

THE UNITED NATIONS OF AMERICA

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The crisis in the Gulf caused by the Iraqi invasion of Kuwait on August 2nd, 1990, and the resultant war is considered to be a watermark in the contemporary history of international relations in general and that of the United Nations in particular. It would hardly be an exaggeration to state that just as World War I and II presented the motives for the establishment of the League of Nations and the United Nations respectively, the Gulf Crisis may provide the cause for revamping the UN to suit the emerging changed world order.

Jawaharlal Nehru, in his address to the General Assembly in 1960 said:¹

The structure of the United Nations when it started was weighted in favour of Europe and America. It did not seem to us to be fair to the countries of Asia and Africa, but we appreciated the difficulties of the situation and did not press for any changes. With the growth of the UN and with more countries coming into it, that structure today is still more unbalanced.

Almost forty years since, Nehru's words still ring true. The imbalance which he referred to is all the more prominent today in the "New World Order".

Both the actual use of the veto, and the constant possibility of its use, have been central features of the functioning of the Security Council throughout the United Nations' history. Between 1966 and 1992, the United States has exercised its veto power 69 times, the United Kingdom 27 times, France 15 times, the erstwhile USSR 13 times and China twice.²

	China	France	UK	USA	USSR
1966-1975	2	2	8	12	7
1976-1985	0	9	11	34	6
1986-1992	0	3	8	23	0

Because of the veto, the Security Council could contribute little to the amelioration of armed conflicts in which Permanent Members were directly in-

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1 K.K. Katyal, *Nehru's Vision of the World, The Hindu*, November 21st, 1994.

2 Foreign and Commonwealth Office, Research and Analysis Department Memorandum, *Table of Vetoes Draft Resolutions in the United Nations Security Council 1946-1991*, (1992).

volved - as for example, in Suez (1956), Hungary (1956), Vietnam (1946-1975), the Sino-Vietnamese war (1979)³ - a situation that was only further worsened during the Cold War, where at least one of the superpowers was involved in the dispute in question. A striking example of this paralysis, was the non-implementation of the numerous resolutions on Palestine calling for Israeli withdrawal from occupied Arab territories, because of the veto power of the US.⁴ The dismantling of the Soviet bloc witnessed the emergence of the US and its allies as the sole power bloc.

It is thus legitimate to look at the role of the UN in the Gulf War. The unique feature of the Gulf Crisis and the UN's role in resolving it, was that both the developments occurred in the midst of a developing international relations environment which saw the demise of the Cold War and the decline and disintegration of one of the erstwhile superpowers. It is pertinent to ponder over the assumption as to whether the UN's role was greatly undermined by this vital change in the international power equilibrium which made it distinctly different from the treatment of all previous crisis situations.

Doubts have been raised as to whether the United Nations Charter was invoked for its genuine objectives or whether it was manipulated by the United States. Can the UN be used as an instrument of any one member-state's policy? Did the Gulf Crisis actually endanger global peace and security? Was the passage of Resolution 678 authorising the use of force to resolve the crisis, legal? What were the actual motives of the US?

MOTIVES OF THE US

The US had enumerated four principles⁵ as its goals in the Gulf which included the liberation of Kuwait, seeking Iraqi withdrawal, protecting Saudi Arabia and safe guarding American lives. The question has been raised as to why, if its motives were so altruistic, the US did not take any action at the right time to prevent Saddam Hussein from entering Kuwait. There is evidence⁶ to suggest that the US knew of Iraqi military plans by late July, if not earlier, but ignored them and possibly intentionally misled Iraq into believing that the US was far from hostile towards it. American satellites had noted the concentration of Iraqi troops along the Iraq-Kuwait border but it did not issue any warnings.⁷ In fact, it seems as if America lured Iraq into a trap:

Ms. April Glaspie, the American ambassador to Iraq, had reassured Saddam

3 Adam Roberts and Benedict Kingsbury, *Introduction: the UN's Roles in International Society since 1945*, Roberts and Kingsbury (Eds.), *United Nations, Divided World: The UN's Roles in International Relations* (1993).

4 G. I. Abdulghafour, *United Nations' Role in the Gulf Crisis*, (1992).

5 *Supra* n. 4, at 55.

6 *Ibid.* at 54.

7 *Ibid.* at 29.

Hussein that the US was not disturbed by his territorial claims on Kuwait nor was it opposed to the demand for higher prices of oil.⁸

In July, a State Department spokesperson said that the US did not have any defence treaty with Kuwait and had no special defence or security commitments for the same.⁹

On 25th July, when Saddam Hussein specially summoned Ms. April Glaspie, she told him that the US President had directed her to “work on expanding and deepening relations with Iraq”.¹⁰

Ms. April Glaspie assured Saddam Hussein that “the US takes no official position on Iraq’s border with Kuwait” and that the US had no opinion on Iraq’s border conflict with Kuwait. This was said after the US knew that 30,000 Iraqi troops had been gathered near the border of Kuwait.¹¹

During the conversation, Saddam Hussein had also stated that he would take whatever action he felt was needed to stop Kuwait’s economic war against Iraq.¹² Despite this blunt statement by Saddam Hussein, the US showed no sign of warning Iraq against disrupting peace.

Thus, it can be inferred that the US knew about Saddam’s motives and his readiness to risk a war in pursuance of his objective but did not take any steps to dissuade him. It was therefore not interested in preventing a conflict, but once this escalated into an armed attack the US jumped into the fray in the guise of a protector and defender. In the words of William Pfaff, “Are American intentions pure? No, the desire to maintain US national prestige has obviously played a large part in what has gone on”.¹³ As the former US Secretary of State, Dean Rush observed, the UN is a political institution whose members “are pursuing their national interests as they see them.”¹⁴

The fact is that the Gulf Crisis was primarily a regional problem. But it was obvious that “northern” power interests were being sucked into the whirlpool in the Gulf - their economic interests especially, were in jeopardy. So the West internationalized the crisis to maintain, if not improve, their status quo in the region. As for Somalia, Haiti, Rwanda, Azerbaijan and so forth, they are simply not viewed by political elites as international threats. From the perspective of the permanent

8 *Id.* at 55.

9 J. Simpson, *From The House Of War*, 102-103 (1991).

10 *Supra* n. 4 at 29.

11 *Ibid.* at 56.

12 M. L. Sifry and C. Cerf, “The Glaspie Transcript”, *The Gulf War Reader*, 119-122 (1991).

13 W. Pfaff, *International Herald Tribune*, January 12th, 1991.

14 *C.f.* 17 *Harvard International Law Journal*, 606 (1976).

members of the Security Council, these instances of carnage are lamentable; but because, whether correctly or not, they are not perceived as threats to the international systems, they are not seen as warranting international action.¹⁵

During the Iraq-Iran war, Iraq could get away with anything - it could do no wrong. Even when an Exocet missile fired by Iraq hit the USS Stark, resulting in casualties, Washington preferred to ignore the incident, accepting Iraqi apologies.¹⁶ Obviously, Saddam in fighting Iran, was serving the Western cause and most Western countries were willing to ignore the use of gas against Iranian soldiers and Kurdish civilians, as well as other violations of human rights, as minor incidents in a war between two ruthless regimes. The mistake Saddam made in the Gulf war was choosing Kuwait, a country economically more significant to the West than Iran, to wage a war against. The US would, doubtless, have continued to condone Hussain's policies if only he had stopped short of imperiling US interests and acted to promote them along with his own.

The war proved that the US did not send troops to the Gulf because Kuwait was being swallowed up - the same thing happened in Lebanon but no reaction was elicited from Washington. The outbreak of the Gulf War confirmed the argument that the primary objective of American policy in the region was the establishment of American dominance: it wanted to control a politically volatile region which was of great strategic interest to it. The Gulf region is a major producer of oil. A country which controls the oil wealth of West Asia will not only be able to determine the price of oil in world markets but will, provided it is willing, exercise considerable influence on the economic policies of its competitors. The US in control of Gulf oil could gain an unfair advantage over Germany and Japan; it was not merely access that mattered but control.¹⁷ According to Dr. Akmal Hussein, "the US will be in a powerful position to pull the heart out of OPEC and calibrate oil prices according to US interests".¹⁸ Moreover, Iraqi control over Kuwait's oil revenue would enable it to build a powerful modern state within a few years. If it was able to gain control of Kuwait's investments outside the country, Baghdad would be in a position to really hurt the Western economies. Thus, it is a foregone conclusion that if Kuwait had been a poor, third world state without any oil, not a single US soldier would have been deployed to defend it.¹⁹

15 Michael Reisman, *Amending the UN Charter: The Art of the Feasible*, ASIL Proceedings, 1994.

16 K. M. Panikkar, *For a Few Barrels of Oil - Policies and Diplomacy in the Gulf*, 30, 1991.

17 *Ibid.* at 15.

18 Dr. Akmal Hussein, *The Nation*, April 6, 1991.

19 *Supra* n. 4 at 95.

SECURITY COUNCIL RESOLUTIONS

On 2nd August, 1990, the day of the Iraqi invasion, the Security Council demanded that "Iraq withdraw immediately and unconditionally, all its forces to the position in which they were located on 1st August, 1990".²⁰

On 6th August 1990, Resolution 661 was adopted, which imposed a world wide oil embargo and comprehensive sanctions banning economic and financial dealings with Iraq and Kuwait, and prohibiting imports from and exports to the two oil rich Gulf countries. The US and its allies took it upon themselves to interdict all ships approaching Kuwait and Iraq, and refused to let them proceed. This led to a controversy as to whether it was legal on the part of the US to indulge in interdiction without UN authorization. On the 17th of August, the Secretary General of the UN, Perez de Cueller, described the US naval blockade of Iraq as a "breach of the United Nations Charter".²¹

On 25th August, 1990, the UN Security Council adopted Resolution 665 authorizing "measures as may be necessary", including military action, to enforce the economic embargo against Iraq. Several members of the UN expressed their serious concern over the situation, because for the first time in the history of the UN, unclear powers were being provided which were neither specific nor had any clear definition of the Security Council's role and powers of supervision over those actions.²²

The most oft repeated allegation against the UN during the Gulf Crisis was that the Security Council resolutions against Iraq were passed under the dictates of President Bush, who monopolized the Security Council to suit American national interests. The enthusiasm shown by the US was surprising, as it had been a consistent opponent of sanctions being applied in the case of the white settler regime in the erstwhile Rhodesia or the racist regime in South Africa, on the grounds that sanctions are difficult to apply and inflict suffering on innocent people. It is interesting to note that the Vietnam War was never even brought before the UN.²³ However, in the case of Iraq, the US succeeded in pushing the UN Security Council to adopt as many as twelve resolutions in record time, culminating in Resolution 678.

The only reason attributed to the fact that the US acted through the UN was that the UN served as an imprimatur of legitimacy, for unilateral action outside the UN would have led to widespread condemnation. All members of the Security Council were coerced, persuaded or influenced to back the US stand on the crisis. Thus, the US whipped up support for its action not only in the Security Council,

20 A. G. Noorani, *The Gulf Wars: Documents and Analysis*, 50 (1991).

21 "Breach of the UN Charter", *Times of India*, August 18th, 1990.

22 *Supra* n. 4 at 35.

23 *Supra* n. 16 at 125.

but also in the international arena, for the armed action taken in the Gulf. It even succeeded in making the UN abdicate its responsibility in such a manner that the US took over all operations.

Although the erstwhile Soviet Union was in favour of giving time for sanctions to work, it had to fall in with the American line. It could not afford to oppose the American stand since it needed US help in solving its internal problems. It needed emergency aid. It needed the US on its side while dealing with Lithuania, Estonia Latvia and the other break-away republics. China was very reluctant to tow the US line. However it refrained from using its veto, especially after the brutal suppression of the pro-democracy movement at the Tiananmen Square two years previously, for which it had to bear the brunt of international criticism, and as a result, wanted to avoid being treated as an outlaw in international affairs. While the UK needed very little persuasion, France, though initially ambivalent in its stand, gave in to pressure from NATO. The US won over Egypt by forgiving its debts.²⁴ It promised to be a peace broker between the Ethiopian government and the rebel groups, and hinted at foreign aid to Malaysia. Canada did not even bother to think, before playing second fiddle to the US.²⁵ The Iraqi newspaper *Al Thawarh* seems to have accurately accused the Security Council members of having “succumbed to pressure, threats and monetary aid to the tune of millions of dollars to comply with it (the US)”.²⁶

On November 8th, 1990, Perez de Cuellar said that the US had no authority to wage war against Iraq unilaterally.²⁷ The US was determined to retain the right to use force without going to the Security Council and getting its approval, which can only be justified by invoking Article 51,²⁸ which provides for states using force against aggression only “until the Security Council has taken measures to maintain international peace and security”. Responding specifically to Bush’s assertion a day before, that the US could take action against Iraq under Article 51, Cuellar said that any attempt to take military action under the same could “face legal difficulties”.²⁹ Cuellar clarified that Article 51 was not available 3 months after the Iraqi invasion,

24 *Supra* n. 4 at 57.

25 Steven Lewis in an interview with Jim Wurst, “The UN After the War”, *World Policy Journal*, Vol. VII, No. 4, February 1991, p. 541.

26 “Iraq Rejects Ultimatum”, *Times of India*, November 30th, 1990.

27 *Supra* n. 20 at 175.

28 Article 51 of the Charter of the United Nations states that: Nothing in the present Charter shall impair the inherent rights of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

29 *Supra* n. 20 at 25.

when the Security Council had already taken measures to restore peace in the region. This left Resolution 678 as the sole source of legitimacy.

On the 29th of November, 1990, Resolution 678 was passed under Chapter VII of the United Nations Charter:³⁰

Demands that Iraq comply fully with Resolution 660 and all subsequent, relevant Resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

Authorizes member states co-operating with the Government of Kuwait, unless Iraq on or before 15th January, 1991, fully implements the foregoing resolutions, to use all necessary means to uphold and implement Resolution 660 and all subsequent relevant resolutions, and to restore international peace and security in the area.

The Resolution was passed by a vote of 12-2-1, Cuba and Yemen voting against it, and China abstaining. The legality of Resolution 678 has been questioned on several grounds:

It violates the spirit of the United Nations Charter, which promises to eliminate "the scourge of war".³¹

Articles 41³² and 42³³ provide that the Security Council shall carefully determine whether sanctions are working or not before decreeing the use of force. No formal determination as to the inadequacy of sanctions was ever made by the Security Council before Operation Desert Storm was launched.

It did not specify how long the application of "all necessary means" would continue, or the type and amount of force to be used.

It ignored the provisions of Chapter VII of the Charter, which says that the Security Council (not an individual member state) can indulge in the use of force only under a Military Staff Committee, with the soldiers in the field

30 Brian Urquhart, "The UN and International Security after the Cold War", Roberts and Kingsbury (Eds.), *United Nations, Divided World: The UN's Roles in International Relations* (2nd edn.), 83 (1993).

31 The Charter of the United Nations begins with the words: "WE THE PEOPLE OF THE UNITED NATIONS DETERMINED to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind and ...".

32 Art. 41 of the United Nations Charter states that: The Security Council may decide what measure not involving the use of armed force are to be employed to give effect to its decisions, and may call upon the Members of the United Nations to apply such measures.

33 Art. 42 of the United Nations Charter states that: Should the Security Council consider that measures provided for in Art. 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security.

dressed in blue UN uniform and under a UN flag. Under Articles 46³⁴ and 47,³⁵ a Military Staff Committee is supposed to direct any armed forces at the Security Council's disposal. In this case, the Military Staff Committee was never formed. There was no special agreement among member states to create a military force, nor had the permanent members consulted each other or the other UN members prior to launching the Gulf operations.³⁶ The war in the Gulf could not have been called a UN war because soldiers were not dressed in the blue UN uniforms and helmets, nor were they fighting under the UN flag.

The Security Council was never convened to meet and discuss the conduct of the war, neither was it informed of the military might of the coalition. The US-led forces which subsequently expelled Iraq from Kuwait were not themselves constituted under Chapter VII of the United Nations Charter. In other words, the "Allied Coalition" which operated against Iraq was not established by the Security Council, and was not under UN command.

In the Arab world, the view was that the Arabs were not given time or an opportunity to resolve the crisis before the US moved in (initially without UN backing). This may be regarded as being contradictory to Chapter VIII of the United Nations Charter which explicitly provides for using "regional arrangements or agencies" for resolution of conflict. Article 53(3)³⁷ stipulates that the Security Council "shall encourage" such a process.

Article 27(3)³⁸ of the United Nations Charter requires the concurrence of all the five permanent members of the Security Council as a necessary precondition for any collective enforcement action against breaches of peace and acts

34 Art. 46 of the United Nations Charter states that: Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

35 Art. 47 of the United Nations Charter states that: (1) There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament. (2) The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of the Member in its work.

36 Gurdip Singh, "Abdication by the UN", *Hindustan Times*, March 14th, 1991.

37 Art. 52(3) of the United Nations Charter states that: The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

38 Art. 27(3) of the United Nations Charter states that: Decisions of the Security Council on all other matters (excluding procedural matters) shall be made by an affirmative vote of *nine* members including the concurring votes of the permanent members; provided that in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

of aggression, as envisaged in Chapter VII. In the case of Resolution 678, China abstained from voting - this cannot be construed as a symbol of unanimity.

Since the authorisation of the Unified Command in Korea in 1950, this is the first time that an enforcement force has been authorized under Chapter VII of the Charter.³⁹ It is ironic that in both cases, the forces were led by the US.

ROLE OF THE SECRETARY GENERAL

Since the end of the Cold War and the emergence of unipolarity in the UN's power equation, the Secretary General may be experiencing new difficulty in reconciling his role as "humble servant"⁴⁰ of the political organs with his position as a credible intermediary, a clear example of which was seen in the Gulf war.

The Security Council, in its resolutions, demanded total and immediate Iraqi withdrawal, leaving little room for mediation. Shortly after the Iraqi invasion, the Council authorised the Secretary General to undertake a highly visible mission to Amman in an effort to persuade Iraqi Foreign Minister Tariq Aziz, to comply with the demands for Iraqi withdrawal. On 29th October, the Council again specifically asked the Secretary-General to undertake a mission to Baghdad in one more effort to head off war.⁴¹ He was to make his good offices available "as he considers appropriate", and seemed to have virtual *carte blanche* to "undertake diplomatic efforts to reach a peaceful solution." In practicality however, this is not how the Council's authorisation appeared to be, since it came after the Council had invoked Chapter VII to order Iraq out of Kuwait, and had underscored its order by imposing mandatory sanctions.⁴² Inevitably, the Secretary General felt constrained to limit his negotiations to securing Iraqi compliance - the circumstances could not justify an independent mediating role.⁴³

If the Charter left him in any doubt on that score, it was resolved by unambiguous private communication from the permanent members of the Security Council.⁴⁴ According to several of his staff, the Secretary General was also actively discouraged from going to Baghdad until after the failure of US Secretary of State, James Baker's own mission, by which time it was far too late.⁴⁵ Of course, why

39 Sally Morphet, *UN Peacekeeping and Election-Monitoring*, 219 (1993).

40 UN Press Release SG/SM/4752, 18th May 1992, p. 7

41 Security Council Resolution 674 of 29th October, 1990, para 12: "Reposes its trust in the Secretary General to make avail of his offices and, as he considers appropriate, to pursue them to undertake diplomatic efforts in order to reach a peaceful solution."

42 Thomas M. Franck and Georg Nolte, "*The Good Office Function of the UN Secretary General*", 161 (1993).

43 UN Press Release SG/T/1640, 14th January, 1991.

44 *Supra* n. 32 at 162.

45 *Ibid.*

the US Secretary of State was sent to Iraq before the UN Secretary General in the mission of peace has yet to be justified.

As the war continued, it was clear that the UN had no control over it. The UN Secretary General, Perez de Cuellar himself said "The war in the Gulf is not a UN war, and the world body has no control over it...we are informed through the Security Council about military operations, but only after they have taken place."⁴⁶

Article 99⁴⁷ of the United Nations Charter states that the Secretary General "may bring to the attention of the Security Council any matter which in his opinion" may threaten the maintenance of international peace and security. However, Cuellar did not invoke this Article during the Gulf Crisis - he was severely criticised because his involvement was limited to the extent that he was kept abreast of developments as they were taking place, or after, and for taking no steps to prevent the Security Council from being bulldozed by a single nation. As Steven Lewis, one time Canadian Ambassador to the UN stated in his interview with Jim Wurst: "I think the world would be a better and safer place, if the Secretary General interpreted his or her role in an aggressively assertive fashion".

LIBERATION OF KUWAIT OR DESTRUCTION OF IRAQ?

Just as the war in Iraq was unleashed in all its fury, the *New York Times* published an extract from a national security review, from the early days of the Bush administration, dealing with "Third World Threats". It read: "In cases where the US confronts much weaker enemies, our challenge will not be to simply defeat them, but to defeat them decisively and rapidly." Any other outcome, it explained, would be "embarrassing" and might "undercut political support."⁴⁸

The UN may condemn what is seen by a majority, as a first or illegitimate use of force, but this very condemnation may, consciously or otherwise, give some encouragement to the use of counterforce.⁴⁹ The forces mobilised in the Gulf and the dimensions of the military operation against Iraq, aimed at the complete

46 Javier Perez de Cuellar in an interview for PTI-TV, February 5th, 1991.

47 Art. 99 of the United Nations Charter states that: The Secretary General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

48 Thomas Fischer, "Third World Threats in a New World Order", *New York Times*, January 15th, 1988.

49 In April 1986, when the US aircraft bombed targets in Libya in response to terrorist attacks on US citizens overseas, it was claimed that the US was acting in self defence in conformity with Article 51 of the United Nations Charter (speech by Vernon Walters, US Ambassador to the United Nations on 15th April, 1986 during a debate in the United Nations Security Council). On 21st April, 1986, France, UK and USA vetoed a draft resolution which would have condemned the armed attack on Libya by the US (*UN Chronicle*, New York, 23, No. 4, Aug. 1986, pp. 46-7). In June 1993, the US employed similar justifications for an attack on Baghdad following alleged Iraqi government involvement in a plot to assassinate ex-President of the US, George Bush, in Kuwait in April.

destruction of Iraq's military, economic and political capacity and potentiality and not merely the liberation of Kuwait. This in itself, was a blatant violation of the letter and spirit of the United Nations Charter and it had no legitimacy at all despite the adoption of Resolution 678. Not only was the military infrastructure bombed, but civilian targets were also reduced to rubbles. According to the Ramsey Clark Report on the US bombing of Iraq:

In the bombing, telephone exchange buildings, TV and radio stations, high-ways, roads, bridges, bus stations, schools, mosques, churches, cultural sites, hospitals and government buildings have been destroyed and damaged.... Ambassadors of member states should ask themselves if they would consider the targets to be permissible under the international Laws of Armed Conflict.... How can the destruction of municipal electricity for Mosul, the telephone system for the people of Baghdad, the municipal water supplies for Basra, or shooting defenceless public buses and private cars on the road to Jordan and elsewhere possibly be justified as necessary to drive Iraq from Kuwait?

One of the early targets of US bombing was the infant and baby milk processing facility in Baghdad. No Iraqi with whom we talked assumed this was a coincidence. The US claim that the plant manufactured chemical warfare material is false. A French company built it. The twenty or more people we interviewed, who operated it, who visited it before its destruction and who have examined it since without ill effect, all say it was a plant processing infant and baby milk formula. In a lengthy and unrestricted examination of the plant we saw no evidence to the contrary.

The use of highly sophisticated military technology with mass destructive capacity by rich nations against an essentially defenceless civilian population of a poor country is one of the great tragedies of our time. The US annual military expenditure alone is 4 times the GNP of Iraq. The scourge of war will never end if the UN tolerates this assault on life. The UN must not be an accessory to war crimes.⁵⁰

A missile strike on the Al-Ameriah air raid shelter killed 1500 men, women and children; people were mutilated and charred beyond recognition. This was followed by an international outcry because there was no military target anywhere near this shelter. Where was the UN?

The record shows that even after Iraq accepted all the Security Council Resolutions, the US did not relent on its destructive course. "The world was horrified at the carnage and the brutality of the allied bombing on retreating, defenceless forces on the last twelve days of the war".⁵¹ Even the Secretary General

50 Ramsey Clark, "Report on US Bombing of Iraq - 12th February, 1991", A. G. Noorani (Ed.), *The Gulf Wars - Documents and Analysis*, 271-280 (1991).

51 Dr. Bernhelm Booss-Baunbeck. *Guardian Weekly*, March 31st, 1991

said that there was no justification for the bombing of Iraq even after it had surrendered.

CONCLUSION

The role of the UN in dealing with the Gulf Crisis has raised the issue to be considered today by all nations as to whether the UN should be dictated to by a superpower pursuing its selfish goals, or whether the UN is to function continuously as a peace promoting organization serving all countries, big or small, powerful or weak. The danger of the monopoly of power is not desirable. The US was using the UN as a tool for its foreign policy goals and the UN was most pliant in American hands. The framers of the United Nations Charter had no way of knowing that it would one day be used as an instrument of foreign policy by a superpower like the US. The Charter nowhere allows any member state or coalition to take over the responsibility of implementing the Security Council resolutions. The UN was pushed to the sidelines and the war seemed to be waged by the US against Iraq, and not by the international community under the UN.

The UN action was taken under the provisions of "collective security" of the United Nations Charter. But the victory of the coalition forces did not in any way resemble a victory of "collective security" as enshrined in the Charter. It was the US, and not the UN which took over the leadership of the multinational forces. A number of developing countries were outraged by this development, but found themselves helpless in the face of demonstrations of power and influence by the US.

A world institution like the UN seems to be in danger of losing its credibility of being an international organisation, which demands it to respect the will of all the member states. The Charter says that all members are equal, but in reality some are more equal than others due to their power of veto, military might etc. Though the Gulf Crisis should have strengthened the UN, the long term effect seems to be a perceptible weakening of it, as the Third World countries increasingly lose confidence in an organisation dominated and controlled by a power whose imperial hegemonic ambitions threaten their independence. What is needed is consensus based on equal rights for all UN members.

When the nature of an organisation's principles and constituents are changed, the nature of the organisation must also change. This process led to the replacement of the League of Nations by the UN. Today the political, economic and social climate has changed around the world, and the imperatives that led to the establishment of the UN were entirely different from what they are today. The end of the Cold War is supposed to have ended the state of paralysis of the UN. But the Gulf War seems to have proved that in the unipolar world order of today, it is the will of the stronger that prevails. Democracy and freedom are becoming the guiding principles of international politics. In the restructuring of international organisations like the UN, these principles must be assimilated in concrete terms by enlarging the permanent membership of the Security Council to enable them to play their due role.

In 1992, the Secretary General of the UN suggested that the Security Council could take in five more permanent members,⁵² i.e. India, Brazil, Germany, Japan and Nigeria - Germany and Japan in view of their economic might and the other three because of their size, location and potential for rapid technological advancement. This suggestion was based upon the realisation that a strong, representative Security Council is essential for a collective fight against poverty, hunger, economic inequality and technological backwardness. However, it has been contended that expanding the permanent membership of the Security Council would actually hamper the Council's effectiveness because the increase in number would mean greater difficulty in reaching agreements and thus, dilution of effectiveness.⁵³

Expansion of the Security Council would serve no purpose if some members were more equal than others, which is the case since only the permanent members have the veto power. The problem with the veto power is this: the veto is the control mechanism, but ironically, it is assigned to the most powerful states - the very ones who were to have been controlled. This has given rise to the demand for the abolishment of the veto completely and the accordance of equality in voting to all members of the Council.

In conclusion, it must be stated that the UN is urgently in need of reform, and a number of suggestions have been put forward to bring about such reforms, all of which have their merits and demerits. What is clearly unacceptable is the notion of the UN being "led" by one nation or group of nations. It is obvious that reform would have to aim at giving other members of the UN a greater say in the running of its affairs. The fact that President Bush could get away with the statement "*I might have said to hell with the UN*"⁵⁴ clearly reveals a desperate need for the revamping of the power structure within the United Nations.

52 Nihal Singh, "New Role for the United Nations", *CSR*, Vol xxviii, No. 4, October 1992.

53 Michael Reisman, "Amending the UN Charter: The Art of the Feasible", *ASIL Proceedings*, 110 (1994).

54 *Supra* n. 8 at 54-55.