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THE GOOD OFFICES OF THE SECRETARY- GENERAL OF THE UNITED NATIONS IN CONFLICT RESOLUTION

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المساعي الحميدة للأمين العام للأمم المتحدة في تسوية النزاعات

ملخص الرسالة

إن احد المبادئ الأساسية للقانون الدولي أنه يتوجب على الدول تسوية خلافاتها بالطرق السلمية. وقد عكست المادة 2 (3) من ميثاق الامم المتحدة هذا المبدأ. وقد عني الفصل السادس من الميثاق بتسوية النزاعات بالطرق السلمية.

لقد تم التأكد على التزام الدول بتسوية نزاعاتها بالطرق السلمية من خلال عدة معاهدات وقرارات والتي من ضمنها إعلان الجمعية العامة للأمم المتحدة حول مبادئ القانون الدولي المتعلق بعلاقات الصداقة والتعاون بين الدول بموجب ميثاق الامم المتحدة (1970).

وخلال الجزء الأكبر من القرن العشرين، عرف النظام الدولي وسائل محدودة في إيجاد تسوية للنزاعات تتمثل في الحرب والدبلوماسية والى حد ما التحكيم. إلا أن العقود الأخيرة شهدت تحولا جذريا للمنظومة الدولية حيث أنه برزت وسيلة جديدة لمنع النزاعات وإيجاد التسويات المناسبة لها. ومن ضمن الخيارات التي أصبحت متاحة في هذا السياق المساعي الحميدة للأمين العام للأمم المتحدة.

تعود جذور مصطلح المساعي الحميدة إلى ميثاق لاهاي عام 1899 و 1907 حيث بينت المادتين 2، 3 من الميثاق المذكور أنه يتوجب على الدول قبل اللجوء الى السلاح أن تستعين بالمساعي الحميدة أو أن تطلب وساطة قوى صديقة.

بالرغم من أن المادة 97 من ميثاق الأمم المتحدة تنص على أن الأمين العام هو كبير الموظفين الإداريين للمنظمة، إلا أن دوره في حقيقة الأمر يتعدى ذلك بكثير إذ أنه يعتبر دبلوماسيا وناشطا لأنه يمثل الامم المتحدة أمام المجتمع الدولي.

حاليا يشير مصطلح "المساعي الحميدة" إلى الدور السياسي المستقل للأمين العام للأمم المتحدة في منع حدوث النزاعات بين الدول أو في التوسط لإيجاد تسوية لها. إلا أن الميثاق يخلو من أي ذكر لذلك لأن هذا الدور تطور من خلال الممارسة العملية.

أشارت الأدبيات إلى أن تسوية النزاع تعني إزالة مسببات وظواهر هذا النزاع بين الفرقاء وإلغاء مصادر عدم التوافق بين مواقفهم. وإدارة النزاع تعني إلغاء العنف والوسائل العنيفة التي تتسبب في تأجيج النزاع. إلا أن

تحول النزاع يعني استبدال العنف بعلاقات إيجابية بين الفرقاء كالتعاون على سبيل المثال. إلا أنه من المسلم به أن نشوء النزاع يحتاج إلى إيجاد الحل المناسب له.

إلا أن وسائل إيجاد تسوية سلمية للنزاعات تفترض في المقام الأول وجود النزاع. هذا ويمكن تصنيف الوسائل السلمية لتسوية النزاعات إلى وسائل دبلوماسية وقانونية. أما الأخيرة فإنها تعني تسوية النزاع من خلال التحكيم أو عن طريق القضاء. أما التسوية الدبلوماسية فإنها تشمل المفاوضات والمساوي الحميدة والوساطة والتوفيق والتحقيق.

إن الوسيلة الأيسر لتسوية الخلافات تكمن في المفاوضات التي قد تنتج عن التزام الفرقاء بالتفاوض بناء على اتفاقيات موقعة فيما بينهم أو أحكام قضائية تلزم الفرقاء بالتفاوض بنية حسنة.

إن اعتماد مبدأ تسوية النزاع من خلال المساوي الحميدة أو الوساطة يتطلب تواجد فريق ثالث. إلا أن الفرق يكمن أنه في حالة اللجوء للمساوي الحميدة فإن الفريق الثالث يحاول حث الفرقاء على التفاوض بعكس الوساطة حيث إن الفريق الثالث يمارس دوراً أكثر فاعلية من خلال تقديم المشورة والاقتراحات في سبيل تسوية النزاع. ويتم عادة الاستعانة بالمساوي الحميدة للأمين العام للأمم المتحدة لتسهيل الاتصال بين الفرقاء. وفي المقابل فإن التوفيق هو عبارة عن إشراك أطراف ثالثة التي تلعب دوراً منفصلاً. هذا وفي حالة نشوء خلافات في الآراء حول الأمور الحقيقية فإن السبيل لتسويتها هو تكوين لجنة تحقيق لتحديد الأمور الحقيقية المتنازع عليها.

يعتبر دور الأمين العام في المنظمة الدولية مميّزا واستثنائياً حيث أنه أعطي دوراً محورياً إدارياً وقائداً. وقد حدد له الميثاق صلاحيات ومهام عديدة. فبالإضافة للمادة 97 التي اعتبرته كبير الموظفين الإداريين في المنظمة، ألزمته المادة 98 بتقديم تقارير سنوية للجمعية العامة حول أعمال المنظمة، كما وأن من ضمن صلاحياته تعيين الموظفين. إلا أن اتساع دور الأمين العام ليشمل المجال السياسي فقد اعتمد على تفسير أوسع لنص المادة 98 بخصوص تأدية مهام أخرى بناء على تكليف الجمعية العامة ومجلس الأمن والمجلس الاقتصادي والاجتماعي ومجلس الوصاية. وعلاوة على ذلك فقد أعطت المادة 99 من الميثاق صلاحية للأمين العام لإشعار مجلس الأمن الدولي عن أي أمر يمكن أن يعرض من وجهة نظره الأمن والسلم الدوليين للخطر.

وبصفة عامة فإن المساوي الحميدة للأمين العام للأمم المتحدة تعاطت مع صراعات متنوعة ومن ضمنها أمور قانونية وأمور تتعلق بالسيادة الإقليمية وكذلك بالحروب الأهلية.

فخلال الحرب بين العراق وإيران بذل الأمين العام مساعيه الحميدة للتوصل إلى وقف لإطلاق النار بين الفريقين المتنازعين، وكذلك شارك في تقصي الحقائق عندما ادعت إيران بأن العراق قد استخدم الأسلحة

الكيمياء. وكذلك لعب دورا بارزا في الحصول على موافقة جنوب إفريقيا عام 1995 على إجراء انتخابات تحت إشراف الأمم المتحدة والتي أدت بدورها إلى استقلال ناميبيا.

لقد تمكن ترانيف لي أول أمين عام للأمم المتحدة من وضع اللبنة الأولى المهمة التي تتعلق بصلاحياته السياسية عندما قام مجلس الأمن ببحث فشل الاتحاد السوفيتي في سحب قواته من الأراضي الإيرانية. ولقد تمكن ترانيف لي من بسط نفوذه خلال المداولات على خلفية المادة 99 من الميثاق للتدخل في شؤون مجلس الأمن من خلال إصدار تصريحات شفوية أو خطية في أي وقت خلال الجلسة. وتبع ذلك حقه في إصدار تصريحات مماثلة للجمعية العامة بالإضافة إلى حقه في التحري عن الأمور قبل عرضها على هذه الهيئات. وقد أعطت هذه الأدوات نفوذا سياسيا للأمين العام لم يكن موجودا من قبل في عصابة الأمم.

لقد طور داغ هامر شولد مكانة الأمين العام حيث واجه انتقادات عنيفة من الاتحاد السوفيتي. ومن خلال المهام الأولى التي كلف بها ابتدع الأمين العام ما يسمى "معادلة بكين" عندما كلفته الجمعية العامة بالعمل على إطلاق سراح خمسة عشر ملاحا جويا أمريكيا كانوا محتجزين بالصين. بما أن الجمعية العامة لم تحدد الأسس لعمله اعتمد على تقديره الشخصي. ولقد ابتدع الأمين العام كذلك مفهوما جديدا عندما كلف من قبل الجمعية العامة لإيجاد قوات لحفظ السلام بعد أزمة السويس عام 1956. وعلى ضوء الأزمات التي واجهت الأمم المتحدة، تمكن الأمين العام من توسيع الدور القيادي للأمين العام من خلال التفسير المرن للمهام الموكلة إليه من الهيئات السياسية علاوة على إبراز الدور المحايد للأمين العام عند تعامله مع قرارات غير محددة وعند الافتقار إلى التفويض.

وخلال تولي يوثانت الأمانة العامة للأمم المتحدة لم يقم بتطوير فلسفة المكتب أو وضع سوابق استثنائية وإنما تصرف بحكمة في مجموعة من الأزمات وقام بتعزيز المكاسب التي حققها من سبقه وحافظ على دعم القوى النافذة، وتبنى الأمور التي هي من الأهمية العظمى للدول النامية. وبالرغم من أنه لعب دورا بناء في الخلافات السياسية مثل الكونغو وقبرص وأزمة الصواريخ الكوبية، إلا أنه تعرض لانتقادات لتسرعه في سحب قوات الطوارئ الدولية من الشرق الأوسط عام 1967. لقد اعتبر صريحا إلا أنه فشل في وضع نهاية للحرب الفيتنامية. وبصفة عامة قام بالمحافظة على المبادئ التي رسخها من سبقه في هذا المنصب.

بعد أن أصبح كورت فالدهايم الأمين العام الرابع للأمم المتحدة اعتبر أمور حقوق الإنسان مؤثرة جدا وخاصة إنقاذ حياة البشر. وفي العام 1977 تولى شخصيا إعادة رهائن فرنسيين من إفريقيا إلى باريس. وفي العام 1972 اقترح على الجمعية العامة للأمم المتحدة بحث مشكلة الإرهاب الدولي. كما ولفت نظر مجلس الأمن في العام 1976 على خطورة الوضع في لبنان. واجه فالدهايم ضغوطات متقابلة من الدول النامية لتوفير احتياجاتها من البرامج الإضافية والتمويل، ومن الدول الغنية لترشيد النفقات والإدارة المالية الحكيمة. واجه

انتقادات من الأطراف ذات العلاقة لفشله في التوصل إلى تسويات سريعة للخلافات، إلا أنه خضع للاحترام لنزاهته وجهوده الدبلوماسية الهادئة.

اختلف أسلوب الإدارة الذي اتبعه خافيير بيبرس دي كويار عن أسلوب من سبقه من حيث رغبته في أداء عمله من دون التركيز على ظهوره العام. وفي بداية الثمانينات واجه الأمين العام الجديد مصاعب سياسية جمة حدثت من مدى نشاطاته. لقد اتبع الرئيس الأمريكي رونالد ريغن سياسة معادية للأمم المتحدة خلال فترة رئاسته الأولى حيث وجه لها انتقادات لاذعة لموقفها المعادي للولايات المتحدة والذي أدى بدوره إلى تقليص الكونغرس الأمريكي قيمة الاستحقاقات المالية الأمريكية للمنظمة الدولية. بذل الأمين العام مساعيه الحميدة للتوصل لإطلاق النار بين العراق وإيران. وبالإضافة إلى دور الوساطة بدأ الأمين العام بلعب دور سياسي من خلال تشكيل قرارات مجلس الأمن، وقد أظهر استعدادا للتأثير على مجلس الأمن عند تبني استراتيجياته وقراراته بحيث تمكن المنظمة الدولية من تكريس نفوذها السياسي والعسكري لمبادراته في صنع السلام، كما ظهر جليا في عملية ناميبيا.

تم انتخاب بطرس بطرس غالي أمينا عاما سادسا للأمم المتحدة عام 1992. وعلى ضوء التقرير الذي قدمه الأمين العام للجمعية العامة بعنوان "Agenda for Peace" اعتمدت الجمعية العامة القرارين 47/120-A+B بتاريخ 18/12/1992 و 20/9/1993 حيث أعطت الأمين العام تفويضا للجوء للدبلوماسية الوقائية ولتقوية قدرات السكرتارية في مجال الإنذار المبكر وخاصة فيما يتعلق بجمع وتحليل المعلومات في أمور قد تؤدي إلى زعزعة الأمن والسلم الدوليين. وفي العام 1995 أصدر الأمين العام ورقة عمل بعنوان ملحق لـ "Agenda for Peace" حيث وضع توصيات إضافية تبرز المناطق التي تعرضت لصعوبات متوقعة أو غير متوقعة، وطلب من الدول الأعضاء إصدار القرارات الصعبة والدورية. وتوصل كذلك لاستنتاجات تبين الفرق بين حفظ السلام وإلزامية التنفيذ علاوة على الأوضاع التي تستوجب تدخل عسكري كأداة معززة للدبلوماسية. وعلى ضوء الملحق المذكور أصدر مجلس الأمن بيانا رئاسيا يدعم ورقة العمل ويرحب بالأولوية التي أعطتها الأمين العام لمنع حدوث النزاع. وفي مجال حفظ السلام ورث الأمين العام مهام عدة، إلا أنه خلال فترة ولايته نفذ منها عدة مهام في كمبوديا والصومال ويوغسلافيا. وكان من المطالبين بمشاركة الأمم المتحدة في عدة أزمات داخلية مع استخدام وسائل تنفيذية.

بعد تولي كوفي انان الأمانة العامة عام 1997 اتخذ خطوات فورية لتحسين أداء الأمم المتحدة لتنفيذ الإصلاحات التي بدأها من سبقه في هذا المنصب. وتمكن خلال الأشهر الستة الأولى من ترسيخ الهيكل المتناثر للمنظمة الدولية من خلال تقليل المسؤوليات المتطابقة لمنع الازدواجية وتحسين التنسيق والمحاسبة. وخلال السنوات التالية ترأس الأمين العام عملية إعادة نظر جوهرية لعمليات حفظ السلام، وتم كذلك إدماج حقوق الإنسان في كافة مناحي نشاط الأمم المتحدة. وفي مقال له نشر عام 1999 قال الأمين العام بأنه يتوجب على الأمم المتحدة بعد دخولها قرنا جديدا من التحدي أن تلحق الهزيمة بأعداء الماضي للسلام والرفاهية. ومن

أجل تحقيق هذا الهدف فإن ميثاق الأمم المتحدة والتاريخ والثقة التي أولته إياها الدول الأعضاء أعطته دورا محوريا. اعتبر انان أن نهاية الحرب الباردة قامت بتحويل الوعد الأخلاقي لدور الأمين العام من خلال السماح له بوضع الأمم المتحدة في خدمة القيم الشاملة للميثاق.

وبطبيعة الحال لم تكن كافة مبادرات الأمين العام للأمم المتحدة ناجحة. وهناك أسباب عدة لفشل البعض من تلك المبادرات. وفيما يتعلق بالقضية القبرصية على سبيل المثال، يعزى الفشل لتعننت أطراف النزاع. وفي قضايا أخرى يعزى الفشل إلى العراقيل التي واجهت الأمين العام من قبل مجلس الأمن والجمعية العامة وأعضاء مهمين حيث تعتبر أزمة الكويت مثلا على ذلك. لقد كان الأمين العام عنصرا حاسما في ترتيب وقف إطلاق النار بين العراق وإيران عام 1988 إلا أنه نحي جانبا عام 1990 بعد اندلاع حرب الخليج الثانية بين العراق والكويت لأن مجلس الأمن تولى معالجة الأزمة والذي بدوره أحال الكثير من مسؤولياته عن الأمن الجماعي إلى بعض الدول التي كانت راغبة في استخدام القوة بقيادة الولايات المتحدة في عملية عاصفة الصحراء. إن نجاح وتطور مهام الأمين العام يعتمد على عاملين متغيرين هما: العامل الشخصي والعامل المؤسسي. أما العامل الأول فإنه يعتمد على قدرة الأمين العام على إيجاد مبعوث شخصي محايد قادر على تحمل الضغوط من قبل أطراف النزاع. وهذا بالتأكيد يعتمد على رؤيته الثاقبة والاحترام الذي يحظى به نتيجة لمبادراته السابقة الناجحة وإلى الدعم المتوفر له من مجلس الأمن والجمعية العامة علاوة على نوعية المعلومات المتوفرة له وإلى حيوته الدبلوماسية. ومثالا على ذلك ابتداء داغ هامر شولد لمعادلة بكين. ويعتمد المتغير الثاني على قدرة الأمين العام على استغلال كافة إمكانيات الأمم المتحدة لتنفيذ مهامه في التوصل إلى تسوية للنزاعات. أعطى ميثاق الأمم المتحدة مسؤوليات متقابلة للأمين العام للعمل باستقلالية وكذلك بناء على تكليف من مجلس الأمن والجمعية العامة مما تسبب في خلق توتر قلما ظهر للعيان.

وعلى ضوء الأعباء والمسؤوليات الملقاة على كاهل الأمين العام ارتأى أن يدعو إلى مشاركة أكبر في تحمل المسؤولية في أمور كالدبلوماسية الوقائية وحفظ وصنع السلام وفي تطبيق السلام من قبل المنظمات الإقليمية. إلا أن المشكلة في هذه الحالة تكمن في الانفصال والحروب الأهلية حيث أن المنظمات الإقليمية لا تعتبر شريكا مناسباً في المساعي الحميدة لأن الدول في المنطقة قد تشكك في مصداقيتها. وبما أن أعباء حفظ السلام ترهق الأمم المتحدة، فإن الحاجة إلى شركاء أصبح أمرا ملحا وعلاوة على ذلك، فإن مشاركة المنظمات الإقليمية في جهود الوساطة لدى لاعبين محليين قد يكون أكثر إفادة. وبالتأكيد فإن تجمعات إقليمية مثل حلف شمال الأطلسي قد تكون أكثر فاعلية في التطبيق من الأمم المتحدة. ومن الأمثلة الجيدة على تعاون الأمم المتحدة مع المنظمات الإقليمية هي الجهود المشتركة للأمم المتحدة والمنظمات الإقليمية الأوروبية مثل الاتحاد الأوروبي وحلف شمال الأطلسي ومؤتمر الأمن والتعاون الأوروبي في إرساء السلام في عدة أرجاء من يوغسلافيا السابقة.

ومن المتفق عليه بين الأكاديميين أن الحاجة للأمم متحدة فاعلة هي حاجة حقيقية. وإذا ما كان للأمم المتحدة أن تلعب دورا فاعلا في تسوية الأخطار الملحة التي تواجه السلام والرفاهية بصفتها الأداة الدولية لتسوية هذه المشاكل، فإنها بحاجة لتصبح أكثر قوة وفاعلية. إن الحفاظ على السلام والأمن هو الهدف الأساسي للأمم المتحدة والتحدي الأكبر التي يواجهها. وسوف يتم الحكم على فاعليتها من خلال أداءها لهذا الدور. وخلال الفترة بين 1988 - 1995 ظهر جانبان يحملان أفكارا متباينة عن الحاجة إلى الإصلاح: فالجانب المتفائل 1988 - 1991 ارتأى أن نتيجة حرب الخليج الثانية أدت إلى الاعتقاد بين الدول الخمسة دائمة العضوية في مجلس الأمن هي بداية لمرحلة جديدة من الأمن الجماعي. وفي المقابل فإن الجانب المتشائم منذ عام 1991 ارتأى عكس ذلك نتيجة للإخفاقات المتراكمة في أفغانستان ورواندا والصومال إلا أن أحد الأكاديميين يرى أن الوضع في يومنا هذا يتراوح بين المعالجة المتحفظة التي تطالب بإصلاحات محدودة وبين المعالجة الراديكالية التي تؤدي إلى إصلاحات جذرية للمنظومة الحالية. أما الاتجاه المحافظ فإنه يعتقد أن الميثاق الحالي مقبول وأن الأمن الجماعي بموجب الفصل السابع من الميثاق هو أفضل منظومة أمنية، إلا أن هناك اقتراحات لتحسينها. وفي المقابل يرى الاتجاه المتشائم أن المنظمة بحاجة إلى إصلاحات جذرية في بنيتها. أما المقترحات لإجراء إصلاحات هيكلية للمنظمة فإنها تركز على إعادة هيكلة مجلس الأمن أو زيادة فاعلية الجمعية العامة مقابل مجلس الأمن. وعلاوة على ذلك يكاد يجمع الأكاديميون أن السكرتاريا بحاجة إلى إصلاحات جذرية ومن ضمنها استحداث منصب نائب للأمين العام للأخذ على عاتقه الإطلاع بمهام خاصة أو مستمرة. فبالإضافة إلى ذلك هنالك حاجة لاستحداث منصب نائب الأمين العام للأخذ على عاتقه الإطلاع بمهام خاصة أو مستمرة. فبالإضافة لذلك هنالك حاجة لاستحداث مناصب جديدة ضمن السكرتاريا من ضمنها مراقب عام وسكرتاريا تنفيذية ضمن السكرتاريا الحالية.

وبناء على كل ما تقدم فإن الأمين العام للأمم المتحدة حقق نجاحا كبيرا في مجال تسوية النزاعات وصنع السلام خلال الحرب الباردة وبعدها. إلا أن رغبة مجلس الأمن واستعداده للإطلاع بالمهام الملقاة على عاتقه بموجب الميثاق أدى إلى إنهاء المأزق الذي سمح للأمين العام أولى الفرص للمناورة خلال مساعيه الحميدة. هذا وقد يكلف مجلس الأمن الأمين العام القيام بزيارة لبعض الأماكن كرسول لعرض الإجراءات التي يرغب في اتخاذها وليس لممارسة دورا سياسيا مستقلا. وقد يكون من غير الممكن أن يتمكن مجلس الأمن من الوفاء بالتزاماته إذا ما كان التهديد للسلم في المدى المنظور ناتجا عن نزاع مدني كما في أفغانستان وليبيريا والصومال على سبيل المثال لأن الإجماع المتوفر في مجلس الأمن سوف يكون في موضع تساؤل. وفي هذه الحالة فإن الوسيلة الأقل تكلفة والأفضل لصنع السلام تكون المساعي الحميدة للأمين العام للأمم المتحدة خاصة إذا ما تلقى الدعم اللازم من مجلس الأمن ومن الأعضاء الدائمين.

وفيما يتعلق بالتوصيات هناك حاجة لحصول الأمين العام على معلومات مفصلة في الوقت المناسب، كما وينبغي أن يعطى الأمين العام صلاحيات كافية من أجل لعب دور سياسي فاعل بموجب المادة 99 من الميثاق. ومن أجل تسهيل مهامه فإنه قد يكون بحاجة لصندوق خاص على سبيل الأمانة لتمويل المهام التي

يطلع بها. ومن التوصيات الأخرى وجود قوة متطوعة متعددة الجنسيات تحت إمرته وآلية تسمح له المباشرة في عمليات عسكرية ومدنية في وقت قصير، وكذلك وجود فريق مدرب من مدراء النزاعات تحت إمرته. ومن الضرورة بمكان كذلك أن تلتزم الولايات المتحدة بتسديد التزاماتها المالية وأن توفر القوة العسكرية عند الضرورة لتكون تحت إمرة الأمم المتحدة.

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Study Plan

1.1 The objectives

In this study it is intended to outline the topics just mentioned in the table of contents.

1.2 The Importance of the Study / Previous Studies

Since a lot has been written about the different organs of the United Nations with limited mention about the role of the good offices of the Secretary – General in conflict resolution, it is felt that shedding light on the successes of the U.N Secretaries – General despite the obstacles encountered in the exercise of their duties could be helpful in reforming the Secretariat toward a more effective role for the incumbent in office.

The considerable literature available has dealt with the subject matter of the U.N with no in-depth analysis of the political role of the Secretary – General of the United Nations. It is intended to examine and analyze important missions undertaken by the Secretary - General in which remarkable successes were achieved and failures frustrations encountered.

1.3 The Hypothesis

The Secretary – General is much more than the " Chief Administrative Officer of the Organization " as envisioned in Article 97 of the U.N Charter. Despite the limitations of the Charter (the institutional limitations), has the Secretary – General succeeded in utilizing his good offices function in conflict resolution (the personal factor)?

The role of the Secretary – General has been defined in the above paragraph in a negative context as being much more than the "Chief Administrative Officer of the Organization as stipulated in Article 97 of the U.N Charter. Although it is difficult to define his role in a purely positive context, I shall, however, try to outline same on the basis of the initiatives and missions undertaken by him discussed throughout the study. In practice, the role falls between the positive and the negative contexts

1.4 The Methodology

In this study it is intended to concentrate on the personal factor of the good offices missions through attempting to analyze the personal points of view of the incumbents in office, with subsequent emphasis being placed on the personal memoirs of Secretaries – General relating to their experiences in the missions undertaken by them, together with the theoretical aspects of the development of conflict resolution and the methods of settlement.

1.5 Conclusion

This entails a summary of the results and clear scientific criteria implemented in the Study and the clarification of their importance in accordance with the hypothesis.

1.6 Recommendations

These are basically relating to the results which clarify the best option relating to the strengthening of the good offices function of the Secretary – General in conflict

resolution.

1.7 The Obstacles

The main obstacles relate to the difficulties encountered in compiling data and securing the required reference literature occasioned by the uprising.

Chapter 1

Introduction

“It is fair to say that international law has always considered its fundamental purpose to be the maintenance of peace. Although ethical preoccupations stimulated its development and inform its growth, international law has historically been regarded by the international community primarily as a means to ensure the establishment and preservation of world peace and security “(Shaw, 1997).

“It is a fundamental principle of international law that states shall settle their disputes by peaceful means “(Hillier, 1994). This principle is reflected in Article 2 (3) of the Charter of the United Nations which stipulates that:

“All members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. “

Chapter 6 of the Charter deals significantly with the pacific settlement of disputes, and Article 33 (1) of the Charter provides that:

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

The obligation of states to achieve peaceful settlement of disputes has been confirmed in several other treaties and resolutions including the UN General Assembly Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations 1970. This Declaration asserts that in seeking an early and just settlement, the parties are to agree upon such peaceful means as they see befitting the circumstances and nature of the dispute, As such, states have a free choice as to the mechanisms adopted to settling their disputes. This approach is also taken in a number of regional instruments including the American Treaty on Pacific Settlement (The Pact of Bogota) 1948 of the Organization of American States, the European Convention for the Peaceful Settlement of Disputes 1957 (Shaw, 1997).

While it is true that only the Security Council can authorize military action or impose trade embargoes, and the General Assembly can authorize the funds to keep the United Nations operations going, it is in fact, the Secretary – General of the United Nations who has taken most of the initiatives to prevent or end armed conflicts which threaten peace between and within states.

For a big part of the twentieth century, the international system knew of limited methods of settling disputes namely: war, diplomacy, and to certain extent arbitration. However, the past few decades have seen the system's radical transformation in that during this time, a new global process for conflict prevention and conflict resolution have developed and become an essential feature of the system. Among the options for

dispute settlement, the good – offices of the Secretary – General has emerged as the fastest growing.

The term ‘good – offices ‘has its roots in the 1899 and 1907 Hague Conventions. Articles 2 and 3 of both instruments stipulate that ‘before an appeal to arms ‘States shall ‘have recourse as far as circumstances allow, to the good – offices or mediation of one or more friendly powers ‘. Article 9 stipulates that:

‘Friendly powers are further authorized to take the initiative to offer good – offices or mediation even during the course of hostilities ‘.

The Secretary – General is described in Article 97 of the Charter as the ‘chief administrative officer of the Organization ‘. The Secretary – General is, of course, much more than that. Equal parts diplomat and activist, conciliator and provocateur, the Secretary – General stands before the world community as the very emblem of the United Nations. The task demands great vigor, sensitivity and imagination (UN, 1995).

Currently the term ‘ good – offices ‘ as envisioned in the Handbook on the Peaceful Settlement of Disputes between States, and also in United Nations Press Releases, refers to the independent political role of the Secretary – General in preventing or mediating conflicts among and within states. Yet there is no specific authority for this in the Charter. It is a role which has developed in practice. In the post- Cold War era, the United Nations has found itself with new missions, expanded roles, and growing responsibilities. A focal point to keep the peace is the office of the Secretary – General.

Article 99 of the Charter empowers him to bring to the attention of the Security Council any matters which, in his opinion, threaten international peace and security. Whenever he strives to bring disputing parties to the negotiating table, he now deploys the authority of the international community as a whole. This is considered a significant institutional innovation. Former Secretary – General Javier Perez de Cuellar has stated:

“No one will ever know how many conflicts have been prevented or limited through contacts which have taken place in the famous glass mansion which can become fairly opaque when necessary “ (UN, 1988).

Chapter 2

The Development of Conflict Resolution and Methods of Settlement

2.1 - The Development of Conflict Resolution

On the edge of the millennium, the methods of conflict have been more brutal and the methods of conflict resolution more sophisticated than ever before. Courage and commitment are needed to utilize the required tools to meet the challenge - to move people away from the inclination to violence and nations away from the attraction of war.

Conflicts arise either among states and nations on the one hand, or among people, who act in the name of states and nations. The end of the Cold War opened an era of vicious conflicts uncontained by super power restraints. Although regional conflicts and national struggles for power had been used by the Cold war players for their own purposes, these conflicts had been kept under close control by the Cold War's system of world order lest they get out of control. When these constraints suddenly vanished at the end of the 1980s, conflicts of many types emerged. Many of these conflicts arose over the inheritance of a former communist supported domestic order as in Angola, Mozambique, Ethiopia, Somalia, Cambodia, Yugoslavia, and Afghanistan. Elsewhere conflicts arose from deep rooted feelings of hatred that had been dormant or had been held in check. Such feelings rise and fall according to external conditions. When

national systems of order break down people resort to ethnic identities at the expense of others with whom they formerly lived peacefully. Furthermore, when economic conditions worsen, people fight for the remains. International pressures for competitive economic systems can actually intensify the problem, creating a new context of conflict that the societies cannot handle effectively. These conditions gave rise to conflict as in Algeria, Rwanda, Ethiopia, Liberia, Somalia, and Lebanon among others (Zartman 1997).

The other inheritance of the Cold War is the huge amounts of arms that has flowed into potential conflict areas. While conflicts are pursued and atrocities committed with the most primitive weapons, the availability of modern weaponry has aggravated the situation.

The one striking limitation on the conflicts of the 1990s is that they have not been the kind of classic interstate conflicts over causes such as boundaries, territory, or resources. Only the second Gulf War, between Iraq and Kuwait, involved interstate aggression. Neighbors tend to regard conflicts with anxiousness, fearing that they tend to become regionalized not by aggression but through some sort of contamination as in West Africa (Liberia, Sierra Leone) , Central Africa (Rwanda, Burundi) , the Horn of Africa (Ethiopia, Somalia, Sudan) , among others (ibid).

"The conflict occurs on two levels – opposing sides fight for the specific and the general, the case and the principle, the exception and the precedent ". Serbs Yugoslavia are fighting for a Greater Serbia against Croats and Bosnians fighting for the

recognition of established states and boundaries. But the Serbs are also fighting to establish an ethnic nation state and the Bosnians a multiethnic state with a constructed national identity principle. The conflict arises because old limits, criteria, and principles were broken and new ones are being tried. The Southern Sudanese fight for secession, driven not only by the aggressiveness of the Northern Sudanese, but also by the idea that the new Eritrean precedent for secession might apply to them as well (ibid).

The absence of certainty about world order and of commitment to enforce norms and limits on deviant behavior has allowed conflicts to rise in the 1990s. The international response is not only weak, but this weakness is causing an increasingly stronger challenge in a vicious circle of action and reaction. With the lifting of the nuclear balance of terror and the lessening of Cold War tensions, the world's leaders have lost interest in mediation and engagement as means to impose restraint (ibid).

Since contemporary conflicts tend to be internal, the legitimacy of intervention is questionable. In a democratic age, people are sovereign and they get the government they wish. The international law in existence protects the sovereignty of states and their internal affairs from foreign interference, thus leaving power unrestrained and inviting the strong to overrule the weak. The prohibition also prohibits the would be interveners from intervening in cultures and spheres that are not their own.

In the absence of established systems of order and consensus on solutions, one defends one's own interests. However, there is no clear sense of interest in dealing with the current era's many conflicts. It is clear to the decision makers and the people alike that

Rwanda, for example, does not fall into the geographic area of U.S interests, and the foreign state that seems concerned – France – is widely decried for its involvement. It is also not clear to many that the former Yugoslavia fits into U.S interests, as it resides just outside the area of NATO range of operation or activity ; even those European countries that see themselves concerned – Germany and France – are criticized for their narrow-minded engagement (ibid).

The lack of clear sense of interest and legitimacy results in an absence of public commitment. There is no doubt that the public at large is strongly committed to the management and resolution of international conflicts for the reasons of morality and interest.

J.Lewis Ramussen believes that from the end of World War II until the end of the Cold War, the game of global politics was relatively unambiguous. The rules and issues of a bipolar system were clearly defined, as were the relationships between allies and enemies and between official and unofficial actors. Conflicts around the globe largely took the form of superpower proxy wars, in which Third World client states vied for power and influence in regions outside the spheres of influence of the U.S and the Soviet Union (ibid).

Today, our world is a turbulent one in transformation. The waning of bipolarity in world politics has unleashed violent global disorder. Although the world has witnessed 94 armed conflicts between 1989-1994, the total number of armed conflicts since the end of the Cold War has decreased slightly – as of 1994, there were 42 ongoing conflicts,

down from 46 in the previous year. And the 94 conflicts occurring during 1989-1994, only four were considered traditional, interstate conflicts; however, the number of minor and intermediate-level conflicts significantly increased. Thus, at a time when the peace dividend is supposed to be reaping its rewards, we still face a significant level of violent conflict and a rise in small-scale warfare. Mass violence now is waged not so much by states against each other as by more groups whose members are contesting the states and borders that contain them. Nearly two-thirds of the ongoing conflicts in 1993 could be identity based, constituting a direct challenge to existing state authority (ibid).

Ramussen distinguishes between international war and contemporary inter group conflict in the manner in which they are waged. The former is typically fought between states' professional armies following standardized rules of engagement. Legal conventions governing the proper moral conduct of states and their armies leading up to and during war have existed for centuries (ibid).

Internal conflicts, on the other hand, usually involve paramilitary forces that typically do not adhere to the agreed-upon, legally binding rules governing behavior in times of war. They argue that since the conflict is internal, their actions fall outside the realm of international law, and since they are challenging the existing order, their actions fall outside the realm of domestic law also (ibid).

In many contemporary conflicts, floods of refugees and displaced persons are left without means to support themselves, homeless, and without any ability to function normally. Fear of retribution prevents many from even attempting to return home. The

intensity of ethnic conflicts plaguing diverse areas as Northern Ireland and Africa's Great Lakes region leaves the communities in place paralyzed with fear. Some conflicts render the infrastructure useless, because the belligerents resort to destructive tactics, as in Cambodia and Chechnya.

Conflict is no longer restricted to the advanced industrialized countries. In fact, there is a positive correlation between underdevelopment and armed conflict (Ghali 1995).

According to the 1995 Armed Conflict Report, most of the major armed conflicts occurred in 47% of those countries in the bottom half of the 1994 Human Development Index.

2.2 - Mechanisms and Methods of Dispute Settlement

Conflicts or disputes demand resolution, but not because of the evil of the perpetrators, since if evil was the problem, the international community would have pointed a collective finger against them.

Conflict resolution depends on recognition that parties have at least some interest in the conflict, and that these interests need to be met, outweighed, and reduced in order to be reconciled. The parties' interests need to be addressed, and their interests in reconciliation enhanced. It is a prerequisite that they must be made to understand that reconciliation is not surrender, and that interests differ from needs.

The mechanisms dealing with the peaceful settlement of disputes presupposes the existence of a dispute in the first place. What constitutes an ‘international dispute’ is a matter of objective determination. In the *Mavrommatis Palestine Concessions (Jurisdiction) Case 1924*, the Permanent Court of International Justice stated that a dispute could be regarded as ‘a disagreement over a point of law or fact, a conflict of legal views or interests between two persons’. In the *Interpretation of Peace Treaties Case (1950)*, the International Court of Justice, in an advisory opinion, confirmed that the existence of an international dispute was a matter of objective determination, stating that ‘the mere denial of the existence of a dispute does not prove its non-existence. There has thus arisen a situation in which two states hold clearly opposite views concerning the question of the performance or non – performance of treaty obligations. Confronted with such a situation, the court must conclude that international disputes have arisen’ (Hillier, 1994; Shaw, 1997).

The peaceful methods for the settlement of international disputes that exist can be divided into diplomatic and legal settlement. The latter refer to modes of dispute settlement resulting in binding decisions involving either arbitration or judicial settlement. The forms of diplomatic settlement involve negotiation, good offices, mediation, conciliation, and inquiry (Hillier, 1994).

2.3 – Negotiation

“Of the procedures used to resolve differences, the simplest and most utilized form is understandably negotiation. It consists basically of discussions between interested

parties with a view to reconciling divergent opinions, or at least understanding the different positions maintained "(Shaw, 1997).

In comparison to the above, Daniel Druckman thinks that to negotiate is " to hold intercourse with a view to coming to terms; to confer regarding a basis of agreement ". This definition has taken on a variety of meanings, especially during the past thirty years. Some view the process of negotiation as a puzzle to be solved, others see it as a bargaining game involving an exchange of confessions, some see it as a way of reconciling differences within and between organizations, while others think of it as a means for implementing governmental policies. These views have developed into distinct frameworks of research with researchers developing specialities in various fields, with each field contributing important insights into the process of negotiation (Zartman, 1997).

The above insights apply to a wide range of circumstances in which negotiation takes place. In many cases, leaders often make demands or exchange proposals from a distance. Some well known historical examples include the bilateral exchange proposals between the U.S and the Soviet Union over the 1948-49 blockade of Berlin, between Kennedy and Krushchev in 1962 over Soviet missile bases in Cuba, and between Carter and Khomeini concerning the American hostages in Iran in 1970-1980. Leaders and their representatives meet face to face to discuss their conflicting interests over security and other affairs. These meetings usually consist of formal summits, such as the meeting between Reagan and Gorbachev in 1986 at Reykjavik, or more protracted sessions, such as the long series of talks between the countries' representatives over

arms control, beginning with the Strategic Arms Limitation Talks (SALT), and concluding with the Strategic Arms Reduction Talks (SART). Other examples include talks among several nations. Sometimes they occur between blocs, such as NATO-Warsaw Pact discussions during the 1970s over mutual and balanced force Reductions (ibid).

The above examples demonstrate that international negotiation takes many forms. It consists of communications exchanged from a distance or face-to-face. It occurs between two or more nations' representatives in bilateral, trilateral, and multilateral shapes. It concerns matters in a great variety of issue-areas that may have local, regional, or global consequences.

Negotiation does not involve any third party. Since the parties are directly involved, negotiation is the most satisfactory means to resolve conflicts.

In certain circumstances there may be a duty to enter into negotiations pursuant to a bilateral or multilateral agreement. Additionally, decisions of tribunals may direct the parties to enter into negotiations in good faith. An obligation to negotiate would imply a similar obligation to pursue such negotiations to the very end with a view to reach agreement. In the North Sea Continental Shelf Case 1969, the International Court of Justice held that: "the parties are under an obligation to enter into negotiations with a view to arriving at an agreement" (ibid).

In addition to being utilized to attempt to prevent disputes from arising in the first place, it is often used at the start of the dispute resolution procedures. In the Free Zones of Upper Savoy Case 1932, the Permanent Court of International Justice stated that “before a dispute can be made the subject of an action at law, its subject matter should have been clearly defined by diplomatic negotiations “(Hillier, 1994).

2.4 - Mediation

“The employment of the procedures of good offices and mediation involves the use of a third party, whether an individual or individuals, a state or group of states, or an international organization to encourage the contending parties to come to settlement”. While in good offices the third party attempts to influence the disputants to enter into negotiations, in mediation the third party plays a more active role by offering advice and proposals for a solution of the conflict. It is always difficult to draw a dividing line between the two methods since they tend to merge together depending on the circumstances. The United Nations Secretary – General is often used in the good offices role to facilitate communication between the disputants, and he may, on behalf of the international community play an active role in encouraging negotiations and promoting a successful outcome (Shaw 1997).

Jacob Bercovitch views the characteristics of mediation: " (1) it is an extension of peaceful conflict management; (2) it involves the intervention of an outsider-an individual, a group or an organization-into a conflict between two or more states or other actors; (3) it is a non – coercive, non-violent and, ultimately, non – binding form

of intervention; (4) mediators get involved in a conflict whether internal or international to resolve it, affect it, change it or influence it in some way; (5) mediators bring with them ideas, knowledge, resources, and interests. They often have their own assumptions and agendas as about the conflict in question; (6) mediation is a voluntary method of conflict management ". The actors involved retain control over the outcome of their conflict, as well as the freedom to accept or reject mediation or mediators' proposals (Zartman 1997).

Oran Young defines mediation as " any action taken by an actor that is not a direct party to the crisis, that is designed to reduce or remove one or more of the problems of the bargaining relationship, and therefore to facilitate the termination of the crisis itself (ibid).

As a form of international peacemaking, mediation would be appropriate when the conflict is long, or complex; or when the parties' own conflict management efforts have reached a dead end; or neither party is prepared to bear further costs or loss of life; and both parties are prepared to cooperate to break their stalemate. Many actors, each adopting different strategies are keen to mediate and undertake peacemaking initiatives. Mediators can either be individuals, states, and institutions and organizations.

Individual mediation is carried out by individuals who are not governmental officials or political incumbents. It consists of two kinds, namely formal and informal. The latter refers to the efforts of mediators who have a longstanding experience of, and a deep commitment to international conflict resolution. One example of the informal mediation

is the assistance given by the International Negotiation Network (INN) at the Carter Center which was created by President Carter in 1976. The INN has been actively involved in various mediation efforts in Ethiopia, Liberia, Cyprus, and Cambodia among others. Formal mediation, on the other hand, takes place when a political incumbent, or a government representative acts in an individual capacity to mediate a conflict between the official representatives of other states. For example Dennis Ross in his role as the State Department's Special Middle East Coordinator, and Richard Holbrooke in Bosnia (ibid).

At the international level, most mediation is carried out by states, and regional and international organizations. When a state is invited to mediate a conflict, the services of one of its top decision makers are normally engaged.

As far as mediation by institutions and organizations is concerned, three kinds of organizations play an important role in the precinct of peacemaking and conflict resolution; regional, international, and transnational. The first two, such as, the Organization of African Unity (OAU), the Organization of American States (OAS), and the United Nations have shown their intention to fulfill the obligations including those of formal mediation of membership as set forth in the formal treaty. Transnational organizations, such as, Amnesty International represent individuals from different countries who have similar knowledge, skills, or interests and who meet on regular basis to promote their common interests through various means, including informal mediation.

Of the international organizations now in existence, none has been more active in resolving conflicts through negotiation and mediation than the U.N, whose Charter specifically commits it to provide the answers to global problems of conflict and security. In the post Cold War era's outbreaks of low-level violence, civil wars, and ethnic conflicts. The U.N is often seen as the only actor capable of resolving conflict independently (ibid).

Regional organizations, like the European Union (EU), the OAS, the OAU, and the League of Arab States (LAS), all adhere to the principles of negotiation and mediation as their preferred means of resolving conflicts. Because most conflict occurs between regional neighbors, these organizations have always had a great latitude in the field of conflict resolution, the EU in Bosnia, the OAS in El Salvador, and the OAU in Somalia.

Transnational organizations like the International Committee of the Red Cross (ICRC) operate independently of states, and often find themselves involved in humanitarian interventions.

2.5 - Conciliation

" The process of conciliation involves a third party investigation of the basis of the dispute and the submission of a report embodying suggestions for a settlement. As such, it involves elements of both inquiry and mediation " (Shaw 1997).

Conciliation reports are merely proposals and do not constitute binding decisions, and as such, differ from arbitration awards. The period between the World Wars was the heyday for conciliation commissions and many treaties made provision for them as a method for resolving disputes (ibid).

Conciliation is considered extremely flexible and by clarifying the facts and discussing proposals may stimulate negotiations between the parties. The rules dealing with conciliation were elaborated in the 1928 General Act on the Pacific Settlement of International Disputes - revised in 1949 – (ibid).

A number of multinational treaties do, however, provide for conciliation as a means of resolving disputes. The 1948 American Treaty of Pacific Settlement, the 1969 Vienna Convention on the Law of the Sea, among others, all contain provisions concerning conciliation.

2.6 - Inquiry

Where differences of opinion on factual matters underline a dispute between parties, the practicable solution is to establish a commission of inquiry to be conducted by reputable observers to ascertain precisely the facts of the matter. At the Hague Peace Conference in 1899, the Russians proposed the establishment of international commissions of inquiry capable of impartially deciding disputes of fact, and which would put an end to the type of dispute between the U.S and Spain. The proposals were accepted and formed the basis for articles 9-14 of the Hague Convention. for the Pacific Settlement of

Disputes 1899. In 1904, a Committee of Inquiry, established under the provisions of the Hague Convention, looked into the sinking of a number of U.K trawlers by Russian warships. The inquiry made a finding of fact and the dispute between Russia and the U.K was settled amicably (Shaw 1997, Hillier 1994).

The rules relating to inquiries were further refined by the Hague Convention for the Pacific Settlement of Disputes 1907. However, there had been little use of inquiries as a means of settling disputes since the establishment of a world court which can decide questions of both law and fact.

2.7 - Arbitration

Arbitration is defined by the International Law Commission (ILC) as: " ... a procedure for the settlement of disputes between states by a binding award on the basis of law and as a result of an undertaking voluntarily accepted " (Shaw 1997).

The essential difference between judicial settlement and arbitration is that in the latter case the parties are more active in deciding the applicable law and the composition of the tribunal. It can often provide more flexibility for the disputants.

The Hague Convention for the Pacific Settlement of Disputes 1899 established the Permanent Court of Arbitration (PCA) which began functioning in 1902 and is still in existence. Decision of the Arbitration panel is by majority votes. States do not have to utilize the PCA and can establish ad hoc arbitration tribunals of their own, such as the

one set up to deal with the Guinea / Guinea Bissau Maritime Delimitation case 1985 (ibid).

Arbitration depends on consent. The law to be applied, the composition of the tribunal, any time limits must all be mutually agreed before the arbitration starts (Hillier 1994).

2.8 - Judicial Settlement

" By judicial settlement is meant a settlement brought about by a properly constituted international judicial tribunal, applying rules of law ". The most well known of the international judicial tribunals is the International Court of Justice (ICJ). There are also a number of regional international tribunals over particular disputes; for example, the Law of the Sea Convention 1982 provides arrangements for the establishment of an International Tribunal for the Law of the Sea and the Sea Beds Disputes Chamber for dealing with disputes arising from the Convention (Shaw 1997).

The World Court refers to both the Permanent Court of International Justice (PCIJ) and its successor the International Court of Justice (ICJ).

Article 34 of the Statute of the Court declares that only states may be parties before the ICJ and the Court is open to all members of the U.N (who are automatically parties to the Statute). States which are not U.N members may become parties to the Statute on conditions prescribed by the U.N General Assembly (Article 93 of the U.N Charter).

By virtue of Article 36(1) of the Statute, the ' jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the U.N or in treaties or conventions in force '.

Article 65(1) of the Statute allows the ICJ to give advisory opinions on any legal questions at the request of anybody so authorized by or in accordance with the U.N Charter.

The Court must decide the dispute submitted to it in accordance with international law. The decision of the Court is final and without appeal.

By virtue of Article 24 of the United Nations Charter, the Security Council is entrusted with the primary responsibility for the maintenance of international peace and security and the member states are under an obligation to comply with its decisions. Chapter VI deals with the pacific settlement of disputes. Under Article 34 of the Charter, the Security Council is empowered to investigate any dispute or potential dispute, and can ask the parties to seek a peaceful resolution to it, failing which they should refer it to the Security Council which can then recommend appropriate action including terms of settlement. Under Chapter VI, the Security Council can only make non – binding recommendations. If the Security Council determines that the continuance of the dispute constitutes a threat to the peace, or that the situation involves a breach of the peace or act of aggression, it can act under Chapter VII of the Charter empowering it to make decisions which are binding on member states, once it has determined the existence of a threat to the peace, breach of the peace, or act of aggression. Although the Security

Council has primary responsibility for the maintenance of peace and security, under Article 14 of the Charter, the General Assembly may recommend measures for the peaceful adjustment of any dispute which it deems likely to impair the general welfare or friendly relations among nations.

2.9 - The Secretary-General

The Secretary – General’s position and responsibilities are in many respects, exceptional and he is allocated a central role as an administrator and leader in the Organization. The Charter specifies various powers and functions he is expected to exercise. According to Article 97, he is the “ Chief Administrative Officer of the Organization ‘, Article 98 requests him to submit ‘ an annual report to the General Assembly on the work of the Organization ‘, and Article 101 empowers him to appoint the staff ‘ under regulations established by the General Assembly ‘. The expansion of the Secretary – General’s role into the political sphere is based on a broad interpretation of Article 98 in that the Secretary – General ‘ shall perform such other functions as entrusted to him by the General Assembly, Security Council, Economic and Social Council, and the Trusteeship Council ‘. Moreover, Article 99 empowers 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 ‘. These two Articles coupled with the Secretary – General’s other powers serve as a basis for political activity by the incumbent. The role of the Secretary – General has expanded beyond the intentions of the architects of the Charter as an answer to demands that could not be foreseen in 1945. This expansion has resulted from a broad interpretation of the general and specific terms

of the Charter through delegation of responsibilities to the Secretary – General by the Security Council and General Assembly, and through the initiatives of successive Secretaries – General in seeking freedom of action.

The most significant and controversial extensions of the Secretary – General's powers had been in the political field. The history of this development had been marked by periods of euphoria regarding the incumbents' accomplishments, coupled with bitter attacks upon his person and office by some member states including the big powers (Bennett, 1995).

In addition to Article 99 which confers upon the Secretary – General world political responsibilities which no individual ever had before, the Secretariat had a very special place in the structure of the United Nations in other ways. The Charter reserved for the Secretary – General power of appointment to all posts in the Secretariat. Article 100 spelled out very clearly the exclusively international responsibilities of this civil service for the World Organization in that in the performance of their duties, the Secretary – General and his staff shall not seek or receive instructions from any government or any other authority external to the Organization. Furthermore, the writers of the Charter confirmed the importance they attached to the Secretariat by rendering it one of the six organs of the United Nations, along with the General Assembly, the three Councils, and the International Court of Justice. Only the Secretariat and the International Court of Justice were composed of men chosen as individuals as opposed to representatives of national governments for the other four organs. The Secretary – General and the Secretariat are responsible solely to the Organization as a whole. There was an

argument as to whether the Secretary – General should be an outspoken public servant endeavoring to express the views of all peoples, and not merely service United Nations meetings. According to this school of thought, the Secretaries – General of the League of Nations were very inactive since the Covenant of the League of Nations gave them little basis for political activity. In comparison, they maintain that the Secretary – General of the United Nations should be a bold leader of international thought and action. On the other hand, the minimalist school admired the practices of Sir Eric Drummond, the first Secretary – General of the League of Nations, who played behind – the – scenes role as a conciliator among member states, and did not speak out in public at all, did not advocate an independent ‘League of Nations’ policy on the basis of the organization’s international identity, and he did not symbolize the League for very few people heard of him.

Tryve Lie, the first Secretary – General of the United Nations thinks that it was not the intention of the Charter that the limited concept of the office of the Secretary – General in the League should be reflected in the United Nations. The role envisaged by the framers of the Charter for the Secretary – General fell between these two extremes. The Secretary – General would be obliged to play a great political part but there were limits to the extent of his initiative in view of the limits of the Charter’s text, and the limits caused by the realities of national and international politics (Lie, 1954).

“The Secretary – General, it was said, should be more the general than the secretary – but where were his divisions? Thus I inclined, from the beginning; toward a middle way ... I would listen to all my advisers and be directed by none. I had no calculated plan for

developing the political power of the office of Secretary – General, but I was determined that the Secretary – General should be a force of peace “(ibid).

In general, the Secretary – General's good offices missions have tackled disputes varying in substance and context, including essentially legal issues, questions of territorial sovereignty and civil wars, and have been based on various sources of authorization.

In the war between Iraq and Iran, the Secretary – General exercised his good offices to bring about a ceasefire, but also engaged in fact-finding which sometimes threatened his role as a neutral mediator. For example in November 1983, Iran alleged that Iraq was using chemical weapons. The Secretary – General dispatched several missions to examine evidence on the ground. Furthermore, the Secretary – General also played an important role in helping to obtain South African agreement in 1985 to the terms for holding UN – supervised elections leading to Namibian independence.

Following the Namibian operation, it became apparent that civil conflict within a member state could no longer be regarded as a matter solely within its domestic jurisdiction. By the end of the Cold War, the major powers began to view civil wars as humanitarian disputes threatening to engulf neighbors with floods of refugees and burden them with extraordinary expensive relief efforts. Thus they became interested in the expansion of the Secretary – General's good offices missions into domestic disputes previously beyond the limits of the UN system.

This new era opened with a major success for the system: the conclusion of Geneva Accords of 1988 which provided for the withdrawal of Soviet troops from Afghanistan. The negotiations had been initiated in 1988 in response to General Assembly resolution ES-6/2 of January 14, 1980 which also called for the immediate withdrawal of Soviet troops. These accords ended Soviet involvement but left the Afghan civil war unresolved, necessitating new good offices missions in an effort to bring the civil war to a peaceful conclusion. The procedures that failed to spare Afghanistan have proved more successful in other civil conflicts: in Cambodia, Mozambique, Nicaragua, and El Salvador. Mediating civil war conflicts has become routine. The Secretary – General's good offices have played a major role in global efforts to settle the Cambodian civil conflict.

The Secretary – General has also utilized his good offices to find peaceful solutions to conflicts of a smaller scale. An example is the hostage situation in Lebanon. In 1991, following the failure of other intermediaries, the Secretary – General's Special Envoy helped devise a plan which ultimately led to the release of almost all western hostages by the year end.

The Secretary – General has also acted as an arbitrator in the Rainbow Warrior dispute between France and New Zealand 1986, and in the Guyana – Venezuela boundary dispute 1991, with the object of preventing a diplomatic dispute from turning into a more serious conflict.

Trygve Lie

Trygve Lie was at times a severe critic of the major powers' failure to live to the expectations of the Charter principles. In 1950 he introduced his Twenty – Year – Program for Peace into the East – West Cold War situation in an attempt to restore the United Nations as an effective instrument for peace and collective security. His attempts to negotiate with the major powers to support his proposals received a cool reception in Moscow, resulted in no effort by any major power to implement them, and were a victim to the Korean War. In his annual reports to the General Assembly, he appealed to the great powers to reach agreement on world problems. In press conferences and public statements he was opposed to regional security pacts such as NATO being inconsistent with Charter intentions concerning regional arrangements and collective self – defense.

In the first dispute to come before the Security Council where the Secretary – General was criticized, at various stages by the Soviet Union and the United States, he managed to establish an important principle concerning his political authority. In 1946, Iran and the United States insisted with Lie's reluctant agreement to place the dispute over failure of the Soviet Union to withdraw troops from Iranian territory by an agreed deadline on the agenda of the Security Council, the U.S representative left the session in protest when both Iran and the Soviet Union intended to drop the item from the agenda before the full withdrawal, Lie supported this move in a document based on legal opinion, but the United States secured sufficient votes to keep the item on the agenda. Simultaneously, Lie's imposition of authority by virtue of Article 99 of the Charter to intervene in Security Council affairs with oral or written statements at any time during

debate was opposed by the United States but subsequently upheld and established as a general rule of procedure. In the following months, his right to make similar statements to the General Assembly on his own initiative was established together with his right to undertake investigations to determine whether matters should be brought before these bodies. Such tools have given the Secretary – General political powers non – existent in the experience of the League of Nations.

At an early stage of the Palestine dispute, Lie strongly supported the partition plan approved by the General Assembly and urged the major powers to enforce it through action of the Security Council including the use of military action if necessary. He felt a duty to speak for the collective interest of the United Nations as a whole. He procured hundreds of personnel for observation and truce supervision in Palestine working closely with the mediators and other United Nations agents in arranging a truce. Similarly Lie alienated the United States and the Soviet Union by his stand on other major United Nations issues. In 1950 he endorsed very strongly the seating of the Communist Chinese delegates in the United Nations to the indignation of the United States. Similarly at the outbreak of the Korean War, he supported military measures under the shield of the United Nations which brought about the hostility of the Soviet Union to the extent that they opposed the extension of his term of office, totally boycotting him throughout the remainder of his tenure in office (Bennett, 1995).

While Trygve Lie, the first holder of the post, described the Secretary – Generalship as “the most impossible job in the world “, each of his successors shared with him the frustrations related to the office. Dag Hammarskjold, Lie’s successor, was the

compromise candidate nominated by France. The Security Council did not recommend the three candidates for the job namely, the United States suggested Romulo, Denmark nominated Pearson, and the Soviet Union backed Stanislaw Skzeszewski. The Security Council recommended Hammarskjold by ten votes to none with one abstention. He was appointed by the General Assembly by 57 votes, one against, and one abstention on April 7th, 1953. The political climate into which Hammarskjold was appointed differed to a large extent from that of 1946. The job of Secretary – General was no longer a novelty, since the Secretariat was in existence and developed an important role. The Secretary – General and his subordinates had been deeply involved in the effort to face aggression in Korea, and had dealt in other matters as Palestine, the Berlin blockade among others (Gordenker, 1997).

Dag Hammarskjold

Dag Hammarskjold, had ideas about transforming the United Nations from a ‘static machinery ‘to a more ‘dynamic instrument, in which the role of the incumbent could be dramatically enhanced ‘. The major world powers would not consider these ideas (Rivlin *et al.*, 1993).

Hammarskjold as Secretary – General had a major contribution to the position of executive leadership of that office as a result of circumstances to which he answered by accumulating a body of theory and practice that contributed to the expansion of the role of the Secretary – General. His actions and ideas brought bitter attacks from the Soviet Union as tantamount to great – power sovereignty and domination in world politics.

One of Hammarskjold's earliest assignments that gave him a wide margin in exercising his diplomatic skills was a request from the General Assembly vide resolution 906 (IX) of 10/12/1954 that he seeks the release of fifteen American airmen downed on United Nations missions and imprisoned in China. The General Assembly did not provide any guidelines, thus permitting him to utilize his judgment. Since the resolution condemned China, Hammarskjold decided to use his general authority as Secretary – General. Although no announcement was made following his visit, all the flyers were released within the next seven months. This was followed by the Suez Canal crisis in 1956 which provided wider mandates and opportunities for the exercise of initiative by the Secretary – General. Faced with Security Council deadlock by British and French vetoes, there was a necessity to resort to the General Assembly under the Uniting for Peace Resolution. The General Assembly called for a cease fire and a withdrawal of forces behind the previously established armistice lines, and asked the Secretary – General to submit within 48 hours plans for the recruitment and dispatch of a United Nations Emergency Force (UNEF) to the Middle East to ensure compliance with these provisions. All the details of this peacekeeping force and the direction of the operations were delegated to him by the General Assembly. With the formation of the UNEF, a new concept came into being, in that peacekeeping by a police – type force superseded collective security action dependent upon the might of the major powers. Hammarskjold also assumed the responsibility of clearing the Suez Canal which had been blocked by ships sunk by the Egyptians. The task was completed within a record time of four months. However, the Hungarian crisis which occurred simultaneously with the Suez crisis, did not allow the Secretary – General to widen his powers or show his ability to execute successfully a mission delegated by the political organs of the United Nations.

Following the General Assembly's request to Hammarskjold to take the initiatives available to investigate the invasion of Hungary by Soviet troops and to examine the facts relating to the intervention, it was not possible to gain entry to Hungarian territory, and the United Nations influence was negligible in this case.

In view of the additional crises facing the United Nations, Hammarskjold added to his philosophy of an expanded leadership role for the Secretary – General. Specific mandates from the political organs were flexibly interpreted, coupled with an independent role for the Secretary – General being asserted for cases where resolutions were not specific and authorization was lacking. He proclaimed his right to act in the absence of basis of authority except the general principles and the spirit of the Charter, and a broad interpretation of the Secretary – General's powers in the Charter. The Lebanese crisis of 1958 showed Hammarskjold's interpretation of his independent position. In compliance to a Security Council directive, he formed an observer group to investigate Lebanese charges of infiltration across its border with Syria. The dispatch of United States marines to Lebanon, all subsequent proposals in the Security Council to provide additional guidance and authority for further action by the Secretary – General failed due to the Soviet vetoes. Hammarskjold declared that he would seek additional measures as he sees fit. He increased the observer group for effective border monitoring. Having secured an undertaking of mutual non – intervention by the Arab states and after the report of the observers showing minimal infiltration along Lebanese borders, all foreign forces and the observer group were withdrawn from Lebanon. The dispute between Cambodia and Thailand in 1958 – 1960 among others demonstrated the independent action taken by Hammarskjold without the prior request of guidance from

the political organs of the United Nations. In this case, he took the view against reverting to the Security Council to avoid the possible hardening of East – West conflicting positions. Having secured the informal consent of the major powers, he appointed a personal representative who succeeded in achieving reconciliation between the two countries. In 1960, when a further dispute arose, another special representative of the Secretary – General conducted negotiations at the headquarters of the United Nations in New York with Cambodian and Thai diplomats, which culminated in the signing of terms of settlement. In the Congo crisis of 1960 – 1961, Hammarskjöld's assumptions of independent authority faced their biggest challenge. In 1960 he used his authority for the first time to call a meeting of the Security Council in order to tackle the Congo emergency. In the early stages of the conflict, the Security Council provided broad guidelines by virtue of which Hammarskjöld set up a peacekeeping force to help the central government in restoring order and to supervise the withdrawal of Belgian and mercenary forces from the Congo. Faced with the confusion of the internal political situation, he repeatedly returned to the Security Council for clarification of his instructions. Faced with the inadequate guidelines, he did not hesitate to utilize his own judgment. As a result of deadlock in the Security Council and the intervention of outside forces in the internal political situation, Hammarskjöld reverted to the General Assembly for support and direction. In view of the confused political situation in the Congo and the conflicting external interests, and the inadequacy of the Security Council and General Assembly guidelines, Hammarskjöld was faced with one of two options, either to make personal decisions or refuse to act at all. In refusing to accept the latter option, he declared that his decisions should be based on Charter principles, widely accepted legal rules and precedents and particularly those found in United Nations

resolutions, consultations with the personnel of the permanent missions and his own personal judgment based on his integrity. The Soviet Union declared that Hammarskjold's policies in the Congo were detrimental to their interests and mounted an attack on him personally and on the office of the Secretary – General. Although he refused to resign, his effectiveness from September 1960 and until his death a year later was reduced due to the active hostility of the Soviet Union (Bennett, 1995).

U Thant

U Thant of Burma was appointed by the General Assembly on November 3rd, 1961 Acting Secretary – General to fill out Hammarskjold's term. On taking the oath of office before the General Assembly he declared:

“In my new role, I shall continue to maintain ... an attitude of objectivity and to pursue the ideal of universal friendship The international climate can hardly be described as sunny I shall need, in the first instance, the whole hearted support, friendly understanding and unstinting cooperation from the delegates “(UN, 1961).

During his ten years as Secretary – General, U Thant did not develop the philosophy of the office or establish exceptional precedents, but he acted prudently in a series of crises, consolidated the gains of his predecessors, maintained the big powers' support, and sponsored the issues which are of greatest concern to the developing nations. Throughout his term of office, he was troubled by the financial crises which the members were either unable or unwilling to resolve. Even though he played a

constructive role in political disputes such as the Congo, Cyprus, and the Cuban Missile Crisis, he received criticism for the rapid withdrawal of UNEF troops from the Middle East in 1967. He was outspoken but ineffective in trying to bring an end to the Vietnam War. Generally speaking, he maintained the principles established by his predecessors Lie and Hammarskjold (Bennett, 1995).

Kurt Waldheim

Kurt Waldheim succeeded U Thant, thus becoming the fourth Secretary – General of the United Nations. He also served for two five year terms.

“To be sure, the Secretary – General of the United Nations is charged with some tasks of extraordinary difficulty. In performing them, he obviously cannot make everybody happy The job seems so impossible because it swings inexorably between frustration and satisfaction: frustration when the incumbent would like to do much more than the obtaining rules permit; satisfaction when time and again his office enables him to intervene to good effect and contribute to the solution of international problems
“(Waldheim, 1980).

According to Waldheim, the satisfaction is especially deeply moving in matters of human rights, particularly saving human life. Waldheim cherished the Christmas Eve of 1977 when he personally brought some French hostages from Africa to Paris. He considered at the time the joy of the reunited families as the best Christmas present he could have received. He exercised the authority given to the Secretary – General in

Article 99 to ‘ bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security ‘, and also to request the General Assembly to include in its agenda any item he considers important. In 1972 he proposed to the General Assembly to examine the problem of international terrorism, and in 1976, he drew the attention of the Security Council to the seriousness of the situation in Lebanon. Although these initiatives brought no immediate results, they did alert governments and people to the need for international solidarity (ibid).

Waldheim was subjected to opposing pressures of meeting the demands of the Third World for additional programs and expenditures with those of the wealthy states for economy and careful financial management. He was frequently criticized by the interested parties for the failure to achieve quick final resolution of disputes, while he was respected for his neutrality and quiet diplomatic efforts (Bennett, 1995).

Javier Perez de Cuellar

Javier Perez de Cuellar of Peru succeeded Kurt Waldheim on January 1st, 1982. His endorsement by all major powers and groups in the United Nations was never in doubt. When he viewed the state of the world and the United Nations in his first annual report on the work of the United Nations in 1982, he expressed “ deep anxiety “, noting that “ the past year has been an alarming succession of international crises as well as stalemates on a number of fundamental international issues “ and that “ this year, time after time we have seen the Organization set aside or rebuffed, for this reason or that, in situations in which it should, and could, have played a constructive role”(De Cuellar,

1991 and Rivlin *et al.*, 1993). A decade later, on the occasion of the appointment of his successor, Boutros Boutros – Ghali of Egypt, he expressed satisfaction as he relinquished his post because “ the Organization was no longer on the sidelines, but was at the hub of world affairs” (U N,1991).

Boutros Boutros -Ghali

Ghali assumed the office as the sixth Secretary – General of the United Nations in January 1992. His appointment satisfied the demands of the African and Arab states as coming from their region of the world. In peacekeeping he inherited scores of peacekeeping missions from his predecessors, but, under his tenure, he implemented the mandates necessary for fielding some new ones including the costly operations in Cambodia, Somalia, and Yugoslavia. He was an advocate of United Nations involvement in several internal crises including the use of peace – enforcement measures. In response to a request from a Security Council summit meeting of heads of governments, Ghali in June 1992 issued “An Agenda for Peace “outlining his recommendations under the categories of preventive diplomacy, peacemaking, peacekeeping, and post – conflict peace – building (Bennett, 1995).

Kofi Annan

On January 1, 1997, Kofi Annan became the seventh Secretary – General of the United Nations. His election followed a bitterly contested United States veto of a second term for his predecessor Boutros Boutros – Ghali of Egypt. The Security Council recognized

it was still Africa's turn in the United Nations' highest post, and eventually recommended him. The United States and France backed Annan then heading the UN's Peacekeeping Department. On taking office, he took immediate steps to improve the functioning of the United Nations and carry forward the reforms instituted by his predecessors. Within the first six months, he consolidated the scattered U.N organizational structure to reduce overlapping functions and improve coordination and accountability. In the following years, Kofi Annan lead an overhaul of peacekeeping operations, and human rights advocacy was integrated into all major areas of UN work.

In an article entitled " Walking the International Tightrope: A New York Times Op – Ed, dated January 19, 1999, Kofi Annan said: " As the United Nations enters a new century of challenges, we must find new ways to defeat the old – age enemies of peace and prosperity. In fulfilling this task, the Secretary – General is accorded a central role by the United Nations Charter, by history and by the trust placed in him by member states " (Annan, 1999).

Kofi Annan wanted people to judge the United Nations and the office of the Secretary – General with reality. There should be an appreciation of the promise, limitations, and responsibilities the Organization and the incumbent face. This denotes the acknowledgement that the office of the Secretary – General will be capable to advance the interests of all states only in so far as it does appear to serve the narrow interests of any one state or group of states. This is the uncertain balance to which any Secretary – General owes his office, his strength, his effectiveness, and his moral authority.

Annan considered that the end of the Cold War transformed the moral promise of the role of the Secretary – General by allowing him to place the United Nations at the service of the universal values of the Charter, without the obstacles of ideology or particular interests. He has sought to achieve this by speaking out in favor of universal human rights and in defense of the victims of aggression and abuse, wherever they may be, and by utilizing his office as a bridge between two or more parties wherever an opportunity for peaceful resolution of disputes existed (ibid).

Chapter 3

The Successes and Failures of the Incumbents in Office

3.1 Trygve Lie: The Pioneer

As the United Nation's first Secretary – General, Trygve Lie became involved in the question of Palestine shortly after it was put on the agenda of the General Assembly in April 1947. At its special session shortly thereafter, the General Assembly established the U.N Special Commission on Palestine (UNSCOP) delegating to it the responsibility of preparing a report on the future of Palestine. (GA Res. 106 (S-1), May 15, 1947. This resolution establishing UNSCOP requested the Secretary – General 'to provide the necessary facilities and to assign appropriate staff to the Special Committee.' It was Lie's job to determine the nature and composition of the staff. Lie appointed Assistant Secretary – General Victor Hoo as head of UNSCOP's fifty person staff and his Personal Representative to the committee Dr. Ralph Bunche was selected as Principal Secretary. Lie kept himself clear of UNSCOP. The Committee failed to reach agreement in all respects. Following UNSCOP's report, the General Assembly, on November 29, 1947, recommended the partition of Palestine into separate Jewish and Arab states with an international regime for Jerusalem and its surroundings (UNSCOP, 1947). The Security Council was asked 'to take the necessary measures as provided in the plan for its implementation ', and the Secretary – General was authorized to provide the Security Council with up to US \$ 2 million for the implementation of the Resolution. As a result

of the Arab opposition to the planned partition of Palestine, and the armed encounters between Arab and Jewish forces, Lie urged that the United Nations decision should be implemented, even if it requires coercive action, proposing for the first time establishing a U.N peacekeeping force. Lie's proposals for the establishment of such a force were strongly opposed by the United States, Britain, and other powers who disagree to the use of force to impose partition. The outbreak of hostilities between Israel and its Arab neighbors led the Security Council to establish the office of UN Mediator. Count Folke Bernadotte of Sweden was appointed at the suggestion of the Secretary – General (UN 1, 1948; UN 2, 1948). The Mediator had at his disposal 50 U.N Truce Observers who were dispatched by the Secretary – General, acting according to the resolutions adopted by the General Assembly and the Security Council authorizing him to ‘ provide the Mediator with the necessary staff to assist in carrying out the functions assigned to the Mediator by the General Assembly.’ (UN 1, 1948; UN 3, 1948). The Security Council preferred to use mediation and avoid coercive action, much to the disappointment of the Secretary – General to the extent that he considered resigning. Bernadotte's mediation efforts came to a sudden halt when he was murdered in Jerusalem by Jewish extremists. Although he had no opportunity to fulfill his mission, in his short spell he succeeded, through his reports, in proposing significant precedents for mediation by the United Nations. These included the prior consent of any government on whose territory U.N personnel, including observers and security guards would be introduced (GA Doc., 1948). Even after Bernadotte was given his mandate, Lie reiterated his belief that the Security Council should use force to implement his decision. In his third annual report, Lie urged: ‘the members for a fuller use of the existing powers of the Security Council for the settlement of international disputes.... One act ... would be the provision of

armed forces called for by Article 43.... The political differences between the Powers are the real cause of the delay. I have ... proposals for the creation of a small U.N Guard Force which could be restricted by the Secretary – General and placed at the disposal of the Council and the General Assembly' (GAOR, 1948).

Lie always believed that the United Nations should possess a permanent international force for peace enforcement when required. On September 28, 1948, he presented to the General Assembly a special report proposing the creation of a permanent force of 300 guards with a back-up of up to 500 held in reserve in their national states. The proposed force would not engage in enforcement activities, but would only assist in speeding up peaceful settlements.

Like his successors, Lie had little opportunities to settle the Arab – Israeli dispute. Whenever he made concrete proposals, he was rebuffed. His proposal to use coercion to implement the partition resolution was strongly opposed by the British and the Americans. His subsequent dispatch of Truce Observers to help Bernadotte was severely criticized by the Soviet Union because Soviet personnel were excluded.

The Arab – Israeli conflict served as an initial exploration of guidelines for peacekeeping which were applied in the future. These included supervision and maintenance of cease-fires, assistance in troop withdrawals, and creation of buffer zones between rival forces. The UN Truce Supervision Organization (UNTSO) developing from the cease-fire negotiations became a model for subsequent U.N observer missions and peacekeeping forces under the direct supervision of the Secretary – General.

Trygve Lie was a strong proponent of an active Secretary – General, being the first incumbent in office to embark on the path of peacekeeping (Lie, 1954; Rivlin 1993).

In October 1948, Lie stepped forward with his own detailed solutions to the Berlin Crisis. In June 1948, the three Western occupying powers in Germany, the United States, Britain, and France had undertaken a currency reform in their zones and in West Berlin. The Soviet Union interpreted this as an indication that the three powers were striving to build up a totally separate economic and possibly political system in the west of the country and to abandon the occupation statute. The Soviet Union subsequently imposed a tight blockade on West Berlin, thus preventing the city from receiving the supplies it needs. The Western powers retaliated by airlifting the supplies to West Berlin.

Following intensive negotiations, there was an apparent arrangement on August 30, 1948, whereby an agreed directive was sent to the commanders-in-chief of the four powers in Germany, providing for ending the blockade, and the reestablishment of joint currency for Berlin, but under four-power control. Following disagreement over the implementation of this agreement, the blockade continued. On September 29, 1948, the Western Powers wrote to the Secretary – General of the United Nations drawing his attention to the serious consequences of the blockade, as being in violation of Allied rights of occupation and designed to gain by force what the Soviet Union failed to obtain by peaceful means. They requested that the Security Council should consider the ensuing threat to the peace. The Soviet delegate protested on the ground that questions resulting immediately from the war were matters for the Allies and not for the United

Nations. He cited Article 107 of the Charter under which nothing in the Charter 'shall invalidate or preclude action in relation to any ex-enemy, taken or authorized as a result of the war, by the governments having responsibility for such action'. He further stated that four-power agreements governing Berlin laid down procedures for settling any disputes which occurred there. However, against the votes of the Soviet Union and the Ukraine, the Security Council decided to consider the matter, with both boycotting the discussions. The Western Powers outlined their charge that the Soviet measures constituted an illegal violation of their occupation rights in Berlin. At this point in time, a new type of UN initiative occurred when the non-permanent members decided to seek to adopt a mediating role between the two blocs, but the Soviet Union reaffirmed its position of refusing to discuss the matter in the Security Council. On October 22, 1948, the six non-permanent members introduced a resolution which was intended as a compromise. It called for the removal of the Soviet restrictions, and for an immediate meeting of the four military governors to arrange for a unified currency throughout Berlin based on the Soviet Zone mark. The Soviet Union vetoed the resolution. When it became clear that all formal UN moves had failed, Trygve Lie brought together the chief delegates of the Soviet Union and the United States to the UN for private discussions under his chairmanship. The French and British representatives subsequently joined the talks. There was some softening of the Soviet position after it became apparent that the Soviet blockade had failed in view of the Western airlift. On May 14, 1949, it was announced by the Secretary – General's representative that an agreement had finally been reached on all major matters relating to Berlin, providing for the removal of the restrictions by both parties on May 12, 1949. On May 23, 1949, it was announced that all questions concerning Berlin, including the currency question,

were to be discussed at a meeting of the Council of Foreign Ministers in Paris. This could be considered a diplomatic coup in that the blockade was brought to an end even though there was no final settlement of the Berlin question, or even of the currency problem (Luard, 1984).

The great powers had originally agreed that Korea would be restored to independence in 1950. Instead, tragedy befell the Koreans. Trygve Lie said: "The aggression in Korea might also have doomed the United Nations; but here in continental Asia the United Nations passed the test and set a first precedent for armed international police action in the field. And though its Secretary – General was severely criticized by those who sided with the aggressor, I consider my stand on Korea the best justified act of seven years in the service of peace "(Lie, 1954).

In August 1945, the Japanese who had ruled Korea since 1910 surrendered to the forces of the United States and the Soviet Union. At the Foreign Ministers' meeting in Moscow in December 1945, it was decided to recommend as part of the peace settlement to establish a trusteeship government for Korea for a period of five years. A joint commission of the United States and the Soviet Union was set-up to arrange for this system of government, and for the gradual transfer of power for freely elected organs of the Korean people, whose sovereignty would be complete at the end of that period. The commission reached a deadlock, and eventually two separate administrations emerged, with the 38th parallel soon becoming a border.

The United States subsequently submitted the issue of Korean independence to the General Assembly of the United Nations. In Autumn 1947, the General Assembly decided, against strong Soviet opposition, that at the earliest possible date a national government in Korea should be established through nation wide elections, to be supervised by a United Nations Temporary Commission on Korea, composed of the representatives of nine member states. The government so formed would constitute its own national security forces, assume the functions of government from the military command and civilian authorities of North and South Korea, and arrange the prompt withdrawal of occupying troops. The Soviet bloc argued that the General Assembly resolution was 'illegal', with the Soviets and their representatives refusing to cooperate. This in fact did not change the General Assembly resolution which was carried out within the limits forced by the Soviet non-cooperation. The Commission which was an international one was composed of five continents. Assistant Secretary-General Victor – tsai Hoo was the Secretary – General's Personal Representative, and Petrus Schmidt the Principal Secretary. They both accompanied the Commission to Korea and kept the Secretary – General informed on Korean affairs from the very beginning. The Commission established three committees, one to study ways and means for securing a free atmosphere for the elections; another to study Korean opinion; and the third to study the electoral system. The North Koreans insisted in their refusal not to allow the United Nations to supervise elections in the area they controlled. Having concluded that the elections of May 10, 1948 in South Korea were a valid expression of the free will of the South Koreans, the General Assembly voted its confirmation. The Government of the Republic of Korea was formed, with the General Assembly declaring in its Paris sessions in 1948 and 1949 this government to be the only freely elected lawful

government in Korea. In the meantime, a Government of the People's Democratic Republic of Korea had been established in the North. Soon after, the Soviets announced the withdrawal of its occupying troops, with the United States Government following suit. In Korea, the United Nations Commission was becoming worried as tension and the number of border incidents increased. In May 1950, it suggested that careful diplomatic explorations be made with the Soviets in order to determine the North Korean intentions. This attempt produced no result. There was no real danger until early June when the North Korean Communist Party began to talk about the unity of the Korean people and the liberation of the South. The Commission expanded its observation teams in the area of the 38th parallel, with the feeling then being that some deployment of force was all that might be expected (Luard, 1982; Lie, 1954).

On June 25, 1950, North Korean forces crossed the 38th parallel and invaded South Korea, signaling the beginning of the Korean War. Trygve Lie felt that this constituted a major violation of the Charter's ban on military aggression, necessitating immediate action by the Security Council. Assistant Secretary of State for United Nations Affairs John Hickerson, understood that any action to be taken by the Secretary – General to summon the Security Council on his own initiative or to refer the Korean attack to the attention of the Council by virtue of his rights under Article 99 should be in response to data furnished by an impartial United Nations source. The United Nations Commission was requested to submit an immediate report on the situation. The Commission immediately reported to the Secretary – General of a serious situation developing and taking the character of a full scale war and may endanger the 'Maintenance of

international peace and security '. It suggested that the Secretary – General might wish to call a meeting of the Security Council (Lie, 1954).

On June 25, 1950, the U.S representative at the UN called for a meeting of the Security Council to consider ' a breach of the peace or act of aggression ' in Korea. The Soviet Union did not participate in this meeting, having walked out in January over the issue of Chinese representation, thus ruling out from the start a Soviet veto (Luard 1982, p. 240).

In his opening speech Lie declared " ... The report received by me from the Commission, as well reports from other sources in Korea, make it plain that military actions have been undertaken by North Korean forces. These actions are a direct violation of the Resolution of the General Assembly ... as well as a violation of the principles of the Charter. The present situation is a serious one and is a threat to international peace I consider it the duty of the Security Council to take steps necessary to reestablish peace in that area.... "(Lie, 1954).

In his statement, Lie termed the North Koreans the aggressors, offered legal opinion that the Security Council was the competent organ to deal with the invasion, called upon the Security Council to fulfill its duty to meet the aggressor's challenge, and associated his office and himself with the most determined effort to give reality to the principles of collective security. The Security Council adopted the draft resolution submitted by the United States after some revision. The resolution determined that the armed attack by North Korea constituted a breach of the peace, called for the immediate halt of hostilities, and requested the North Koreans to withdraw their forces to the 38th parallel,

instructed the United Nations Commission on Korea to report on developments, and called on all members to render every assistance to the United Nations in the execution of this resolution (ibid).

Two days later, on June 27, the Security Council took note that this had not been implemented, and called upon other United Nations members to assist the Republic of Korea to repel the attack. Acting on this Security Council decision, President Truman ordered the United States armed forces in the Pacific area to rush to help Korea. Fifteen other nations contributed military units, with General Douglas MacArthur United Nations Commander (Comay, 1977).

The passage of this resolution was a major event in UN history, since it was the first time that the UN had taken action calling on its members to come to the defense of a member state under attack. It was thus a classic example of the principle of collective security put into effect (Luard, 1982).

At first, the fighting went badly for the United Nations forces, with the tide turning as a result of an amphibious landing at Inchon. The lost territory was recaptured with the United Nations offensive pushing into North Korea. However, a new factor emerged when the Communist Chinese troops advanced across the Yalu River. The Soviet Union vetoed a draft Security Council resolution against Chinese intervention. The General Assembly adopted the "Uniting for Peace" resolution in 1950 enabling it to act if the Security Council was tied up by the veto. The General Assembly subsequently assumed responsibility for the Korean conflict, with the communist countries maintaining that

this was illegal as contravening the United Nations Charter. In July 1953, an armistice agreement was signed. The border between the two parts of Korea was again maintained along the 38th parallel. The political conference called in Geneva to bring about a unified Korea failed, with the political deadlock still remaining and the country remains divided (Comay, 1977).

Comay considers that the Korean War was not a model for United Nations peacekeeping, and that the United Nations is unlikely to be involved as a combatant side in a large scale war. There were two special factors involved in the Korean War namely, the United States would never accept a communist take-over of the country in view of Korea's strategic importance, and that military intervention in the name of the United Nations was possible because the Soviet Union was unable to cast a vote at the crucial moment. The pattern of peacekeeping that has developed in other cases does not give the United Nations a fighting role, since it either observes an agreed armistice as in the Arab-Israeli conflict, or it sets-up a neutral peace force to keep a troublesome area under control with the consent of the country concerned, as in Gaza, or the Congo (ibid).

In his reflections following his resignation as the first Secretary – General of the United Nations, Trygve Lie said: “ May I therefore establish at once that that which stands for me as the greatest and best – and as something of a victory – is the fact that world peace was preserved during my service as Secretary – General. The outlook had been dark more than once – so dark, in fact, that even the most optimistic gave up hope for the world Organization and world peace “ (Lie 1954,). Lie felt that the member states were not living up to their Charter obligations, and he did everything possible to keep

the United Nations afloat. He, moreover, said: "there were many times when I believed that the United Nations was the last barrier between peace and war; and for that reason ... I am grateful that it was possible for us to keep the peace...." (ibid). These views had been corroborated by President Eisenhower, when on September 23, 1953, he included the following observations on the United Nations on the occasion of welcoming members of the United States Committee for United Nations Day to the White House: "With all its defects, with all the failures that we can check up against, it still represents man's best organized hope to substitute the conference table for the battlefield." (ibid).

Trygve Lie's dynamic interpretation of his office was never accepted by the major powers who favored a Secretary – General who was concerned in administrative rather than diplomatic matters. On the other hand, the smaller powers wanted a more active and stronger role for the Secretary – General. Criticism for Lie by the United States increased sharply when he attempted to seat the Chinese communist government in the United Nations, but he was adored by the West during the Korean War (Miller, 1961).

Trygve Lie made many important contributions to the growth and development of the United Nations. His part in defusing the Berlin crisis and his strong leadership in the Korean War were only two good examples. He had the very difficult task of transforming the United Nations Charter into an operating Organization(ibid).

3.2 Dag Hammarskjold : The Peking Formula

Dag Hammarskjold succeeded Trygve Lie as the second Secretary – General of the United Nations. One of Hammarskjold's earliest assignments concerned fifteen U.S airmen who had been captured after being shot down by Chinese forces towards the beginning of 1953.

On January 13, 1953, a United States aircraft assigned to the United Nations Command in Korea was attacked and shot down on the Chinese border. There was no word about the airmen for over 20 months, until November 14, 1954, when the Americans picked up an announcement over Peking radio that the eleven man crew had been sentenced to long-terms of imprisonment. The reaction of the United States was one of anger, and a very strong protest was sent to the United States Consul General at Geneva for presentation to the communist Chinese representative there. On November 26, the United States State Department sent a note to China calling for the release of the airmen. The Chinese turned down the United States note leaving the latter with four courses of action: (1) the war option was rejected by President Eisenhower; (2) blockade was also rejected as impractical; (3) joint action by nations that had signed the Manila Pact where it was decided that other countries would be reluctant to help in a blockade; and (4) United Nations action which was chosen as a course of action (Miller, 1961).

On December 4, 1954, Cabot Lodge the United States representative at the United Nations sent a letter to the Secretary – General asking for the inclusion of an item on the agenda concerning the complaint of detention and imprisonment of United Nations

personnel in violation of the Korean Armistice Agreement. After a long debate in the General Committee, it was decided by ten votes to two to recommend the inclusion of the item on the agenda. Eventually the item was brought before a plenary session of the General Assembly on December 8, 1954. The General Assembly resolution 906 (IX) of December 10, 1954 was passed by a majority vote of 47 to five in favor with seven abstentions. This resolution took note of the provisions in Article III of the Korean Armistice Agreement regarding the repatriation of prisoners of war, and requested the Secretary – General, and it went on to “ request the Secretary – General in the name of the United Nations, to seek the release of these eleven United Nations Command personnel and all other captured personnel “ Moreover, the resolution requested the Secretary – General “ to make, by the means most appropriate in his judgment, continuing and unremitting efforts to this end and report progress to all Members on or before December 31, 1954 “(*ibid*).

Following the resolution, the stage was set for Hammarskjold’s flight to Peking. The very inadequate channels of communication between Communist China and the United States could have been behind the Secretary – General’s trip (*ibid*).

As a result of his trip to Peking from December 30, 1954 to January 13, 1955, fifteen detained American airmen who had served under the United Nations Command in Korea were released by the Chinese.

In the introduction to the Annual Report to the General Assembly A/2911, he explained that since the Chinese Government was not represented on any of the organs of the

United Nations, it was important for him to establish a direct contact with that Government in order to implement the mandate extended to him.

The United Nations and the Secretary – General considered the detained airmen to be prisoners of war, while the Chinese did not. Upon his return, Hammarskjold announced to the press that: “the door that has been opened can be kept open, given the restraint on all sides” (UN 1, 1955).

After Hammarskjold’s departure from Peking, negotiations with Chou En-Lai continued in a series of personal communications. Hammarskjold termed his approach to the negotiations as the “Peking Formula” and defined it as: “acting in his role as Secretary – General of the United Nations and not as a representative of what was stated in the General Assembly resolution” (UN 2, 1955). This formula enabled him to dissociate himself from that resolution which he found too partial to the American position of the dispute. The negotiations culminated with the messages of the Chinese Foreign Minister on May 29, and August 1 announcing the release of groups of four and of eleven airmen. As such, Hammarskjold’s diplomacy brought fruit in this case.

Dag Hammarskjold carefully avoided three things in dealing with the prisoner issue. He avoided any public opinion on the validity of charges and counter charges made by member states, he carefully avoided suggesting publicly on solution for the prisoners of war issue beyond the specific mandates given to him by the General Assembly, and he carefully avoided referring to the airmen as United States airmen, but rather United Nations personnel (Miller, 1961).

The year 1956 marked the beginning of a watershed period in the uses of the international organization. The Secretary – General served as a constitutional innovator and chief negotiator and was entrusted with executive responsibilities of unprecedented nature. It began with his cease-fire mission to the Middle East and continued through the dispute over the nationalization of the Suez Canal, the surprise attack by Israel, France, and the United Kingdom, and the creation of the United Nations Emergency Force (UNEF I). In 1956, the Secretary – General left on a trip to the Middle East and Asia, speaking at length about the outcome of the visits as being of great value to him. Hammarskjöld saw the proper role of the United Nations to be quietly helpful to both sides as a friendly third party in order to keep the conflict under control. On April 4, 1956, the Security Council adopted a resolution requesting the Secretary – General urgently to survey the state of compliance with the Armistice Agreements and to arrange with the Arab states and Israel for measures to reduce tensions along the armistice lines. This resolution gave the Secretary – General strong diplomatic support, but he also used the opportunity to place on record with the Security Council his views that the assignment was one that he could, under the Charter, have assumed on his own responsibility. Furthermore, he asked for the cooperation of the governments with which he would be negotiating as well as those from outside the region requesting ‘restraint in word and action’ (ibid; Comay, 1977).

After a series of talks and negotiations with Israel, Egypt, Lebanon, Syria, and Jordan, the Secretary – General secured a commitment to a cease-fire with reserves only for retaliation and self-defense. The cease-fire remained in effect; yet not one of the unilateral moves toward restoring full compliance with the Armistice Agreements, for

which the Secretary – General had hoped, had been undertaken. Concurrently, the United States, displeased with recent actions by Egypt, abruptly withdrew its offer for financial assistance for the Aswan Dam Project. This caused the withdrawal of the International Bank and Britain, and then President Nasser announced the nationalization of the Suez Canal Company.

The British and French Governments reacted by openly threatening to use force unless negotiations led promptly to the return of the Canal to international management. In early August 1956, they began the joint planning and building of their forces in the Eastern Mediterranean that would be required for an attack on Egypt if negotiations failed. The Franco-British attitude in the Suez Canal dispute affected Israeli policy toward its Arab neighbors and the armistice regime. Thus, in the middle of August, Israel resumed organized military reprisals for incursions across the line. Measures to strengthen the United Nations deterrent capacity along the armistice lines were either evaded or refused, and subsequently further restrictions on the freedom of movement of the United Nations observers were progressively imposed. There was, thus, mounting pressure on the Secretary – General to bring a successful conclusion to the negotiations on the Suez Canal dispute (Miller, 1961).

In the introduction to his annual report to the General Assembly, he reiterated his belief that member governments had tended to emphasize the role of public debate of issues at the expense of the resources for reconciliation that the United Nations could also provide. He wrote: “the tensions of our time are too severe to permit us to neglect these resources and should impel us to use the United Nations in such a manner as to widen

the possibilities for constructive negotiation. “ Thus he exerted all his powers of persuasion and private diplomatic skills toward turning the Council consideration of the Suez Canal dispute from confrontation to constructive negotiations. Through a series of private Council meetings and talks in the Secretary – General’s office, agreement was reached on six principles as the basis for peaceful settlement namely: (1) free and open navigation through the Canal without discrimination: (2) respect for Egypt’s sovereignty; (3) the operation of the Canal was not to be affected by the policies of any one nation; (4) the method of fixing tolls and charges should be agreed upon by Egypt and the other users; (5) a proportion of the dues should go to the Canal development, and; (6) in possible disputes ‘ unresolved affairs between the Suez Canal Company and the Egyptian Government should be settled by arbitration with suitable terms of reference and suitable provision for the payment of sums found to be due ‘ (UN, 1957). These proposals were discussed at length in the meetings, and were finally approved by the three Foreign Ministers of Egypt, Britain, and France since the six points formed the first part of the Anglo-French draft resolution presented to the Security Council on November 13. It was unanimously approved by the Security Council.

The private meetings held in the office of the Secretary – General illustrate one aspect of Hammarskjold’s diplomatic function. In offering to arbitrate among several nations, he needed to consider two factors namely: (1) as a representative of the United Nations, he was concerned with brokering a solution beneficial to the large world community; (2) countries accepted his services on the assumption that they would benefit their own national interests. In view of the incompatibility of these two sets of interests, the Secretary – General needed to strike a balance between them. The Secretary – General

managed to satisfy both interests. He was able to develop principles on which all parties to the dispute were able to agree and also see a resolution containing these principles adopted by the Security Council (Miller, 1961).

As the Secretary – General was making progress with Egypt, Israel in collusion with Britain and France launched an invasion of Egypt on October 29, 1956. Immediately after, Britain and France delivered an ultimatum to Egypt and Israel, demanding evacuation of the Suez Canal in favor of a Franco-British force with the declared mission of protecting the Canal and separating the combatants. When Egypt rejected the ultimatum, British and French planes launched an attack on Egypt.

The Secretary – General was shocked by these violations of the Charter obligations and treaty commitments. His shock was made more severe because it followed the negotiations, in which he played the central role, and which had seemed to be opening the way for a fair and pacific settlement of the Canal question. On October 31, he presented the members of the Security Council with a declaration of conscience that also posed a question of confidence. Furthermore, he defined the principles under which he could continue to serve as Secretary – General. If they disagreed with his duties, he clearly implied he was ready to resign. “The principles of the Charter are, by far, greater than the Organization in which they are embodied, and the aims which they are to safeguard are holier than the policies of any single nation or people. As servant of the Organization, the Secretary – General has the duty to maintain his usefulness by avoiding public stands on conflicts between Member Nations unless and until such an action might help to resolve the conflict. However, the discretion and impartiality

required of the Secretary – General may not degenerate into a policy of expedience. He must also be a servant of the principles of the Charter, and its aims must ultimately determine what for him is right and wrong. For that he must stand Were the Members to consider that another view of the duties of the Secretary – General than the one here stated would better serve the interests of the Organization, it is their obvious right to act accordingly “(SCOR, 1956).

On November 1, 1956, the General Assembly called an emergency session and passed Resolution A/3256 urging an immediate ceasefire, troop withdrawal, and a reopening of the Suez Canal. Canadian Foreign Minister Lester Pearson was determined to work for a United Nations response of a kind that might bring a prompt end to the military intervention by opening to the offenders an acceptable line of retreat from their mistaken course. Since the United Nations action in Korea, he had proposed providing the United Nations with a police and peacekeeping capacity, large enough to keep the borders at peace while a political settlement is being worked out. On November 2, Britain and France issued a joint statement declaring that they would accept a ceasefire if the Egyptian and Israeli Governments agree to accept a United Nations force to keep the peace (A/3267). As Hammarskjold had initial doubts about attempting to create suddenly a United Nations force, he explored the constitutional, political, and practical aspects in talks with Lester Pearson, U.S Ambassador Lodge among others, and came to the conclusion that the idea was not only feasible, but perhaps an essential key to a solution of the conflict. By Resolution 1000, and 1001 of November 5 and 7 respectively, the Assembly created the United Nations Emergency Force (UNEF I) to

required of the Secretary – General may not degenerate into a policy of expedience. He must also be a servant of the principles of the Charter, and its aims must ultimately determine what for him is right and wrong. For that he must stand Were the Members to consider that another view of the duties of the Secretary – General than the one here stated would better serve the interests of the Organization, it is their obvious right to act accordingly “(SCOR, 1956).

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secure and supervise the cessation of hostilities and endorsed plans submitted by the Secretary – General for UNEF I.

The Secretary – General proposed in a report dated November 20, 1956 that the General Assembly should authorize him to negotiate agreements for clearing operations of the Suez Canal. The Assembly on November 24 adopted a resolution in which it noted with approval the progress so far made by the Secretary – General in arrangements for clearing the Suez Canal and authorized him to proceed with the exploration of practical arrangements and the negotiation of agreements, so that the clearing operations might be speedily and effectively undertaken.

As to the command structure of UNEF I, Hammarskjold proposed that the Assembly itself appoint the commander General Burns. The chain of command would thus extend from the General Assembly to the Secretary – General to UNEF's I commander instead of being delegated to one or more governments, thus rendering UNEF I the first force in history under a command with purely international responsibilities (Comay, 1977; Miller, 1961).

The resolution setting up UNEF I authorized the Secretary – General "to issue all regulations and instructions which may be essential ... and to take over the necessary administrative and executive actions " In answer to the question as to why did the Members concentrate so much power in the hands of one man? The answer is that the situation demanded swifter action than could be expected by a committee or plenary action. Moreover, the situation required action.

Seven factors contributed to Hammarskjold's rise to fame as a Secretary – General: (1) the increase in member states from 60 in 1954 to 99 in 1960 required stronger leadership by the Secretary – General and the Secretariat as a whole; (2) the Cold War tensions had eased to some extent with the ending of the Korean War, allowing the Secretary – General greater scope and boldness of action; (3) the magnitude and complexity of many problems have tended to promote a “ let Dag do it “ attitude especially among the new nations; (4) the need for fast action in many crises can best be tackled by a single unit rather than a committee. How long would have a committee needed to set up UNEF I, and what might have happened in the meantime; (5) the increasing number of small neutral nations has enhanced the role of the Secretary – General; (6) the nature of the crises during the first seven years allowed for maximum utilization of his strengths; and (7) the Secretary – General's personal effectiveness has been the most important single factor in the Change.” Let Dag do it “developed because he was willing to shoulder responsibility and do something positive with it. Four aspects of diplomacy had been particularly emphasized by Hammarskjold namely, quiet diplomacy; impartiality; purposeful involvement; and pragmatic creativity (Miller, 1961).

Quiet diplomacy associated Hammarskjold, but Trygve Lie used it on some occasions. Hammarskjold's tendency for quiet diplomacy was expected in view of the increased United Nations membership, the complexity of the problems, and the need for quick decisions. In a speech to the Foreign Association on October 21, 1951, he cautioned that open diplomacy may be “turned into diplomacy by public statements made merely to satisfy segments of domestic public opinion “ (UN, 1953). Much of his diplomatic

liaison work is done in pieces, in that he tries to learn how each country directly involved views the situation, keeping in mind the overall objectives of the United Nations and the mandate covering the political situation. As to impartiality, the Secretary – General had been able to maintain a high degree of impartiality. Since the Secretary – General has little time for involvement for the sake of it, he had usually involved key people at the right time and place. Moreover, he has set up advisory groups for almost all United Nations operations involving troops and materials. While operating within broad mandates laid down in the Charter and in various resolutions, Hammarskjold exhibited a real flare for pragmatic creativity. This had encouraged the “Let Dag do it “philosophy. Diplomats would sketch out broad mandates and then watch what the Secretary – General did. The surprise trip to Peking, the formation of UNEF I in 48 hours represent original and creative approaches to sensitive and difficult international crises (ibid).

3.3 U Thant: Maintenance of the Status-Quo

Secretary – General U Thant, during his ten years as Secretary – General did not further develop the philosophy of the office or establish startling precedents, but he acted carefully in a series of crises, consolidated the gains of his predecessors, maintained the support of the big powers, and acted as a spokesman on the issues of greatest concern to the developing nations.

While the United Nations peacekeeping ameliorated the Arab-Israeli conflict, during the 1960s tense inter-communal relations on Cyprus developed into a civil war. Hostilities

broke out in Cyprus between the Greek and Turkish communities three years after gaining its independence from Britain in 1960. The clashes started over municipal issues and escalated quickly with Greece and Turkey becoming involved in the conflict from its outset. U Thant, who was appointed Acting Secretary – General on November 3, 1961, became deeply involved in UN, attempts to cope with the conflict and its aftermath.

The two communities felt strong, cultural, and historical ties to countries outside Cyprus. For centuries, Britain, Greece, and Turkey were politically and legally involved in the fate of Cyprus. The matter was delicate because Britain had military bases in Cyprus, and both Greece and Turkey were NATO members. It was assumed that agreements reached in 1959 between Britain, Turkey, Greece, and representatives of the Greek and Turkish Cypriot communities established the legal framework of the Cyprus Constitution and provided the basis for a peaceful civic society on the island. The legal settlements failed to resolve the local communities' religious, ethnic, cultural, and territorial disputes (Rivlin *et al.*, 1993).

From the early days of the conflict, the Secretary – General played a significant role in U.N efforts to restore stability on the island. Following attempts to contain the situation by the British, Turkish, Greek, and Cypriot governments faltered, the Secretary – General was requested to appoint a personal representative to observe the peacemaking operations in Cyprus. As the situation deteriorated, the issue came before the Security Council, which determined on March 4, 1964, that the situation in Cyprus was likely to threaten international peace and security, and recommended the creation of a United

Nations Peacekeeping Force in Cyprus (UNFICYP) with the consent of the Government in Cyprus. The first President of Cyprus Archbishop Makarios, agreed to a UN peacekeeping force led by a British contingent, thus avoiding NATO intervention. Although the Soviet Union severely criticized the British military presence in Cyprus, they never vetoed the Security Council proposals probably because they sought to void NATO intervention (ibid).

The Secretary – General was given a broad mandate to decide on the composition and the size of the force, but he faced big political difficulties in seeking the agreement of Greece and Turkey on the states contributing troops. When UNFICYP was finally created, its mandate suggested major administrative and political responsibilities for the Secretary General and the three states involved. The force commander and the Mediator were appointed by the Secretary – General and reported to him. The presence of U.N forces in Cyprus was expected to deter a Turkish invasion and help in reducing ethnic tensions. However, the Turkish forces could neither stop the flow of Turkish arms, nor prevent Makarios from introducing conscription and expand the Greek Cypriot army. U Thant yielded little or no success despite the appointment of three Mediators and no less than nine Special Representatives. None of them had much success in resolving the disputes, and Galo Plaza was forced by Turkey to resign after he submitted a comprehensive peace plan (ibid).

For U Thant, the Cyprus question raised a serious question as to the moral right of the United Nations to intervene in inter-communal strife. In his address to the Canadian Parliament on May 26, 1964, U Thant said: “In Cyprus the UN is for the first time

dealing directly with the forces inside a State and with conflicts between sectors of the population This is not a collective action against aggression “ (UN, 1964). Like Hammarskjold, U Thant considered it morally permissible for the United Nations to utilize peacekeeping forces in either internal or external conflicts. Later he assumed vast mediation and administrative responsibilities in Cyprus with Security Council approval. Moreover, The Council asked the Secretary – General for the first time ever, to assume full responsibility for finding money to wholly finance a major peacekeeping operation (UNFICYP). He faced to choose one of two alternatives, either to collect the money or get along without it. For example, in the case of UNEF I, the General Assembly had voted special assessments, expecting the member governments to pay them. When UNFICYP was created, the Secretary – General was intended to be its chief executive. He was authorized to create the force, establish its composition and size, and appoint its commander, as well as raise the funds.

U Thant’s decision in 1967 to withdraw UNEF I forces was a controversial one. In this case, the Secretary – general received two requests 24 hours apart demanding a withdrawal within 24 to 48 hours. He protested with the Egyptian ambassador to the United Nations but to no avail. Following informal consultations with the representatives of the countries that provided troops to UNEF I, no consensus could be reached either for or against a withdrawal. He then unsuccessfully asked that one of the participating governments to put the withdrawal issue on the agenda of the Security Council. Later, U Thant formally put the withdrawal issue before the UNEF Advisory Committee with the majority concluding that the Secretary – General should comply with Egypt’s request. U Thant and Ralph Bunche shared the same position, believing

that the mandate of UNEF I gave Egypt the right to rescind its consent to have U.N forces on its territory (ibid). Israel turned down U Thant's request to deploy UNEF I on its territory on a temporary basis. U Thant was counting on a positive Israeli response that would buy him time to use diplomatic means to avoid a catastrophe. On May 27, 1967 President Nasser blocked the Straits of Tiran. U Thant's talks with Nasser achieved nothing. U Thant was of the opinion that had Israel agreed to permit UNEF I to be stationed on its side even for a short period, the course of history could have been different.

It is not clear why U Thant decided not to invoke Article 99 of the Charter, and why no member state requested the convening of the Security Council. There was further confusion when Nasser declared in 1970 that: "I did not want to start the 1967 war I did not want to close off the Gulf I did not ask U Thant to withdraw UN troops from Gaza and Sharm-el-Sheikh – but only from part of the frontierThe Secretary – General on the advice of Bunche decided to withdraw "(ibid).

During and after the Six Day War that ensued, the Arab – Israeli dispute drew the attention of the United Nations. The General Assembly was called into an emergency special session and the Security Council met many times. In these violent circumstances, the Secretary – General had little effect on the circumstances. Finally on November 22, 1967, the Security Council took one of its most notable steps toward a settlement on the basis of peace in exchange for the return of occupied territories. This was incorporated in Security Council Resolution No.242 which was adopted after intensive negotiations among members of the Security Council and the disputants. The

task of the Secretary – General in the resolution was to “designate a Special Representative to proceed to the Middle East. “ Gunnar Jarring, the Swedish Ambassador to Moscow was appointed, not as a mediator, but as a Special Representative of the Secretary – General. There was a controversy concerning his terms of reference despite the fact that the Arab states and Israel agreed to his appointment. The issue was resolved with a compromise whereby Jarring would “establish and maintain contacts with the states concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement “(UN, 1967). Between 1967 – 1971, when his mission collapsed, he never really clarified how he represented the Secretary – General and what was the Council’s role in his diplomatic efforts. Jarring whose headquarters were in Cyprus, shuttled to the Middle East, while remaining in constant contact with the Secretary – General. He undertook several rounds of negotiations, but his efforts were unsuccessful and reached a stalemate after Israel refused his proposals on the matter of withdrawal from the occupied territories in February 1971. Israel wanted Jarring to arrange direct talks between the rivals as specified in Resolution 242. His efforts were not a total failure because he helped in initiating indirect negotiations between Israel and Egypt to help in ending the war of attrition along the Suez Canal, and his persistence established a frame of reference for future negotiations (ibid).

At the end of 1962, he took steps to insert himself in the negotiations to end the Cuban Missile Crisis, but his initiatives were not particularly welcomed by the principals (UN, 1962). During the fighting between India and Pakistan in August 1965, he took the lead in starting negotiations and when a truce was achieved, in creating a new observer

group, the United Nations India-Pakistan Mission (UNIPOM) to monitor it. On his own authority, he spent US \$ 2 million to get that force going. It was the first time the Secretary – General had used funds without budgetary authorization, to implement an agreement reached as a result of his good offices.

When U Thant retired on December 13, 1971, global and regional dilemmas had significantly restricted his opportunities to exercise executive leadership. His decision to withdraw UNEF I forces probably affected his personal credibility and lessened his capability to act. Intense super power involvement and mediation efforts by other international organizations also impeded the Secretary – General leaving him little room to act.

3.4 Kurt Waldheim: Long sightedness

Kurt Waldheim of Austria succeeded U Thant as the fourth Secretary – General of the United Nations on December 21, 1971. He declared that; “A Fundamental Responsibility of the United Nations, one in which the Secretary – General is often directly involved, is the defense of human rights In the preamble of the Charter, the signatory states declare their ‘faith in fundamental human rights, the dignity and worth of the human person... ‘These provisions would appear to give the Organization and its Secretary – General authority to intervene whenever human rights are violated” (Waldheim, 1980).

Article 2 of the Charter tends to limit the initiatives that may be undertaken concerning human rights in that the United Nations is not authorized to intervene in matters which are within the domestic jurisdiction of any state. Waldheim realized that international terrorism is a growing problem. There were attempts to define this phenomenon and its causes so as to distinguish it from national liberation activities, but opinions are still divided. He decided to place the problem of terrorism on the agenda of the General Assembly in 1972 in view of the steady rise in terrorist activity. He explained his initiative as follows: "I consider it the duty of the General Assembly to examine this question and take appropriate measures to prevent any future acts of violence against innocent people. This question should be treated from a general point of view.... The situation is extraordinarily serious and worrying.... It is our duty to act "(ibid).

When one considers the United Nations traditional response to crises, one might believe that the nature of its activity is more remedial than preventive. The problem is that the media tends to publish the emergency situations in peacekeeping involvement. It is known that this publicity would tend to overshadow the various quieter successes in the prevention of armed conflict. If we imagine that most international differences contain the seeds of all-out war, it would subsequently be realized that settlement without resort to war would be an extremely important contribution. In 1974 Waldheim played a significant role in defusing the tensions that had a detrimental effect on the relations between Iraq and Iran. The dispute was based on border delimitation and navigational rights in Shatt-al-Arab estuary, coupled with unrest among the Kurdish minority in Iraq. There was every possibility that the frequent border clashes would escalate into a major confrontation. Through the efforts of his personal representative Luis Weckmann –

Munoz, an agreement was reached whereby both sides undertook the strict observance of a ceasefire; the withdrawal of troops along the entire frontier, and an early resumption of talks aimed at a comprehensive settlement of all bilateral issues was promised (ibid).

Since the duty of the United Nations is to prevent war, the Organization had been intensifying its work toward disarmament. As nuclear capability spreads, the arms race accelerates and weaponry becomes more lethal. However, only modest progress had been made both within and beyond the framework of the Organization. Alarmed by the huge spending generated by the arms race, a committee of experts appointed by Waldheim at the request of the General Assembly reported in 1977: "... Large military expenditures contribute to the depletion of natural resources ... and add to the existing balance of payments problems. In this way, they have contributed to economic disruption and political instability in some countries.... The most important feature of the arms race is that it undermines national, regional, and international security.... "(ibid).

In his early years in office, The Middle East experienced an escalation of the superpower rivalry, which greatly restricted the initiative of the Secretary – General. The United States and the Soviet Union had terminated the Four Powers talks, and were trying to advance conflicting versions of a settlement by negotiating between themselves while negotiating separately with the regional governments. Israel, which distrusted the United Nations, preferred American mediation, especially after Henry Kissinger became Secretary of State (Rivlin,1993).

While the U.N presence was reduced to a small UNTSO operation, Waldheim decided to personally assume Jarring's role, believing that his intervention could revive the Arab-Israeli dialogue. According to Urquhart, "He was ambitious, resented Hammarskjold's legendary reputation ... and saw himself as the rescuer of the Organization He ... believed he could have successfully avoided the 1967 disaster" (Urquhart, 1972).

Waldheim visited the Middle East in September 1973, just a few weeks before the war; he was very disappointed with the outcome. He recalled: "My visit to Jerusalem to see Prime Minister Golda Meir was perhaps the most disturbing of all my talks I could not escape the feeling that the Israelis were seriously underrating their opponents" (Waldheim, 1985). His anger could have been caused by the Israeli announcement that the "United Nations is close to a point at which it might find itself unable to play any role in the search for peace (Tekoah, 1976).

Ending the October 1973 War was a superpower undertaking, and the ensuing peace negotiations were primarily dominated by Secretary of State Henry Kissinger. However, U.N involvement was necessary to expedite Kissinger's step-by-step diplomacy. Security Council Resolution 242 was reaffirmed by Resolution 338 on October 22, 1973. Two additional resolutions namely 339 and 340 authorized the creation of UNEF II and the dispatch of U.N observers. At Brian Urquhart's suggestion, then in charge of U.N peacekeeping operations, about 600 U.N forces from UNFICYP were dispatched from Cyprus to Sinai on October 26, thus forming the foundation of UNEF II, with the

other units following shortly (Urquhart, 1987; Waldheim, 1985). On October 27, direct talks opened at Kilometer 101.

The creation of UNEF II undoubtedly reduced the risk of an armed intervention by the Soviet Union and a dangerous U.S – Soviet confrontation. One of the major concerns of the Secretary – General was to avoid repeating the unfortunate UNEF I withdrawal. Urquhart said: “We had to preserve the working authority of the Secretary – General while respecting the overall authority of the Security Council “(Urquhart, 1987). The Secretary – General and his staff were entrusted the responsibility for the day-to-day operation of the force, with the Security Council reserving for itself all the decisions pertaining to such controversial political matters as force withdrawal.

Kissinger’s shuttle diplomacy was the dominant factor in shaping the post 1973 war settlement, although he insisted that any disengagement agreement be signed under the U.N banner at the ceremonial conference held under the auspices of the United States and the Soviet Union, and Waldheim’s role in it was mainly symbolic. On the Geneva Conference he noted that it was “the work of the U.S and the Soviet Union I recognized that only the two great powers were in a position to bring together the warring parties They were putting the work of their influence behind the quest for agreement” (Waldheim, 1985).

Following the conclusion of the Israeli-Syrian agreement on May 31, 1974, the U.S asked Waldheim to transmit the agreement to the Security Council. It included a Protocol that detailed the establishment of a U.N peacekeeping force on the Golan

Heights. On May 31, 1974, the Security Council adopted the Resolution 350 setting up U.N Disengagement Observer Force (UNDOF) and requested the Secretary – General to take all the necessary steps to implement it. Thus Waldheim assumed responsibility for recruiting the force and its operations (Rivlin,1993).

The indecisive efforts of the U.N in the Arab-Israeli peace efforts were partly caused by the anti-Israeli atmosphere then prevailing in the United Nations. The mid 1970s witnessed the period of the “Zionism and Racism” resolution and the ascendance of the Palestine Liberation Organization (PLO) in the U.N system, with the PLO given observer status, and the Committee on the Exercise of the Inalienable Rights of the Palestinian People created. On November 10, 1975, the General Assembly adopted successively three resolutions; A/3375 inviting the PLO to participate in all deliberations on the Middle East; A/3376 stressing the inalienable rights of the Palestinian people; and A/3379 branding Zionism with Racism and racial discrimination. Although Waldheim was hardly responsible for the last resolution, he never enjoyed the full trust of Israel since it was adopted during his tenure. The anti-Israeli situation in the General Assembly further complicated the role of the Secretary – General as an impartial third party, as he carried out for example the bidding of the General Assembly in creating the Division for Palestinian Rights in the Secretariat (ibid). The U.S resumed its major mediation role in the Middle East early in the Carter administration, taking advantage of the thawing of the hostile relations between Egypt and Israel following President Sadat’s visit to Jerusalem. The outcome was the Camp David Accords and the first peace treaty between the two countries (Urquhart, 1987).

Although the Secretary – General did not participate in the mediation process, the Camp David Accords and the Egyptian-Israeli Peace Treaty envisaged a central role for the U.N especially in observing Israeli withdrawal from Sinai and the subsequent establishment of security arrangements between Egypt and Israel. However, the Arab rejection of the Accords ruled out U.N involvement. Moreover, due to the Soviet opposition of the Peace Treaty, the mandate of UNEF II was discontinued on July 24, 1979, when it was up for renewal. The Multinational Force of Observers was subsequently created, outside the U.N structure, with about 2600 troops mainly from the United States and the Western allies (Rivlin *et al.*, 1993).

His reservations on the peace process limited the personal role he could play. He declined Sadat's invitation to attend the Cairo Conference due to take place immediately after Sadat's trip to Jerusalem. Israel and all parties to the conflict were invited. In fact only the United States and Israel accepted the invitation. Waldheim later explained his negative response: "I considered it correct to state my reservations. I suggested that at a later date ... a full conference ... might be held on the U.N grounds or somewhere acceptable to all The Arab States that had declined to go to Cairo reacted positively" (Waldheim, 1980).

Waldheim played a major administrative role on another aspect of the Arab-Israeli conflict, namely in the establishment and operation of U.N Interim Force in Lebanon (UNIFIL). Following an Israeli incursion of Southern Lebanon in March 1978, the Security Council adopted a resolution instructing the Secretary – General to assume responsibility for the creation of UNIFIL within 24 hours (UN, 1978). Waldheim

reported to the Council on the same day on his actions setting out the terms of reference of UNIFIL namely that it must have the full backing of the Security Council; it must enjoy the cooperation of the parties concerned; and it must be able to function as a military unit.

The situation in Cyprus in the mid 1970s looked grave. The Enosis (union with Greece) was revived by the military junta in Athens which staged a coup against Makarios. On July 20, 1974, Turkey took the coup as an excuse and landed its troops on the north coast of the island justifying its actions by the Treaty of Guarantee and denouncing the military junta in Athens. Cyprus became a NATO problem. However, NATO was unable to develop a coherent policy on this issue and the problem was turned back to the United Nations which was asked to handle the breakdown of the status quo. The Security Council tried unsuccessfully to bring Greece, Turkey, and Britain to the negotiating table in Geneva. In the midst of heavy fighting, Waldheim took bold action on July 15, 1975 by invoking Article 99 of the U.N Charter. He convened the Security Council and reported heavy UNFICYP casualties. On August 15, he warned the Security Council that the "situation called into question the very essence of the UN Charter, weighing upon the credibility of the Organization and its future effectiveness" (UN, 1974).

The Turkish landing enabled the Turkish community to create the autonomous Turkish Federated State on the northern end of the island with Raouf Denktash as its president. This action was strongly condemned by the Security Council. On July 22, the junta in Greece collapsed, and Waldheim was outraged when the Turkish army took over

Nicosia airport the next morning. He undertook a vigorous course of action viewing himself as both dependent and autonomous actor. In 1975 in Vienna, Waldheim successfully called the parties in the form of negotiations under his auspices that continued for several years. He often visited the region and worked to organize talks in Geneva and Vienna between 1975-1976 between Glavkos Clerides and Raouf Denktash. Several months before the death of Makarios, Waldheim arranged several meetings with him, Denktash, and his newly appointed Undersecretary – General Javier Perez de Cuellar became the Secretary – General’s Special Representative to Cyprus. The situation in Cyprus was very difficult. Makarios’ successor Spyros Kyprianou failed to establish any personal relationship with Denktash. Negotiations continued during the late 1970s with Perez de Cuellar in Nicosia with Waldheim shuttling frequently from New York. Some progress was made on secondary issues such as refugees, missing persons, and family visits, but the negotiations proved very disappointing with the future of Cyprus remaining unsettled although both sides accepted Security Council Resolution 367 (1975). The negotiations continued intermittently for five years. Waldheim’s attempts resulted in a ten point agreement signed on May 9, 1979 between the President of Cyprus Spyros Kyprianou, and Raouf Denktash. This agreement outlined the basis for the resumption of inter-communal talks that began on June 15 but ended abruptly on June 22 (Rivlin *et al.*, 1993).

The Waldheim experience with Cyprus and the Arab-Israeli conflict underlines the significance of the of the global context in which the Secretary – General functions. During his tenure, the intense rivalry between the superpowers weakened the United Nations and deadlocked its major organs. This affected the dispute differently. In the

case of the Arab-Israeli conflict, the clash of Soviet – American interests severely limited the capability of the Secretary – General to initiate or implement policies. He was in a weak position to try to implement Resolution 242 since being upstaged by Kissinger in the post 1973 War negotiations and by President Jimmy Carter at Camp David. Since Cyprus did not figure on the political agendas of the United States and the Soviet Union, no significant pressure for a settlement was exerted (ibid).

Waldheim said that “Regardless of the difficulties, the disappointments and the never-ending stress and fatigue the job involves, I consider it the highest possible privilege to serve as Secretary – General. The post of Secretary – General is at the same time one of the most fascinating and one of the most frustrating jobs in the world, encompassing as it does, the height of human aspiration and the depth of human frailty “(Waldheim, 1980).

Waldheim believes that underlying the activities of the United Nations is the problem of balancing and reconciling national sovereignty and interests with international responsibilities and the long-term interests of the world community as a whole. Within this context, one can point out three main threads in the work of the Organization: (1) the maintenance of international peace and security. The Organization can only achieve what its sovereign members wishing it, or are willing to allow it to: (2) it is an agent of peaceful change. Since its inception, the United Nations has played a vital role in the great movement of de-colonization, without which this process would have been bloodier: and (3) the attempt to plan in advance, on a cooperative global level for the future. As in all political organizations, those who work in the Organization are usually

fully occupied with the current problems and concerns. These should not exclude a vision for the future (ibid). “We should not, I think, be unduly discouraged at the rate of progress. Rome was not built in a day, and the objectives we are pursuing are immensely ambitious and, for the most part, have never before been attempted’ (ibid). “If we can continue to avoid the disaster of a world war, we should be able to build steadily a structure of world order that will make the earth ... a safer place It is an immense task and, inevitably, a slow one, but the United Nations is available as a unique mechanism for this purpose, only if its members will use it” (ibid).

3.5 Javier Perez de Cuellar: Varied Roles

Javier Perez de Cuellar assumed the office of Secretary – General of the United Nations on January 1, 1982, and on October, 10, 1986, he was appointed for a second term of office which began on January 1, 1987.

De Cuellar’s style of leadership differed from that of his predecessors in that he wanted to perform his job and paid little attention to his public image. During the early 1980s, like his predecessors, the new Secretary – General was faced with severe political difficulties restricting the scope of his activity. President Ronald Reagan adopted a very antagonistic policy toward the United Nations during his first term, harshly criticizing it for its anti-American attitude and with Congress substantially reduced American annual contributions. In his first annual report on September 7, 1982, the Secretary – General remarked on the contemporary difficulties: “The U.N itself has been unable to play as effective and decisive a role as the Charter certainly envisaged for it ... due to the

current tendency to resort to confrontation, violence, and even war in pursuit of what are perceived as vital interests “(UN, 1982).

The above observation could not be disputed in the Middle East, where tensions escalated sharply in the early 1980s. In June 1981, Israel bombed the Iraqi nuclear reactor and in December annexed the Golan Heights. However, both moves were condemned by the United States and the United Nations. On October 6, 1981 President Sadat was assassinated, with the tensions increasing and with arms race reaching new heights. No Arab leader could follow in Sadat’s footsteps, and in 1981, a radical right wing coalition came to power in Israel. In these circumstances, the Secretary – General could do very little. And while the United States was the only party capable to exert pressure on both sides to make concessions, the Secretary – General could not. He said: “The U.N has been faced ... with a deep gulf between theory and practice, between the principles and objectives of the Charter, and the political realities of our time “ (Rivlin *et al.*, 1993).

In the war between Iraq and Iran, the Secretary – General exerted his good offices to bring about a ceasefire, but also engaged in fact finding, which sometimes threatened his role as a neutral mediator. For example, when in November 1983, Iran alleged that Iraq was using chemical weapons, the Secretary – General dispatched several missions to examine evidence on the ground. A series of studies confirmed this (UN 4, 1988).

To add to his mediator’s role, the Secretary – General began to play a political role in shaping the decisions of the Security Council. After publicly urging Iraq and Iran to end

their hostilities (UN 1, 1987), he pressed the Security Council in 1987 (ibid), to enact Resolution 598 under Chapter VII of the Charter which mandated an immediate ceasefire. During the year it took Iran to comply (UN 3, 1988), the Secretary – General's good offices mission was transformed into a mission to secure and monitor the parties' compliance. Meanwhile, he continued sounding the combatants (UN 2, 1987), exerted public pressure on them to exercise military restraint (UN 1, 1988), and dispatched various missions to investigate more allegations of chemical warfare (UN 2, 1988).

The Iraq / Iran conflict demonstrated that the Secretary – General can integrate several different roles impartial intermediary, investigator of abuses, and voice of world conscience. He had also shown a readiness to influence the Security Council in formulating the strategies and the resolutions that would put the Organization's political and military might behind his peacemaking initiatives.

This sort of integrated approach, in which the mediating role of the Secretary – General is carried out in conjunction with the political efforts of the Security Council and leading members of the U.N, is well demonstrated in the Namibia operation. In 1978, the Security Council established the United Nations Transition Assistance Group (UNTAG) by virtue of Resolution 435 of September 2, 1978 which outlined in paragraph 3 the parameters for Namibia's transition from illegal South African control to independence. The South African Government did not agree until after almost a decade of delicate negotiations about the modalities for implementing said resolution. These negotiations were pursued by the Secretary – General concurrently with a five-

nation ' Contact Group ' which exerted considerable political pressure on South Africa (UNSG, 1983). In 1985 this effort succeeded in obtaining South African agreement to the terms for holding U.N supervised elections, leading to Namibian independence (UN 3, 1987: UN 1, 1989).

The end of the status at the U.N occasioned by the Cold War, has accelerated the Organization's evolution, in response not only to a new East-West relationship, but also to the spread of civil conflict in Africa and East-Central Europe. It thus became apparent that civil conflict within a member state could no longer be regarded as a matter falling within its domestic jurisdiction. By the end of the Cold War, the major powers began to see civil wars as humanitarian disputes threatening to engulf neighbors with floods of refugees and burden them with extensive relief efforts. Thus, they became interested in expanding the Secretary – General's peacemaking and conflict-preventing role into domestic disputes previously outside the limits of the UN system (Rajan, 1996).

This new era started with a major success for the system with the conclusion of the Geneva Accords of 1988 which provided for the withdrawal of Soviet troops from Afghanistan. Negotiations had been initiated in 1980, called for in General Assembly Resolution ES-6/2 of January 14, 1980 which authorized the Secretary – General to approach the partners to the conflict. That resolution which also called for the immediate withdrawal of Soviet troops, a demand which was rejected by the Soviet and Afghan Governments. Using a variation of the "Peking Formula" , the Secretary – General distanced himself from the Assembly's demands in making his own opinion.

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Tentative negotiations between Afghanistan and neighboring Pakistan began in 1982. In 1988, after prolonged negotiations, the two sides adopted a time frame for troop withdrawal and agreed to the establishment of a formal supervisory mechanism, the United Nations Good Offices Mission in Afghanistan and Pakistan (UNGOMAP). One year later, the Secretary – General was able to report the timely completion of the Soviet withdrawal (UN, 1989).

The Geneva Accords, ended Soviet involvement, but it left the Afghan civil war unresolved. Accordingly, new good offices missions were undertaken to resolve the civil war and to broker a broad-based government of reconciliation. The new phase of Afghani good offices was assigned to the Secretary-General's Personal Representative Benon Sevan. By early 1992, after intensive negotiations, Sevan's plan had received sufficient support from the principal domestic parties to allow the Secretary – General to announce an agreement to form a pre-transitional Governing Council and to convene a formal peace conference (UN 2, 1992).

The procedures that failed to spare Afghanistan have proven successful in mediating other civil conflicts in Cambodia, and Mozambique among others. The Secretary – General's good offices have played a major role in global efforts to settle the 20 year Cambodian civil conflict. His role as neutral mediator was given a supportive context by decisions made, and resolutions passed in the political organs. The invasion of Cambodia by Vietnam to oust the Khmer Rouge, had been condemned by successive General Assembly resolutions as violation of a member's territorial integrity and independence. These resolutions namely 34/22 of November 14, 1979 and 44/22 of

November 16, 1989 called for the immediate withdrawal of foreign troops and called on the Secretary – General to exercise his good offices. He agreed to do so, but only on the basis of his independent authority (UN, 1987).

In June 1988, after the Secretary – General had undertaken consultations with ASEAN – states, the push for a comprehensive political settlement began to gather speed. France and Indonesia invited the Cambodian factions and a number of interested states to a peace conference which opened in Paris in August 1989. In October 1991, the peace conference reached an agreement (UN, 1990), which provided for a comprehensive supervisory and administrative role for the United Nations Transitional Authority in Cambodia (UNTAC), to be organized and directed by the Secretary – General (UN 9, 1992; UN 7, 1992).

3.6 Boutros Boutros-Ghali: An Agenda for Peace

Boutros Boutros – Ghali succeeded Javier Perez de Cuellar as the sixth Secretary – General of the United Nations in January 1992.

In response to Ghali's report entitled " An Agenda for Peace " , the General Assembly adopted resolutions 47/120 A and B on December 18, 1992 and September 20, 1993 respectively. In the first resolution, the Assembly gave the Secretary – General a clear mandate to pursue preventive diplomacy and to strengthen the Secretariat's capacity in an early-warning, particularly the collection and analysis of information for situations likely to endanger international peace and security. The Security Council also held a

number of meetings to examine the specific proposals in “An Agenda for Peace “, where the Council President has issued a number of statements as part of the review process (Ghali, 1995).

On January 3, 1995, Ghali issued a position paper entitled “Supplement to ‘An Agenda for Peace‘ “(A/50/60-S/1995 in which he set forth additional recommendations highlighting the areas where unforeseen, or partly foreseen difficulties had arisen and where the member states are asked to take the hard decisions noted in his 1992 report (A/47/277-S/24111). He also drew conclusions regarding the vital distinction between peacekeeping and enforcement action, as well as to the circumstances where military force would be a useful tool of diplomacy and vice versa (ibid).

In response to the Supplement, and following intensive discussions on January 18 and 19, 1995, the Security Council issued a presidential statement (S/PRST/1995/9) in support of that position paper, by welcoming and sharing the priority the Secretary – General had given to action to prevent conflict. Furthermore, it encouraged all member states to utilize instruments of preventive action, including the good offices of the Secretary – General, the dispatch of special envoys, and the deployment, with the consent of the host country / countries, of small field missions for preventive diplomacy and peacemaking. The Security Council hoped that the General Assembly and other Organizations and entities would give the supplement a high degree of priority. In the General Assembly, the Informal Open-ended Working Group on the Agenda for Peace continued its work during 1995 on issues contained in the Agenda and the Supplement. In this context, and following an initiative of the Department of Humanitarian Affairs, the three major departments of the Secretariat namely, the Department of Humanitarian

Affairs, the department of Political Affairs, and the Department of Peacekeeping Operations, have developed what is known as the “framework for coordination ‘, information sharing, consultations and joint action for the coordination of their respective activities (ibid).

“It has become clear that preventive diplomacy is only one of a class of actions that can be taken to prevent disputes from turning into armed conflict “(ibid). However, others in this class are preventive deployment of military and / or police personnel; preventive humanitarian action like managing and resolving a refugee situation in a sensitive frontier area; and preventive peace-building which comprises a set of possible actions in the political, economic, and social fields. All these preventive actions demand an early warning of the conflict risk and in this instance timing is vital. “The term ‘peacemaking’ as used by the United Nations refers to use of diplomatic means to persuade parties in conflict to cease hostilities and negotiate a peaceful settlement of their dispute’(ibid).

In Afghanistan the Special Mission established in accordance with General Assembly Resolution 48/208 continued its work under the leadership of Mahmoud Mistiri. In January 1995, the Office of the Secretary – General in Afghanistan (OSGA) was established in Jalalabad until conditions permit its return to Kabul. The Secretary – General visited Pakistan from September 6-8, 1994 and was briefed by Mistiri on the outcome of his intensive consultations about transitional arrangements which would lead to a ceasefire and the convening of a Loya Jirga (Grand National Assembly). He also met with various representatives of party leaders and with independent Afghans. Taking into consideration the Afghan’s quest for peace, he instructed Mistiri to continue

his mission. On Mistiri's initiative, an advisory group of well known independent Afghan personalities from within and from outside the country met at Queta for 19 days from September 29, 1994 to advise the United Nations to achieve progress. Their recommendations for an early transfer of power to a fully representative Authoritative Council, a nation-wide ceasefire, a security force for Kabul, and the subsequent establishment of a transitional government were endorsed by the Security Council in November and subsequently by the General Assembly in December 1994. In October, President Burhannudin Rabbani had made a conditional offer to transfer power, and subsequently Afghanistan gave its support to the United Nations proposals in a statement issued by the Ministry for Foreign Affairs (UN, 1994; *ibid*).

Mistiri returned to the region on December 29, 1994 and concentrated on the early transfer of power to the Authoritative Council. During January 1995, negotiations on the membership took place where all the major leaders including Rabbani who reiterated his desire to step down on February 20 when the Council was to be set up. The success of the Taliban delayed the setting-up of the Council, and the group declined to be included in the Council. The convening of the Council was delayed until March 21 while a committee of personalities worked out to reconcile the differences. Its recommendations that the Council be composed of two representatives from each of Afghanistan's 32 provinces in addition to 15 or 20 representatives nominated by the United Nations to achieve the necessary ethnic and political balance was accepted by some of the parties. In view of the fighting which erupted in Kabul on March 6, there was a virtual stalemate in the peace process, with no nomination being received for the Authoritative Council by mid-April. Mistiri eventually departed the

area. The secretary – General subsequently called Mistiri to New York in June, and after discussing the situation with him decided that the United Nations should immediately resume its efforts for peace in Afghanistan. On the Secretary – General’s instructions, Mistiri visited the region between July 18 and August 1 in order to reassess the prevailing situation. He submitted his report to the Secretary – General on the latest round of his activities in early August. Ghali agreed with Mistiri that he should assume residence inside the country and pursue his efforts to obtain the agreement of all the parties to the modalities for the transition to a broad-based government. The Secretary – General also decided to enhance the Special Mission and OSGA by stationing additional political affairs officers in the country (ibid).

In the meantime the United Nations Office for the Coordination of Humanitarian Assistance to Afghanistan (UNOCHA) continued to coordinate the humanitarian program throughout the country.

The threatening situation in Burundi had been a major preoccupation of the Secretary – General. He visited the country on July 16 and 17, 1995. Since his appointment in November 1993, the Secretary – General’s Special Representative for Burundi, Ahmedou Ould-Abdallah, had actively promoted national reconciliation in the country through his contacts with all parties concerned. On September 10, 1994, all the parties reached agreement on a system of power-sharing and later signed a Convention of Government, with the sole exception of the Parti pour redressement national (PARENA). On September 30, 1994 the National Assembly elected Sylvestre Ntibantunganya, a Hutu, as the new President of the Republic of Burundi, with Anatole

Kanyenkiko, a Tutsi, reconfirmed as Prime Minister on October 3, 1994 and five days later a new coalition government representing seven of the thirteen political parties was sworn in. In his report to the Security Council of October 11, 1994, (S/1994/1152), the Secretary – General noted that although the situation had stabilized to a certain extent with the election of a new President, it still remained dangerous, and therefore, the international community should continue to encourage the moderate forces in Burundi. Throughout the period in question, the Security Council repeatedly deplored the attempts of extremist elements to destabilize the situation further. The Council dispatched a fact-finding mission, the second in six months, to Bujumbura on February 10 and 11, 1995. The mission recommended, inter alia, the establishment of an international commission of inquiry into the October 1993 coup attempt, and the ensuing massacres, a substantial increase in the number of Organization of African Unity observers, the strengthening of the office of the Secretary – General’s Special Representative and the deployment of United Nations human rights monitors throughout the country (S/1995/163). In a presidential statement of March 19, 1995 (S/PRST/1995/13), the Security Council requested the Secretary – General to report on the steps to be taken to establish the commission of inquiry. The Secretary – General concluded after considering various opinions that it was necessary to explore the possibility of establishing a commission on the truth for Burundi. Pedro Nikken was appointed a Special Envoy to visit Burundi for two weeks starting June 26, 1995 for that specific purpose. His Special Envoy reported to the Secretary – General that neither a commission on the truth nor an international commission of judicial inquiry would constitute an adequate response to the need to put an end to impunity in Burundi. However, an international commission of inquiry would be useful. He reported to the

Security Council on July 28, 1995 with recommendations for the establishment of such a commission (ibid).

The Secretary – General continued to provide his good offices in the search for a just, comprehensive, and internationally acceptable solution to the question of East Timor. For that purpose, he held two rounds of talks at Geneva on January 9, and July 8, 1995 with the Foreign Ministers of Indonesia, and Portugal. These talks identified a number of substantive issues for additional discussions and explored possible avenues for a solution. Ghali also visited Indonesia in April and had useful discussions with President Suharto. He had also valuable discussions with President Mario Soares during his visit to Portugal at the end of August. A mission was earlier dispatched to Indonesia, Portugal, and East Timor in December 1994 for consultations with the parties on a series of ideas to help move the process forward. With the support of the Foreign Ministers of Indonesia and Portugal, he took the initiative to facilitate and offer necessary arrangements for the convening of an all-inclusive intra-East Timorese dialogue, which does not address the political status of East Timor or represent a second negotiating track, but instead was intended to be a forum for free and informal discussions among the East Timorese on practical ideas aimed at creating an atmosphere conducive to the achievement of a solution to the problem. In the first meeting of the dialogue held in Austria between June 2-15, 1995, the participants reached a declaration by consensus and produced a number of useful ideas which the Secretary – General subsequently examined in July with the Indonesian and Portugese Foreign Ministers. The Secretary – General shared the view of the participants' desire to hold further meetings (ibid).

3.7 Kofi Annan: The Declining Role

On January 1, 1997, Kofi Annan became the seventh Secretary – General of the United Nations. His election followed a bitterly contested United States veto of a second term for his predecessor Boutros Boutros-Ghali of Egypt. Upon his election, he moved quickly to reassert U.N centrality in emergencies across the globe. When he assumed his office in 1997, Annan faced considerable challenges. The Organization was near bankruptcy and it faced serious criticism and hostility in Washington. In his first week in office, he travelled to Washington to build support in the conservative Congress. He promised to shrink the U.N operating budget, asking in return that the United States pay its US \$ 1.6 billion in back dues. Annan has not hesitated to take controversial issues. Opening the 1999 General Assembly, he spoke in favor of ‘humanitarian intervention’ stating that national sovereignty could no longer shield governments that massively violate human rights of their citizens. Many developing countries, fearing that only weaker states would face such response, reacted negatively, but Annan has persisted in raising this issue, acknowledging the U.N Charter’s contradictions between sovereignty and human rights (Annan, 2000).

In an article entitled “Preventing Conflict In The Next Century “Annan Said: “In the past 20 years we have understood the need for military intervention where governments grossly violate human rights and the international order. In the next 20 years we must learn how to prevent conflicts as well as to intervene in them. Even the costliest policy of prevention is far cheaper, in lives and in resources, than the least expensive

intervention “(unknown) this is the reason behind pressing the international community to take prevention more seriously.

Effective prevention could have saved huge sums of money and hundreds of thousands of lives. Differences are allowed to develop into disputes and disputes into deadly conflicts. Warnings are often ignored and pleas for help overlooked (ibid).

Annan sites three reasons for the failure of prevention when it is clearly possible: (1) the reluctance of one or more of the parties to a conflict to accept external intervention whatsoever; (2) the lack of political will at the highest levels of the international community; and (3) a lack of integrated conflict-prevention strategies within the U.N system and the international community. He believes that the will to act is the most important, since without it, no amount of improved coordination or early warning will translate awareness into action (ibid).

The founders of the U.N drew its Charter with a human nature point of view, because they have witnessed human ability to wage war of unprecedented cruelty, and also the failure of prevention, when it was still possible throughout the 1930s to stop war (ibid).

“As realists we ought to recognize that in certain cases, the sheer intractability of conflicts and the obduracy of the warring parties will make intervention unlikely to succeed. But even wars that cannot be stopped once started might well have been avoided with effective prevention policies “(ibid).

Annan further believes that preventive strategies are not easy to implement, and that for a start the costs of the prevention have to be paid in the present while its benefits lie in the distant future. As such, taking such a political risk in the absence of obvious rewards requires conviction. Furthermore, there exists real institutional barriers to the institutional cooperation that prevention requires. In national governments and international agencies departments responsible for security tend to know little about development or governance; while those responsible for the latter rarely think of them in security terms. Prevention requires that governments act in good faith and place the welfare of citizens on top of the agenda (ibid).

Shortly after taking office, The Secretary – General presented a sweeping reform package aimed at helping the United Nations to change with the times and adapt to a new era of global affairs. Reform measures falling under the authority of the Secretary – General have been either largely implemented or set in motion; they have been administrative – such as zero – growth budget and rigorous efforts to upgrade management practices – as well as organizational with the emphasis on enabling the Organization to respond more effectively to the growing demands placed on it, particularly in the area of development and peacekeeping. The Secretary – General has sought to maintain a focus on Africa and to mobilize international support for Africa’s efforts to chart a path to peace and higher levels of development. In 1998 he issued a report entitled “The causes of conflict and the promotion of durable peace and sustainable development in Africa “, which contained a comprehensive set of realistic and achievable measures designed to reduce political tensions and violence within and

between African states, and to address such key questions of development as debt, governance, and the spread of diseases (Bennis, 1999).

In view of the increase in the United Nations peacekeeping and peacemaking activities in the 1990s and the dramatic changes in the nature of conflict itself – primarily a decline in interstate conflict and a rise in the frequency and brutality of conflicts within states, the difficult experiences in responding to these complex humanitarian emergencies have led the Secretary – General to place great emphasis on ensuring that the United Nations is fully equipped militarily, financially, and politically when asked to undertake a peace operation. In addition to measures contained in the reform plan, three key reports have contributed to this effort. The first report was submitted by the Secretary – General in November 1999 at the request of the General Assembly and examined the atrocities committed against the Bosnian Muslim population in July 1995 in the United Nations ‘safe area’ of Srebrenica. The second commissioned by the Secretary – General and released in December 1999, was an independent inquiry led by Ingvar Carlsson (the former Prime Minister of Sweden) into the actions of the United Nations during the 1994 genocide in Rwanda. The third released in August 2000, was a comprehensive review of the United Nations peace and security activities by a high level panel appointed by the Secretary – General and chaired by Lakhdar Brahimi (former Foreign Minister of Algeria). The last report contained wide-ranging recommendations for the United Nations Secretariat and the Member States; particularly those serving on the Security Council (ibid).

Kofi Annan has been severely criticized in various quarters and accused of impartiality and as the Secretary – General who has breached the Charter of the United Nations.

In another article entitled “The Report of Kofi Annan .. is a violation of the UN Charter” published following the Jenin Massacres in April 2002, the writer has stated, that following the destruction of a big part of Jenin refugee camp, the killing of scores of civilians, and the forced evacuation of thousands of inhabitants, Kofi Annan was asked to set-up a fact finding commission for the purpose of silencing the international humanitarian agencies and calming international public opinion which had strongly criticized Israel and its army. The United States saw fit recommending the establishment of such a commission in such a way that the Security Council would not be bound by its recommendations (it is a committee lacking real legal authority). The Secretary- General was subjected to various pressures (basically American) when he established such a commission from internationally renowned personalities but without consulting Israel. Despite the fact that Annan added some experts proposed by Israel, Israel refused to receive the commission despite the dangerous reservations and drawbacks relating to it namely: (1) the commission was not an official one, and as such its jurisdiction is only partial where its recommendations would not be binding; (2) the formation was not by virtue of a Security Council resolution to avoid any binding effect of its recommendations; (3) its scope of activities had been restricted to Jenin camp. I quote the writer: “ Kofi Annan has committed his mistake twice: the first was when he set-up this commission and restricted its investigations to the facts in Jenin camp, and secondly when he published his report ... referring only to the events in Jenin camp, at a time when all crimes and serious contraventions of the international humanitarian law

had been deleted. “ The writer considered that the Secretary – General had violated Articles 97 and 100 of the UN Charter. As the Chief Administrative Officer of the Organization, the Secretary – General and his staff shall not seek or receive instructions from any government or any other authority external to the Organization. The mere fact that he yielded to the request and pressure of the U.S to set-up the fact-finding commission in April 2002 without any legal authority and in the absence of any resolution to this effect is considered a breach of these two Articles. Furthermore, the Secretary – General should have utilized Article 99 of the Charter by bringing to the attention of the Security Council the serious situation in the occupied territories, and to request the Council to set-up an official commission of inquiry. As such, he agreed to receive the instructions and abandoned his independent role (Abu Eid, 2002).

In a further article in the same daily entitled “ Had the United Nations had another Secretary – General “, the writer considers that the Secretary – General’s position has lost its value since the end of the Cold War, and that Kurt Waldheim could have been the last real Secretary – General of the United Nations. The United States has found in Kofi Annan the best possible international personality to place the Secretariat at the service of American foreign policy. This man has not even succeeded to be an international employee who respects international law. The writer cites the Secretary – General’s failure to stop aggression on Iraq in 1998 and on Yugoslavia in 2000. He was unable to defend international law in the face of an American illegal war. He was unable to say no to Israel when it refused to receive the fact finding commission on Jenin. I quote the writer “What is left of the United Nations if it’s Secretary – General violates its Charter “ (Balqaziz, 2003).

Chapter 4

The Determinants of Success and Failure

Certainly not all the Secretary – General’s initiatives have been successful. Since the circumstances have drawn him into a more active role, the risks of failure have increased. Many examples could be cited for the failure of the Secretary – General in some of his good offices missions. In the Cyprus case, failure could be attributable to the stubbornness of the parties to the dispute. In other instances, failure has been attributed to obstacles on the Secretary – General imposed by the Security Council, the General Assembly, or important member states. The Kuwait crisis is a good example. The Secretary – General had been a major factor in arranging the 1988 Iraq – Iran ceasefire. However, two years later, when the second Gulf War broke out as a result of Iraq’s invasion of Kuwait, he was demoted to the side - lines. The crisis was dealt with by the Security Council which, in turn, assigned much of its responsibility for collective security to a few powers willing to use force under U.S command in Operation Desert Storm. Shortly after the invasion, the Security Council authorized the Secretary – General to meet in Jordan with the Iraqi Foreign Minister Tarek Aziz. The terms of the authorizing resolution appeared to give him great room for maneuver, where he was to make his good offices available as he considers appropriate and to undertake diplomatic efforts to reach a peaceful solution. In actual fact, he was merely an emissary of the Security Council (UN, 1990; UN 1, 1991) which had already demanded Iraq’s total and immediate withdrawal in its Resolution 660 of August 2, 1990, and imposed sanctions

under Chapter VII to enforce its demands by virtue of Resolution 661 of August 6, 1990. In these circumstances, the Secretary – General could not invoke the ‘Peking formula ‘or even assume an independent role, but felt compelled to negotiate within the ambit of non – negotiable terms. To render things worse, he was asked by the U.S Government to delay his mission to enable Secretary of State James Baker to try to arrange direct negotiations in Baghdad. However, both missions failed.

The success and growth of the Secretary – General’s functions depend on two variable factors namely, personal and institutional.

4.1 The Personal Variable

The personal variable has to do with the Secretary – General’s ability to find an impartial emissary who could withstand the pressure of the parties to a dispute, or to their allies. This would certainly depend on his vision, the respect emanating from previous successful missions, the support he receives from members of the Security Council and General Assembly, coupled with the quality of the Secretary – General’s information and diplomatic creativity.

As a direct result of the creativity of past Secretaries – General, the Secretary – General has in hand abundant practices that help in attracting the disputants toward a negotiated compromise. The invention of the ‘Peking formula ‘by Hammarskjold is an important example of this creativity. Other examples include the practice of issuing very detailed interim reports to the Security Council on the progress of negotiations, enabling the

Secretary – General, whenever progress is blocked to allocate blame and exert additional pressure on the parties to a dispute. Examples are Reports SG S / 21183 of March 8, 1990 p.12 (Cyprus); S / 23693 of March 11, 1992 p.17 (Somalia). Framework agreements, proximity talks, truth commissions, human rights and election monitoring, and confidence building measures are established parts of the Secretary – General’s diplomatic prerogatives.

If the Security Council allows him to use the above mentioned tools and to supplement them whenever the need arises, the Secretary – General’s diplomatic role will have potential for expansion. However, much of that expansion is still under-utilized. For example, no Secretary – General has ever succeeded in creating a directorate of public information utilizing modern marketing skills. Furthermore, no Secretary – General has really succeeded in reaching the peoples invoked by the Charter’s preamble “We the Peoples of the United Nations Determined “ It can be stated that the Secretary – General has three potential sources to support him in his missions: the important member states or blocs of states; the world’s opinion shapers like the media, universities, churches, and industrialists; and the peoples. The incumbents in office should utilize these.

Special Representatives

The role of emissaries or special representatives is very important because of their impact on pacific settlement. They are conceived as surrogates for the Secretary – General, who do what the Secretary – General would and could do if he were personally

present. As senior officials of the U.N, they carry out their assignments under the authority given to the Secretary – General in Article 101 of the U.N Charter, which allows the Secretary – General to appoint people of his choosing (Rivlin 1993).

There are two kinds of special representatives, those deemed ' special representatives *per se* ', who are appointed by the Secretary – General at the request of one of the deliberative organs of the U.N, and ' personal representatives ' who are appointed at the direct initiative of the Secretary – General. There is also a distinction between ' insiders ' and ' outsiders ' among the Secretary – General's appointees to special assignments. The former relate to those appointed from among the Secretary – General's corps of assistants and deputies of high Secretariat rank. The latter are those appointed from among international personalities qualified by their recognized competence and integrity (ibid).

The criterion of any special representative's eligibility is the confidence of the Secretary – General. Consequently, Secretaries – General have tended to appoint their representatives from among personal associates. Special representatives must also be acceptable to the parties to the dispute in which the U.N is intervening, and consultations with such parties take place before special representatives are named.

Special representatives of the Secretary – General are normally assigned three kinds of tasks. First, the Secretary – General is often asked by either the Security Council or the General Assembly to open his good offices to international disputants. Occasionally, he offers his conciliation services upon his own initiative. Such attempts to move

contending parties toward the pacific settlement of their disputes have involved the appointment and mediation of special representatives. Second, the deliberative organs of the U.N have frequently requested information from the Secretary – General about developments in problem areas, or, he has sought information required to enhance his own diplomatic effectiveness, thus involving the dispatch of special representatives. Third, as the U.N has become widely and deeply involved in peacekeeping and other special operations around the world, and as he has been formally charged with administering such operations, it has become necessary for him to delegate executive responsibilities (ibid).

As far for mediation and conciliation is concerned, the Secretary – General's involvement in pacific third party interventions via his special representatives is impressive. For example, Diego Cordovez, the Secretary – General's special representative for Afghanistan, worked for around six years facilitating the proximity talks with Pakistan and Afghanistan that eventually contributed to rendering a Soviet military withdrawal from Afghanistan feasible. In order to enhance the Secretary – General's political and diplomatic role, his special representatives function independently as fact-finders and monitors. Generally speaking, the first phase of every special mission is a fact-finding phase, and reporting remains equally important throughout the mission. A third task of major importance and frequently assigned to the Secretary – General's special representatives is the running of the U.N special field operations. During the field operations, the representative's primary assignment is to implement the mandate handed down by the Security Council and the General Assembly.

In his dealings with states' representatives, it would, indeed, be very useful if the Secretary – General trespasses the Foreign Ministers, by addressing the peoples directly, despite the fact that he has no real powers comparable to those vested in the major member states. He has few means to affect outcomes except to the extent he makes himself indispensable to governments. Successive Secretaries – General have proved themselves quite experienced at utilizing successfully the perception of their indispensability into real influence: quietly, but adamantly pressing for, or opposing a course of action, the means to an end, or the wording of a draft resolution.

In the above interactions, the representatives of governments would be far more affected by his influence, if he is known to speak not only for himself but for a global community sharing his perspective. The independence of the Secretary – General, which is his weakness, could also be considered his strength, in that his indispensability vanishes if he is seen to be under the influence of one state or bloc of states. Article 100 of the Charter stipulates that “in the performance of their duties the Secretary – General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization ... “However, independence from states does not signify that the Secretary – General has to be unconnected to the peoples.

4.2 The Institutional Variable

On the other hand, the institutional variable has to do with the Secretary – General's ability to utilize the full potential of the United Nations to implement his missions of

conflict resolution. For this purpose, he needs a staff recruited on the basis of competence and answerable exclusively to him and his principal advisors. Article 101(3) of the Charter provides that “the paramount consideration in the employment of staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency ... Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible. “

In practice, this is not necessarily the case, in that staffing rules imposed by the General Assembly and the practice of member states have not permitted the Secretary – General to choose the key members of his inner circle of secretariat advisors but, rather, made their appointments subject to claims by the major powers. As such, top advisors who owe their posts to the lobbying of home governments look there first in their supposedly independent functions under the shield of the Secretary – General.

The above is reflected not only at high levels, but even further down the scale, pressure by states and regions rather than expert qualifications and experience are reflected in staff promotion and tenure. This tends to affect the reality and the perception of UN diplomacy. Whenever the Secretary – General’s staff share the same global vision declared by the Secretary – General, the prospects are good; when they do not, the failure of a mission is attributable to such deficiencies. Secretary – General Boutros – Boutros Ghali made more vigorous efforts than his predecessors to alienate his inner circle from the control of individual member states.

The Cold War atmosphere sharply restricted the freedom of action of the Secretary – General and thus impeded Secretaries – General from Trygve Lie to Javier Perez de Cuellar from acting independently. In almost all cases, the Secretary – General had to weigh his actions very carefully. The new post – confrontational political climate has resulted in the Secretary – General being repeatedly asked to intervene in crisis situations all over the world. This situation gives the Secretary – General a great degree of maneuverability, but simultaneously it may bring him into conflict with the major powers in the Security Council over priorities and resources (Rivlin *et al.*, 1993).

The changed international political climate has intensified the demands for the services of the Secretary – General as a mediator, conciliator, peacekeeper, peacemaker, election supervisor, dispenser of emergency humanitarian assistance, and implementer of unprecedented Security Council decisions. The problem is that the imposition of additional and new responsibilities on the Secretary – General does not automatically carry with it the necessary powers and resources. As far as the office of the Secretary – General is concerned, the world remains structured as it was before the end of the Cold War, being one of sovereign states reluctant to grant the incumbent in office any additional power (*ibid*).

The UN Charter accords the Secretary – General conflicting responsibilities: to act independently and to serve at the request of the Security Council and the General Assembly. Quite naturally, these competing responsibilities create tension that has only rarely come to the lime light. Being the world's foremost diplomat, the Secretary – General usually proceeded with the utmost discretion. Consequently, there have been

few occasions in which the Secretary – General stepped beyond his defined role to assert his independence. In 1956, Dag Hammarskjold expressed his impatience with the super powers' reluctance to negotiate in the field of arms control. When he came under attack for acting too independently, Hammarskjold reminded the Security Council that the Secretary – General, in addition to being a servant of the major UN organs, “ must also be the servant of the principles of the Charter, and its aims must ultimately determine what for him is right and wrong “(ibid).

Secretary – General Boutros – Boutros Ghali came into conflict with the Security Council over the latter's failure to make available the necessary resources to meet the new burdens it had placed upon him and the Secretariat (ibid).

The Secretary – general has been less successful in getting the large UN family to complement his efforts. It is evident that no Secretary – General can increase his chances at Peacemaking without being capable of utilizing all the UN resources. The Organization has been described by one scholar as having three parts: The UN proper, the quasi-autonomous subsidiaries (QAS), and the specialized and related agencies which are fully independent global intergovernmental organizations (IGO). As to the IGOs, The Secretary – General neither controls their policies nor their personnel although, in trying to perform his conflict resolution tasks, these bodies – the fiscal institutions, World Food Program, Food and Agriculture Organization, World Health Organization, and the like – often hold the key to those inducements capable of moving disputants towards accommodation. The same is true of the QASs like the UN Development Program, High Commissioner for Refugees and the like – which, although

theoretically under the control of a principal political organ of the U.N, are structured to give them wide autonomy. The Secretary – General does not even control their top appointments, nor are they funded significantly by the U.N budget, as opposed to direct governmental contributions. As such, he has little or no influence over their programmatic decisions (Newman 1988).

Chapter 5

Apportioning Responsibility

5.1 - Regional Organizations and the U.N

Article 52(1) of Chapter VIII of the U.N Charter provides that nothing in the Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the purposes and principles of the U.N. Article 52(2) stipulates that members of the U.N entering into such arrangements or agencies are to make every effort to settle local disputes peacefully through such regional arrangements or by such regional agencies before referring them to the Security Council, and that the Security Council encourages the development of the peaceful settlement of local disputes through such regional arrangements. The roles of the Security Council and the General Assembly by virtue of Articles 34 and 35 remain unaffected as stipulated in Article 52(4). The supremacy of the Security Council is reinforced by Article 53(1) which provides that "... no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council ". Thus, although reference where appropriate to regional organizations or arrangements should take place, this does not affect the comprehensive role of the U.N through the Security Council or General Assembly in dealing with various ways with disputes between states. While provisions contained in regional instruments may prevent or restrict resort

to mechanisms outside those instruments, this does not curtail in any way the authority or competence of the U.N. In many cases, a matter may be simultaneously before the U.N and a regional organization and such concurrent jurisdiction does not create a jurisdictional problem for the U.N. In the Nicaragua case, the ICJ noted that in the context of contended regional discussions, the existence of active negotiations in which both parties might be involved should not prevent both the Security Council and the Court from exercising their separate functions under the Charter and the Statute of the Court (Shaw 1997).

5.2 - The Organization of African Unity

Article XIX of the 1963 Charter of the OAU refers to the principle of ' the peaceful settlement of disputes by negotiation, mediation, conciliation, or arbitration ' and to assist in achieving this, a Commission of Mediation, Conciliation, and Arbitration was established by the Protocol of 21 July 1964. The jurisdiction of the Commission is not mandatory and has never been resorted to. African states were historically unwilling to resort to judicial or arbitration methods of dispute settlement and in general preferred informal third party involvement through the medium of the OAU. In the Algeria – Morocco boundary dispute, for example, the OAU established an ad hoc commission consisting of the representatives of seven African states to achieve a settlement of issues arising out of the 1963 clashes. In a second case, the Western Sahara dispute, an OAU committee was established in July 1978, which sought unsuccessfully to reach a settlement in the conflict. Despite mixed success, it became partly established that in a

dispute involving African states, initial reference will be made to OAU mechanisms, primarily ad hoc commissions or committees (ibid).

In an attempt to improve the mechanisms available, the OAU approved a mechanism for Conflict Prevention, Management, and Resolution in 1992. What should also be noted is the development of the Economic Community of West African States (ECOWAS) created in 1975. Article 57 of the 1975 Treaty provides that where friendly settlement of disputes is not possible, any party to the dispute may refer the matter to a Tribunal of the Community whose function will be to settle the dispute by a final decision (ibid).

5.3 - The Organization of American States

Article 23 of the Charter of the OAS 1948, and as amended in 1985, provides that international disputes between member states must be submitted to the Organization for peaceful settlement, although this should not be interpreted as an impairment of the rights and obligations of member states under Articles 34 and 35 of the U.N Charter. The 1948 American Treaty of Pacific Settlement sets out the procedures in detail, ranging from good offices, mediation, and conciliation to arbitration and judicial settlement by the ICJ. This Treaty, however, has not been successful and in practice the OAS has utilized the Inter-American Peace Committee created in 1940 for peaceful resolution of disputes. This was replaced in 1970 by the Inter-American Committee on Peaceful Settlement (ibid).

5.4 - The League of Arab States

The LAS, established in 1945, aims at increasing cooperation between Arab states. Its facilities for peaceful settlement of disputes amongst its members are not, however, well developed, and in practice consist primarily of informal conciliation attempts. One exception was the creation in 1961 of an Inter-Arab Force to keep the peace between Iraq and Kuwait (ibid).

5.5 - Europe

The European Convention for the Peaceful Settlement of Disputes adopted by the Council of Europe in 1957 provides that legal disputes are to be sent to the ICJ, although conciliation may be tried before resorting to this step. Other disputes are to go to arbitration, unless the parties have agreed to accept conciliation.

Within the NATO alliance, there exist good offices facilities, and inquiry, mediation, conciliation, and arbitration procedures may be instituted. In fact, the Organization proved of some use for example in the longstanding 'cod war' between Britain and Iceland.

The Organization of Security and Cooperation in Europe (OSCE) has gradually been establishing dispute resolution mechanisms. In addition, the OSCE is able to send missions to various participating states, with their consent, as part of its early warning, conflict prevention, and crisis management responsibilities. Such missions have been

sent to Yugoslavia to promote dialogue between the population of Kosovo, Sanjak, and Vojvodina, and the authorities of the state; Ukraine and Chechnya among others. Under the General Framework Agreement for Peace in Bosnia and Herzegovina, initialed at Dayton on 21 November 1995 and signed in Paris on 14 December 1995, the OSCE was made responsible for the supervision of elections, for providing the framework for the conduct of discussions between the Bosnian parties on confidence and security building measures, and for assisting in the creation of a Bosnian Commission on Human Rights (ibid).

In view of the heavy burdens and responsibilities carried by the Secretary – General, he has publicly called for more sharing of responsibility in such matters as preventive diplomacy, peacekeeping, peacemaking, and peace enforcement between his office and the regional organizations (UN 3, 1992; UN 5, 1992). The problem in these cases is that there are likely to be conflicts, particularly those involving secession and civil war, where the regional organization may not be suitable as a partner in the good offices function because the states in the region may be suspected of having involvements of their own that tend to favor one or another of the disputants. This is evident in the report of the Secretary – General concerning Bosnia and Herzegovina (UN, 1992).

Since the burdens of peacekeeping are beginning to exhaust the UN, the choice for partners is quite understandable. Furthermore, in some cases, regional organizations **may be better suited to mediate disputes between local players than is the UN.** Being close to the conflict, regional groups may have a particular insight into the motivations of the parties to a dispute, and may also have a more direct interest in preventing the

outbreak of and spread of violence in their neighborhood, with the resulting floods of refugees. Regional groupings, like NATO would be more effective at enforcement than are U.N forces, although legal questions do arise as to NATO's authority under its constituent treaty to engage its forces in action outside its members' territory. Additionally, the European Union, has been revived for peace enforcement and the Economic Community of West African States (ECOWAS) has devised a military peace enforcement wing (ECOMOG) for service in the Liberian civil war. Other organizations such as the Organization of American States (OAS) may be helpful in supervising civil reconstruction and human rights, as it has shown little interest for enforcement or forceful collective security measures in its region, leaving the Haiti deployment to be assigned to the U.S and a few Caribbean nations. The scarcity of resources in the regions most prone to trouble, like Africa, is a real problem. Moreover, the close proximity of members of regional organizations to a conflict may render it difficult for the organizations to be seen as impartial.

A good example of UN joint regional collaborations is the joint effort of the U.N and European regional organizations (EU, NATO, and CSCE) to restore peace in various parts of the former Yugoslavia. In September 1991, after a request by the **European Community - now the European Union - (UN 2, 1991)**, the Security Council, by virtue of Resolution 713, dated September 25, 1991 (para. 3), invited the Secretary – General ‘ to offer his assistance ‘ to the parties in the Croatian aspect of the conflict. He accepted the Security Council's invitation, and appointed former U.S Secretary of State Cyrus Vance as his Personal Envoy. In mid February, the Secretary – General, on the basis of his representatives' assessments and negotiations with the parties to the conflict, was

finally in a position to recommend the establishment of a United Nations Protection Force (UNPROFOR) to be deployed for 12 months in parts of Croatia which had been occupied by the remaining Yugoslav National Army and by Serbian irregulars (UN, 1992; UN 5, 1992).

The role played by Vance was significantly aided by close cooperation with member states of the European Community, operating through a Commission headed by Lord Carrington, which had been charged with negotiating a political solution to the crisis, as compared to Vance's mission which was to secure a viable ceasefire and implement a humanitarian relief operation (UN 1, 1992).

In due time, the European and UN negotiating efforts were combined into an International Conference on Yugoslavia (Owen-Stoltenberg), which has sought a negotiated end to both the Croat and Bosnian wars. This effort met with some success in Croatia. UNPROFOR has been deployed in three UN Protected Areas (UNPAs): in Eastern Slovenia, Western Slovenia, and Krajina, where the Serbs sought to oust Croatian control. UNPROFOR was also to supervise the withdrawal of irregular Croat forces and of the Yugoslav National Army from the contested areas, to patrol the external borders of Croatia in the UNPAs, and monitor the demilitarization of the Prevlaka peninsula near Dubrovnik (Security Council Resolutions 743, 762, 769, February 21, 1992; June 30, 1992; and August 7, 1992 respectively). Only some of these objectives had been achieved.

The restoration of moderate peace in Croatia was shortly followed by the outbreak of ethnic conflict between Serbs, Muslims, and Croats in the neighboring Republic of Bosnia and Herzegovina. Although negotiations between the parties have continued under the auspices of the Owen-Stoltenberg UN / EU Commission, the frustrating experience helped to demonstrate the limits of good offices when the parties are not desirous to reach a settlement, or by the international community not willing to impose one. The one major thing that emerged in Bosnia was the collaboration between the UN and NATO, with the former providing the military support on the ground in a neutral way, for peacekeeping and humanitarian relief operations; and the latter supplying offensive military power, where needed, against violators of the protected areas established under Chapter VII of the UN Charter by the Security Council. It was agreed between the UN and NATO that decisions to use force require joint decisions by NATO command and the Secretary – General.

Something similar happened in Somalia, when in early 1992 the Security Council asked the Secretary – General by virtue of para.3 of its resolution 733, dated January 23, 1992, together with the Secretaries General of the OAU, and the League of Arab States (LAS) to mediate that internal political dispute. Civil war had broken out in 1991, after the overthrow of the 21 year old regime of President Mohamad Siad Barre. In February 1992, the Secretary – General met with leaders of the Somali factions and representatives of the regional organizations in New York. Afterwards, his Personal Representative James Jonah engaged in negotiations for a ceasefire allowing humanitarian relief deliveries to begin. The joint good offices of the Secretaries –

General of the OAU, LAS, and the Organization of Islamic Conference managed to secure such an agreement in March (UN 6, 1992).

Following further negotiations, this ceasefire agreement took hold enabling the Secretary – General to recommend the creation of a multinational military force (UN 4, 1992). The United Nations Operation in Somalia (UNOSOM I) was subsequently created by virtue of Security Council Resolution 751, dated April 24, 1992 (paras. 2,7,10). Simultaneously, together with regional organizations, he continued efforts to convene a conference of national reconciliation.

In January and March 1993, the Secretary – General and his regional counterparts organized a national reconciliation conference in Addis Ababa involving the Somali factions. With little progress achieved, a meeting was convened in 1994 in Nairobi when all the important factions participated (UN 2,1994), leading to the signing of a ‘ declaration ‘ on national reconciliation, which provided for the recreation of a national government, judiciary, and civil service; and for holding national elections. Its implementation was continuously delayed by factional fighting. Once UNOSOM II was established in May 1993, the military tasks assigned to that operation became the Secretary – General’s direct responsibility. These arrangements were implemented with difficulty.

It has proven difficult both in Bosnia and Somalia to perform the contradictory missions to facilitate peace and reconciliation through brokered negotiations, and to use force against one or several of the parties in an effort to disarm them and force adherence to a

ceasefire. In Somalia, the Secretary – General was instructed by the Security Council vide Resolution 865, dated September 23, 1993 to try to bring about reconciliation, the creation of a national government, and the establishment of a judiciary.

In February 1994, the Security Council by virtue of Resolution 897, dated February 4, 1994 adopted a new scaled-down version of UNOSOM's mandate in which inter-factional mediation, aid in the reconstruction of a civil society, and humanitarian assistance are re-authorized and the UN is entrusted with the responsibility for keeping open the key links of communication such as the airport and port of Mogadishu. In May to June 1994, the Secretary – General's representative, with the support of regional organizations and the governments, sponsored the Kismayo Conference at which some progress was made towards a general ceasefire and the reconstitution of a national system of government (UN 1, 1994).

The military effort to enforce peace has been worse than the good offices engagement. Following the death of 18 U.S Rangers in Somalia in October 1993, the U.S announced the withdrawal of its troops by the end of March 1994. UNOSOM II was much weakened following the decision of eleven other states to follow suit. Increased troop support from India and Pakistan, and twenty other nations enabled UNOSOM II to give the good offices and the humanitarian effort some credibility. The Somali and Bosnian operations confirmed that when the parties are not ready to negotiate a temporary settlement, the good offices of the Secretary – General are unlikely to succeed.

The Secretary – General was also invited to mediate a crisis in Liberia, where a regional organization had already assumed the lead. Following the overthrow of President Samuel Doe in 1990, and the spread of civil war, the Economic Community of West African States (ECOWAS) organized a Military Observance Group (ECOMAG) to supervise implementation of the July 1993 Cotonou Agreement (UN Doc. S/27272 Annex) which was negotiated between the warring factions. The UN has cooperated with this venture. In response to an ECOWAS request, the Security Council imposed a mandatory embargo on all delivery of weapons or military equipment to Liberia by virtue of its Resolution 788, dated November 19, 1992, para.9. After a further ECOWAS initiative, the Secretary – General dispatched a special representative to work with the West African regional operation in securing implementation of the Cotonou Agreement. In September 1993, the United Nations Mission in Liberia (UNOMIL) was dispatched to assist ECOWAS and monitor the peace process. By that time, the ECONOMAG forces had begun to sustain heavy casualties and Nigeria's dominant force was beginning to be criticized.

The Secretary – General has also been authorized by the Security Council to work with the Conference on Security and Cooperation in Europe (CSCE) and the Russian Federation to secure a peaceful settlement of the Azarbaijan – Armenia dispute concerning Nagorny – Karabach (UN 1, 1994).

The question which now arises is what would be the future prospects of UN joint cooperation with regional organizations? The Secretary – General has worked cooperatively with the OAU in monitoring elections, plebiscites, and similar activities

in South Africa, the Western Sahara, Liberia, Somalia, and elsewhere. Furthermore, he has undertaken joint diplomatic efforts to negotiate the end of various civil wars in Africa. African military forces have joined the UN operations in Liberia, Somalia, and Rwanda. To my mind, the prospects of systematic reliance on regional military forces, however, are not encouraging. In practice, the deployment of African contingents to trouble spots on the continent has tended to demonstrate severe logistical limitations and the suspicion within which they are regarded by the people of the countries to which they are dispatched.

Chapter 6

Proposals for the Reform of the UN in General and the Secretariat in Particular

“The United Nations has been given a second chance. The Organization, frequently paralyzed by Cold War rivalry, has been granted another opportunity to rise to the challenge of saving succeeding generations from the scourge of war “(Coate 1994).

The question often asked is: Can the United Nations fulfill its original promise of maintaining international peace and security? The answer is yes it can, but certainly not without reform.

The need for an effective United Nations is real. Many of the most urgent threats to peace and prosperity cannot be dealt with by national governments on their own accord. If the United Nations is to serve as the international community’s tool for resolving these problems, it needs to become a stronger and more efficient body.

The maintenance of international peace and security is the principle mandate of the United Nations and also its greatest challenge. It will be judged by how effectively it fulfills this task. The Organization was created to maintain peace not only by preventing and resolving military conflict, but also by promoting economic and social progress and development.

“It has become obvious that the tasks attributed to the UN by Article 1 of its Charter have not been carried out. During the fifty years of its existence, the UN has not been able either to maintain international peace and security or to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character. “(Bertrand, 1995).

The author is of the opinion that the number of people who still believe that some day the Organization will become efficient is diminishing with time. Criticisms are growing and skepticism about its revitalization is widespread, to the extent that some people already speak of its demise.

During the fifty years of the UN life, ideas of UN reform have centered on the types of problems the Organization was supposed to address. During the Cold War, suggestions for reform related to the management of the Secretariat and economic and social activities, with little being said about security matters because it was understood that the efficiency of the Security Council was limited by the East-West confrontation. That period involved the creation of various expert groups which suggested changes to the organization chart of the Secretariat and made several recommendations regarding a system of planning, programming, budgeting and evaluation, personnel policy, and the definition of priorities. The results did not contribute to the improvement of the Organization's efficiency. The only positive change which was never considered a reform was the invention by Lester Pearson and Dag Hammarskjold of peacekeeping (ibid).

Towards the end of the Cold War, after 1985, some more ambitious views of reform by private commissions began to emerge. They included the idea of the creation of an Economic Security Council, a regional system of representation, and regional agencies. However, no reference was made to the security system (ibid).

After 1988, the new role of the UN in the field of security, characterized by the support accorded by the Security Council to the U.S intervention in the Gulf drew the attention of the international community to security matters, such as the role and the composition of the Security Council, the efficiency of peacekeeping, and the possibility of more preventive action (ibid).

During the period between 1988-1995 two phases may be distinguished leading to very different ideas about the need and possibility of reform: an optimistic phase, 1988-1991 due to the outcome of the Gulf War which led to the belief that the agreement among the five permanent members of the Security Council was the start of a new era for collective security; and a pessimistic phase, since 1991, due to the accumulation of failures in Afghanistan, Rwanda, and Somalia (ibid).

The Secretary – General Boutros Boutros-Ghali produced a report at the request of the Security Council entitled an ‘Agenda for Peace’ pursuant to the statement adopted by the summit meeting of the Security Council of January 31, 1992 (DPI 1247, June 1992) in which he suggested new ideas on reform especially on peace enforcement. Simultaneously, the idea of a possible enlargement of the Security Council received U.S

support so as to permit the entrance of Japan and Germany as permanent members. However, parallel to that, some radical views were developing which question the very concept of 'collective security' and suggesting a complete overhauling of the world institutions, including the UN (ibid).

The author adopts the view that on the UN's 50th anniversary, the situation applicable today calls between a conservative approach advocating limited reforms, and a radical approach leading to an overhaul of the present system.

6.1 The Conservative Approach

In this respect, the existing Charter is still considered practically acceptable; it is still believed that 'collective security' as defined in Chapter VII is the only possible security system, but there are suggestions for improving it. Since its failures are minimized, there is some room for better management. The various conservative practices, however, differ on the role to be played by the UN and on various specific points (ibid).

The U.S position towards the UN is that of a hegemonic power which believes that its leadership is indispensable to the proper functioning of the Organization, feeling at the same time that the UN should serve its own interests. In order to keep the Organization under its authority, the U.S is still in arrears for the payment of its contributions, particularly for peacekeeping operations, and still criticizes the management of the Organization. Madeleine Albright, the former U.S Ambassador at the UN, in a speech

before the Council of Foreign Relations on June 11, 1993, blamed the unprofessionalism of the UN for the failures of peacekeeping operations in places like Somalia, Angola, and Yugoslavia. Reform proposals acceptable to the U.S would consist of: (1) recommending better management to the extent if the position of Director of Management is occupied by a U.S citizen, and requesting the creation of the post of Inspector General; (2) supporting the enlargement of the Security Council by offering permanent membership to Germany and Japan for the main purpose of facilitating the financing of peacekeeping operations; and (3) favoring association of the U.N with regional security organizations such as NATO in the precinct of peace enforcement. The U.S opposes the creation of special peace enforcement units put at the disposal of the Secretary – General. And while recognizing that peacekeeping operations, coupled with humanitarian intervention and the organization of free elections, offer a solution to intra-state conflicts, it is reluctant to accord too much authority to the Secretary – General to allow the application of collective security as defined in Chapter VII of the UN Charter (such as military staff committee), or to develop too many interventions. That policy was officially presented by President Bill Clinton in the ‘presidential directive No.25 ‘ of May 5, 1994 which outlines in a very restrictive manner the conditions permitting the U.S to participate in peacekeeping operations; inter alia the existence of national U.S interests, the necessity of clear objectives, sufficient financial and manpower backing from the international community, and the limited duration of any intervention (ibid).

Secretary – General Boutros Boutros-Ghali considers that he has introduced valuable management reforms by reorganizing the Secretariat, introducing a new organization

chart, and reducing the number of top posts. On security issues, he has stated his position through the publication in July 1992 of his report entitled an 'Agenda for Peace' which summarizes the traditional conservative diplomatic attitude towards the UN and its role in security matters. In the area of preventive diplomacy, he recommended increased use of confidence-building measures and fact-finding activities, as well as establishment of an early warning system for assessing possible threats to peace. To ensure a more active peacemaking role for the United Nations, he called for the full participation of the General Assembly in supporting efforts at mediation, negotiation or arbitration. He also recommended steps to enable the Security Council to utilize its power under Chapter VII of the Charter, to use military force to restore international peace and security in the face of threat to the peace or act of aggression. In this context, he proposed the creation of specially trained 'peace-enforcement units' to be deployed in cases where the task of maintaining a ceasefire might exceed the mission of peacekeeping. He also recommended a wide-range of peace-building activities for the post-conflict period including among other things joint efforts by the parties to repatriate refugees. He also proposed that changes in the UN mechanisms and techniques for maintaining peace and security should be linked to the increasing role that regional organizations were playing in preventive diplomacy, peacemaking, and peacekeeping. In January 1995, the Secretary – General issued a 'Supplement' to an Agenda for Peace where he noted the dramatic changes in both the quantity and nature of U.N activities for peace and security since the Security Council's 1992 summit meeting. As to coercive methods for peacekeeping, the Secretary – General pointed out that the increased use of sanctions by the United Nations necessitated a mechanism for assessing, before sanctions are imposed, their impact on the targeted country and also

on third countries. He concluded that the necessary financial resources must be provided if the U.N peacekeeping instruments were to be effectively employed (UN, 1995).

The majority of the conservative academics are not confident on the possibility of reform in view of the difficulty in getting consensus on any type of reform. Those who believe that some reforms are necessary, favor the proposals supported by the U.S or by the Secretary – General as standing a better chance of being considered – some others present ideas for reform of minor items or old ideas (methods of financing, revitalization of ECOSOC), but do acknowledge that minor changes will be difficult to achieve (Bertrand, 1995).

6.2 The Radical Approach

There is growing uneasiness with the performance of the existing institutions coupled with the severe criticism leveled at the ideas and principles on which the present system has been built. New institutional proposals have been made, and new theoretical approaches developed encompassing: (a) an evolution of the explanations given for the *present process of change. Old clichés on the post Cold War era, the development of democracy, and the efficiency of the market economy, are considered insufficient to* explain the present situation with *growing unemployment, the development of intrastate conflicts, and the new threats which are emerging;* (b) increasing doubts are being formulated as to the value and the possibilities of a collective security system of the *type prescribed in the Charter, caused by the failure of the UN peacekeeping operations;* (c) proposals for reorganizing the economic and social activities and the structure of the

U.N system are now gaining popularity, with the modification of the Charter now considered with less relevance; (d) studies for the reform of the IMF and the World Bank made by some members of the financial establishment in the U.S; (e) the constitutionalist approach which advocates the necessity of a political statute of humanity without proposing a new constitution for the world; (f) the development at the world level of a type of global security system other than the one embodied in the Charter is considered a possibility (ibid).

The prevailing political atmosphere in the United States, Europe, Japan, Russia, and China excludes the implementation of any UN reform. The procedures for reform stipulated in Articles 108 and 109 of the UN Charter, requiring a majority vote of two thirds of the members of the General Assembly including the five permanent members of the Security Council for adopting an amendment of the present Charter leaves no hope of reaching agreement on any reform.

Discussions of UN reform are centered on four major areas: the structure of the institutions comprising the UN, collective Security capabilities (peacekeeping and peace enforcement), finances, and the Secretariat. Various working groups of member states have been formed over the years to restructure the Secretariat and to improve the effectiveness of the General Assembly, the Security Council, and the Economic and Social Council. Informed discussions among members of the Security Council have concentrated on changes in the Council's membership or on giving a meaningful role to the Military Staff Committee. The United Nations will be an important part of any

emerging world order, and that major change is required if the Organization is to play an effective role within that order (Coate, 1994).

6.3 Structural Reform

Most proposals for the structural reform of the United Nations tend to concentrate on restructuring the Security Council or on enhancing the General Assembly's authority vis-à-vis the Security Council. There is a general concern among the UN members over the disproportionate amount of power vested in the Security Council, particularly now that East-West conflict has removed many of the obstacles that previously paralyzed the Security Council. This concern is amplified by the fact that Germany and Japan are now greater financial contributors to the U.N than most of the current permanent members.

The Security Council

The present configuration of the Security Council tends to satisfy the permanent members, who are in a position to block any change. The said composition tends also to keep intact the structure which has been superseded by the developments in world affairs since the signature of the UN Charter in 1945.

There is some conflict between maintaining the effectiveness of the Security Council and modernizing its structure. Expanding the membership of the Security Council will reduce its level of effectiveness. Certainly most members favor the expansion of the Council from its current fifteen members, but many member states would not accept

any change that simply increased the representation of the European and developed countries by for example, adding Germany and Japan. The majority of member states might well agree to a balanced expansion of the Council that included new members from other geographic regions and from the developing world.

At this point in time, it is clear that both Germany and Japan have a strong case for inclusion among the permanent membership of the Security Council. Despite the skepticism that there will soon be any consensus on the specifics of change, altering the structure of the Security Council is not an entirely academic question because two factors are particularly important: first, the pace of integration in the European Community, and second the ability of Japan to build a domestic consensus as to the kind of role that country should play in world affairs. Both Britain and France have a more global perspective than Japan and Germany, which both seem to be suffering from lingering post-second world war repercussions.

Among UN delegations in New York, the most commonly discussed proposal for the reorganization of the Security Council, involves the transfer of the British and French seats to the European Community, the development of a new category of membership (permanent or semi-permanent but excluding the right of veto) for major regional powers, and election of the remaining members by the General Assembly from among the regional groups. The problem associated with this proposal could be expected in that there is little chance that the integration of the European Community will proceed to such an extent to compel Britain and France to give up their permanent seats. While India, Brazil, Nigeria, Japan, and Egypt are commonly earmarked as the candidates to

occupy the regional 'permanent' seats, countries like Pakistan, Mexico, Argentina, and perhaps others would object to this inclusion (ibid).

In his 1993 annual report to the General Assembly, Boutros Boutros-Ghali declared "The question of the Security Council's membership structure is of crucial importance, and I look forward to the issue being resolved by the time of the 50th anniversary of the Organization "(Ghali, 1993).

One of the major reports produced for the 50th anniversary, ' The United Nations in its Second-Half Century ', by the Independent Working Group on the Future of the UN, sought to limit the use of the veto to Chapter VII or other decisions entailing the use of military response, while pressing for the Council's expansion to 23 members. Progress towards expansion would face the question as to who would be added from the south to counter the addition of Germany and Japan, and what would be the veto arrangements for new permanent and semi-permanent members. When the Security Council was at the height of its power after the Second Gulf War, its legitimacy was questionable and appeared to constitute a serious problem (Stopford, 1994).

According to Professor Jose Alvarez of the University of Michigan, " To avoid the fate of its illustrious but failed predecessor, the League of Nations, the UN needs to shore up its floundering legitimacy. " He wrote of the Council's " democratic deficit " and of its power without accountability, lamenting that the United States had merely gone along with Council membership for Germany and Japan "essentially on the grounds that this participation would lessen the pressures on the United states for peacekeeping funds."

He commented that “oddly enough, the possible restructuring of what is potentially the most powerful supranational organ in the world has not generated much heat in Washington “ (Alger 1995).

The General Assembly

As a consequence of the widespread unhappiness about the current composition of the Security Council, attention is being focused on enhancing the authority of the General Assembly. The discussions about increasing the Assembly’s powers have not produced any significant results.

The quality of the General Assembly’s work has deteriorated in recent years, with its agenda extremely resistant to being streamlined, and various agenda items are trivial, or of little interest to member states. The Assembly’s General Committee, which is normally responsible for controlling the agenda, fails to exercise any discipline in this respect. Furthermore, the right of every member state to place any item on the agenda has inflated the agenda to over 150 items. At this stage, what is needed is leadership for the General Assembly to define its role and to make its influence felt on important issues (Coate, 1994).

The General Assembly controls the finances of the United Nations, and its most important function is the review and approval of the Organization’s budget by virtue of Article 17 (1) of the UN Charter. This function is normally delegated to the lower level’s representatives in the Assembly’s Fifth Committee, whose meetings are rarely

attended by the ambassadors. Since the inclination in that committee is towards micro-management, little attention is focused on the important issues, such as the utilization of resources. Furthermore, the start of the U.N budget consideration should not be delayed until the opening of the fall meeting in September. The budget should be ready for final approval by the General Assembly plenary in October (ibid).

The Advisory Committee on Administration and Budgetary Questions (ACABQ) lacks the necessary expertise. Since the Committee has an important role to play, much more attention should be given to its staffing (ibid).

The General Assembly should operate throughout the year, and the necessary procedures should be adopted accordingly. Most of the delegations at the UN head quarters in New York operate on a year-round basis, while the work of the Assembly and its committees is squeezed into three months between the third week in September and the Christmas-New Year holiday. In our age, there is no reason why the Assembly cannot focus on the most important political, social, and economic agenda items on the occasion of the presence of heads of state at the fall meeting, and allow committee work to proceed throughout the year (ibid).

In order to increase its efficiency, the General Assembly could reduce the number of its committees from the current seven to four; with the latter including, Political (the current First Committee), Economic and Social (Second and Third), Administration and Finance (Fifth), and Legal (Sixth) – (ibid).

The General Assembly has adopted the practice of picking its President on the basis of geographic rotation, as opposed to seeking an experienced statesman capable of providing the desired leadership which has been lacking (ibid).

Michael Stopford stated: "The Assembly's less dramatic, but ultimately more significant, role as the incubator of international opinion has more recently been usurped by the series of global conferences it has called. Persuaded that only such mega-gatherings- on the environment in Rio ... can constitute sufficient catalysts to address pressing global issues, the Assembly perhaps inadvertently hastened its own irrelevance "(Stopford, 1994).

The Clinton administration has stated its intention to push for the Assembly to refocus on major global issues in the future and to put an end to mega conferences. That would tend to direct Assembly energies to more productive lines (ibid).

Economic and Social Council

There is universal agreement on ECOSOC's ineffectiveness. The need for a complete reform of ECOSOC's competence, procedures, and structure has been acknowledged for a long time. In an address to the National Assembly in Washington, on the U.S in the U.N on August 31, 1995, former Assistant-Secretary of State Charles William Maynes said "The decisions of ECOSOC have little relationship to reality. " Criticizing the lack of coordination, he urged radical restructuring (ibid).

Two of the major reports for the United Nation's 50th anniversary contained similar recommendations. In its report entitled ' The UN in its Second-Half Century ' in 1995, the Independent Working Group on the Future of the UN ' called for the establishment of a 23 member economic council to integrate all the economic agencies, while the Commission on Global Governance called for ECOSOC's replacement by an economic security council with broad powers.

Peacekeeping

"*Peacekeeping* is the most important UN activity. The blue helmets on the front lines of conflict ... are a symbol of the United Nation's commitment to international peace and security "(Ghali, 1991).

It was not specifically defined in the Charter, but is a UN invention. It is a non-coercive instrument of conflict control at a time when the Cold War constraints prevented the Security Council from taking the most forceful steps permitted by the Charter (ibid).

During the Cold War years, the basic principles of peacekeeping were established: the consent of the parties, minimum use of force, troops provided by the member states under the command of the Secretary – General, and collective security (ibid).

The demise of the Cold War has led to a dramatic demand for the UN peacekeeping services. Some of these operations have been the classical military type deployed to control the unresolved conflicts between states such as the military observers who

monitored the ceasefire between Iraq and Iran from 1988 to 1991. However, most of the operations have been established to implement negotiated settlements as in Angola among others. The 1990s have given peacekeeping another new task represented in the protection of the delivery of humanitarian supplies to civilians caught up in a continuing conflict, such as Somalia (ibid).

In his January 1992 an ' Agenda for Peace ' report, Secretary – General Boutros Boutros-Ghali recommended that the Security Council considers the utilization of peace-enforcement units in clearly defined circumstances with their terms of reference specified in advance. Such units from member states would be available on call, and would have to be more heavily armed than peacekeeping forces. The deployment and operation of such forces would be under the authorization of the Security Council, and would be under the command of the Secretary – General. The lack of response to these proposals illustrates the greatest problem faced by the United Nations in creating an independent military capability. Later in his report, the Secretary – General reiterated his request for the initiation of Article 43 agreements. He further said that *stand-by arrangements should be confirmed concerning the kind and number of skilled personnel the member states are willing to provide*. Ghali's hope is that through the negotiation of stand-by arrangements with member states willing to provide the U.N with units at short notice, the Organization would be in a position to put an advance guard on the ground within 24 hours of a Security Council decision to start a new operation (Coate, 1994).

The Secretary – General also pointed out another deficiency of the UN peacekeeping mechanism, namely the shortage of readily available equipment and logistic

capabilities. In this respect, the U.S which is in a better position than other UN member states to provide the requested logistic support can make the greatest contribution to collective security. The UN has acted to improve its peacekeeping operations through the establishment of an operations center with secure voice and data communications links to all U.N peacekeeping missions worldwide. It is also strengthening its staff of military planners, and has started talks with member states to identify the types of forces, equipment, and support that it can take into granted (ibid).

Financial Reform

It is needless to say that talks on reform are needless unless something is done to deal with the financial crisis facing the United Nations. The Security Council has authorized extensive peacekeeping operations while counting on member states providing the resources.

As of November 1993, UN member states were in arrears on their contributions to the regular budget of the Organization by around US \$ 530 million, with over US \$ 284 million owed by the U.S and US \$ 48 million by Russia. In addition to the regular budget, there is a deficit of over US \$ 1 billion for 13 peacekeeping missions, with over US\$ 130 million due from the U.S and over US \$ 515 million from Russia (ibid).

In view of the financial difficulties of the United Nations, the Ford Foundation, in consultation with Secretary – General Boutros Boutros-Ghali, in 1992 convened an independent and international advisory group on UN financing Co-chaired by Shijuro

Ogata and Paul Volcker. Its report confirmed that the U.N lives on a hand-to-mouth basis that is totally incompatible with its expanding responsibilities. The member states and particularly the U.S are held responsible for this state of affairs (ibid).

The Ogata-Volcker recommendations combine both general advices with specific proposals for reform. An example of the former is that all countries should pay their assessed U.N duties in full and in due time. They proposed, inter alia, that dues should be paid in quarterly installments, interest should be charged on late payment, and there should be a unified peacekeeping budget financed by a single annual assessment (ibid).

The responsibility of the financial problems of the UN rests with the member states, and particularly the five permanent members of the Security Council.

The most immediate need in the area of financial reform is for the member states to stop loading additional responsibilities on the Organization until some of the reforms are implemented and the UN is in a position to meet its present responsibilities.

Secretariat

Even though this area received the least attention in the discussions of UN reform, Secretariat reform is the most important issue in the debate over UN reform. Thus, discussions on reform tend to focus on such high profile issues as restructuring the Security Council among others. Yet the Secretariat is one of the principal organs of the United Nations Charter, on which the member states depend daily to recommend

courses of action, prepare for widespread contingencies, and implement the decisions of the member states. The effectiveness of various UN activities would suffer if the Secretariat is inefficient, poorly staffed, or badly organized.

“The Secretariat is, in fact, inefficient, poorly staffed, and badly organized, and its modernization and streamlining are urgent and indispensable to the future success of the Organization “ (Coate, 1994).

Although Article 97 of the United Nations Charter names the Secretary –General as the “ chief administrative officer “ of the Organization, administration has received only limited attention from the successive Secretaries – General, who are overburdened by innumerable political issues. As a result, the Secretariat tends to be ineffective, in that it is characterized by confusion regarding responsibility, lack of accountability, waste of resources, and low morale (ibid).

The author anticipates the establishment of the position of “Deputy Secretary – General “This is necessary because the Secretary – General is overwhelmed by the responsibilities of his position, with no deputy who can be entrusted with special or continuing responsibilities, or who would deputize in his absence. Furthermore, there is no one within the Secretariat above the level of under Secretary – General who can oversee the entire UN activities from the same perspective as the person at the top (ibid).

Previous proposals as to the creation of the position of Deputy Secretary – General have not been welcomed by the incumbents in office, for fear that the occupant could create a separate power base among the member states and the staff, and utilize this support to challenge the authority of the Secretary – General. This concern would be overcome if the Deputy is chosen by the Secretary – General. This choice could be subject to the approval of the General Assembly (ibid).

The second most important measure involving Secretariat reform, according to the author, is the restoration of a manageable structure of authority. When the Secretariat was established by the General Assembly in 1946, it was structured to include eight Assistant Secretaries – General. In comparison, in 1991, over 40 officials reported directly to the Secretary – General, rendering effective supervision virtually impossible. There is no justification for more than five under secretaries dealing with: political and security affairs; management and finance; and Secretariat conference and, information services. Additionally, there need be a small number of staff positions such as legal counsel, public relations advisor, reporting to the Secretary – General and the Deputy. This core team backed by less than 20 assistant secretaries, each responsible directly to a single under secretary would be manageable. This reorganization would clarify the lines of command and accountability within the Secretariat as related areas of organizational responsibility were placed under a single under secretary. This would also tend to eliminate overlap and duplication (ibid).

In addition to the basic reforms designed to simplify the organizational structure and increase the efficiency of the Secretariat, several new positions need to be established within the Secretariat.

Coupled with the above, the author suggests that several positions should be established within the Secretariat. First, there should be an inspector-general in order to uncover the waste, fraud, or abuse within the United Nations. Second, an executive secretariat is needed within the Secretariat, staffed on a full-time basis by international civil servants who are not answerable to their governments. This internal secretariat would be responsible for ensuring the development of policy options, and the implementation of high level decisions throughout the UN system. This would tend to relieve the Secretary – General and his staff from dictating the policy roles of senior UN officials. Third, in view of the UN's scarce resources, a mechanism is needed within the Secretariat for the systematic review of the UN's policy priorities, so that lower-priority activities can be terminated and resources reallocated. The deputy Secretary – General could be asked to chair a policy-priorities group consisting of the under secretaries and aided by a special staff of experts in management system analysis. Fourth, an assistant secretary subordinate to the management under secretary should be assigned to modernize the Organization's information systems and establish a local area network connecting by computer the Secretariat, the member state delegations, and the overseas offices of the United Nations. This would tend to enable a massive reduction in the flow of UN documentation, facilitate the distribution of UN documents, and simplify the negotiation of Security Council and General Assembly resolutions. Fifth, there need be a total review of the Secretariat's personnel practices which are considered obsolete, coupled

with appropriate changes to the methods of recruitment, promotion, evaluation, and training. Sixth, the United Nations should rationalize the way it is represented in member state capitals. UN offices abroad should be better integrated, serving under a single official appointed by and responsible to the Secretary – General. Properly staffed UN offices abroad could provide early warning capabilities and assist in carrying out the functions of preventive diplomacy. Finally, the UN should dispense with the practice of giving specific states an entitlement to certain Secretariat positions. The appointment of senior officials should be political. Nomination in this case should be by the member governments, with the final choice regarding appointments resting with the Secretary – General (ibid).

“Renewing the promise of an active and cooperative United Nations means, in the first instance, reform of the Organization and the broader system of specialized agencies from within“ (Ghali, 1991).

To initiate reform from within, Secretary – General Boutros Boutros- Ghali launched a process of restructuring the UN Secretariat. His first short-term aim was to eliminate duplication, redundancy, and excessive layering of offices and duties at the headquarters in New York (ibid).

The Administrative Committee on Coordination is the highest body bringing together the executive heads of all the specialized agencies and organizations of the UN system. This Committee must act more definitively to guide and harness the work of the various organizations of the system (ibid).

John Bolton argues that “American foreign policy must be based on identifying our vital national interests and then advancing and defending those interests around the world.” (Bolton, 1995).

This policy was successfully adopted by Presidents Reagan and Bush. By contrast, the Clinton administration chose to rely heavily on the United Nations. The author believes that America was seriously harmed by Clinton’s policy mistakes in his first term and could be gravely weakened in his second. By looking at the UN Charter, it is noticed that realistic American drafters limited the role of the UN to cases that presented a threat to international peace and security to avoid giving the UN a global license for international social work. The U.S officials also insisted on veto power in the Security Council as a condition for UN membership to ensure that no majority of UN members could ever threaten American national interests (ibid).

As to the proposal for the reform of the UN, the author also believes that the U.S should stress the following specifics (1) the new Secretary – General must produce reforms. Kofi Annan who replaced Boutros Boutros-Ghali, came from within the U.N system and was in the best possible position to produce reforms; (2) stick with traditional UN peacekeeping; (3) do not reform the Security Council. The bottom line for the Clinton administration was to leave the veto and the Security Council’s membership alone; (4) the management and financial reform remain essential (ibid).

The author concludes that the UN can be useful in the American foreign policy arena. It should be based at U.S will to advance American national interests.

In his acceptance speech on December 17, 1996, Secretary – General designate Kofi Annan outlined his goals: “to make the United Nations leaner, more efficient and more effective, more responsive to the wishes and needs of its members, more realistic in its goals and commitments. “ In late January 1997, the Secretary – General grouped UN departments, funds, and programs under four sectional areas: peace and security; economic and social affairs; humanitarian affairs; and development. In a letter to the President of the General Assembly on March 17, 1997, the Secretary – General announced the first stage of his organizational reform program whereby three departments were merged into one Department of Economic and Social Affairs (DESA); steps were taken to cut Secretariat administrative costs from 38 to 25 percent of the budget. The Secretary – General was adamant at proceeding with his reform plans. On July 17, 1997 he submitted to the General Assembly stage 2 of his plan which included inter alia the establishment of a Senior Management Group composed of the coordinators of the sectoral groups, heads of regional commissions, and other under Secretary – Generals; establishment of a common framework for the work of the Organization; and creation of the post of Deputy Secretary – General to improve management and oversee work that cuts along departmental and agency lines. On December 19, 1997, the General Assembly adopted Resolution 52/12, encouraging the Secretary – General’s reform program.

Chapter 7

Conclusion and Recommendations

7.1 Conclusion

As shown in the preceding paragraphs, the Secretary-General has had some successes in the exercise of his conflict prevention and peacemaking functions, both during and since the Cold War. However, it could be argued that his role's expansion may not continue, or that it may be transformed into something qualitatively different, or that it may turn to quite different set of issues, in response to a changing institutional and political context. As we have outlined, the Security Council now seems more ready and able to perform its Charter envisaged political functions. That has ended the stalemate which gave the Secretary-General the first opportunities to maneuver as an impartial broker. The Security Council which is more readily able to take decisions tends to ask the Secretary-General to visit certain places like Baghdad as a messenger to deliver its own plan of action as opposed to the exercise of an independent political role.

The ability of the Security Council to exercise its Charter envisaged political functions may not last. If the principal threat to the peace in the foreseeable future, results from civil strife in places like Afghanistan, Somalia, Liberia, for example, it is questionable that the Security Council's new found consensus will prevail. Russia and the United States are already in disagreement over the rights of the parties in the former Yugoslavia. Moreover, China will be very concerned over the spread of the United

Nations' intervention on behalf of what it considers domestic disputes. Also, many states are concerned about United Nations involvement in wars of secession, because they see them as merely internal affairs. They feel that all United Nations military operations, even if basically humanitarian, tend to give a degree of international recognition to secessionist forces. It must also be mentioned that some are disturbed at the huge costs of United Nations field operations, and by the dominant role played by the financially and militarily powerful participants.

In the light of the above circumstances, it is obvious that the least expensive and frequently most successful form of United Nations peacemaking has proved to be the diplomatic role of the Secretary-General, especially when supported by the authority of the Security Council and its permanent members. His mediation initiatives are perceived as the least threatening to states concerned about their sovereignty.

Furthermore, the Security Council's failure to invoke Chapter VII of the Charter to intervene on behalf of the Kurds in Iraq, for example, suggests that it may be precisely in these sorts of domestically generated threats to international peace that the good offices of the Secretary-General, with greater experience, flexibility, and lower profile, might fill the growing vacancy and bring diplomacy back to the center stage.

Despite the conceptions of the pessimists, it can be validly argued that the Secretary-General has had considerable successes in conflict resolution. His failure in certain missions caused by circumstances beyond his control cannot hide this fact.

Generally speaking, the United Nations has achieved more and less than its founders had anticipated. It is less because, from the close of World War II through to the end of the 1980s, the rivalry between the United States and the Soviet Union exposed the weakness of great power unanimity in matters of peace and security, particularly as shown through the repeated use of the veto in the Security Council. It is more because, the rapid break-up of colonial empires from the 1940s through the 1970s created a void in the structure of international relations that the United Nations, in many areas, was able to fill. The good offices of the Secretary-General played a significant role in this respect.

In order to prevent an international crisis, manage a conflict, or settle a dispute, the Secretary-General must acquire detailed and timely information on the situation at hand. In 1992, in the " Secretary-General ' – An Agenda for Peace ", Boutros Boutros-Ghali reaffirmed that conflict prevention must be "based on timely and accurate knowledge of facts " and " an understanding of developments and global trends ." Furthermore, he argued for "preventive deployment of UN peacekeeping missions in some situations where previously the United Nations had not been able to act quickly... Preventive deployment meant that UN forces could be dispatched quickly at the earliest warning of serious " (Ghali, 1999).

The other concept proposed by Ghali was "peace enforcement " , a rapid reaction capability, calling for as many countries as possible to make available up to one thousand troops each on a stand-by basis enabling operations to get underway in a few days. This readiness to act would constitute a form of deterrence or preventive

diplomacy. He considered that this was not a radical call for a UN standing army, but came within the ambit of Article 43 of the Charter, under which all members of the United Nations "undertake to make available to the Security Council, on its call and in accordance with a special agreement... armed forces, assistance, and facilities... necessary for the purpose of maintaining international peace and security" (ibid).

Trygve Lie said that "the role which the framers of the Charter of the United Nations envisaged for the Secretary-General fell between two extremes. The Secretary-General unquestionably would be under an obligation to play a great political part, but, I felt, there were limits to the extent of his initiative – the limits of the Charter's text and, even more, the limits imposed by the realities of national and international political life. The Secretary-General might be the symbol of the Organization as a whole – the symbol, in other words, of international spirit. This and his strategic situation at the very helm of international affairs... attached significant influence to his position; but it was a moral power, not a physical one, and moral power in this world is not conclusive... I had no calculated plan for developing the political powers of the office of Secretary-General, but I was determined that the Secretary-General should be a force for peace" (Lie, 1954).

"Trygve Lie played a political role that would have been unthinkable in the League. Not everyone will agree that Article 99 is a wise provision, but most will agree that Mr. Lie made a great deal of it. Does the Secretary-General have sufficient power to justify playing a political role? Lie's behavior and the spirit of Article 99 suggest an affirmative answer" (Cheever, 1954).

The review of United Nations history shows an impressive record of political leadership by the Secretary-General in the Organization's process of creating and executing policy in periods of crisis. In many cases, his role began long before the United Nations formally considered the issue; the Organization's subsequent effectiveness could be attributed in large measure to his anticipatory activities, which laid a sound foundation for the United Nations action that followed. The extent of involvement of the United Nations was frequently the result of the Secretary-General's ability to lead the membership in adopting resolutions embodying what he considered the appropriate commitment for the United Nations. The evolution of the United Nations has brought an ever increasing role for the Secretary-General in conflict resolution.

It is important to ask two important questions namely: What should be the role of the Secretary – General of the U.N in the next decades ? Of what use can the Secretary – General be in the conduct and control of international relations ? The first question is more or less basic because the U.N is his tool for participation in world affairs; because he may be influential in the U.N without being influential in international affairs, but he cannot be influential in the latter without being influential in the former. The opportunities open to the Secretary – General are heavily dependent upon the reciprocal relationship between the U.N and the general condition of international relations: the state of the world largely determines the functions available to the U.N, and the effectiveness of the U.N is a factor in shaping the international behavior of states (Rivlin 1993).

The office of the Secretary – General is ultimately shaped less by the constitutional drafting process than by changes in the world of states that alter the uses of the U.N and

thereby create opportunities and requirements for the Secretary – General. The end of the Cold War led not only to the decline of hostility and ideological rivalry between the Soviet Union and the U.S and the emergence of some degree of cooperation between them, but also the adoption by both of friendly attitudes toward the U.N. These changes, coupled with the settlement of many stubborn regional conflicts and the wider shift toward more democratic regimes have been seen as signs of better days for the U.N. In the optimistic reading, the way is now being cleared for the U.N at long last to become what its founders intended it to be.

Among the big changes that have occurred in the world since 1945 has been the dissolution of colonial empires into a great number of new states that have constituted the Third World. These states have become a dominant majority of the U.N in the General Assembly, thus rendering the U.N to a great degree the instrument of their revolution against the status quo. This success has been facilitated by the Cold War's interference in the realization of the founders' hopes.

The ending of the Cold War may bring about the alteration of the attitudes of the leading powers toward the U.N and promote cooperation among them., but it is unlikely to tempt the Third World to relinquish control over the Organization. The remarkable changes of the last few years carry the promise not only of new opportunities and possibilities, but also of new problems and difficulties.

Uncertainty about the fate of the dissolved Soviet Union is the source of significant worries. The concept that a revised U.N was to be led by the U.S and the Soviet Union

serving as builders of a new world order presumed the continued existence of two super powers. There are a few things one can say with certainty about the states that have replaced the Soviet Union other than that they do not constitute the communist imperial power that we have known.

If relief from super power rivalry turns out to denote that only one super power survives, that the U.S reigns alone in that category, the implications for the U.N are not entirely favorable. Concern by the U.S and the Soviet Union to avoid an uncontrollable confrontation inspired each of them to impose a certain discipline upon lesser states in its camp, which may evaporate now that the Cold War blocs are dissolved (ibid).

The world may reach the conclusion that the effect of the Cold War upon the U.N was not in all respects debilitating, and that the termination of that struggle has equally mixed implications for the Organization.

Generally speaking, a positive relationship exists between the activism of the U.N and that of the Secretary – General. The busier the U.N becomes, the greater the likelihood that the Secretary – General will be called upon to play a significant role. This suggests that in the coming years the Secretary – General can and should bear increasingly heavy responsibilities, both as a result of the expected increase of U.N activity made possible by the increased cooperation of states occasioned by the post – Cold War atmosphere.

The above expectation requires some qualification. In the past, the Secretary – General's prominence in the Organization has owed a great deal to the Cold War. Blockade of the

Security Council by the veto frequently inspired a dependence on the Secretary – General to accomplish previously unattainable missions in the Security Council. In the Hammarskjold era, " Let Dag do it " was an outcome of frustration of efforts to have the Security Council act. The Western Powers tended to elevate the Secretary – General to the status of a surrogate political organ when the Soviet Union impeded their policy in the United Nations. A further qualification concerns the nature of functions to be undertaken by the newly recharged U.N. Activities vary in the nature and scope of the requirements that they pose and the opportunities that they open for the Secretary – General. Hence, his role depends less on how much the U.N is called upon to do than on what kind of activity it undertakes.

Throughout the study, it is evident that the Secretary – General is much more than the conciliator and provocateur, he stands before the world community as the very emblem of the United Nations. He wears many hats, most being of his own design. In practice, he has become the U.N's ' good officer ', performing the mediating and diplomatic functions necessary to resolve conflicts. The world, increasingly has come to rely on these ' good offices ' to stop wars before they begin, end them when the belligerents are stymied, and create the confidence building mechanisms that permit parties to move from confrontation to cooperation.

While it is perfectly true that only the United States can mount an ' Operation Desert Storm ' and that only the Security Council can authorize collective military action or trade embargoes, and that only the General Assembly can vote the funds that keep the U.N's multiple operations in business, it is the Secretary – General, in fact, who has taken most of the initiatives to prevent or end the armed conflicts which threaten peace

between and within nations. This is remarkable in itself. There is no nation in the world in which the senior civil servant plays a comparable role; perhaps the nearest equivalent is the President of the European Commission of the European Union. However, that bureaucrat does not deploy his discretionary powers so frequently.

The Secretary – General has political and moral responsibilities. The distinguished character and high expectations of the position were described in the words of the U.N Preparatory Commission in the fall of 1945 as the " United Nations idea " was about to be put into practice: " The Secretary – General, more than anyone else, will stand for the United Nations as a whole. In the eyes of the world, no less than in the eyes of his own staff, he must embody the principles and ideals of the Charter to which the Organization seeks to give effect " (Rivlin 1993).

The first holder of the office, Trygve Lie of Norway, described the Secretary Generalship as " the most impossible job in the world ." Each of his successors, shared the frustrations and exasperations that came with the office.

Walter Lippmann wrote that " the greatest, although it is the least advertised of the functions of the Secretary - General is to be a father confessor to the member governments, to be a man in whom they can confide, and who knows, therefore, from continued, private, privileged information, the real position in international controversy " (ibid). Clearly there is no political figure in the world who enjoys this status. The office of the Secretary – General of the U.N is unique. Although there are other heads of multilateral, specialized organizations in the world, this office tends to be singular

because it is at the head of the only organization that is universal and multidimensional in scope. The U.N is open to all states, large and small. Its domain covers all matters of human concern ranging from the immediate challenges to international peace and security, to the underlying economic and social causes of conflict on earth, from regard for the self-determination of peoples to the human rights of the individual. In a sense, the Secretary – General sits at the apex of world governance, but he is not the head of government, for the U.N is certainly not that.

The U.N is an integral element in the world system. Within the U.N, the Secretary – General is the most important figure. Through him and his office pass all the inter-relationships represented by the U.N. Regardless of the Secretary – General's importance within the U.N, his stature as world figure is closely related to the importance of the U.N in world affairs at any given moment.

7.2 Recommendations

1 – In order to help prevent an international crisis, manage a conflict, or settle a dispute, the United Nations Secretary-General must acquire detailed and timely information. A mechanism should be formulated whereby this could be done.

2 – The Secretary-General should have sufficient power to justify playing an active political role by virtue of Article 99 of the Charter.

3 – In order to render the good-offices of the Secretary-General more effective, the question is often asked “What is needed?” The Secretary-General who is at the call of the Security Council, perhaps needs a longer leash. For example, he should have at his disposal a trust fund sufficient to embark on credible mediating missions at his own initiative, provided that after a certain time limit, authority would have to be extended by the Security Council, and renewed funding voted by the General Assembly.

4 – A small, all volunteer multinational force should be under his command that could be deployed at his own initiative, but only with the full consent of the parties to the conflict for a specified period of time. Its mandate should be renewed for similar periods by the Security Council or the General Assembly.

5 – There ought to be a mechanism allowing the Secretary-General to put together larger military and civilian operations in short order, following their authorization by the appropriate political organ, by relying on a global inventory of stand-by contingents and logistical support earmarked for such contingencies by member states.

6 – He needs to have at his disposal a team of trained conflict managers of his own choice, owing their posts exclusively to him.

7 – In a unipolar system, the United States should be called upon to bring about a restructuring and streamlining of the Secretariat, perhaps the creation of a Deputy Secretary-General position. There should, furthermore, be a reduction in the number of under secretaries and a rationalization of their respective areas of responsibility and

accountability. An additional important reform could include the creation of a full-time internal secretariat.

8 – When the Security Council is restructured, the Military Staff Committee should be revitalized so that it can take over the responsibilities for planning United Nations military operations that are now being developed within the Secretariat. This certainly would tend to relieve the Secretary-General of many additional responsibilities.

9 – The United States should face its responsibilities as far as the United Nations financing is concerned. In addition to the prompt payment of its arrears, the United States should pay its annual assessments on time, rather than nine months after they fall due.

10 – Member states should reorganize their internal policy making procedures and structures so that they do not vote for peacekeeping or enforcement operations that they have no prospect of being able to pay for.

11 – To foster the good offices of the Secretary-General, the United States should be a more forthcoming contributor to peacekeeping operations. It should be willing to place United States forces under United Nations command.

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