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Correspondence Course School: Correspondence Courses in Perspective

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U.S. Naval Reserve-Ready

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*Correspondence
Courses
in
Perspective*

Featured this month is an excerpt from a paper submitted by an outstanding student in the Correspondence Course, *International Relations*. In the following paragraphs, Lieutenant Commander Robert H. Taylor, USNR-R, whose picture appears above, discusses the evolution of the League of Nations and the United Nations, summarizes the functions and powers of major U.N. organs, and analyzes U.N. peacekeeping efforts.

Lieutenant Commander Taylor holds a B.S. from Bucknell University and a M.S. in Foreign Service from Georgetown University. Lieutenant Commander Taylor served on active duty in the Pacific during World War II and in the Mediterranean and Indian Ocean during the Korean conflict. He has been affiliated with the UNESCO Relations staff in the U.S. Department of State and was a member of the international Secretariat of the Japanese Peace Treaty Conference at San Francisco in 1952. Lieutenant Commander Taylor is presently Vice President and Member of the Board of Directors for John Wagner and Sons, Inc. He is a member of Naval Reserve Intelligence Unit 4-1-3 at Philadelphia, Pa.

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CORRESPONDENCE COURSES IN PERSPECTIVE

Board of Trustees, Phi Kappa Psi Corp.; American Legion; Reserve Officers' Association; Military Order of the World Wars; and the University Club, Washington, D.C.

In the article published below, Lieutenant Commander Taylor gives evidence of the outstanding quality of study performed by correspondence students of the Naval War College. Lieutenant Commander Taylor's case is by no means unique even though his excellent background in world politics makes him particularly qualified in the area of International Relations. Many outstanding papers have been submitted by students who have had little or no previous formal education in the study of world politics, and the courses are designed to provide maximum educational benefits within the capability of the individual student.

It is particularly noteworthy that Lieutenant Commander Taylor has received an evaluation of outstanding on every installment he has submitted in the *International Relations* course. He is highly commended for the astute analysis of a difficult subject which follows.

* * *

Neither the League of Nations nor the United Nations could be considered a novelty in man's long quest for international peace and order, but both must be acknowledged as "giant steps" in the long historical development of international government.

Treaties between Egyptian Pharaohs and neighboring kings are recorded as far back as 14th century B.C. It is also known that a bond of unity developed between the Greek city-states, and with this these states developed a rudimentary form of international law even though they were unable to develop a system of collective-security. Even before the demise of the Holy Roman Empire, Dante pleaded in his *De Monarchia* for a single world rule for all peoples. It was not until after the development of nationalism, which marked the close of the Middle Ages, that a true international community of nations developed. The Thirty Years' War (1618-1648) and the Treaty of Westphalia in 1648, "marked the first of the great conferences which were henceforth to determine from time to time the law of the

international community and the political relations of its members."¹ With the end of the Napoleonic Era, the Congress of Vienna assumed, as did the Treaty of Westphalia, "the role of a great law-making body."² It was at Vienna, in 1815, that three of the leading powers, Russia, Prussia and Austria, formed a "collective security" in the Holy Alliance. Though many other nations joined this alliance, one notable exception was Britain. There followed a succession of collective-security organizations: The Quadruple Alliance (1815), Quintuple Alliance (1818), and the Congress of Aix-la-Chapelle (1818).

In the Western Hemisphere the Monroe Doctrine, delivered on 2 December 1823, reserved the American continent for the guardianship of the United States.

With the 19th century came the increasing importance of balance of power and a number of alliances were formed, but the Concert of Europe (as the Holy Alliance was finally called) dominated as the center of the international community.

Then, with the turn of the 20th century, the International, or more specifically, the European community became increasingly more interdependent and, paradoxically, closer to war. The Peace Conferences which met at The Hague on 18 May 1899 and 15 June 1907 did much to strengthen international cooperation and a common concern for humanity including, most prophetically, several agreements on the conduct of the next war.

But all these efforts were not enough, for just seven years later, in 1914, the Archduke Ferdinand was assassinated. And so began the First World War and the attempts that followed to construct a lasting peace. Perhaps this has belabored a simple point, namely, that neither the League nor the United Nations are basically novel in their concept, but it seemed worthy to renew the evolution of international organization in reaching the relative heights that we know it to be today.

There is little doubt in one's mind concerning the purpose for establishing the League of Nations after World War I and the United Nations after World War II. As Professor Stoessinger states: The ". . . United Nations was to prevent another World

CORRESPONDENCE COURSES IN PERSPECTIVE

War II, just as the League of Nations before it had been created to prevent another World War I."³

Both the League Covenant and the U.N. Charter readily acknowledged *peace* and *security* as prime reasons for the creation of an international organization and each one stated this at the outset:

The League Covenant

"In order to promote international co-operation and to achieve international *peace* and *security*,
. . . ."⁴

The U.N. Charter

"To maintain international *peace* and *security*,
. . . ."⁵

The principle upon which these high purposes rested was collective security. But, as we have observed, this was not novel for such was the principle of the most successful "Concert of Europe" which preserved relative world peace throughout its 90 years of existence.

Professor Hartmann points out that ". . . the new feature that has been added to international organization in the Twentieth Century is the establishment of general international organizations theoretically competent to deal with any international problem whether technical, legal or political."⁶

The United Nations has surpassed the League, indeed, anything known to man, in the role of humanitarian and social worker. This is particularly true of the excellent work of the specialized agencies such as FAO, WHO and UNESCO. The work is followed with the hope that international cooperation on nonpolitical matters may help break down the barriers of national sovereignty, and possibly lead to the day when the more vital issues of national interest and sovereignty will bend to the common good of mankind.

The specialized agencies of the U.N. have indeed made remarkable achievements in areas of cultural, economic, and social international cooperation and, not incidentally, they have been

equally remarkable in their achievements in improving the plight of millions of people in underdeveloped areas, which though not enough, is certainly something to aid in the struggle to find peace in our time.

So far as organizational structure is concerned, the League and the United Nations are fundamentally the same: a Council (or Security Council), the Assembly (or General Assembly), and a permanent Secretariat. In both cases an inherent weakness was built into the organization: control by the major victorious powers. It was inevitable that the victorious allies after World War I would seek to control the postwar efforts for peace. It was also unrealistic to think that the status quo would remain forever after. So it was with the League that the United States, Great Britain, France, Italy, and Japan first sat as permanent members of the Council; so too with the United Nations: the United States, Great Britain, France, Russia, and China sit as the all-powerful permanent members of the Security Council.

There was little doubt that the League would be controlled by the victorious allies, for they met at Versailles not only to establish the League but to write the terms of the peace treaty. Thus it was that the Covenant of the League became a part of the Peace Treaty. Many question the feasibility, indeed, the wisdom, of combining the Peace Treaty Conference with the creation of the League. Professor Chambers has observed:

For all the Fourteen Points and for all the pre-Armistice agreements, there was not one delegate who came to Paris in 1919 without mental reservations of one kind or another.⁷

The details of the French cry for indemnities and sanctions, Italy's "sacred egoism," England's retaliation policy of "hang the Kaiser" and its hope for another Concert of Europe, and, finally, President Wilson's blind faith in his Fourteen Points were among the diverse special interests which foretold an uncertain longevity for the League.

Though wise enough to avoid incorporating a peace treaty in the Charter, the United Nations,

like the League, was controlled by the victorious powers. As Stoessinger observed: ". . . the framers of the Charter conceived as the hub of the Organization--The Security Council."⁸

In both the League and the United Nations, the Council lost a good deal of influence simply because the power structure changed from the time of the founding of the organizations; or simply stated, the status quo could not, would not, be maintained. This has become quite apparent in the U.N. which more closely approaches universal membership: the Assembly has, in fact, become more of a power factor than the Security Council.

The Fourteen Points of Woodrow Wilson failed to be fulfilled in the League and in the U.N. mainly because of the incompatibility of Wilson's basic assumptions; i.e., maintain the status quo and at the same time alter it. The victors' status quo soon was disputed by one of the victorious powers, and so an inner conflict arose in 1919 and again in 1945, and thus permitted the defeated powers to exploit this weakness.

Perhaps more than anything else, President Wilson prompted the new era of "open diplomacy," and so one of his points has endured. That this is a worthy contribution may be disputed. One fact is certain, the forum of the Assembly does exert public pressure, and this in turn has benefited the purpose of the Organization.

If the League was essentially a European attempt for international organization, the United Nations is essentially an attempt of the United States for international organization. While the League lacked universality in its membership, the United Nations has obtained almost complete universality. In the League most nations acted independently, whereas in the United Nations bloc voting⁹ is common, and the two-power struggle between the United States and U.S.S.R. has taken on different dimensions. This has improved the United Nations and given it an inner strength that is healthy. Regional arrangements under the League were frowned upon as contradictory to President Wilson's 14th Point. A more realistic view was taken by the United Nations when it incorporated in Article 52 (Chapter VIII) provisions for member nations to engage in regional arrangements.

This, to be sure, was most favorably endorsed by the United States, which, certainly, must hold some sort of record for the number of regional arrangements to which any one nation can belong.

In still another aspect, the United Nations has achieved greater success and strength, and this is in action with respect to threats to the peace. Many of the loopholes which existed in the League setup were closed by Chapter VII of the Charter. Specifically, the Security Council may apply sanctions or direct armed intervention where an act of aggression has been committed. This was done, as we know, in Korea.

In reviewing the United Nations after its first four years, Professor Clyde Eagleton observed that Americans participating in the drafting of the Charter were restricted in their efforts to promote the United Nations by the uncertainty as to how far the American people would be willing to submit to a system of international law and order and fear that the Senate might set aside the Charter as it had done in 1919 with the Covenant of the League. "Consequently, the emphasis in the San Francisco negotiations was laid on 'sovereign equality' (Article 2, para. 1) more than on security."¹⁰

In principle, he notes, the United Nations offers more security than the League because member states are bound by the decision of the Security Council to send troops against an act of aggression. True, this is one of the loopholes the United Nations sought to close. However, Professor Eagleton concluded. ". . . in practice . . . each of the Big Five under the Charter has a veto which can prevent such a decision being reached."¹¹ He points out that settlement of disputes is a:

necessary prerequisite to security, and the Charter is as weak with regard to the latter as with regard to the former.

President Roosevelt was determined that the Charter should not suffer in the Senate the fate of the League Covenant. Some Senators have subsequently remarked that the Charter would never have been accepted without the veto and the domestic question clause.¹²

CORRESPONDENCE COURSES IN PERSPECTIVE

And so the weakness exists, but better this than not having the U.S. participation.

In his review of the United Nations' role on the eighth anniversary of its birth, William Henry Chamberlin noted another weakness that (in addition to the one which this writer previously pointed out) concerns the orientation of the Big Five:

The assumption was that a wartime coalition between nations with profoundly different ambitions, national ideals and forms of government . . . would hold together when the danger which brought it into existence had disappeared . . . all its (UN's) institutions are based on the premise that the 'Big Five' . . . will work in close cooperation.¹³

Korea, Chamberlin contends, was a good example of why this isn't so. A weakness? Yes, but almost unavoidable, and one which it could easily be said was a product of necessity.

Above all, it may be said sovereignty still prevails: the United Nations, as with the League, is an organization of sovereign states governed by national policies and national interests. The decisions of the United Nations, as adopted by the member nations, can mean no more than any single member chooses to make it. Herein lies the future success or failure of the United Nations. And thus the United Nations was conceived:

. . . the national sovereignty of nations would have to be controlled by an international order, but . . . this international order would have to be created and even controlled by sovereign nations. The plan therefore had to combine the dictates of national power with those of international order.¹⁴

Chapter III, the briefest in all the U.N. Charter, sets down in three simple paragraphs the *organs* of the United Nations, and by so doing established a sense of permanency in man's current attempt to achieve a true and lasting international organization:

There are established as principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.¹⁵

The principal organs of the United Nations were established with the hope that they would persuade the member nations to give up a part of their sovereignty for the "common good."

THE GENERAL ASSEMBLY

Professor Hartmann observed that: "On an overall basis the General Assembly, contrary to the expectations of the founders of the UN, has become the major organ. It is not likely that this trend will be reversed."¹⁶

And well this could be, for the Charter, in Chapter IV, Article 10, affords ample leeway for consideration of the business brought before the United Nations: "The General Assembly may discuss any questions or any matters within the scope of the present Charter." The only restriction placed upon the Assembly is set forth in Article 12, which states that the General Assembly "shall not make any recommendations with regard to" . . . disputes or situations being considered by the Security Council . . . "unless the Security Council so request."

Ironically, it is by the very actions or, better said, lack of action by the Security Council that the General Assembly has assumed its more prominent role in the United Nations. The Big Five of the Security Council, so often deadlocked by their powers of veto, have weakened this organ and jeopardized effective action by the United Nations. It is to the credit of the General Assembly that they took up the challenge and in so doing added vitality to the United Nations when it was needed.

So it was in 1947, when the Security Council seemed paralyzed by the veto and remained in deadlock with the East-West struggle, that the Assembly "voted to create an Interim Committee, or 'Little Assembly,' which was to meet whenever circumstances might require . . ."¹⁷

CORRESPONDENCE COURSES IN PERSPECTIVE

Another move to strengthen the General Assembly was a stopgap measure introduced by Secretary of State Dean Acheson shortly after the North Korean aggression. It was little more than chance (Russia's absence from the Security Council) that allowed the United Nations to take decisive action in the Korean conflict. Thus, the "Uniting for Peace Resolution," adopted in 1950, gave the United Nations the much-needed security force which put real meaning into the concept of collective-security. At the same time it gave the General Assembly a means to act when, or if, the Security Council, in deadlock, could not act.

The unit rule prevails throughout the Assembly: one nation, one vote with a two-third majority needed on substantive questions and a simple majority on procedural or "other matters." As the United Nations (and so the General Assembly) approaches universality in its composition, the merits of the unit rule are often questioned. That the Republic of Panama or Liberia, for instance, should have the same voting power as the United States or the U.S.S.R. seems unrealistic. Yet one can also question if this is not the very element which gives strength and meaning to the United Nations. Bloc voting which prevails in the United Nations today has given the bipolar orientation of international relations new dimensions, and this can only be considered a healthy move toward greater realization of the role of the United Nations in international affairs.

"The Soviet Union has probably suffered most from the evolution of the General Assembly into a more universal body . . ." ¹⁸ though both superpowers, the United States and the U.S.S.R., have lost. In brief, the General Assembly has become a significant world forum: indeed, a reflecting-board for world opinion.

"Housekeeping" responsibilities constitute a goodly portion of the General Assembly's duties. Six standing committees, provided for in Article 22, consider questions concerning various matters: Political and Security, Humanitarian and Cultural, Trusteeship, Administrative and Budget, and Legal. In addition, the General Assembly approves Trusteeships in nonstrategic areas; initiates studies for international cooperation through its Specialized Agencies; elects members of ECOSOC, the Secretary

General, justices of the World Court and non-permanent members of the Security Council.

The General Assembly has also proved to be able in the realm of international lawmaking, having sponsored the International Atomic Energy Agency, the Universal Declaration of Human Rights, and the International Convention on Genocide.

In all the General Assembly has been resourceful and energetic; it has displayed a good deal of initiative and helped the cause of the United Nations.

Stoessinger sums up his opinion on the General Assembly by saying: "Whereas the Security Council has disappointed most of its the United Nations founders, the General Assembly has, for the most part, surpassed expectations."¹⁹

THE SECURITY COUNCIL

As it has been pointed out, the Security Council has, for the most part, been a disappointment to the founders of the United Nations. Certainly it was not intended that the Security Council should render itself impotent. The Charter gives it responsibilities which constitute the very *raison d'etre* of the United Nations:

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*²⁰

The Security Council is composed of 15 members, five of whom are permanent: The United States, U.S.S.R., Great Britain, France, and China. Ten non-permanent members are elected by the General Assembly for two-year terms. Once again, as with the League of Nations, the victorious powers were assigned permanent seats with the hope that they would insure permanent peace. And once more, the major powers overlooked the simple fact that there is inevitable change in the status quo and that power alignments do change. To have China--Nationalist China, at that--sit as a permanent member of the Security Council is completely unrealistic. Nonetheless it is so, and the fact remains that the Security Council is endowed with extraordinary powers even if it is unable to implement

CORRESPONDENCE COURSES IN PERSPECTIVE

them into strong *action* to achieve the aims of the United Nations.

Perhaps more than any other single factor, the veto has caused increasing weakness in the functioning of the Security Council. Insisted upon by the United States as essential for its membership in the United Nations, the veto has proved, time and time again, to be the weak link: the Big Five seem deadlocked in the East-West power struggle and the Security Council has suffered for it, indeed, so too has the United Nations. Two possibilities exist for getting around the veto, abstention or absence, neither of which constitute a veto.

In spite of the inherent weakness of the veto and the East-West power struggle, the Security Council has the responsibility of exercising extraordinary powers, among which are the following:

1. Pacific Settlement of Disputes (Chapter VI).
2. Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression (Chapter VII).
3. Regional Arrangements (Chapter VIII).
4. Trusteeship (strategic areas) (Chapter XII).

In the case of a threat to the peace, the Security Council (under Article 39) "shall determine the existence . . ." of the threat and apply necessary action: sanctions (Article 41), blockade (Article 42), or armed force (Articles 43 and 44).

In the area of Trusteeships, Chapter XII, Article 83, provides that "All functions of the United Nations relating to . . . (strategic trusteeships) . . . shall be exercised by the Security Council." Though the Security Council is endowed with these exceptional powers it is, by the very nature of its composition, restricted in its ability to act.

THE ECONOMIC AND SOCIAL COUNCIL (ECOSOC)

A clearinghouse of gigantic proportions, ECOSOC is authorized in Chapter X of the Charter to initiate studies and make recommendations on matters

pertaining to "international economic, social, cultural, educational, health and related matters"21

The 18 members of ECOSOC are elected by the General Assembly. Eight Commissions and over a dozen Specialized Agencies serve to explore almost every facet of life and living known to man. The Commissions include the following:

1. Human Rights.
2. Status of Women.
3. Population.
4. Social Matters.
5. Statistics.
6. Transportation.
7. Commodity Trade.
8. Narcotic Drugs.

The Specialized Agencies of the United Nations have attained a new high in the international aspects of "good works." The Specialized Agencies, some of which are vestiges of the League of Nations, range from a general concern for labor conditions, in the International Labor Organization (ILO), to world health in the World Health Organization (WHO), agriculture in the Food and Agricultural Organization (FAO), and education or intellectual cooperation in the U.N. Educational Scientific Cultural Organization (UNESCO).

Though it is true that the League Covenant was essentially political, there were nonpolitical elements included. Article 23 (Social and Other Activities) acknowledged concern for (1) fair conditions for labor, (2) treatment of natives under colonial control, (3) traffic of women and children, . . . (4) freedom of communications and (5) prevention of disease.²²

Article 24 of the League Covenant provided that there shall be placed under the League "all international bureaus" already established by general treaties, and it opened the way for new bureaus of international concern.

Finally, in Article 25, the League sought the "Promotion of Red Cross and Health."²³

CORRESPONDENCE COURSES IN PERSPECTIVE

But nothing approached the degree of "do-gooding" that the U.N. Specialized Agencies have accomplished. On relatively meager budgets the Specialized Agencies --particularly those in the humanitarian fields-- have done a remarkable job.

An inevitable overlapping has occurred in this labyrinth of organization, and it must be said, in honesty, that the evils of bureaucracy prevail. Encroachment on each other's duties and the battles for budget appropriations exceed the concepts within even the American mind. Then too, politics has almost of necessity entered into the deliberations: the East-West struggle and the colonial-anticolonial struggle often cloud the intent of Commissions and Specialized Agencies; however, the good works do continue, and, so as with many other facets of the United Nations, this is at least a step in the right direction.

Professor Stoessinger questioned this in his estimate of ECOSOC when he commented:

Though the manifold activities taking place under the roof of ECOSOC have been impressive, they have not demonstrated the functional method of working toward international order to be nearly as effective as was originally hoped.²⁴

He concludes by saying it would be well to first realize a favorable political climate, and then the much needed international cooperation would follow. One might question Dr. Stoessinger's reasoning by asking which is more easily realized, political or nonpolitical (tainted by politics) cooperation. The answer seems self-evident. Thus, the work of ECOSOC and the Specialized Agencies deserve praise for whatever they may accomplish or however it may be, for the needs are great and the beneficiary is mankind.

TRUSTEESHIP COUNCIL

An International Trusteeship System is provided for in Chapter XII of the U.N. Charter. Built on the precedent of the Mandate System of the League of Nations, the concept of Trusteeship was adopted by the United Nations "primarily as a weapon against the struggle . . . anticipated over the liquidation of colonialism."²⁵

CORRESPONDENCE COURSES IN PERSPECTIVE

When the system was first initiated in 1945, there were 11 Trust Territories, 7 of which were in Africa. With the ever-rising cry for self-determination, the one-time colonial status of many a country was soon to change to that of an independent nation. Such was the case of three one-time trust territories which were, in 1960, the first to be admitted to the United Nations as sovereign nations.²⁶ The rest were to achieve statehood in time.

In a few cases the trusteeship area was deemed strategic and so became the ward of the Security Council (under Article 83). Of the 11 original trusteeships, there remained at the end of 1964, only 3 and these 3 are the areas classified as strategic: Nauru and New Guinea, both administered by Australia; and the Pacific Islands, administered by the United States.²⁷

Thus, it seems the Trusteeship Council has been eminently successful in the execution of its work; indeed, it has all but worked itself out of a job for now there are not, for all practical purposes, any trusteeships left to administer.

A radical departure from the League Mandate System was introduced by the United Nations when it asked that not only Trust Territories but *all* colonial possessions be internationalized. There was, quite naturally, opposition raised to this by the colonial powers on the basis that this was "domestic domain." The dilemma was resolved by Chapter XII, which made League mandates automatically trusteeships and allowed colonial territories to be "voluntarily placed under the system by states responsible for their administration" (Article 77 (C)).

Nonetheless, Chapter XI (e) required all to "transmit regularly" to the United Nations information regarding "economic, social and educational conditions in the territories," which, incidentally, are referred to not as colonies but as non-self-governing territories.

The Trusteeship Council, which has, in effect, become a committee of the General Assembly, is composed of 14 members: 7 colonial powers and 7 non-colonial powers.

CORRESPONDENCE COURSES IN PERSPECTIVE

The direct responsibilities of the Council are: preparation of annual reports, examination of petitions, and deployment of visiting missions. In praise of the work of the Council, Professor Stoessinger stated: "Of all the United Nations' bodies, the Trusteeship Council has demonstrated the greatest sophistication in the arts of negotiation and compromise."²⁸

THE INTERNATIONAL COURT OF JUSTICE

Here again the League of Nations has set the pattern for the United Nations. The International Court of Justice is almost identical to the League's Permanent Court of International Justice; the Charter so states in Chapter XIV: The International Court ". . . shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice . . ."

The Statute provides that the International Court shall be composed of ". . . fifteen members, no two of whom may be nationals of the same state."

The Court of Justice is, as Professor Hartmann points out, a court of *adjudication* rather than a court of arbitration--the real difference being found in the composition of the court: "Unlike arbitral panels whose membership may vary almost infinitely, the composition of the court of adjudication remains the same case after case."²⁹ The tenure of a justice in the Court is nine years and it is not uncommon for many to be reelected. Thus, a continuity of legal minds would, over the years, set a temper for the Court, and the justices would have a wealth of knowledge and experience from which to make their decisions.

Article 36 of the Statute defines the jurisdiction of the Court: (1) over all cases referred to it as provided for in the Charter, or treaties and conventions in force, (2) "(a) the interpretation of a treaty; (b) any question of international law; (c) the existence of any fact which, if established, would constitute a breach of international obligation; (d) the nature or extent of the reparation to be made for the breach of an international obligation."

In his evaluation of international law, Professor Hartmann notes that international law "is not so much 'weak' as limited in its application to existing international problems It is neither law that is incomplete nor the technical apparatus for making and judging law that is the source of the limitations."

"The source of weakness is to be found in the states themselves."³⁰

Thus, we see that The International Court of Justice does, in a sense, hit the very heart of the matter in international organization. As it endures and adjudicates with success, so also will the United Nations itself, for this will be the turning point when nations are willing to regard, with respect, the higher authority of an international organization.

At the risk of pursuing this subject too far, it is only fair to mention that all do not agree that the weakness of international law is to be found in the "states themselves," as Dr. Hartmann puts it.

Sometime ago, Professor Gerhart Niemeyer of Princeton wrote, ". . . the cause for the breakdown in international law must be sought in international law itself."³¹ Professor Niemeyer's thesis is that "political reality has become unlawful, because the existing system of international law has become unreal."³²

If the duty to obey the law is consistently disregarded by nations and statesmen, whose sense of obligation is otherwise active and awake, it can only be because this duty is in conflict with another obligation of statesmen: the obligation to act in accordance with reality and with a view to the practical consequences resulting from their acts and affecting countless individuals. Shades of Kant In other words: international law is being put aside because it has drifted so far away from the realities of politics that it has become even morally justifiable to defy it.³³

CORRESPONDENCE COURSES IN PERSPECTIVE

What Professor Niemeyer suggests as a solution is:

a comprehensive revision of existing rules, a redrafting of the provisions of international law, which would reconcile the political with the legal criterion, and would enable governments to abide by the norms of international law without having to disregard the responsibility pertaining to their office.³⁴

A rather pragmatic approach to the problem, to be sure, but one which seemed most provocative to this reader.

We may be certain of one thing, however, that, just as domestic peace within nations is never stable unless there is an adequate system for the realization of justice, so there will be no permanent peace among nations until there is a complete system for realizing not only a state of calm but also justice among them. The passive ideal of peace--mere peace--whether just or unjust, will never satisfy the aspirations of human nature.³⁵

SECRETARIAT

The Secretary-General of the United Nations serves as "chief administrative officer of the Organization" and is "appointed by the General Assembly upon the recommendation of the Security Council" (Chapter XV, Article 97).

The concept of the office of Secretary-General led to the inclusion in the Charter of Article 99, which granted political powers to the Secretary-General and allowed him to ". . . bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security."

The Secretary-General and his staff, the Secretariat, have a host of "housekeeping" responsibilities including the planning of conferences, interpreting, and publication of the Yearbook.

"If the Secretary-General is the world's chief civil servant, the United Nations Secretariat is its international civil service."³⁶

The conflict of international versus national loyalty is ever present with the Secretary-General as well as the members of the Secretariat; but, for the most part, they have served the U.N. Charter and in so doing served their own nation, whose membership in the Organization attests to the respect that it holds for the Charter and its purposes.

We need many kinds of new work. We shall not be able to rely on selfish masses, or governments, or on men dependent on selfish and partisan organizations for the impartial, competent and honest handling of union and world problems. Such work will need a clean cell centre which, to its great damage, the League of Nations with its dependent Secretariat did not possess. Since no present organization or group of men is available for such a purpose, this will necessitate the development of a *New Secular Service*.³⁷

It has been pointed out, and rightly so, that early in the history of the United Nations it became evident that the extraordinary powers delegated to the Security Council to "maintain international peace and security" were not being utilized by the Council.

The Charter clearly stated that the "primary responsibility for maintenance of international peace and security" rests with the Security Council (Article 24), and that the Security Council "shall determine the existence of any threat to the peace . . . or act of aggression" (Article 30). And finally, it empowers the Security Council to decide on what action to take in a situation which calls for action: sanctions (Article 41), blockade (Article 42), or armed force (Articles 43 and 44).

But, in spite of all these powers to act ". . . it became apparent that the Security Council--paralyzed by the unanimity rule--was falling victim to the East-West struggle . . ."³⁸ Moreover, the Security Council had failed to take advantage of Article 43 which permitted the establishment of armed forces.

Accordingly, it was as early as 1947 that the General Assembly created a "Little Assembly" or Interim Committee to meet when an international crisis occurred. In addition to this, in 1950 a most important resolution was adopted: the "Uniting For Peace Resolution," as it was called, permitted the General Assembly to take collective-security action --even armed force if necessary--when the Security Council was deadlocked or otherwise unable to do so.

The Resolution was adopted by a vote of 52 to 5 with 2 abstentions. It greatly broadened the powers of the General Assembly which, as a result of its new mandate, was able to deal with several matters of security: the Communist Chinese military intervention in Korea, the Suez crisis in 1956, the Soviet intervention in Hungary, the Lebanese crisis of 1958, and the Congo crisis of 1960. Thus the Assembly became a backstop of the Security Council.³⁹

Professor Hartmann points out:

The adoption of this resolution did not mean that the majority of the United Nations members had lost all hope of the Security Council's functioning effectively, but it did record their determination to have the Assembly fill the vacuum insofar as and for as long as the Security Council remained deadlocked.⁴⁰

If the intent of the United Nations was to survive; indeed, if the United Nations itself was to survive, there seemed little else that the General Assembly could do. The Security Council had not set aside any armed forces to "call upon" and they seemed hopelessly deadlocked by the veto.

So it was when, in June 1950, the North Korean army marched into South Korea. The Korean war caught the Security Council without any armed forces to send against the aggressor. And so the Security Council was obliged to seek "free-will offerings" from the U.N. membership.

For this reason, since the Security Council had no greater power than the General Assembly, and since it was

essential for the success that wide-spread support be obtained, it is not surprising that the issue was to pass basically into the hands of the Assembly.⁴¹

The fact that the Security Council was able to take any action at all is interesting to note. This was possible only because the Soviet Delegate, Jacob Malik, had "walked out" six months before in protest to Nationalist China's presence on the Security Council. Needless to say, the Soviet delegate hurried back to his seat but too late, for by then (1 August 1950) the U.N. forces were fast approaching the 38th parallel. The rest is history: "The Korean Conflict," as some preferred to call it, became a Mexican standoff in the East-West struggle between the United States and Communist China. The fear of all-out war was enough to temper U.S. decisions, in spite of the strategically sound advice of General MacArthur. Stoessinger observed: ". . . if it had not been for American initiative, the international police force in Korea would not have come into existence at all."⁴²

Whatever its origins, the Korean war proved to be the first attempt to block aggression through an international police force; and with this, new concepts in international policing were developed: a multi-nation army under a U.N. Commander and a U.N. flag.

Though not so dramatic in its development, the Suez Crisis, in 1956, proved to be more far-reaching in its effects, for it involved not only the ever-present struggle of East vs. West, but also colonialism vs. nationalism, and, finally, "it generated sharp conflicts among the Western powers and the new anti-colonial nations themselves."⁴³

Prompted by President Nasser's nationalization of the Suez Canal, France and Great Britain, with the aid of Israel, sought to depose Nasser and negotiate for reinstatement of the "free and open" status of the Canal agreed upon in 1888 by the International Convention of Constantinople.

The United States and, ironic though it be, the U.S.S.R. took exception to this action and led the way in a U.N. demand for cessation of fighting and immediate withdrawal of all troops.

CORRESPONDENCE COURSES IN PERSPECTIVE

It is interesting to note that in the London Conferences, which preceded the action taken by the Franco-British-Israeli forces and subsequently by the United Nations, there were innumerable attempts to find, through diplomacy rather than war, the way to remove the Suez from the sole control of Egypt's Nasser. In his plea for reason, Secretary of State John Foster Dulles struck at the heart of the matter:

The United Nations Charter itself does not just say, 'there must be peace.' . . . the very first article of the U.N. Charter says that the purpose of the U.N. is to bring about settlements 'by peaceful means, and in conformity with the principles of justice and international law.'⁴⁴

It could not be said with ease that Great Britain and France considered the words of Secretary Dulles when they were ready to act.

With due credit being given to Great Britain and France, the decision of the United Nations was, with great humiliation, upheld: the troops were withdrawn.

Once again, the General Assembly displayed "inventiveness and flexibility," as Stoessinger states, when it restored the *status quo ante bellum* after the crisis by establishing a new international police force to restore order. Unlike the Korean forces, the United Nations Emergency Force (UNEF) was quite small in size (only 6,000 troops at most) and did not enlist the help of any of the major powers. The UNEF was, in fact, more of a police force than a fighting force. Subject to Egypt's approval, the force of 6,000 "neutrals" were admitted to Egypt. Their purpose was to setup neutral zones and a buffer between Israel and Egypt. The aims were modest in terms of Korea but the UNEF proved to be more international in character (without a major power controlling it), and did in fact accomplish its mission.

The Congo crisis, in 1960, presented yet another problem for the United Nations to settle. Torn by near civil war, the newly formed Congolese nation became an object of the modern day conflicts--of East and West, colonialism and nationalism. At the request of the Congolese Government, then under Premier Lumumba and President Kasavuba, a U.N. force,

CORRESPONDENCE COURSES IN PERSPECTIVE

similar to that gathered for the Middle East, was authorized by the Security Council, and, at the same time, the Belgian troops were ordered withdrawn from the Congo. The U.N. force for the Congo crisis followed the pattern set by UNEF, which was sent to the Middle East: the major powers were excluded and thus the major participants in the East-West struggle and likewise in the colonialism-anticolonialism struggle.

The General Assembly maintained stability within the United Nations by their overwhelming endorsement of Dag Hammarskjold, despite the insistence of Premier Khrushchev that the Secretary-General be removed.

The U.N. force, composed of some 20,000 troops mostly from the African nations, were again set to the task of the buffer group--though this time with a good deal more difficulty because they were, in fact, intervening in a civil war and so into a domestic conflict within the Congo. It was, indeed, a unique situation for the United Nations, for here were several potential governments competing for power. The most important achievement of the mission of the Congo force was to achieve political stability in the Congo and in so doing prevent the Congo "from becoming a seedbed of a general war."⁴⁵

Thus we see the U.N. peacekeeping machinery has performed a two-fold function: first, it maintained international *peace* by conciliation of disputes, such as in Suez (1956) and the Congo (1960); and secondly, it has functioned in the capacity of *collective-security* against an aggressor such as in Korea (1950). The former is primarily a *peace-keeping* force and the latter is essentially a fighting *collective-security* army.

In 1963, the Secretary-General of the United Nations (U Thant of Burma) noted that the U.N. peace-keeping forces

are a very different kind and have little in common with the forces foreseen in Chapter VII, but their existence is not in conflict with Chapter VII ["Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression"].

CORRESPONDENCE COURSES IN PERSPECTIVE

They are essentially *peace* and not fighting forces and they operate only with the consent of the parties directly concerned.⁴⁶

An interesting analysis of the U.N. peacekeeping machinery was presented to the United Nations by U.S. Ambassador Arthur J. Goldberg in November 1965. Ambassador Goldberg noted that:

The United Nations has had a long history of establishing purely peace-keeping forces--in Greece, in 1947; in Kashmir, in 1948; along the borders of Israel, in 1949; in the Gaza Strip, in 1956; in Lebanon, in 1958; in the Congo, in 1960; in West Irian, in 1962; in Yemen, in 1963; in Cyprus, in 1964; and in India and Pakistan, in 1965.⁴⁷

Ambassador Goldberg observed that the "maximum possible use should be made of the Security Council." Action taken in the Congo crisis "demonstrated that the Security Council *can* meet its responsibilities for dealing with threats to international peace and security."⁴⁸

The United States continues to favor . . . that all proposals to initiate peace-keeping operations should be considered first in the Security Council. The Assembly would not authorize or assume control of such operations unless the Council had demonstrated its inability to act.⁴⁹

It might be pointed out here that the time lag needed by the Assembly to determine the "inability" of the Security Council to act may prove to be costly, perhaps fatal to the peacekeeping mission. It appears that in most cases, e.g., Suez and the Congo, the time-lag, or the lack of time-lag, proved to be a most important factor in the successful outcome of the peacekeeping mission. One may question how long should the Assembly wait in order to determine a deadlock in the Security Council.

Ambassador Goldberg also observed that an essential ingredient for successful peacekeeping in the future would be the maintenance of earmarked military units ready to serve in case of an emergency.

This, he points out, has already been accomplished by several nations: for example, Canada, Denmark, Finland, Norway, Sweden, Italy, and others.

But, Ambassador Goldberg concludes, "the crucial ingredient in the United Nations' capacity to keep the peace does not lie in particular arrangements. The crucial ingredient is political and moral. It is our determination to rely on the United Nations, to use the United Nations, to have confidence in the United Nations' operating capacity."⁵⁰

CORRESPONDENCE COURSES IN PERSPECTIVE

FOOTNOTES

1. Fenwick, Charles G., *International Law* (New York: Appleton-Century-Crofts, Inc., 1948), p. 13.
2. *Ibid.*, p. 15.
3. Stoessinger, John G., *The Might of Nations* (New York: Random House, 1963), p. 257.
4. Chambers, Frank P., *The Covenant of the League of Nations*, Appendix G. (emphasis mine.)
5. U.S. Dept. of State, *The U.N. Charter, Purposes and Principles* (U.S. Govt. Print. Office 1945), Article I. (emphasis mine.)
6. Hartmann, Frederick H., *The Relations of Nations* (New York: Macmillan, 1965), p. 185.
7. *Ibid.*, p. 125. ff.
8. *Ibid.*, p. 262.
9. Stoessinger lists the six-blocs which have emerged in the Assembly as: Afro-Asia (50 votes), Latin America (20 votes), Atlantic Community (18 votes), British Commonwealth (12 votes), Arab (9 votes) and Communist (9 votes). *Ibid.*, p. 270.
10. Eagleton, Clyde, "Proposals for Strengthening the United Nations," *Foreign Policy Reports* (New York: Foreign Policy Association, Vol. XXV, No. 9, Sept. 15, 1949), p. 102.
11. *Ibid.*
12. *Ibid.*, p. 103.
13. Chamberlin, William H., "The UN's Role," *Wall Street Journal*, Oct. 26, 1953.
14. Stoessinger, p. 261.
15. *Charter of the United Nations*, Chapter III, Article 7.
16. Hartmann, p. 207.

17. Stoessinger, p. 269.
18. *Ibid.*, p. 272. *The United Nations Yearbook* lists United Nations membership on 15 December 1965 as 117 sovereign nations.
19. *Ibid.*, p. 275.
20. *The United Nations Charter*, Chapter V, Article 24. (emphasis mine.)
21. *The Charter of the United Nations*, Chapter X, Article 62.
22. *League of Nations Official Journal*, Vol. I (Geneva: 1920), p. 10.
23. *Ibid.* Within the years that followed, the League placed under its direction six agencies including Air Navigation, Liquor Traffic, Refugee, and others and two International Institutes: Intellectual Co-operation and Cinematographic.
24. Stoessinger, p. 280.
25. *Ibid.*, p. 281.
26. These three: French Cameroons, French Togoland and, British and Italian Somaliland--all African nations.
27. *Yearbook of the United Nations, 1964* (New York: Office of Public Information, United Nations Organization, 1964), p. 399.
28. Stoessinger, p. 283.
29. Hartmann, p. 123.
30. *Ibid.*, p. 127.
31. Niemeyer, Gerhart, *Law Without Force* (Princeton: Princeton University Press, 1941), p. 16.
32. *Ibid.*, p. 9.
33. *Ibid.*, p. 16.
34. *Ibid.*, p. 17.

CORRESPONDENCE COURSES IN PERSPECTIVE

35. Peaslee, Amos J., *A Permanent United Nations* (New York: Putnam, 1942), p. 61. ff.

36. Stoessinger, p. 294.

37. Feilchenfeld, Ernst H., *The Next Step* (Oxford: Basil Blackwell, 1938), p. 95. Dr. Feilchenfeld notes: "The idea of a competent, impartial and independent body of international legislators was first advanced by the author in 1922."

38. Stoessinger, p. 269.

39. *Ibid.*, p. 270.

40. Hartmann, p. 206.

41. *Ibid.*, p. 405.

42. Stoessinger, p. 369.

43. *Ibid.*, p. 130.

44. *Time*, October 1, 1956, p. 26.

45. Stoessinger, p. 374.

46. Quoted by U.N. Ambassador Arthur J. Goldberg in his address to the Special Political Committee, November 24, 1965. U.S. Naval War College Additional Selected Reading, p. III-A-5.

47. *Ibid.*

48. *Ibid.*, p. III-A-6.

49. *Ibid.*

50. *Ibid.*, p. III-A-10.