of the UNEF. On August 9, 1960, the Security Council approved another resolution confirming the authority given to the Secretary-General "will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise", and called upon all members to accept and carry out the decisions of the Security Council and afford mutual

assistance in carrying out the measures decided upon by it. However, as the Security Council did not explicitly say that it was acting under Chapter VII and was taking enforcement measures under it, the Secretary-General assumed that his own powers were limited to the moral and legal weight attached to the Security Council's resolution. 84

Consequently, the situation of the Congo was further deteriorated and the Security Council lapsed into inactivity. An emergency special session of the General Assembly was called under the "Uniting for Peace" Resolution on September 17, 1960. The General Assembly supported the operative resolution of the Security Council and called upon the Secretary General to take vigorous action in the restoration of the maintenance of law and order throughout the Congo and to safeguard its unity, its territorial integrity, and its political independence in the interests of international peace and security. 85

Further, in April 1961, the Central government in the Congo announced its willingness to cooperate with the United Nations on the basis of the Security Council's resolution.

85. Ibid., p. 53.
Meanwhile the General Assembly also approved three resolutions dealing with the actual conduct of the operation in the Secretary-General's conduct of the operations. The Soviet Union became increasingly jealous of his handling of the Congo crisis and declared bluntly that the Soviet Union, however, and its allies no longer trusted Hammerskjold and on his to resign. Later, Khruschev pleaded for the dismissal of the Secretary General DaCi Hammerskjold. The Soviet Union, however, wanted more than the removal of Hammerskjold and proposed a collective executive body of the United Nations (Troika) comprising three equal Secretary General - one representing the East one the West and one representing the non-aligned countries. But the General Assembly passed a resolution that expressed a tangible evidence of its basic confidence in the Secretary General's Congo policies by appropriating 100 million dollars to finance the Congo operation. partially because of financial problems and partially because of its principal mandate had been achieved, the ONUC was withdrawn from the Congo by July 30, 1964. Ernest W. Lefever concluding in his study of the Congo operation, quoted by A.I. Bennet summarizes his overall


87. H.G. Nicholas, op.cit., p. 185.
assessment of its shortcomings and success as follows:

"The Congo peacekeeping efforts was a novel, controversial, and a less-than-efficient enterprise. It sometimes fumbled. It made many small mistakes. It was assailed on all sides. It precipitated a financial crisis for the United Nations. But in the final analysis, the UN force must be judged by its contribution to international stability, regardless of what other interest in might have served. So judged, the mission succeeded. It contributed to peace and security in Central Africa and in the Wider World.

As the largest and most complex internationally authorized and administered operation in history, the Congo peacekeeping efforts is rich in lessons and warnings for the future.

Hence, in the Congo operation both the Security Council and the General Assembly took part in the decisions that were taken from time to time, and the General Assembly tried to act whenever the Security Council was inactive or failed to take

note of the rapidly moving situation.

A look at the peace-keeping operations by the 'Uniting for Peace' resolution will reveal that what the Security Council had not been able to achieve because of the lack of the unanimity of the Permanent members and the consequent use of 'veto'. The General Assembly could easily do and on several occasions served the world from disaster". Some Assembly resolutions have affected the means at the disposal of states in their relations by creating new peace-keeping techniques to isolate clashes between smaller nations or within a smaller nations from the largest East-West struggle. The communist retreat from South Korea in 1951; French and British evacuation of Egypt in 1956, the US withdrawal from Lebanon in 1958, the Soviet retreat from the Congo after the fall of Lumumba were surely furthered by these techniques. However, these operations had themselves been a source of crisis and the entire United Nations system was threatened as it did not serve the Big Powers interests.

89. Setalvad, M.C., op.cit., p. 55.
The nineteenth session of the General Assembly was virtually paralyzed by what is commonly referred to as the financing crisis. The financing crisis, (the Expenses case) provided the opponents an opportunity to warn that the United Nations is a "sinking ship unworthy of further trust of mankind" and the friends of the United Nations worried that it might not survive. In fact, the crisis which had paralysed the organization, was the product of many factors but the most salient was the persistent refusal of the Soviet Union and France to pay their shares of major peace-keeping operations carried on the Suez and the Congo. The crisis was not really about money. The amount involved were very minor. It was political. It was the crisis that has paralyzed the organization as a consequence of political default by France and the Soviet Union without either contention of financial hardship by the defaulting states, or actual inability. Thereupon, the General Assembly under Article 17(2) requested the International Court of Justice to advise whether the expenses of the two forces constitute


'the expenses of the organization within the meaning of the Charter. Article 17(2) of the Charter provides:

"The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly".

The opinion of the Court was delivered on July 20, 1962. By a vote of 9 to 5 the Court agreed that the financing of UNEF and ONUC "constituted 'expenses of the organization' within the meaning of Article 17(2)", thereby confirming the authority of the General Assembly to make the controversial assessment. The opinion of the majority is of importance because it constitutes, the "express judicial approval of the practical transfer of responsibility for the maintenance of peace and security from the Security Council to the General Assembly". It has also been observed: This opinion of the Court is of crucial importance for more than one reason. It involved not only the organization but also the future of the organization in the maintenance of international peace and security. That the Court,

the principal judicial organ of the United Nations Organizations, has discharged its responsibility effectively is clear beyond any doubt. Until recently, fear was expressed in some quarters whether the court's opinion would get a favourable reception in the General Assembly of the United Nations. These doubts are dispelled now. The General Assembly has accepted the advisory opinion of the International Court of Justice⁹⁷. However, the Soviet Union and France referred to pay even after the advisory opinion. Thereupon, the USA and its allies threatened to invoke Article 19 of the Charter which provides:

"A Member of the United Nations which is in arrears in the payment of its financial contribution to the organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of its contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to the conditions beyond the control of the members".⁹⁸


The Soviet Union threatened to leave the organization if it was deprived of its vote in the General Assembly. Eventually in August 1965, the USA and its allies gave way and agreed not to invoke Article 19; in return, the Soviet Union promised to make a voluntary contribution towards the expenses of the two forces.

The shift of emphasis from the Security Council to the General Assembly has aroused concern and "even in the absence of an organized superior Power to compel obedience, a government in the General Assembly forum will not easily ignore the conduct and attitudes of the majority of the UN members. It must consider with case the possible reaction of other states to a defiance of an Assembly resolution. It must weigh not only the immediate reaction of the nations, which would be most affected by such a breach, but also the effect on world public opinion."

The shift of emphasis from Security Council to the General Assembly has naturally changed the balance of Power and influence. The Big Five do not enjoy in the General Assembly the same

privilege 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 fifty one to one of one hundred of fifty-nine (159), 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 are mini states which are products of 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 mini state 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 command an "automatic majority" or an "automatic two-third majority" in the General Assembly during the years before 1955 and thus exercised nearly complete


control over the Assembly's decision. 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 result of the General Assembly are concerned, the position of the USA is weakened after 1960 but in comparison to the USSR, on the combined categories of cold-war, peacekeeping, arms control and disarmament issues, the United States continued to be generally successful and the Soviet Union to be unsuccessful. Thus, the strengthening of the General Assembly's position and anti-Western attitude of the Third-World - (which includes microstates) has been a source of irritant of Western nations.

The strengthened position of the General Assembly with its increased membership almost all of them being underdeveloped (including mini states) has made the Super power reluctant to entrust real power to a body where they do not have a veto. To avoid a confrontation with the majority within the General Assembly, the idea of weighted voting has been suggested to
arrest or reverse the voting behaviour in the General Assembly. The schemes for weighted voting are especially relevant to the workability of the Uniting for Peace Resolution and other Peace-keeping approaches.

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. (It has been decided to appoint a Director-General for development and, International Economic Cooperation, a high level official, with a rank just lower than the Secretary-General, to provide leadership in the field of development and international economic cooperation. The Director-General will be appointed by the Secretary General), 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.


After all, the General Assembly occupies a key position in the network of the United Nations. It was given important responsibilities within the UN structure, notably with respect to Economic and Social Council, The Trusteeship Council and the Specialized agencies. It elects the non-permanent members of the Security Council, the Economic and Social Council and the non-designated, members of the Trusteeship Council. It considers and approves the budget of the United Nations. The "Power of Purse" is universally recognized as the one of the most effective means by which an assembly can exercise control over an executive. The General Assembly is essentially a deliberative, supervisory, and reviewing body. It has become a world platform for multilateral diplomacy. Politically, the Assembly's predominance is assumed by the fact that it is only the principal organ in which all member states participate on an equal basis. As the only permanent political body in which all the states are represented the General Assembly helps assume the performance of all their functions in international


system. Of all the United Nations bodies the General Assembly above all stands for a conception of the World as a true 'Comity of Nations' rather than a mere conglomeration of regional blocs or hegemonial spheres. It is not ignorable one.