



## LEGAL AND INSTITUTIONAL FRAMEWORK OF UNITED NATIONS: AN EXAMINATION OF ITS STRUCTURE, FUNCTIONS, AND CHALLENGES

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### Abstract

*The United Nations Organization is a cornerstone of international law and governance, playing a crucial role in promoting peace, security, and cooperation among nations. This article provides a comprehensive examination of the legal and institutional framework of the UN, exploring its founding instruments, organizational structure, and core functions. The article analyzes the roles and powers of the UN's principal organs, including the Security Council, General Assembly, and International Court of Justice, as well as its specialized agencies and programs. It also emphasizes the need for reform and modernization of the UN framework, highlighting recent initiatives and challenges. Finally, the article examines the limitations and challenges facing the UN, including funding, effectiveness, and accountability. This article adopted doctrinal methods of research, and primary and secondary sources were used namely textbooks, statutes, conventions and online or internet materials. This article aims to provide a nuanced understanding of the UN's legal and institutional framework, its strengths and weaknesses, and its role in shaping international law and governance.*

**Keywords:** International Law, United Nations, UN General Assembly, International Court of Justice, United Nations Security Council.

### 1.0 Introduction

The United Nations Organization,<sup>1</sup> a cornerstone of international law and governance, plays a vital role in promoting peace, security, and cooperation among nations. Established in 1945 in the aftermath of World War II, the UN has evolved into a complex and multifaceted organization, comprising 193 member states, numerous specialized agencies, and programs.<sup>2</sup> The UN's legal and institutional framework provides the foundation for its activities, decision-making processes, and interactions with its member states and other international organizations. The UN's legal framework is rooted in its founding instrument, the UN Charter, which sets out the organization's purposes, principles, and structure.<sup>3</sup> The Charter establishes the UN's primary organs, including the General Assembly, Security Council, Economic and Social Council, International Court of Justice, and Secretariat. These organs work together to promote international cooperation, prevent conflicts, and address global challenges. The UN's institutional framework is designed to facilitate international cooperation, promote peace and security, and address the social, economic, and humanitarian needs of its member states. The organization's specialized agencies and programs, such as the World Health Organization (WHO), United Nations Children's Fund (UNICEF), and United Nations Development Programme (UNDP), play critical roles in promoting development, protecting human rights, and providing humanitarian assistance.<sup>4</sup> Despite its many achievements, the UN faces numerous challenges and criticisms, including concerns about its effectiveness, accountability, and representation.<sup>5</sup>

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<sup>1</sup> Hereinafter referred to as UN.

<sup>2</sup> United Nations, 'About Us.' <https://www.un.org/en/about-us> retrieved on March 31, 2025.

<sup>3</sup> United Nations, 'United Nations Charter.' <https://www.un.org/en/about-us/un-charter/full-text> retrieved on March 31, 2025.

<sup>4</sup> United Nations, 'Specialized Agencies.' <https://www.un.org/en/about-us/specialized-agencies> retrieved on March 31, 2025.

<sup>5</sup> E A Santos, 'United Nations: Structure and Challenges.' <https://www.diplomacyandlaw.com/post/united-nations-structure-and-challenges> retrieved on March 31, 2025.



The UN's ability to address global challenges, such as climate change, pandemics, and terrorism, is often hindered by the veto power of its permanent members, inadequate funding, and the lack of a standing army.

This article provides a comprehensive examination of the legal and institutional framework of the United Nations, exploring its founding instruments, organizational structure, and core functions.

### 1.0. Legal Framework of United Nations Security

UN Security is underpinned by five main legal documents, outlining the responsibilities of all stakeholders:<sup>6</sup>

- a) United Nations Charter (1945) The founding document, Outlining purposes, Principles, and structures
- b) Convention on Safety and Security of United Nations Personnel and Associated Personnel (1994) – Optional Protocol (2005)
- c) Conventions on Privileges and Immunities of the United Nations (1946 and 1947)
- d) Annual Resolutions of the General Assembly on Safety and Security of UN personnel and associated personnel.
- e) United Nations Security Management System (UNSMS) Security Policy Manual
- f) International Treaties
- g) Security Council Resolutions
- h) International Court of Justice (ICJ)
- i) Customary International Law.
- j) UN Administrative Law
- k) International Humanitarian Law (IHL)

#### 1.1. The UN Charter

The Charter<sup>7</sup> gives the United Nations Security Council primary responsibility for the maintenance of international peace and security. In fulfilling this responsibility, the Security Council may adopt a range of measures, including the establishment of a United Nations peacekeeping operation. The legal basis for such action is found in Chapters VI, VII, VIII and XVI of the Charter. While Chapter VI deals with the Pacific Settlement of Disputes, Article 33(1)<sup>8</sup> states that:

The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

This calls for a peaceful settlement of dispute before resort to force. Chapter VII<sup>9</sup> contains provisions related to action with respect to threat to the peace, breaches of the peace and acts of aggression. It states that:

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockades, and other operations by air, sea, or land forces of Members of the United Nations.<sup>10</sup>

This measure is the use of force which is legally backed by the Charter. Chapter VIII of the Charter also provides for the involvement of regional arrangements and agencies in the maintenance

<sup>6</sup> United Nations, 'Department of Safety and Security, Security-Related UN Conventions & Frameworks' <<https://www.un.org/en/safety-and-security/legal-framework>> Accessed 29 March 2024.

<sup>7</sup> United Nations, 'Overview of Peacemaking Circle' (2006) <<http://www.un.org/peace>> accessed on 31<sup>st</sup> March, 2025.

<sup>8</sup> *Ibid*

<sup>9</sup> *Ibid*.

<sup>10</sup> *Ibid*.



of international peace and security<sup>11</sup> provided such activities are consistent with the purposes and principles outlined in Chapter I of the Charter. By Article 53,<sup>12</sup> no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council. Chapter XVI also deals with the miscellaneous Provisions.

United Nations peacekeeping operations have traditionally been associated with Chapter VI of the Charter. However, the Security Council need not refer to a specific Chapter of the Charter when passing a resolution authorizing the deployment of a United Nations peacekeeping operation and has never invoked Chapter VI. In recent years, the Security Council has adopted the practice of invoking Chapter VII of the Charter when authorizing the deployment of United Nations peacekeeping operations into volatile post-conflict settings where the State is unable to maintain security and public order. The Security Council's invocation of Chapter VII in these situations, in addition to denoting the legal basis for its action, can also be seen as a statement of firm political resolve and a means of reminding the parties to a conflict and the wider United Nations membership of their obligation to give effect to Security Council decisions.

Linking United Nations peacekeeping with a particular Chapter of the Charter can be misleading for the purposes of operational planning, training and mandate implementation.<sup>13</sup> In assessing the nature of each peacekeeping operation and the capabilities needed to support it, the Troop Contributing Countries (TCCs) and the Police Contributing Countries (PCCs) should be guided by the tasks assigned by the Security Council mandate, the concept of operations and accompanying mission Rules of Engagement (ROE) for the military component, and the Directives on the Use of Force (DUF) for the police component.<sup>14</sup>

Although the United Nations Charter gives primary responsibility to the Security Council for the maintenance of international peace and security, the General Assembly Resolution 377 (V) of 3 November 1950, also known as the Uniting for Peace resolution,<sup>15</sup> states that:

If the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall 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.

General Assembly resolution 1000 (ES-1) of 5 November 1956<sup>16</sup> authorizing the establishment of the first United Nations Emergency Force (UNEF I) was adopted under procedure established by the Uniting for Peace resolution.<sup>17</sup> Chapter XVI deals with miscellaneous provisions like Article 104 and 105. Article 104 provides that the UN shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes. Article 105 states that:

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> United Nations, 'United Nations Peacekeeping Operations Principles and Guidelines', (2010) <<http://www.un.org/depts/dpko>> Accessed on March 31, 2025.

<sup>14</sup> *Ibid.* See Also J Rourke, *International Politics on the World Stage*. (University of Connecticut press, 2000) p.20.

<sup>15</sup> United Nations, 'GAR/377 (V) of 3 November 1950.' <<http://www.un.org/depts/dpko>> Accessed March 31, 2025.

<sup>16</sup> United Nations, 'GAR 1000 (ES-1) of 5 November 1956.' <<http://www.un.org/depts/dpko>> Accessed March 31, 2025.

<sup>17</sup> *Ibid.*



necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.<sup>18</sup>

## **2.2. Convention on Safety and Security of United Nations Personnel and Associated Personnel (1994) – Optional Protocol (2005)**

The neutrality of the United Nations and the idea that every State and its people would accept and respect this universal organization and believe that it is acting for peace and the good of every human being was shattered almost at the early stages of the establishment and activities of the United Nations.<sup>19</sup> As early as 1948, with the killing of United Nations peacekeepers in Palestine, culminating in the assassination of Count Bernadotte, the Palestine Mediator, and his assistant, Colonel Serot, in Jerusalem.<sup>20</sup> It became clear that the United Nations was not always welcomed by all the parties involved in a conflict. However, for the next 45 years, the sporadic threat to United Nations personnel in the field was not sufficiently serious to be considered an obstacle to the performance of the function of the Organization.<sup>21</sup> It was accepted that United Nations personnel would be exposed to occasional threats. Minor and infrequent threats were viewed inherent in the environment in which the Organization operated. Like the constant threat of being bitten by a malaria mosquito or catching cholera in certain regions, it was simply taken for granted that United Nations personnel would be burglarized or even killed, if they happened to be in the wrong place at the wrong time.<sup>22</sup> But as of 1992 the nature and the frequency of threats began to change. The threat to United Nations personnel was directed explicitly to voice disagreement with and opposition to the decisions of the Organization regarding its Charter mandates. United Nations personnel were now targeted precisely because they worked for the Organization. In addition, United Nations operations in impoverished areas of the world led to yet further resentment on the part of the local population who viewed United Nations personnel as representing a superior economic class. This generated animosity against United Nations personnel justifying, in the mind of the local population, attacking United Nations personnel and property.<sup>23</sup> By 1992, it became clear that the Organization should be taking some steps. In *An Agenda for Peace* (A/47/277 – S/24111), the Secretary-General of the United Nations at the time, Boutros Boutros-Ghali, commented that an ineluctable consequence of the increased role of the Organization in preventive diplomacy, peacemaking and peacekeeping operations seemed to be an escalation to an intolerable level in risks to life and limb of United Nations and associated personnel.<sup>24</sup> He admitted that there had been “an unconscionable increase in the number of fatalities” of United Nations personnel and indicated that “innovative measures will be required to deal with the dangers facing United Nations personnel.” It was against this factual background and in response to concerns expressed by the Secretary-General that in 1993 New Zealand and Ukraine proposed the drafting of a convention for the protection of United Nations personnel leading to the adoption of the Convention on the Safety of United Nations and Associated Personnel on 9 December 1994 (General Assembly resolution 49/59).<sup>25</sup> The Convention was a quick attempt to fill a legal vacuum, mindful

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<sup>18</sup> *Ibid.*

<sup>19</sup> H.A.Mahous, ‘Convention on the Safety of United Nations and Associated Personnel New York, 9 December 1994 and Optional Protocol to the Convention on the Safety of United Nations New York, 8 December 2005’, Audiovisual Library of International law, < <https://legal.un.org/avl/ha/csunap/csunap.htm> > accessed April 1, 2025.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*



that there were a number of reasons behind the escalation of attacks against United Nations personnel that could not be resolved by a legal instrument. Prevention of attacks against United Nations personnel requires operational measures which have little to do with legal steps.

The Convention imposes an obligation on a State hosting a United Nations operation to protect United Nations personnel and property. Considering that many United Nations operations are conducted in failed States or States where Governments usually do not have complete police power over their territory, clearly there can be no realistic expectations for such protection. There was no illusion that the effect of the Convention on preventing or reducing attacks against United Nations personnel would be at best minimal. The purpose of the Convention is to prevent or at least reduce any impunity for those who attack United Nations personnel or property.

As in the case of any other penal legal instrument, it was the hope of its negotiators that the Convention under discourse would have some indirect effect on reducing attacks against United Nations personnel and property. However, since the adoption and the entry into force of the Convention, attacks against United Nations personnel have continued and, in some cases, even escalated.<sup>26</sup> The Convention was negotiated in one year. It is a criminal law instrument, based on a prosecute or extradite approach like other conventions, such as the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents and the International Convention against the Taking of Hostages, which were previously adopted. It has a modest goal of criminalizing certain offences against United Nations personnel. The Convention did not intend to apply to all operations nor to all United Nations personnel, but to specific operations and certain categories of personnel. Articles 1 and 2 of the Convention dealing with definitions and scope of application are the key provisions of the Convention and took most of the negotiating time.<sup>27</sup> The Convention applies to “United Nations personnel” and “associated personnel” in article 1 (a) and (b). “United Nations personnel” are individuals engaged or deployed by the Secretary-General of the United Nations as members of the military, police or civilian components of a United Nations operation, or other officials and experts on mission. It also includes other officials and experts on mission of the United Nations and specialized agencies or the International Atomic Energy Agency (IAEA) who are present in an official capacity in the area where a United Nations operation is being conducted. This group of individuals may not have been deployed in connection with a particular operation covered by the Convention, but they happen to be in the area of risk and as such could become targets of attacks. The prime example is personnel of the High Commissioner for Refugees operating in the same zone where a peacekeeping operation is being conducted. These individuals are exposed to the same risk as those United Nations personnel engaged in the peacekeeping operation in the same zone.<sup>28</sup> “Associated personnel” includes other individuals assigned by the Secretary-General or by a specialized agency or the IAEA with the agreement of the competent organ of the United Nations in support of the fulfilment of a United Nations operation. This group of individuals also includes those assigned by a government or an intergovernmental body with the agreement of the competent organ of the United Nations or deployed by humanitarian non-governmental organizations (NGOs) or agencies under an agreement with the Secretary General or with a specialized agency, to carry out activities in support of the fulfilment of the mandate of a United Nations operation.

This group of individuals was included in recognition of the complexities of United Nations operations and of the reliance of the Organization on NGOs for the fulfilment of certain important aspects of the Organization’s mandates, particularly in humanitarian relief operations. The negotiation on who would fall in the category of associated personnel was difficult precisely because it included NGOs. A few States, particularly from developing countries, were suspicious of NGOs and did not want to assume any special responsibility for their protection.<sup>29</sup>

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<sup>26</sup> *Ibid*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*



### 2.3. Optional Protocol to the Convention on the Safety of United Nations and Associated Personnel

The entry into force of the Convention on the Safety of United Nations and Associated Personnel did not deter or reduce attacks against United Nations personnel.<sup>30</sup> In addition, it became clear that, as was predicted by the Secretary-General, the requirement of a declaration of risk by the Security Council or the General Assembly to cover a host of other activities of the United Nations' operations whose personnel were the target of attacks was impractical. The World Summit in 2005 provided further impetus for the idea to negotiate a protocol expanding the scope of legal protection of United Nations and associated personnel (General Assembly resolution 60/1, para. 167). This led to support on the part of a sufficient number of States for the expansion of the scope of the Convention. However, many developing countries remained opposed to that expansion. To breach the gap, it was agreed to opt for an optional protocol which would leave the Convention intact and would affect only those parties to the Convention that choose to also become party to the protocol. As a result, the Optional Protocol to the Convention was adopted on 8 December 2005 (General Assembly resolution 60/42).<sup>31</sup>

### 2.4. Conventions on Privileges and Immunities of the United Nations (1946 and 1947)

When the United Nations was established, it was considered necessary that it should enjoy the status of a legal person under the domestic law of its Member States. Such a domestic legal personality is a prerequisite for international organizations to effectively manage numerous practical needs such as procurement contracts, the acquisition of property and the capacity to pursue its private law rights before national courts. The Charter of the United Nations only very generally responded to these needs by providing in its Article 104 that "the Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes."<sup>32</sup>

A similar functional concept was adopted regarding the question of the privileges and immunities that the United Nations should enjoy. Article 105, paragraph 1, provides that "the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes."<sup>33</sup> The principle of "functional" personality as well as of "functional" immunity was thus firmly established in the founding document of the United Nations. However, these abstract rules required some more detailed explanation to become workable helping United Nations officials as well as national judges to determine whether the United Nations should be considered capable of entering into a specific legal transaction or immune from a particular lawsuit directed against it. In a similar way, it was unclear to what extent United Nations officials as well as Member State representatives to the United Nations should enjoy privileges and immunities. In Article 105, paragraph 2, the drafters of the Charter of the United Nations again opted for a functional concept when it was stated therein that:

Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.<sup>34</sup>

At the time of the adoption of the Charter of the United Nations there were not many legal instruments that could have served as examples for what was intended to be achieved. The Covenant

<sup>30</sup> N Higgins, 'The Protection of United Nations & Associated Personnel.' (2003) Journal of Humanitarian Assistance available at <http://www.jha.ac/articles/a116.htm> retrieved on April 1, 2025.

<sup>31</sup> *Ibid.*

<sup>32</sup> R. August., 'Convention on the Privileges and Immunities of the United Nations New York, 13 February 1946, and Convention on the Privileges and Immunities of the Specialized Agencies New York, 21 No', (2008) Audiovisual Library of International Law, < <https://legal.un.org/avl/ha/cpiun-cpisa/cpiun-cpisa.html> > accessed April 1, 2025.

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*



of the League of Nations of 28 June 1919 merely provided for “diplomatic” privileges and immunities of its employees and the inviolability of its property. Only a subsequent agreement with the League’s host State, the so-called *modus vivendi*, stipulated that the League possessed international personality and capacity and that it could not “in principle, according to the rules of international law, be sued before the Swiss Courts without its consent.”<sup>35</sup> Thus, the privileges and immunities of international organizations was largely uncharted territory.<sup>36</sup> It was against this background that the Convention on the Privileges and Immunities of the United Nations, frequently referred to as the “General Convention”, was negotiated and adopted in the immediate aftermath of the establishment of the United Nations. As provided for in Article 105, paragraph 3, of the Charter of the United Nations, it was adopted by the General Assembly at its first session on 13 February 1946 (resolution 22 A(I)) because of a draft of the United Nations Preparatory Commission. It entered into force on 17 September 1946 and was registered with the Secretary-General on 14 December 1946. It was one of the first treaties to be published in the United Nations Treaty Series.<sup>37</sup>

The General Convention specifies the notion of “functional” personality and immunity of the United Nations and contains detailed provisions on the privileges and immunities enjoyed by United Nations officials and Member State representatives. Because of the high level of precision of the Convention’s articles they are considered directly applicable or self-executing in many national legal systems. That means that national courts may directly rely on them without the need of national implementing legislation.

In article I, section 1, the “functional” personality of the United Nations is defined as “juridical personality” encompassing the specific capacity: “(a) to contract; (b) to acquire and dispose of immovable and movable property; (c) to institute legal proceedings.” This provision clarifies that the United Nations should be able to enter into day-to-day operations governed by private law.<sup>38</sup> The Convention’s core provision regarding immunity from jurisdiction is found in article II, section 2 of Privileges and Immunities of the United Nations, which runs as follows:

The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except insofar as in any case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

The resulting “absolute” immunity from suit of the United Nations has been largely respected in most countries, though some national courts have tried to limit the Organization’s scope of immunity along the initially envisaged “functional” immunity. In practice, this has also sometimes led to the application of restrictive State immunity principles denying immunity for “commercial” activities.<sup>39</sup>

The *de facto* “absolute” immunity of the United Nations is mitigated by the fact that article VIII, section 29, of the Convention requires the United Nations to “make provisions for appropriate modes of settlement of: (a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party”. The General Convention’s obligation to provide for alternative dispute settlement in case of the Organization’s immunity from legal process can be regarded as an acknowledgment of the right of access to court as contained in all major human rights instruments.

## 2.5. Annual Resolutions of the General Assembly on Safety and Security of UN personnel and Associated Personnel.

A United Nations General Assembly resolution is a decision or declaration voted on by all member

<sup>35</sup> *Communications du Conseil Fédéral Suisse concernant le Régime des Immunités Diplomatique du Personnel de la Société des Nations et du Bureau International du Travail*, entered into by the League of Nations and the Swiss Government on 18 September 1926, 7 OJLN (1926), annex 911a, 1422).

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*



states of the United Nations in the General Assembly. General Assembly resolutions usually require a simple majority (more yes votes than no votes) to pass.<sup>40</sup> However, if the General Assembly determines that the issue is an 'important question' by a simple majority vote, then a two-thirds majority (twice as many yes votes as no votes) is required; 'important questions' are those that deal significantly with the maintenance of international peace and security, admission of new members to the United Nations, suspension of the rights and privileges of membership, the expulsion of members, operation of the trusteeship system, or budgetary questions. Although General Assembly resolutions are generally non-binding towards member states, internal resolutions may be binding on the operation of the General Assembly itself, for example with regard to budgetary and procedural matters.

### 3.0. Institutional Frameworks of the United Nations

The main institutions of the United Nations include: General Assembly, Security Council, Economic and Social Council, International Court of Justice, UN Secretariat and the Trusteeship Council.<sup>41</sup>

#### 3.1. General Assembly

The UN General Assembly is one of the six principal organs of the United Nations and the only body in which every member of the organization is represented and allowed to vote. The first session of the assembly convened on Jan. 10, 1946, in London, with 51 countries represented. As of 2006 there were 192 members of the General Assembly.<sup>42</sup> Numerous nonmembers, such as states, organizations, and other entities (e.g., the Vatican, the African Union, the International Committee of the Red Cross, and Palestine), maintain observer status, enabling them to participate in the work of the General Assembly. The General Assembly exercises deliberative, supervisory, financial, and elective functions relating to any matter within the scope of the UN Charter. Its primary role, however, is to discuss issues and make recommendations, though it has no power to enforce its resolutions or compel state action. Other functions include admitting new members; selecting members of the Economic and Social Council, the nonpermanent members of the Security Council, and the Trusteeship Council; supervising the activities of the other UN organs, from which the General Assembly receives reports; and participating in the election of judges to the International Court of Justice and the selection of the secretary-general. Decisions usually are reached by a simple majority vote. On important questions, however - such as the admission of new members, budgetary matters, and peace and security issues - a two-thirds majority is required.<sup>43</sup> The General Assembly convenes annually and in special sessions, electing a new president each year from among five regional groups of states. At the beginning of each regular session, the General Assembly also holds a general debate, in which all members participate and may raise any issue of international concern. Most work, however, is delegated to six main committees known as (1) Disarmament and International Security, (2) Economic and Financial, (3) Social, Humanitarian, and Cultural, (4) Special Political and Decolonization, (5) Administrative and Budgetary, and (6) Legal. (Committees are generally referred to by their number; thus, the Disarmament and International Security Committee is known as the First Committee.)<sup>44</sup> The large size of the General Assembly and the diversity of the issues it discussed contributed to the emergence of regionally based voting blocs in the 1960s. During the Cold War the Soviet Union and the countries of Eastern Europe formed one

<sup>40</sup>General Assembly of United Nations, "Rules of Procedure", < <https://www.un.org/en/ga/about/ropga/plenary.shtml> > Accessed 5 May 2024.

<sup>41</sup> United Nations, 'UN Structure: the United Nations.' <https://www.un.org/en/model-united-nations/un-structure#:~:text=The%20UN%20Charter%20establishes%20the,%2C%20and%20the%20UN%20Secretariat>. Retrieved on April 1, 2025.

<sup>42</sup> Britannica, 'United Nations General Assembly: History, Role & Purpose.' <https://www.britannica.com/topic/United-Nations-General-Assembly> retrieved on April 1, 2025.

<sup>43</sup>*Ibid.*

<sup>44</sup> *Ibid.*



of the most cohesive blocs. Since the 1980s and the end of the Cold War, blocs have formed around “North-South” economic issues i.e., issues of disagreement between the more-prosperous, industrialized countries of the Northern Hemisphere and the poorer, less-industrialized developing countries of the Southern Hemisphere. The number of resolutions passed by the General Assembly each year has climbed to more than 300, and many resolutions are adopted without opposition. Nevertheless, there have been sharp disagreements among members on several issues, such as those relating to the Cold War, the Arab-Israeli conflict, and human rights.<sup>45</sup>

### 3.2. Security Council

The United Nations Security Council (UNSC) is one of the six principal organs of the United Nations (UN)<sup>46</sup> and is charged with ensuring international peace and security,<sup>47</sup> recommending the admission of new UN members to the General Assembly,<sup>48</sup> and approving any changes to the UN Charter.<sup>49</sup> Its powers as outlined in the United Nations Charter include establishing peacekeeping operations, enacting international sanctions, and authorizing military action. The UNSC is the only UN body with authority to issue resolutions that are binding on member states. Like the UN as a whole, the Security Council was created after World War II to address the failings of the League of Nations in maintaining world peace. It held its first session on 17 January 1946 but was largely paralyzed in the following decades by the Cold War between the United States and the Soviet Union (and their allies).<sup>50</sup> Nevertheless, it authorized military interventions in the Korean War and the Congo Crisis and peacekeeping missions in Cyprus, West New Guinea, and the Sinai Peninsula. With the collapse of the Soviet Union, UN peacekeeping efforts increased dramatically in scale, with the Security Council authorizing major military and peacekeeping missions in Kuwait, Namibia, Cambodia, Bosnia and Herzegovina, Rwanda, Somalia, Sudan, and the Democratic Republic of the Congo. The Security Council consists of fifteen members, of which five are permanent:<sup>51</sup> China, France, Russia, the United Kingdom, and the United States. These were the great powers that were the victors of World War II (or their successor states). Permanent members can veto (block) any substantive Security Council resolution, including those on the admission of new member states to the United Nations or nominees for the office of Secretary-General. This veto right does not carry over into any General Assembly or emergency special sessions of the General Assembly matters or votes. The other ten members are elected on a regional basis for a term of two years. The body's presidency rotates monthly among its members.

### 3.3. Economic and Social Council (ECOSOC)

The Economic and Social Council (ECOSOC) is one of the six principal organs of the United Nations. The UN Charter established ECOSOC in 1945 as one of the six main organs of the United Nations.<sup>52</sup> It is the main body responsible for coordination, policy dialogue, policy review and recommendations on social, economic and environmental issues, and also the implementation of internationally agreed development goals. The ECOSOC has 54 members that are elected by the UNGA. India is currently a member, and its term expires in December 2020. Each member has one vote, and voting is done by a simple majority. ECOSOC Presidency is for a one-year term.<sup>53</sup>

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<sup>45</sup> *Ibid.*

<sup>46</sup> United Nations Charter, Article 7 (1).

<sup>47</sup> *Ibid.*, Article 24 (1).

<sup>48</sup> *Ibid.*, Article (4)2.

<sup>49</sup> *Ibid.*, Article 108.

<sup>50</sup> Wikipedia, ‘United Nations Security Council.’ [https://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council](https://en.wikipedia.org/wiki/United_Nations_Security_Council) retrieved on April 1, 2025.

<sup>51</sup> United Nations Charter, Article 23(1).

<sup>52</sup> United Nations, ‘Main Bodies.’ <https://www.un.org/en/about-us/main-bodies#:~:text=The%20main%20bodies%20of%20the,Organization%20was%20founded%20in%201945>. retrieved on April 1, 2025.

<sup>53</sup> *Ibid*



### 3.4. International Court of Justice (ICJ)

The United Nations Charter in chapter 14, articles 92-96 provided the legal basis for ICJ. The ICJ, which is situated in the Peace Palace in The Hague, a city in the Netherlands, was established in 1945 as a way of settling disputes between countries.<sup>54</sup> The court also provides advisory opinions on legal questions that have been referred to it by other authorized UN organs.<sup>55</sup> Widely known as the "world court", the ICJ is one of the six "principal organs" of the United Nations, on the same footing as the General Assembly, Security Council, Economic and Social Council (ECOSOC), Trusteeship Council and the Secretariat, and the only one that is not located in New York. Unlike the Court of Justice of the European Union, the ICJ is not a supreme court to which national courts can turn; it can only hear a dispute when requested to do so by one or more States. The court is composed of 15 judges, all of whom are elected to nine-year terms of office by the UN General Assembly and Security Council. Elections are held every three years for one third of the seats, and retiring judges may be re-elected.<sup>56</sup> The members do not represent their governments but are independent magistrates, and there is only ever one judge of any nationality on the court. Cases open with the parties filing and exchanging pleadings containing a detailed statement of the points of fact and of law on which each party relies and an oral phase consisting of public hearings at which agents and counsel address the court. The countries involved appoint an agent to plead their case, someone who has the same rights and obligations as a solicitor in a national court. Occasionally, a leading politician may defend their country, as in the 2020 case - *The Gambia v Myanmar*<sup>57</sup>

After this stage, the judges deliberate 'in camera'<sup>58</sup>, and then the Court delivers its verdict. The length of time this takes can be anything from a few weeks to several years. The ICJ is the only international court that settles disputes between the 193 UN Member States. This means that it makes an important contribution to global peace and security, providing a way for countries to resolve issues without resorting to conflict.<sup>59</sup> The court can rule on two types of case: "contentious cases" are legal disputes between States and "advisory proceedings" are requests for advisory opinions on legal questions referred to it by United Nations organs and certain specialized agencies. The case brought by South Africa against Israel on 29 December last year is the first time a contentious case has been brought against Israel at the ICJ (a 2004 advisory opinion found that the construction of the wall built by Israel in the

Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime is contrary to international law). South Africa contends that "acts and omissions by Israel are genocidal in character, as they are committed with the requisite specific intent to destroy Palestinians in Gaza as a part of the broader Palestinian national, racial and ethnical group". South Africa seeks to found the court's jurisdiction on the 1948 UN Genocide Convention, to which both countries are signatories. Israel rejects the allegations.<sup>60</sup> Another relatively recent case that gained international attention involved a ruling against Myanmar in January 2020, ordering the country to protect its minority Rohingya population and the destruction of evidence related to genocide allegations. That case, which was brought by The Gambia, was notable for the appearance of Aung San Suu Kyi, then the de facto leader of Myanmar, at The Hague to defend her country.<sup>61</sup> As for "advisory proceedings", on 20 January 2023, the General Assembly requested an advisory opinion from the court on "Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian

<sup>54</sup> UN News, 'What is the International Court of Justice and why does it matter?'

<https://news.un.org/en/story/2024/01/1145392#:~:text=The%20ICJ%2C%20which%20is%20situated,by%20other%20authorized%20UN%20organs>. retrieved on April 1, 2025.

<sup>55</sup> United Nations, 'UN News Global Perspective Human Stories' < <https://news.un.org/en/> > Accessed 20 May 2024.

<sup>56</sup> *Ibid.*

<sup>57</sup> ICJ GL No 178, ICGJ 540.

<sup>58</sup> In private; behind closed doors.

<sup>59</sup> Note 58 above.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*



Territory, including East Jerusalem”. In March 2023, the UN General Assembly adopted a resolution to ask the court to deliver an advisory opinion on the obligations of States in respect to climate change, with most speakers in the resulting debate hailing the move as a milestone in their decades-long struggle for climate justice. Both advisory proceedings are ongoing.<sup>62</sup> Any UN Member State can bring a case against any other Member State, whether they are directly in conflict, when the common interest of the international community is at stake. In the case of *The Gambia v Myanmar*, for example, The Gambia was not directly concerned by the genocide allegations levelled against Myanmar, but that did not preclude the country from bringing the action, on behalf of the Organization of Islamic Cooperation. The rulings of the ICJ are final, and there is no possibility of appeal. It is up to the States concerned to apply the court's decisions in their national jurisdictions, and, in most cases, they honor their obligations under international law and comply. If a country fails to perform the obligations incumbent upon it under a judgment, the only remaining recourse is to turn to the Security Council, which can vote on a resolution, per the UN Charter. This happened in a case brought by Nicaragua against the United States in 1984, demanding reparations for the US support for Contra rebels.<sup>63</sup> The ICJ ruled in Nicaragua's favour, but the US refused to accept the finding. Nicaragua then took the matter to the Security Council, where a relevant resolution was vetoed by the United States. There is frequent confusion between the International Criminal Court (ICC) and the International Court of Justice (ICJ). The simplest way to explain the difference is that ICJ cases involve countries, and the ICC is a ‘criminal court’, which brings cases against individuals for war crimes or crimes against humanity. Also, whilst the ICJ is an organ of the United Nations, the ICC is legally independent of the UN, although it is endorsed by the General Assembly. While not all 193 UN Member States are parties to the ICC, it can launch investigations and open cases related to alleged crimes committed on the territory or by a national of a State party to the ICC or of a State that has accepted its jurisdiction. Cases have been heard and decisions rendered on a range of violations, from using rape as a weapon of war to conscripting children as combatants.<sup>64</sup>

### 3.5. UN Secretariat

The United Nations Secretariat is one of the six principal organs of the United Nations. The secretariat is the UN's executive arm.<sup>65</sup> The secretariat has an important role in setting the agenda for the deliberative and decision-making bodies of the UN (i.e., the General Assembly, Economic and Social Council, and Security Council), and the implementation of the decision of these bodies. The secretary-general, who is appointed by the General Assembly, is the head of the secretariat.<sup>66</sup> The United Nations Secretariat carries out the day-to-day work of the UN as mandated by the General Assembly and the Organization's other main organs. The Secretary-General is the head of the Secretariat, which has tens of thousands of UN staff members working at duty stations all over the world. UN staff members are recruited internationally and locally, and work in duty stations and on peacekeeping missions. Serving the cause of peace in a violent world is a dangerous occupation. Since the founding of the United Nations, hundreds of brave men and women have given their lives in its service. The Secretariat is organized along departmental lines, with each department or office having a distinct area of action and responsibility. Offices and departments coordinate with each other to ensure cohesion in the UN's program of work. Much of the UN Secretariat is located in New York City, USA. The UN also has three major Offices outside of its Headquarters and five Regional Economic Commissions.<sup>67</sup>

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<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid*

<sup>64</sup> *Ibid*

<sup>65</sup> United Nations, ‘Secretariat.’ <https://www.un.org/en/about-us/secretariat> retrieved on April 1, 2025.

<sup>66</sup> United Nations, ‘Main Organs’ < <https://www.un.org/en/sections/about-un/main-organs/index.html>> retrieved on April 1, 2025.

<sup>67</sup> United Nations, ‘Peace, Dignity and Equality on a Healthy Planet’< <https://www.un.org/en/about-us/secretariat>> Accessed 20 May 2024.



### 3.6. Trusteeship Council

The Trusteeship Council suspended its operations on 1st November 1994, a month after the independence of Palau, the last remaining United Nations trust territory.<sup>68</sup> By a resolution adopted on 25 May 1994, the Council amended its rules of procedure to drop the obligation to meet annually and agreed to meet as occasion required by its decision or the decision of its President, or at the request of a majority of its members or the General Assembly or the Security Council.<sup>69</sup> The UN Charter established the Trusteeship Council as one of the main organs of the United Nations, and assigned to it the task of supervising the administration of Trust Territories placed under the International Trusteeship System. The main goals of the International Trusteeship System were to promote the advancement of the inhabitants of Trust Territories and their progressive development towards self-government or independence. The Trusteeship Council is made up of the five permanent members of the Security Council -- China, France, the Russian Federation, the United Kingdom and the United States.

### 4.0. Conclusion and Recommendations

The United Nations plays a vital role in promoting international peace, security, and cooperation. Its legal and institutional framework, as examined in this article, provides a foundation for its activities and decision-making processes. While the UN has achieved significant successes, it also faces numerous challenges and limitations. To address these challenges, the UN must continue to evolve and adapt to changing global circumstances.

Based on the analysis presented in this article, the following recommendations are made:

1. Reform of the Security Council: The Security Council's veto power and composition should be reformed to make it more representative and effective in addressing global challenges.
2. Strengthening of the General Assembly: The General Assembly should be strengthened to enable it to play a more significant role in promoting international cooperation and development.
3. Enhancing the Role of the International Court of Justice: The International Court of Justice should be strengthened to enable it to play a more effective role in settling international disputes.
4. Improving Funding and Accountability: The UN's funding mechanisms should be reformed to ensure greater transparency and accountability.
5. Promoting Greater Cooperation and Collaboration: The UN should promote greater cooperation and collaboration among its member states, specialized agencies, and programs to address global challenges. By implementing these recommendations, the UN can strengthen its legal and institutional framework, enhance its effectiveness, and better address the complex challenges facing the global community.

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<sup>68</sup> United Nations, 'Trusteeship Council.' <https://www.un.org/en/about-us/trusteeship-council> retrieved on April 1, 2025.

<sup>69</sup>*Ibid.*