

A Word of Greeting and Hope

To those of us who were privileged to be associated with it, the Kaiser Wilhelm-Institut für ausländisches öffentliches Recht und Völkerrecht was the great school of international and public law. It furnished a happy combination of a congenial atmosphere for the work of the individual scholar and the resources of documentation and personnel necessary for collective research. In a few short years it made a remarkable impress on scholarship and informed opinion.

The advent of the Hitler tyranny was a severe blow to the growth of the Institut and to its influence abroad. Events were to prove that the blow was mortal. Yet, it will remain the great glory of the Institut that it furnished from its ranks outstanding leaders in the fight against the monstrous regime which wrought such evil in the world.

As a former associate of the Kaiser Wilhelm-Institut, I feel deeply moved by the inauguration of the new Max-Planck-Institut. All who know its personnel and their devotion to objective study, are certain that the new Institut will bring lustre to the name of democratic German scholarship and will add measurably to the increase of knowledge throughout the world.

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The United Nations — Appraisal and Forecast¹⁾

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During the year 1948 more than 4000 meetings of organs of the United Nations were held in Lake Success, Paris and Geneva. Add the meetings in the

¹⁾ An address delivered at opening of the New York University Institute for Annual Review of United Nations Affairs, July, 18, 1949.

Far East, Latin America and elsewhere, add the meetings of the Specialized Agencies of the United Nations and the figure climbs into the many, many thousands. All indications are that in 1949 the number of meetings will be even more.

There are many people to whom these figures would, or should, come as a distinct shock. These are the people who have heard over and over again that the United Nations is dead, or at any rate, a failure, washed-up, and impotent. Why should the nations of the world in a time when hard money is so scarce and troubles so plentiful send their representatives around the globe to spend so much time with a moribund institution?

The answer is simple; the United Nations is alive, growing and above all indispensable.

It is true that the United Nations has not yet become what its founders envisaged at San Francisco. While they knew that the wartime coalition of the great powers was not likely to continue unimpaired, they proceeded on the assumption that some semblance of unity would be preserved, that peace with Germany and Japan would soon be made, and that the United Nations would be free to develop in an atmosphere of relative calm. None of these assumptions have proved valid. On the contrary, instead of unity and calm we have lived in a bitter conflict of ideologies and interests and in a state of world-wide tension.

If the basic conception of San Francisco, the conception of the necessity of a world-wide international organization to ensure international peace and economic and social progress, had been invalid, then the United Nations would long since have foundered. It survives because the very conflicts and tensions which make its existence difficult, demonstrate that it must survive and grow or the world will founder with it.

The United Nations system is a complicated one; it has numerous features which have been hotly debated – the rule of sovereign equality, the great power veto, the distribution of functions between the General Assembly and the Security Council, and in the economic and social fields between the central organization and the specialized agencies.

There are, however, three salient features which are the sources of its strength and the expression of its essential necessity for the world:

Global membership – 59 nations are members of its central organization and 14 others seek admission; it comprises every kind of political, ideological and economic society;

Inter-relationship of world problems – it can and does deal with every problem of an international character, whether it be the threat of war, the incidence of tuberculosis or illiteracy, the lack of housing, the fostering of

human rights, the protection of dependent peoples or the improvement of the gathering of statistics.

Continuity of effort – the United Nations is on the job every day and every hour; it keeps working at its problems big and little; almost never has it confessed failure; almost never has it refused to grapple with a world problem with which it has authority to deal.

The most controversial and troubled phase of the work of the United Nations has been in the maintenance of international peace and security, and it is here that its vitality and shortcomings can best be judged. It is in this connection that the notion of the impotence of the Organization gained currency among so many people. Time and experience are now beginning to give us perspective; we are ready, I believe, for a sort of interim stock taking of what the United Nations can and cannot do in the world as it is today.

The Security Council dealt with the presence of Soviet troops in Iran and British and French troops in Lebanon and Syria. The Council was unable to make final decisions, but the moral force of world opinion was behind its deliberations, and today there are no foreign troops in Iran or in Lebanon or Syria.

The Security Council dealt with the Corfu Channel dispute between Albania and Britain. It did not solve the dispute directly, but through its recommendations the International Court of Justice disposed of it through a legal decision.

The Security Council had many a troubled meeting over the question of Indonesia, but its commission kept at the problem with patience and tenacity, and now the question appears well on the way to a just and peaceful solution.

The Security Council has worked long over the problem of Kashmir and the terrible strife between Pakistan and India. The problem is still not settled, but fighting has long since ceased and the slow process of final peace making goes on.

The General Assembly and the Security Council labored on the problem of Palestine. There was much criticism of indecision and inconsistency, crises appeared and reappeared. The problem is still not finally settled, but the new state of Israel sits with the nations of the world and a web of armistice agreements holds the peace under the aegis of the United Nations.

These are measurable, perhaps even monumental achievements for a young organization working under the handicaps of contemporary international life. They demonstrate that, despite the existence of the veto, the system

of pacific settlement provided in the Charter is viable. They demonstrate the potency of the voice of international conscience which is embodied in the United Nations. The exact details of the machinery for peaceful settlement were not important. In one case the Court was called upon, in another the Assembly appointed a single individual as mediator reporting to the Council, in other cases commissions composed of governmental representatives worked on the problem.

There was one detail of procedure which proved to be of considerable significance in several of the cases – the tacit agreement that abstention by a permanent member of the Council does not constitute a veto. Lawyers can dispute the strict consistency of this interpretation with the language of Article 27, but it is a fortunate circumstance for the world that it has become firmly embodied in the constitutional practise of the United Nations.

The lesson which these successful efforts teach is more than a lesson in procedure – they show that whatever the procedure the essential thing is to keep working. Pacific settlement can only occasionally be achieved by a quasi-judicial judgment handed down by the Security Council after a hearing around the table. Much oftener it needs painstaking scrutiny on the ground, careful, patient and long-drawn out negotiations with the parties. Above all contact between the parties and with the international organization must never be permitted to be broken irrevocably.

These lessons appear also from cases which cannot be called undoubted successes of the United Nations, such as the Greek, Korean and Berlin questions. These are all cases directly involving the central East-West conflict. The first two are still unsolved, although the intervention of the General Assembly commissions and their constant labors have certainly been an influence in these areas. The Berlin question is perhaps the best illustration of both the scope and limitations of the United Nations machinery and idea when called upon to deal with a grave and exceedingly dangerous problem.

Here the only resolution on which a majority of the Security Council was able to unite was vetoed by the Soviet Union. Yet the debate in the Council brought the problem from the semi-darkness of bi-lateral negotiation to the light of general international concern. Despite the veto in the Council, the General Assembly was able to secure unanimity for a call to the great powers to compose their differences, and the President of the Assembly and the Secretary-General issued a specific appeal under this Resolution. The President of the Security Council set up a committee comprising the so-called neutral members of the Council and a represen-

tative of the Secretary-General, which over a period of months made a careful study of the currency problem in Berlin. It is true that the final lifting of the blockade was agreed upon outside the United Nations and that the air-lift was a prime factor in bringing that about. But, it was no casual accident that the decisive conversations were initiated between the Soviet and American delegates to the Security Council and that they began on United Nations premises.

This then is the lesson of Berlin – so long as the great powers are deadlocked the Security Council cannot coerce one or the other into a settlement; when the possibility of agreement exists the United Nations machinery can focus the attention of the world and provide the way to work out the settlement; above all the constant application of the principles of conciliation embodied in the Charter can operate to prevent the irrevocable and disastrous rupture of negotiations.

While the United Nations has been able to keep the peace in many corners of the world despite the East-West conflict, that conflict has obviously affected and impeded many facts of the Organization's work. Most serious have been the failures to achieve agreement on the control of atomic energy, disarmament, and the creation of armed forces under Article 43 to enforce the decisions of the Security Council. These are real and bitter failures, and the United Nations system will never be complete until these measures have been achieved.

Probably only a few of the delegates at San Francisco could foresee the extraordinary development of the General Assembly. When Senator Vandenberg christened it the "town meeting of world" it seemed that he had assigned to it a most worthy and difficult role. In a short three years the Assembly has already surpassed and outgrown this fond designation. The size and variety of its agendas have been amazing. The quality of representation (Spaak, Aranha, Arce and Evatt, to mention only the Presidents) has been and remains on a high level. Although it has no power to enact legislation or make decisions binding upon Governments, it is evident that even the most powerful Governments consider it an indispensable forum for the debate and consideration of international problems. Indeed the problem now is not whether nations will abstain from bringing matters to the Assembly, but how to reduce the number of matters which it is called on to consider and to shorten the debates.

Not everything which the Assembly considers is of vital importance; it must of necessity spend much time on housekeeping details. Yet it has not evaded the most difficult problems. It has dealt with Palestine, Greece, Korea, the world food shortage in 1946, refugees, human rights, the free-

dom of news transmission, the regulation of armaments, atomic energy, the veto, the fate of the Italian colonies, and dozens of other knotty issues.

There were some who thought that the Charter had set up a grandiose elocution society and that all we would get from the Assembly's rostrum would be a series of windy and eloquent generalities. That certainly has not happened; the speeches may often be too long and repetitious but they are about real things and serious controversies. Moreover, the Assembly has shown itself capable of making decisions on the most intricate matters. Whether one agrees with them or not the scope and detail of its resolutions on such matters as Palestine, genocide, the Declaration of Human Rights, and refugees are impressive examples of its legislative efficiency.

The Assembly has been a great educational experience, both for the public and for statesmen. It has operated in the open through the traditional democratic processes of debate and compromise. The influence of the great powers had not been negligible, but they have not run the Assembly. If this is not quite the international parliament of man, it is something more than a town meeting. Nothing exactly like it has appeared in world history; even the Assembly of the League of Nations was only a shadowy forerunner. There is every indication that the influence and standing of this new world forum will continue to increase.

The Economic and Social Council has also had an active history, influenced also by conditions which were only dimly foreseen when the Charter was written. Not only has this Council work been impeded by the great power conflict, it has had to strive for economic stabilization and development at a time when economic life has been dominated by an overriding problem – the shortage of dollar exchange. Since the United Nations could not possibly command the means to alleviate this shortage, its own economic activities of necessity played a subordinate part. Nonetheless, what has already been done, despite these hardships, by the Council, the Secretariat and the Specialized Agencies, gives fair promise that once the immediate post-war problems have been mastered, the international economic agencies will contribute enormously to maintaining stability and giving impetus to further development.

One can only pick a few specimens out of an immense catalogue: the Annual Economic Surveys prepared by the Secretariat's Department of Economic Affairs, rapidly becoming the standard for overall analysis of economic trends, the highly practical and ingenious work of the industry committees of the Economic Commissions for Europe and that organization's arduous efforts to restore East-West trade, the rationalization of international statistics, the beginning of large scale lending by the World Bank,

the manpower programs of the International Labor Organization, the far-reaching programs for the restoration of land transport in Europe, the agricultural and nutritional programs of the Food and Agriculture Organization, the starting of regional economic analysis through the Commissions for Latin America and the Far East, the drafting of the Havana Charter and the preparatory work for the International Trade Organization. These are only a sample of the intense, far-reaching and continuous work which the United Nations system has undertaken in the economic field.

Now these agencies stand before a new opportunity in the projected program of technical assistance for underdeveloped areas. For the first time a coordinated effort of international agencies and national Governments will tackle the problem of bringing the knowledge and technique of the whole world together for the development of those parts of the earth where the resources of nature have not been put at the service of man.

It is this program which reveals in acute form one of the internal problems of the United Nations system; that of the coordination of the specialized agencies with each other and with the central organization. The authors of the Charter deliberately chose to leave the operational tasks to autonomous agencies brought into relationship with the Economic and Social Council by individual agreements. Some progress has been made in coordinating aspects of the work of these agencies. No one, I believe, will claim that the problem has been solved. The forthcoming program of technical assistance will furnish the real test of the ability of all parts of the United Nations system to function together smoothly and efficiently.

In the multifarious fields of social endeavor, the United Nations system has built solidly on the foundation of previous international achievement. The international control of narcotics still remains a model of effective world-wide cooperation and the United Nations has strengthened it. International effort to combat other social evils makes gradual headway. The refugees problem, unbelievably greater than that after the First World War, yields to constant international effort, although remnants of it will be with us for years to come. UNESCO is solidifying its organization to eradicate illiteracy and enlarge the cultural horizon of men everywhere.

Much of the work of the United Nations can only proceed through slow evolution. This is particularly true of the provisions of the Charter relating to dependent peoples. The Trusteeship Council's functions have been crystallized by the trusteeship agreements approved by the General Assembly. The Council is now engaged in the painstaking analysis of reports and surveillance of the administration of the trust territories. Their

inhabitants are the special concern of the international community and the record will show that the United Nations is fulfilling its responsibilities towards them.

All these are the specific activities to deal with concrete international problems; taken together they mark the continual striving for effective world organization and world community. The authors of the Charter knew, however, that these could not stand alone, that they must be buttressed with a structure of world law. This all important goal the United Nations is also pursuing with steady and practical purpose. Its great achievement to date has been the Universal Declaration of Human Rights, which while not a binding enactment was proclaimed without dissenting vote as a standard of achievement for all nations and peoples. The process of ratification of the Convention on Genocide has begun; a draft covenant on human rights is now before the Economic and Social Council.

A long term process of codifying international law is well under way through the International Law Commission set up by the General Assembly. The Commission has already completed a draft Declaration on the Rights and Duties of States. Preparatory work is under way on such diverse subjects as the principles applied in the Nuremberg trials, the law of treaties and the regime of the high seas.

The International Court of Justice, the principal judicial organ of the world community, is also at work enlarging and strengthening the rule of law. In the Corfu Channel case it laid down important principles of state responsibility. In the advisory opinion on reparations for injuries incurred in the service of the United Nations it upheld the international personality of the United Nations and gave it a firm standing to invoke rights under international law necessary for the fulfillment of its functions.

Thus the United Nations builds the mansions of world organization, world community and world law stone by stone. It has no magic formula which can call these walls to rise in a twinkling of an eye. It deals with hard facts in a hard world in which progress can only be made by hard and backbreaking work.

It is a strange paradox that these very virtues are the source of much of the doubts which have been aroused in the public's mind. A group of scholars drawing up an ideal world constitution and having no responsibility for concrete tasks can promulgate what they want. A United Nations Council or Commission must deal with actual problems and must seek workable and acceptable solutions. Its operations are under constant public observation and criticism. Even temporary setbacks (as in some phases of the Palestine and Indonesia questions) may make spectacular

headlines and lead to exaggerated impressions of failure. Much of the work, as in the economic and social fields and in the realm of world law, are devoted to slow evolution over the years. It is hard for an impatient public in a troubled world to see the significance of these efforts when so many quick and radical remedies for all our ills are proclaimed daily.

I have stressed the basic features of the United Nations system – global membership, inter-relation of international problems, and continuity of effort. These are the features which distinguish it particularly from regional arrangements or temporary instruments of international cooperation. In the United Nations, Cuba has a vote on the treatment of Indians in South Africa, and Lebanon has a vote on the report of the Economic Commission for Latin America. The world is looked on as an essential unit and all nations have their way on problems of international concern.

Regional arrangements have a definite utility and the Charter makes a specific place for them. No regional arrangement, however, can substitute for the United Nations because by its very nature no regional arrangement could furnish the basic features which a universal organization alone comprehends.

A single example will suffice. When the United Nations deals with Palestine, it can take action not only on the political aspects, it can also deal with the emergency case of refugees, and eventually it can look forward to stimulating through the technical assistance program the economic development of the Middle Eastern region. In its political decisions it has the moral backing of the whole world, not only the great powers or the directly interested parties. In its social and economic activities it can bring together ideas and talents from everywhere.

The United Nations system is still incomplete and it has not yet been able to display its full potentialities. It will not be able to do that until the basic political conflict between East and West is substantially lessened and the peace treaties have been concluded. No one is under any illusion that the United Nations can settle that conflict. By keeping the parties together, by focusing the attention of the peoples of the world, by devoting itself to specific situations which it can resolve, the United Nations is contributing to the lessening of tension and is preparing the ground for eventual political stabilization.

Four years is no more than a moment in world history, much too short a moment in which to reach a judgment valid for centuries to some on so complex an issue. Yet we have learned several things from the specially difficult circumstances of these years.

5 Z. ausl. öff. R. u. VR., Bd. XIII.

We have learned that while the United Nations depends on its member nations for its powers, its resources and its personnel, the member nations depend upon the United Nations.

We have learned that while the United Nations is no universal panacea and while it has definite limitations, it has a tremendous scope for effective action.

We have learned that in the present state of affairs, the United Nations is the only organization capable of giving at least a modicum of order to world affairs, and that any future development towards a stronger international order must be firmly based on its structure and experience.

We have learned that the United Nations is here to stay.