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Examining the status and importance of the formation of international law of developed and developing countries from the perspective of the United Nations Charter.

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Abstract

Between 1938 and 1945, when World War II was devouring international peace and security, and the Allies were busy confronting the aggressions of the German Wehrmacht, the Italian fascist government, and the Japanese warmongers, conferences titled the Atlantic Charter, the United Nations Declaration, the Yalta Conference, San Francisco, and Moscow were being held to adopt common international policies to confront the aforementioned aggressors, and to prepare for the formation of a world organization that would both safeguard international peace and security and protect the rights of the victors of World War II in various ways, especially the right of veto. And so it was, and a charter was approved whose articles were in conflict with each other, but since it served the interests of the superpowers, it practically played the role of the constitution of the international community and became the standard for the peace-seeking of governments.

At the same time, inequality in rights and benefits caused countries to have little trust in this international institution in the political field despite the end of World War II and to have little cooperation with it. In addition, many of the resolutions of this international organization had the character of recommendations, and the impression was created that the Charter was quite successful in separating the international legal system into two forms: the international legal system of developed countries and the international legal system of developing countries. With this description, it seems that some countries are not adhering to their obligations and responsibilities towards the international community, and other countries should be agents of all international obligations and responsibilities and unconditionally obey the Charter.

Keywords: International Legal System, UN Charter, Veto, Unilateralism, International Relations



Introduction

Despite the passage of eight decades since the end of World War II, the world still has not forgotten the horrors of the battlefields and remembers it as a dark period in international relations. According to history, the total military and civilian casualties of the countries involved were 52,480,000, of which the United States had 290,000, England 500,000, France 650,000, the Soviet Union 600,000, Germany 25,600,000, Poland 7,400,000, Yugoslavia 6,000,000, Greece 440,000, China 500,000, and Japan 3,100,000. No one was safe from the direct and indirect effects of World War II (History Group, Research and Curriculum Planning Office, Compiled, 1988, 65).

At the same time, despite all the provisions of international law, war was considered inevitable and replaced diplomacy and negotiations between politicians. However, the victorious countries of the war were determined not to allow such events to be repeated. do not cause terror in the world and to protect, support and exploit international peace and security in any way possible. In this regard, the United Nations Charter was adopted and a guideline was prepared for controlling the behavior of states in the field of international relations. It was decided that any kind of amendment, review and revision of the provisions of the Charter would be possible only with the effective permission of the permanent members of the Security Council.

An important truth that the United Nations proclaims is the attention it has paid to the transcendent values of humanity and has considered it as the basis for the formation of the international community. This seemingly simple truth constitutes the main foundation of the United Nations system and perhaps international law. Although humanity is an abstract and abstract concept, the main effort of the United Nations is to guide the international community in the light of the guiding principles and prevent it from deviating from the ideals of the United Nations Charter, which has put the realization of democracy, respect for human rights and fundamental freedoms at its forefront. Since the problems of the global village have the same characteristics and forms, it can be hoped that the solutions that the United Nations offers or will offer in the future can It should promote the convergence of countries with each other and with the United Nations (Falsafi, 2002: 26).

One of the most important functions of international law is to play the role of regulating the relations of states with each other, whether individually or in a set of international organizations. Of course, by becoming members of international organizations, countries maintain their integrity and independence (Jennings, 1987, 279). The developments in the international system in recent years have also led to changes in international law. In addition to being elevated to its high position in the relations between countries and nations, law is also guiding international relations. Solidarity between humans, observance of human rights, realization of global justice, and avoidance of war and mass violence have become common discussions among politicians, lawyers, and moral scholars, and the world is seeking new interpretations of the institutions of politics, power, economy, culture, solidarity, cooperation, and values (Abedini, 2011, 27). The global village in the third millennium faces serious threats that the High-Level Panel of the United Nations Secretary-General has pointed out in its report, which include economic and social threats, including poverty, various types of epidemic diseases, and rapid destruction of the environment, wars between countries, civil wars, genocide, and other types of widespread violence, proliferation of nuclear, radiological, microbial, and chemical weapons, mushroom

growth of terrorism, and increase in organized crime. It is transnational, as stated in the report of the Secretary-General's High-Level Panel entitled A more secure world: Our shared responsibility, the High-Level Panel Report on Threats, Challenges and Changes in 2004 that some of them are considered civilian sources of threats to international peace and security, and it is the duty of the United Nations and its Member States to confront them, contain and neutralize the effects of these threats (Baidi Nejad, Daraya and Aliabadi, 2005, 107-249). The authority of the United Nations can be derived from Article 104 of the Charter, which stipulates that the Organization shall have the necessary powers in the territory of each of its Members to carry out its purposes, and in this regard, the Convention on the Privileges and Immunities of the United Nations was adopted in 1946 (Frowein, 1983, 276).

The United Nations observes many geopolitical inequalities among countries, and these inequities are the result of inequalities in the selection of the Secretary-General, the financing of the United Nations, the identification of threats to international peace and security, and the weakening of the human rights structure in some of the five continents of the world. Despite all its efforts, the organization has not yet succeeded in adapting its organizational hierarchy to the developments resulting from international events.

In addition, the Security Council resists the increase in the number of permanent members of this council, both politically and legally, and fundamentally does not believe in the presence of southern countries, and the old structure of the United Nations is strongly protected by the permanent members of the Security Council, and any change is neutralized by the right of veto (Falk, 1996, 67). The Charter is a comprehensive and international document for regulating relations between countries, and compared to the Covenant of the League of Nations, it has many advantages, including that much attention has been paid to economic and social issues, and the Economic and Social Council has been established in this regard, which is one of the main pillars of the United Nations, and the limits and powers of all institutions are clearly defined. In addition, the voting method in the United Nations is completely innovative and influenced by the authority of countries. In addition, any amendment and revision of the Charter must be approved by the permanent members of the Security Council, who hold the right of veto.

This protection of international peace and security in the United Nations is of greater importance than the Charter. It is entitled to the Charter of the League of Nations to the extent that it can also seek help from regional institutions in this regard. Finally, cooperation and solidarity between countries have been emphasized in the Charter (Aghaei, 2007-89, 88). The United Nations is responsible for maintaining international peace and security and uses collective measures for this purpose, and the Security Council, according to Chapter 7 of the Charter, has the right to resort to force to punish the aggressor and restore peace, and disputes between countries should not threaten international peace and security (Schachter, 1983, 289). World War II caused all countries to pay attention to the issue of international peace and security and to oppose any type of aggression (Kasse, 2006, 87).

Today's world is suffering from a lot of turmoil that has damaged both the domestic legal system of countries and the international legal system. International law, like other legal systems, is swollen with the approvals of international organizations and faces many restrictions in practice. Especially in the field of preventing war and peaceful

settlement of international disputes, the provisions of the Charter, although explicitly approved by all countries, nevertheless, in practice, some countries prefer their own interests over the interests of the international community and treat these international resolutions as advisory documents (Shimilien Jeanrou, 2003, 372). Apparently, the problem goes back to 1945, when this Charter was drafted and ratified in such a way as to defend the rights of developed, industrialized, wealthy and superpower countries, and the Charter has practically become a tool for protecting their interests rather than creating justice and equality between countries, and is a witness to the example of avoiding diplomatic negotiations during international disputes and resorting to force to secure their short-term and long-term interests. In this regard, any change and revision is subject to the agreement of powerful countries and permanent members of the Security Council, which stabilizes the unequal equation of power in international relations.

1. The nature of the UN Charter from the perspective of international law

The UN Charter was adopted in 1945 with a preamble and 19 chapters and 111 articles, the subjects of which are: purposes and principles, membership, organs, General Assembly, Security Council, peaceful settlement of disputes, action in cases of threats to peace, breaches of peace and acts of aggression, regional agreements, international economic and social cooperation, Economic and Social Council, Declaration on Non-Self-Governing Territories, International Trusteeship System, Trusteeship Council, International Court of Justice, Secretariat, various regulations, temporary arrangements regarding security, amendments, ratification and signature (Aghaei, 2007, :395-367). The UN Charter established an international political institution that, by adhering to the principle of non-recourse to force, strives to maintain international peace and security, eliminates factors threatening world peace, confronts aggression by states against Each other, strengthening the methods of resolving international disputes and promoting friendly international relations and encouraging respect for human rights and international cooperation, it tries to place the behavior of countries under the order and rule of law and values. Therefore, it is considered both an international treaty and by establishing its subsidiary institutions, it tries to achieve these lofty goals.

However, the Charter is not a legal text and is only a reminder of the specific political obligations on the basis of which the global village is supposed to be governed on the basis of principles and is more idealistic (Falsafi, 1390, 125-126). According to Article 25 of the Charter, the Security Council is authorized to take any decision that may be in the interest of international peace and security and to benefit from Articles 41 and 42 of the Charter in accordance with Chapter VII of the Charter in this regard and to receive the assistance of countries in accordance with Articles 48 and 49 of the Charter (Arechaga, 1983: 347).

The main purpose of the Charter was to prevent another world war, which it succeeded in doing. At the same time, the Charter was based on three basic pillars, which include the prohibition of the use or threat of force, the responsibility of the United Nations Security Council to protect this duty, and the prescription of self-defense in cases of necessity. Later, the right of humanitarian intervention was added to these three pillars, which allowed other countries to protect oppressed nations, which is now known as the responsibility to protect. However,

including the element of consent in all international decision-making and proceedings of international arbitrators and judges of the International Court of Justice was a turning point in the basic principles of the Charter and was defined and interpreted completely in the opposite direction to the reformer of the Charter (Kasehse, 1996:65-64).

The Charter basically plays the role of the constitution of the international community because it is full of the most important elements of international peace and security and is supposed to transform ideal principles into fixed legal principles. In practice, many of the principles of the Charter have been established in the international community and can be considered the constitution of the community. It can also be called humanitarian because in its various levels, the observance of human rights has been emphasized and It was ratified following a devastating war.

The influence that Georges Sel and Hans Kelsen had on the formation of the United Nations Charter cannot be ignored. However, despite all the lofty ideals of the Charter, the most important binding element of international obligations is still the consent and explicit and implicit will of states to accept these obligations and act on them, which can confirm the common good of all countries and nations.

Of course, in the twentieth century, Christian Tomushat, a German lawyer and broadcaster, also supported this belief and considered the Charter an important and influential document in international relations (Falsafi, 2009:27-25). It is interesting that Chapter VI of the United Nations Charter is considered the legal basis for peacekeeping operations and is considered a complement to the support of collective security, and reliance on the principle of consent in the peaceful settlement of international disputes is still considered the culmination of the strengthening of the Charter in establishing international peace and security. (Bigzadeh, 2007:47).

Olio Corona believes that it is not possible to establish the rule of law in international relations because every country has interests that conflict with other countries and international law has not yet succeeded in enjoying the exclusive power to establish international public order and in the absence of this power, countries act according to their own interests and not according to the purposes and principles of the United Nations Charter.

The Charter tries to guide the movement of states towards the public interest because each state thinks more about its own interests than the collective interests. On the other hand, Binder believes that the rights included in the Charter speak of social commonalities, of which humanity is only one.

In addition, the Charter is a new story of the moral principles that some aggressor countries such as Hitler's Germany, Mussolini's Italy and Samurai Japan had violated during World War II. The Charter is supposed to revive these values and demand their observance from the member states of the United Nations, in the same way as stated in the preamble to the Charter and the people of the United Nations swore an oath They mentioned that they would no longer allow the aggressors to violate the scope of international law (Falsafi, 2006, 12-13).

At the same time, Article 103 of the Charter, which is practically the most important article of the Charter, deals with the high value of international law and its superiority over domestic law. Where it has been stated that in the event of a conflict between the obligations of the Member States of the United Nations under the provisions of this

Charter and their bilateral or multilateral obligations under any other international agreement, their obligations under the Charter shall take priority in terms of observance and implementation (Kamalan, 2019, 124). International law is not an international legislator, but a legal system that focuses on the consensus of countries and does this through two means: treaties and customary international law. Many countries do not have the right to unilaterally amend or change it (Wallace, 2002, 3). However, what amazes the majority of member states is the separation that was established between countries with the ratification of the Charter of the United Nations, which was the orientation of international law in two separate realms, namely the international legal system of developed countries and the international legal system of developing countries, which the functioning of the permanent members of the Security Council as the international legal system of developed countries and its complex diplomacy in international events is a testimony to this event. It gives rights.

2. Development of new competencies of the Security Council

According to the international law of developed countries, which is based on some articles of the Charter, including Article 25 of the Charter, the Security Council is continuously upgrading and developing its competencies with progressive interpretations of this international document, which is certainly in line with the views of all five permanent members of the Security Council, especially the United States of America and Great Britain. Therefore, it is not surprising that the Security Council is considered more important than the United Nations itself.

Over the past 80 years, no institution like the Security Council has been controversial in international relations and the tribunes of mass media. After a long time since the establishment of this executive organ of the United Nations and despite the writing of thousands of articles, treatises and books about the Security Council and its functioning, the discussion of the Security Council always seems fresh.

The Security Council consists of 15 member states, five of which are permanently present in the Council, and the primary responsibility for maintaining international peace and security has been assigned to this Council.

At the same time, the Security Council is the result of a general international treaty, which indicates the occurrence of an international legal act, and this council is the most active international institution in the field of maintaining international peace and security and is considered the guardian of the interests of the international community. The end of the Cold War was the beginning of the period of authority of the Security Council and the expansion of the Council's powers.

The Security Council intervenes in many issues of tension and disputes by providing a broad interpretation of the concept of international peace and security. Identifying issues such as threats to international peace and security or violations of human rights and the lack of a democratic system in countries are new areas of the Council's functioning and decision-making.

Another effort of the Security Council is to create limits on the authority of governments, especially by issuing resolutions under Chapter VII of the Charter, and with new issues such as the rule of law and respect for human rights, good governance and governance, attention to the collective security system, emphasis on sustainable

peace and development and democracy, it has drawn new horizons in its responsibilities. The Security Council has declared itself competent in four areas, namely: legislative powers, quasi-judicial powers, executive powers and supervisory powers. The Security Council is responsible for implementing Chapter VII of the Charter and the purposes of the United Nations. It has also acquired quasi-judicial powers, especially by establishing special and permanent criminal courts such as the International Criminal Tribunal for Yugoslavia, Rwanda, Sierra Leone and referring some cases, including Darfur, Somalia to the International Criminal Court. On the other hand, the Council has recently been recognized as having legislative powers, including the delimitation of the border between Iraq and Kuwait, the formation of the United Nations Counter-Terrorism Committee and the establishment of the United Nations Compensation Committee for Iraq. In 1971, the International Court of Justice, in an advisory opinion in the South West Africa v. Namibia case, declared that Article 25 of the Charter is not limited to coercive measures by the Council and covers all decisions that the Council takes pursuant to the Charter.

Of course, duties such as legislative authority, determination of rights and enforcement of rights are not specified in the Charter, including the obligation of Libya to extradite its nationals in the Al-Karbi case, which is in practice the exercise of a kind of judicial jurisdiction.

These types of innovations indicate the Council's desire to depart from the norms of general international law. In 2003, the Security Council asked North Korea to reconsider its intention to withdraw from the 1968 Non-Proliferation Treaty. Many believe that the issuance of resolutions such as 1373 and 1368 has transformed the Security Council into an empowered organization and has guided the Council towards acquiring legislative, executive and judicial powers. This international organization is a unique institution in the history of international relations and law in terms of the extent and scope of its powers and the enforceability of its decisions. However, the Council currently does not reflect the composition of the international community in the contemporary era.

This organization has the fewest members and the most authority among the main organs of the United Nations. It is the only organ within the United Nations that is able to impose economic sanctions against countries and resort to force in the event of a continuing threat to international peace and security, deploy peacekeeping forces in crisis areas, issue orders for weapons inspections, and dispatch election observers. It is the only organ whose resolutions are binding on all countries, not just members (Article 2, paragraph 6 of the Charter), and even the agreement of the majority of non-permanent members in an institution such as the Security Council can be considered as a sign of agreement by a large number of members of the international community. The Security Council is responsible for monitoring ceasefires, disarmament, the release and return of combatants to normal life, mine clearance, the return of refugees, the provision of humanitarian aid, monitoring the existing political and administrative structure, the creation of a new police force, monitoring compliance with human rights, designing and monitoring constitutional, judicial, and electoral reforms, monitoring the holding of elections, and coordinating and supporting economic reconstruction and placing these matters on the agenda of operations. Peacekeeping is known as one of the most successful contemporary international organizations (Mosaghi, 2009, 220-217).

The United Nations has now become an international agent that preserves international peace and security, of course, with the tools of the Charter and the functioning of its main and subsidiary organs, which itself is the product of World War II (Sharif, 1994, 50-51).

The Security Council intervenes in matters that were previously within the domestic jurisdiction of states, and the recent functions of the Security Council have become possible only in the light of progressive and extensive interpretations of the Charter, especially Article 33 of the Charter, and the Council itself considers itself committed to entering into conflicts that are actually ongoing and can turn into a regional war, and this is possible only through humanitarian interventions to prevent the increase in refugees and their spread to other countries (Karmi, 1996, 131). The United Nations Charter, according to Article 11, authorizes the General Assembly to establish general principles of cooperation to examine the maintenance of international peace and security and, if necessary, to make recommendations or suggestions to the member states or the Security Council. In many cases, the Security Council also pays attention to these suggestions and takes measures that are sometimes in accordance with the Charter and sometimes beyond the Charter. However, the Security Council must monitor the performance of countries and resolve international disputes that threaten peace quickly, rationally and fairly (United Nations. Office of Public Information, 2009, 70).

3. Preventing the reform and revision of the structure of the United Nations and the Security Council

Article 108 of the United Nations Charter specifies the method of amending the Charter and states that the amendments made to this Charter will be implemented by all member states of the United Nations when they are approved by two-thirds of the members of the General Assembly and approved by two-thirds of the members of the United Nations, including the five permanent members of the Security Council, and in accordance with their constitutions. In this case, the revision made is mandatory for all countries.

Since the adoption of the United Nations Charter in 1945, political relations between countries have faced serious challenges, and political affairs have been significantly influenced by the views of the five permanent superpowers of the Security Council, so that they do not show much interest in changing the structure of the United Nations and the composition of the permanent and non-permanent members of the Security Council.

Unfortunately, after the end of World War II, the Cold War began between the two superpowers of the East and the West, and the issue of reforming the structure of the United Nations fell into abeyance. Economic competition did not provide an opportunity to change the structure of the United Nations. Since the Security Council assumed the primary responsibility for maintaining international peace and security, it showed some leniency towards the demands of the world's five superpowers, and the issue of reforming the United Nations was effectively shelved, and the protests of third world countries did not lead to any results.

However, the increase in the number of non-permanent members from 6 to 10 members proved that the Security Council can also be revised, but no one should object to the veto right. Despite the efforts of the UN General Assembly, no success was achieved in increasing the

permanent members of the Security Council, but the Charter Committee continued its consultations to strengthen the role of the United Nations in today's turbulent world. However, even the UN Secretary-General was unable to force the permanent members of the Security Council to accept new permanent members or limit the use of the veto right, and the issuance of numerous resolutions indicates that the UN members have not yet reached any definitive agreement to reform the structure of the Security Council, and it is unlikely that they will reach an agreement acceptable to all players in the global village in the near future.

Although the number of countries in the world has increased after the ratification of the Charter, there is no justice in the distribution of seats in the Security Council, and reforms are an undeniable necessity. Interestingly, only 5 countries are permanent members of the Security Council, which decides on all important issues of the international community and the United Nations. Opponents of increasing the number of permanent members of the Security Council believe that it will reduce the effectiveness of the Security Council and that increasing the number of members will reduce the effectiveness of the Security Council in international crises (Amin Mansour, 1994: 494-492).

There is a view that two countries, Japan and Germany, which are financially strong, can play a significant role in maintaining international peace and security. However, developing countries believe that it is not fair that only industrialized and wealthy countries are elected to the permanent membership of the United Nations Security Council.

Apparently, Security Council reforms should be carried out by considering two factors: geographical representation and maintaining international security, and in practice, third world countries do not participate in this game. Another controversial issue is granting veto rights to new members of the Security Council, but it is argued that membership in the Security Council without equal rights is just a game of words. The two solutions that have been proposed to overcome this political-legal impasse are:

1. Increasing the number of permanent members of the Security Council from developing countries and the presence of Japan and Germany in this cycle.
2. Granting non-permanent seats to developing countries and increasing the role of non-permanent seats in global equations, as well as weighing the votes of the Security Council in terms of the minimum votes of the member countries.
3. Some also point to the right of group veto for developing countries, which after becoming members of the Security Council can use this right without the right of veto being in the hands of only one third world country (Samadi, 1996: 191-192).

The US government and Western countries have repeatedly called for the amendment of the Charter, but the state of international relations is so tense that it does not allow these amendments to be accompanied by justice, and each bloc wants to include its supporting countries in the Security Council.

Some also believe that it is possible that the amendment of the Charter will increase tension in the world and double the problems of the global

village in terms of international peace and security (Klyar, 1992:211-212).

The future of the United Nations Security Council will be determined in such a way that even if the five permanent members of the Security Council, which are prominent players in the global village and run the Security Council, are willing to reform the Security Council and accept new members as permanent members, it is unlikely that they will allow them to have the right to veto, and unilateralism in the use of the right to veto will continue in the future, and it is impossible to accept the observance of legal justice in the United Nations Security Council. However, it is possible that all the reforms considered in the structure of the United Nations will be accepted and ratified, but the Security Council will not allow them to joke with its competences and structure and disrupt the balance of power in it. Throughout human history, we have witnessed that power is a monopoly phenomenon and does not accept partnership, and this phenomenon is completely natural because power is the factor of survival and permanence in the world, and the United Nations is also suffering from this reality (Abbasqolizadeh, 2024: 185). Countries participating in the conference The Millennium Declaration in the General Assembly, by issuing Resolution 55/2, called for a comprehensive reform of the Security Council because this Council has distanced itself from geopolitical realities and has established a special way of working for itself. Any reform in the United Nations without reforming the Security Council will be useless because the main decision-making power will still be in the hands of the Security Council, and they will also behave in accordance with the international law of developed countries. However, the condition for membership in the Security Council is to have the financial, military and diplomatic power to support the goals and principles of the United Nations Charter. On the other hand, the Security Council should not lose its effectiveness with irrational reforms and the United Nations should suffer the fate of the League of Nations and collapse (Baidi Nejad, Daraya and Aliabadi, 2005: 480-481).

4. Military interventions in developing countries are contrary to the articles of the Charter.

According to Article 2, Paragraph 4 of the Charter of the United Nations, all member states of the United Nations are obligated to refrain from any threat or use of force against the territorial integrity or political independence of any country or from any use of force inconsistent with the purposes of the United Nations. However, some developed countries are acting in complete contradiction to this article and are trying to demonstrate their political and military power to other countries through various military interventions, including the United States of America, which, since its independence, loudly adopted a policy of non-intervention and tried to liberate the American continent from British colonialism. It also followed a policy of non-intervention by recognizing the independence of new states in Latin America. Then the Monroe Doctrine was proposed, stating that if Europe intervened in Latin American affairs, it would use military measures. However, later, with a 180-degree turn, it adopted a policy of intervention in the Caribbean and Latin American countries and declared that any threat to the aforementioned countries would be considered a threat to the United States. However, in practice, it did not have sufficient military authority to pursue this policy.

But later, by signing the Clayton-Bulwar Treaty, they resolved the existing problems with England. However, control of Puerto Rico, Hawaii and the Philippines fell into the hands of the United States and they began to administer these countries with a protectorate system. But later, the United States showed its serious determination to protect its interests in the countries of Guatemala, Cuba, Dominican Republic, Grenada, Nicaragua, Panama and Haiti. The most important reasons for US interventions in Central and Latin American countries were:

1. Saving Latin American countries from international communism
2. Economic embargo on Cuba and intervention in it due to Cuba's proximity to the Soviet Union
3. Maintaining law and order with the aim of helping the people of the Dominican Republic during elections
4. Intervention to rebuild democratic institutions and prevent communist infiltration into the small country of Grenada
5. Providing assistance to the Nicaraguan rebels known as Salvadorans and declaring this as legitimate and personal defense in a collective manner
6. In Panama, interventions were carried out with four goals, which included the following:
 - A. Protecting and supporting US citizens
 - B. Preventing drug trafficking through Panama and prosecuting Manuel Noriega
 - C. Rebuilding and restoring democracy in Panama
 - D. Supporting US interests in relation to the Panama Canal
7. Intervention to impose an economic embargo on Haiti to hit the regime The ruling military in this country (Hiller, 2004, 13-1 with summary).

It is true that with the end of the Cold War, the world did not experience a new order and due to the tension between the two powers of the East and the West, the United Nations lost its effectiveness for a short time. However, with the collapse of the Soviet Union, new players entered the field of international relations and Japan, Germany, China and the United Europe became new centers of economic and technological power in the world that had a great desire to use military weapons in the world and tried to save the world from unipolarity (Kharazi, 1996, 25).

After 1990, the Security Council has taken decisions that go far beyond the political nature of this Council and has attempted to establish special and international criminal courts in legislative matters and in some cases, and has specified the duty of compensation, extradition of criminals and the responsibility of states. The Council can use measures to punish aggressor countries by resorting to Article 41 of the Charter. Many of which are civilian in nature.

In 1990, the Security Council immediately called on Iraq to refrain from violating international peace and security and to withdraw its invading forces from Kuwait. When Iraq refused to implement these resolutions, the Security Council condemned Iraq's actions and, in accordance with Resolution No. 678, issued under Chapter VII of the Charter, informed the United Nations member states to use all means to restore international peace and security in the region and expel Iraq from Kuwait. The Security Council succeeded in expelling Iraq from Kuwait with immediate military action (Shiri Janaqard, 2009, 75).

Developed countries are obliged to act in accordance with the Charter, taking into account the general principles of international law, and

military interventions are not approved by the United Nations and international law, contrary to Article 51 of the Charter. These principles include: the pacifism of the United Nations member states, which also includes the permanent members of the Security Council, respect for human rights, prohibition of any kind of aggression. to civilians, peaceful resolution of international disputes and avoidance of unilateral actions by governments, attention to justice, and combating international crimes by prosecuting dangerous criminals, as failure to pay attention to the above can lead to the collapse of the foundations of the international community. After the terrorist incident of September 11, 2001, the US government stepped into the arena with the slogan of endless justice and establishing justice and attacked the two countries of Iraq and Afghanistan. The resolutions issued by the Security Council called on all countries to engage in a collective international action to fight terrorists, and the reciprocal reactions in this terrorist incident were a response to the terrorists by the United States of America (Kasseh, 2002-2002, 141).

5. International Treaties and Unequal Obligations of Countries in the Global Village

In principle, reservations have no place in nuclear and human rights treaties because the collective interests of observing them prevent a country from drawing special rights for itself by exercising reservations. However, in practice, developed countries that support international law use reservations to reduce their obligations and make the entirety of the treaties unenforceable.

The United States government has resorted to reservations in many human rights treaties, and this type of reservation is considered contrary to the objectives of the treaties in question, and the United States gives legal color to unilateralism by issuing a document of inference and a declaration.

These treaties include: the 1948 Convention on Genocide, the 1966 International Covenant on Civil and Political Rights, the 1966 Convention on the Elimination of Racial Discrimination, and the 1984 Convention on Torture.

America's interest in isolationism is based on a complex US foreign policy of seeking superiority, which, by declaring reservations, has established an unequal legal system in the field of human rights treaties and other international law documents. This US practice is reminiscent of the concept of US discretionary multilateralism.

Acceptance of treaties, even with the least amount of obligations, is not fundamentally considered acceptance of treaties, and the unconventional behavior of the US proves that the greatest amount of reservations in international treaties belongs to the United States of America.

This type of behavior can create a legal heresy in all other areas of international law and is a kind of double standard with international documents. On the other hand, when granting foreign aid and allocating loans and military aid, respecting human rights is the highest condition for the United States to grant these privileges and benefits, while it itself is moving in a different direction. While the 1969 Treaty on the Law of Treaties has a unique comprehensiveness and universality and should be used as guiding principles because it guarantees collective interests, or Article 103 of the Charter, which refers to the superiority of obligations under the Charter over bilateral

obligations of countries on any issue, the United States is advancing at an unauthorized speed on the road of international law and believes that having the highest political, economic and military power in the world gives this country the right to play with the institutions of international law and to divert them from their path with all kinds of tricks and techniques (Rajul, 2006). (719-720) On the other hand, forcing governments to sign treaties by relying on economic, political and psychological factors is an act that violates the norms of international law and the International Covenant on Civil and Political Rights. The 1969 treaties.

For this reason, third world countries, especially members of the Non-Aligned Movement, believe that the concept of prohibition of the use of force should be interpreted broadly in order to reduce political and economic pressures from powerful countries.

Of course, developed countries and superpowers, citing the standards of the international legal system of developed countries, are strongly opposed to this type of interpretation and are in favor of applying all kinds of economic and political pressures on countries, and believe that this type of behavior can reduce economic cooperation between developing and developed countries.

However, the thinking that applying pressure to sign and ratify treaties is unnecessary and condemned has gained prominence and is being implemented because all treaties are implemented based on the principle of good faith and any legal action without free will and explicit and implicit consent of countries is condemned. (Falsafi, 2004, 278-279).

It cannot be ignored that in the light of decolonization movements, many countries were formed that were completely different from each other in all economic, political, cultural, social, civilizational, religious and development aspects, and those states that had more authority and stability succeeded in taking the levers of the international community and controlling international organizations, including the United Nations Security Council. Although the United Nations Charter places great emphasis on the equality of countries, the inequality of states in all matters is a bitter and undeniable truth of the global village (Bigzadeh, 2010, 79).

This inequality is also observed in the exercise of the jurisdiction of the International Criminal Court, including Articles 13 and 16 of the Statute of the International Criminal Court, which stipulates that the Court can exercise its jurisdiction over the crimes mentioned in Article (5) in accordance with Article 13 of this Statute. If:

- a. A State Party refers to the Prosecutor, in accordance with article 14, a situation in which one or more crimes appear to have been committed.
- b. The Security Council refers to the Prosecutor, in accordance with Chapter VII of the Charter of the United Nations, a situation in which one or more crimes appear to have been committed.
- c. The Prosecutor has initiated an investigation into that crime pursuant to Article 15.

Similarly, according to Article 16, after the Security Council has issued a resolution under Chapter VII of the Charter of the United Nations (based on a request to suspend an investigation or prosecution), no investigation or prosecution under the Statute may be initiated or continued for a period of 12 months. This request may be renewed by

the Security Council under the same conditions (Al-Habib, 1999, 550-548).

In 2002, the Security Council adopted Resolution 1422, which required the International Criminal Court to refrain from any prosecution or investigation of the actions of peacekeeping forces of non-member states. The United States, which is not a party to the ICC Statute but has the largest number of peacekeeping forces, demanded permanent immunity for American forces participating in peacekeeping operations, which is considered a kind of international criminal capitulation and establishes equality of rights between peacekeeping forces of member states and non-member states, and if peacekeeping forces commit war crimes they still enjoy the immunity of Article 16 of the Statute and the 12-month exemptions, and this type of exemption is considered discriminatory in terms of its practical nature and is a blow to the body of the Statute of the International Criminal Court and the 1998 Rome Statute and violates the principle of the territorial jurisdiction of the victim country to investigate and impose punishment. The United States had threatened that if it opposed the issuance of Resolution 1422, it would no longer participate in the collective security system of the Charter and its costs. That resolution was issued without a single country opposing it, leading to inequality in the treaties and obligations resulting from it (Estan, 2004, 145-146).

6. The superiority of the doctrine of the new world order over the ideals of the United Nations Charter

Former US President George Bush spoke many times about the new world order, but this term was first announced by Mikhail Gorbachev in the General Assembly in 1988. In Bush's view, the world today is undergoing a transformation that has completely strained international relations. These developments include:

The fall of communism and economic stagnation in the Soviet Union and its interest in peaceful solutions to regional conflicts, the emergence of industrial democracies and the transformation of the nature of power from military to economic, scientific and technological innovations and competition between industrialized countries, war in the Middle East and between Third World countries. Bush believed that these situations should be brought under a new order and that the problems should be resolved with the following solutions:

Continuing the survival and life of the United States, Suppressing all emerging threats, combating terrorism, promoting strategic stability, encouraging the Soviet Union towards democracy and a free economy, maintaining nuclear monopoly and preventing nuclear activity by unfriendly countries, moving towards a dynamic and healthy economy, establishing healthy relations with America's allies, strengthening democracy and human rights, leading the world with the participation of America's allies and allies, strengthening the United Nations and other international organizations, strengthening political and economic freedoms in the light of human rights and democracy, creating balance in different regions of the world and avoiding any kind of recourse to Force, encouraging diplomatic solutions, developing free and democratic political institutions, confronting aggression and terrorism, supporting trade and investment policies, the rule of law in international relations, and fostering greater unity among UN member states (Aghaei, 1996, 63-60).

Today, the United States has become the center of the world economy, and the role of the US dollar as the world's main reserve currency plays a significant role in global economic issues. Washington behaves in the use of trade and aid as a very calculated political lever and showed no reaction in resolving the crises in Angola, Chile, Guinea, Mexico, and Pakistan (Aiken and Berry, 2004, 465).

Today, some American lawyers believe that the United States is not allowed to join the Court due to conflicts between the principles of the US Constitution and the Statute of the International Criminal Court. The law protecting American soldiers from foreign prosecutions caused American opposition. By joining the Statute of the International Criminal Court (Dehghani, 2003, 383). James P. Robin, a spokesman for the US government, argued regarding the establishment of the International Criminal Court that the US is in favor of establishing a criminal court to punish war criminals and crimes against humanity, but the International Criminal Court is not the type of court that the US supports because the establishment of this court is contrary to US foreign policy and the US fears it. Considering that its military forces are engaged in military operations in military bases outside the US, if the US becomes a member of the Statute of the International Criminal Court, there will be no desire for US military personnel to carry out these operations, and in this case the US will not be able to participate in peacekeeping military operations (Zarif Carford, 2001, 551-552). New approaches to the new world order are combined with three different understandings, which are:

1. Realist Orientation of the New World Order
2. Idealist Orientation of the New World Order
3. Globalist Orientation of the New World Order

According to the realist perspective, after the collapse of the Soviet Union, the new world order has been proposed in three dimensions, namely the political, military and economic dimensions. From Kissinger's perspective, America should play a balancing role. He believes that the new world order he envisions is combined with two solutions, namely dominance and balance.

A.R. Kell believes that America should continue the colonial role of England. Stanley Hoffman believes in the multipolar distribution of power and stated that in economic and financial terms, Japan and Germany, in demographic terms, China and India, and in economic and military terms, only America is a significant power.

Charles Krauthammer refers to the unipolar system and argues that we are now living in an era of American peace, which also relies on American dominance. Anthony Cordesman believes that the United States should play the role of world police, and Samuel Huntington refers to unipolar and multipolar systems and that civilizations are clashing with each other.

Richard Rosecrans, proposing the theory of the new concert, believes that the new world order can be designed in three ways:

- 1- The traditional balance of power between the world's leading powers
- 2- Nuclear deterrence by nuclear weapons holders
- 3- Creating a central coalition for the new world order

The foundation of this international concert includes the involvement and participation of all, ideological agreement and condemnation of territorial aggression. Joseph Nye sees the era of the new world order as passing through five practical paths, which include a return to the

bipolar era, multipolarity, the creation of three economic blocs, a system of unipolar dominance and multi-level interdependence.

Andre Fontaine believes in a unipolar system, and Noam Chomsky believes that the new world order is a reversal of the concept of resorting to force. He believes that the international system is economically tripolar, including America, Europe, and Japan, and militarily unipolar, symbolized by America.

Martin Shaw thinks of a global industrial bloc, and Neil MacFarlane divides the world into three parts, including areas where all countries are involved, and in some areas there is only one superpower, and in some areas no superpower pursues much interest (Zakirian, 2002, 17-12).

It seems that developed countries use the norms of international law as a means of guaranteeing their interests, and whenever they recognize that the implementation of these norms is to their detriment, they willingly violate them or evade their implementation, and the Charter itself is also in despair and faces various discriminations in terms of the implementation of its articles.

Conclusion

After the end of World War II, the United Nations was established to permanently preserve international peace and security, but in practice this ideal was incompletely realized, and the world repeatedly witnessed the outbreak of regional and internal wars, genocide, crimes against humanity, war crimes, and aggression, and in many cases, the United Nations was unable to do anything.

On the other hand, the United Nations Security Council has shown contradictory reactions in various cases, and this conflict in the Security Council's dealings with cases indicates a division of international law into the international law of developed and developing countries. Apparently, compliance with the provisions of international law in the first group has a recommendatory nature, and in the second group it has a mandatory nature. The Charter, which was supposed to play the role of the constitution of the international community, has faced serious challenges, and the international obligations and responsibilities of states have suffered a serious imbalance, so that developed countries have many powers and are not subject to or accountable for any responsibility, while developing countries are deprived of powers and only bear responsibility.

The developments in international law indicate that the appearance of the importance of interests has overtaken compliance with the rules of the Charter, and many of the standards of international law have been forgotten in the shadow of the interests. Therefore, in order to enhance the importance of the Charter and take it into account, it is proposed that:

1. The Charter be amended and revised as soon as possible.
2. The cases of using the veto right should be defined exclusively.
3. The resolutions of the United Nations Security Council should be evaluated by the International Court of Justice.
4. New members should be elected as non-permanent members of the Security Council in addition to the previous 10 members.
5. The permanent members of the Security Council should be increased from 5 to 10 and they should also be given the right of veto.

6. All countries in the world should be required to comply with the mandatory rules of general international law.
7. States should avoid applying reservations to international treaties.
8. Legal justice should be taken into account in the ratification and implementation of international treaties, including nuclear and human rights treaties.
9. The common interests of countries should be determined and international law standards should be used to frame them legally.
10. The role of the Secretary-General of the United Nations and his efforts in implementing the Charter should be welcomed.

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