Prof. Mutharika’s International Organization

Recommendation:

- Leland Goodrich, Edvard Hambro, and Anne Simons: *Charter of the UN Commentary and Doc. (1969)*:

- Think of the Charter not only as a treaty embodying the maximum limitations on a state’s freedom of action, that nations at that stage of history and in the light of experience were prepared to accept as consistent with their national interests, but also as a constitutional document setting forth guidelines for further development. => constitutional basis for achieving int’l peace, security, and well being pointed in the UN charter.

- League of Nations (initiated by Woodrow Wilson): balance of peace broken becuz of the failure of democracy during WWI and guarantee of peace can be made thru the combined forces to restrain aggression by the peace aspiring nations. But LON with the assumption of the US as active member did not survive the WWII but demonstrated the need for intl cooperation.

- Moscow Declaration (Oct.30, 1943): China, Soviet, UK, US recognized the necessity of general intl org based on the principles of the sovereign equality of all peace-loving states, and open to membership by all such states for the maintenance of intl peace and security (para2, p4)


- Yalta Conference (Feb.3, 1945): agreed on the formula governing the Security Council voting procedures

- SF Conference (April 25, 1945): UN Charter based on Dumbarton Oaks to be made and the invitations by the US on behalf of the sponsoring govt’s to be extended to the states that declared war against Germany and JPN.
## UN v. The League of Nations

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<tr>
<th>similarities</th>
<th>UN</th>
<th>League of Nations</th>
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<tr>
<td>Voluntary assn of independent sovereign states</td>
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<td>-led by the victorious powers of the world war</td>
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<td>-similar functions of three councils by Charter</td>
<td>-similar functions of Covenant’s One council</td>
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<td>trusteeship council</td>
<td>Permanent Mandate’s Commission</td>
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<td>economic and social council</td>
<td>Recommendations of Bruce Cmte</td>
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<th>differences</th>
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<th>League of Nations</th>
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<td>focus</td>
<td>-focus on intl coop in dealing with economic and social problems and human rights &amp; govt role for such purposes</td>
<td>-functioning with the participation of great powers and never achieved the universality of the UN(para1, p7)</td>
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<td>-greater realism and vitality of participating members(para 1, p7)</td>
<td>-suffered from expectations of friends without much talks regarding the price to be paid</td>
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<td>peacekeeping</td>
<td>-political approaches by the coop of major military powers for common interests and collective self defense.</td>
<td>Legal approaches to prevent war by placing obligations to individual govts</td>
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<tr>
<td>specificity</td>
<td>-general terms</td>
<td>-Assembly for deliberation regarding subsequent development of responsibilities and powers, and Security Council for making specific decisions to maintain and restore peace and security.</td>
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**Dealing with Non self governing states**

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<td>Strong undertaking of political, social, and economic developments of inhabitants in colonial territories and strong obligations of intl</td>
<td>-eliminating abuses in colonial territories</td>
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<td>Germany was forced to relinquish</td>
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supervision
- Recognition by members of the principle of equal rights and self determining of peoples

| Going concern over two decades | Short period of existence |

- **Interpretation of Charter:** “if not generally acceptable, member org are not binding.” (para1, p9). But if members submit a dispute involving a question of Charter interpretation to the Ct for judgement, its decision is binding by Article 63 of the Statute.

- **Responsibility of interpretation:** as vested in the members and organs, the process is likely to be more political than judicial thru bargain process or exercise of powers rather than an attempt to apply Charter provisions by a process of reasoning (para3, p9)

- **The UN and the US:** The US can pursue many of its interests more effectively and with less risk thru the UN than it can by acting along e.g. containing the spread of mass destruction, enforcing sanctions on pariah states such as Iraq, protecting the environment; and combating international crime, drug trafficking, and terrorism.

- Importance of national state declining while importance of other org. increasing
  So complex, and complicated r the current issues. NO single state can solve them all, e.g. drug trafficking, child trafficking, etc. Cross natl boundary activities rampant.

- The emergence of US as the single dominant super power after WW II → meditating balancing, and checking power needed. Withstanding Nation states still important in addition to Intl org.

**Chp1-2: Intl structure. Major issues to think over**

- **Issue:** If TWN is to be a member of UN, on what basis can it be possible?
  Chp3, 4, 5: privileges: the location of UN in NY, the U.S.means what?

- **Issue:** Privileges of the staffs of the UN: what if they get traffic tickets? will they be ticketed for that? What if they simply don’t pay.

- **Issue:** What’s the exchanges for the immunity and privileges of the UN staffs?

- **Issue:** US Laws and the Treaties and UN. Matter of jrxn.

- **Issue:** Relationship btwn UN and US.
  UN and other nations under UN operations.
Chp6-21: the global activities of intl org

- **Issue**: UN in setting up the tribunal, ICJ, etc.

Chp21-23:

- **Issue**: chp21-22: financial issues, budget matters. Since 1998, US has defaulted in the payments of due membership fees and the voting right of the US is supposed to be suspended.

**Chp6 ➔ chp 23’s main focuses**

- What are intl org?
- and where the power of intl orgs are derived?
- Can they be sued?
- Intl orgs have some kinds of immunity by the decision of 1948 Kepar actions Case at ICJ.
- Ceasefire in Israel and Arab ➔ Shamir group injured in UN uniform by gunshootings ➔ whether there is any legal base UN can sue somebody or the other way around?
- ICJ problems: what do u do in a case like this? NO presence of laws at all, no intl laws. ICJ judges applied objective suggestions: It can sue based on ????

- IMF WB ➔ So many intl org. exist at the moment. They are ➔ Intl org+ regional org. (OAS, OAU, ASEAN, …. Eco+political ) ➔ subregional org(Mercosour, etc….)
  - issue: what’s the legal status of these org?
- ➔Emergence of NGO: Amnesty Intl, Oxfam, etc….Already more than 900 NGOs are recorded in UN. but in reality more than that.
  - Issue: For whom they r accountable?

**Hypo**: What if someone sets up Students in favor of (against) AIDS? And what if they raise money, make speeches, hold intl conferences, etc… who r really accountable?

- **Issue**: scientific, religious, humanitarian, private NGOs in existence+ etc legal status, governance and observance matter …what do they really mean?

- focus on UN as a case study. 197 state members at the moment. Lots of problems visible and invisible ➔ problems of global governance.

- **UN Structure & US Branches compared**
GA=congress  SC=Executive  Secretariat=Executive+Judiciary
Charter + US Congress: read and make a good comparison

*1977: Dames v. More. Iranian hostages were taken.
*1979: agreements btwn US and Iran.
*when is the emergency president can use his extraordinary power.
  \(\rightarrow\) CT gave the executive branch, especially the president, tremendous power.
  study the relationship btwn President and Congress:
  -President enters into a treaty, Congress can override it. Congressional Veto.
  -Natl security elements present, President can say no to the intl treaties.

- **Issue: 5 superpower govts at SC: govern the whole stuffs.**
  1945 SF conference agreed as best structure. 1945:UN’s troika system=Soviet Union, Europe, US.\(\rightarrow\) secretary general(neutral nation/small) selected according to the compromise of the three super powers with the minimum possibility of conflicts of interest.Soviet Union has three representatives, on the other hand all the other nations have only one rep in UN.

- **Issue: compare SC and GA**
  -Secretary general: no job description, qualification, ....
  -After the fall of Soviet Union \(\rightarrow\) secretary general became more important.
  -The modern world politics: US + UK decide in reality in a leading way \(\rightarrow\) France, Russia, China follow \(\rightarrow\) the other members agree in UN.

- **Issue: think about the Veto powers v. significance of small countries, ....\(\rightarrow\) one superpower’s emergence (US)

- **Chap2(Article 4) Membership open to all peace-loving nations.**
  -Issue: What is the definition of peace-loving nations? Think very carefully. “Using forces does not necessarily mean unpeaceful.”
  -Khmer Rouge, Kambodia…. (Torture-inflicting nations.) in violations of human rights.
  -UN is stopping the war against the national boundaries.
  -Article 51: what do we really mean by “Armed attack”?
- **Art 1**: Three objectives: peace, suppression of acts of aggression, other breaches of peace.

- **Issue: Aggression**: How does a country become aggressive? Physical aggression? Economic cohesion as a form of aggression to socialist countries, eg the withdrawal of economic assistance. How do we define aggression? World Bank as well can form aggression by threatening to withdraw the loan.

- **Threats of peace**: breach of peace ➔ Somalia (no existence of central govt), Cambodia, Yugoslavia, Soviet Union collapsed because of internal reasons ➔ If it is out of purely internal reasons, can we say that this becomes “threats of peace” as defined in UN charters? Congo, Uganda,……over 30 internal collapses ➔ UN has to consider this as threat to peace? Sometimes US misled UN to collapse Somalia and other states. Always internal, but at what level UN is to intervene?

  - Kambodia, Uganda, Rwanda, Kosovo, … where many were killed, but UN did intervene to those areas? In case of gross human violations, UN shall intervene based on UN charter? How about Bosnia? Where shall we find basis for the cross-border intervention of the UN?

  - For example, US constitution did not mention anything about privacy, or abortion.
    But the supreme ct interprets. Just as the US does, the UN can do so although nothing mentioned in the charter.

- **Issue: Article 2(4) What is threats? What is the use of forces?**
  - Threats? The way US is doing to Iraq by statements is in violation of the UN Charters? How about the US’s involvement with Iran regime? Military buildup, mobilizing soldiers might mean the threats. Conventional weapons

- Territorial integrity and political independence ➔ does not mean the whole country?
  - No-fly zone of Iraq: Cuba makes a claim about Guantanamo; there will be time US will occupy East European nations, although the territorial integrity concept may be used.
  - If Iraq’s has his govt overthrown by the US, it would not be the loss of territorial integrity and political independence as mentioned in Ar2(4).

  ➔ arbitrary interpretation: no mechanism to monitor this phenomenon.
  - proportional self defense necessary even in intl law.
• **Issue:** Article 2(6): NON-MEMBER FOLLOWERSHIP: On what basis did they get this principle? Morally and philosophically? Fundamental principles of Jus Cogens? Ethical minimum of every country must be applied. Meeting with the minimum standards.

• **Issue:** 2(7): No-intervention into domestic affairs:
  - What matters within the domestic jrxn?
  - How about women’s voting right? Does the UN has interest in the domestic jrxn of the US citizens involved with the Al Qaeda?
  - Troubles of jus cogens: Nobody knows what it is like. When does the particular groups become jus cogens? Where is the particular rules and process under the principle of jus cogens? NO.
  
  *ERSA Omness:* Intl community as a whole can do the action against any country if she breaks the principle of intl community,

  “Universal way of validity of rules.”

• **Issue:** What matters are, really within domestic jrxn, not to be touched regarding human rights. Article 12: Veto powers of permanent members within security council: politics decide the balance.

• **Issue:** How to interpret matters in a meaningful way. Disction btwn peace and security matters. Conflicts of economic matters. Distinction is not clear

• **Issue:** Article 13: GA economic and social matters. eco dev. + human developments+ environment preservation going together. UN environmental study

• **Issue:** Article 33: nothing has been done if domestic matters
  - Do we have disputes btwn Iraq and US? 1991 UN SC mistake. Chp 6 process gone thru?
  - Any way shall be declared by congress in the US but do we have any disputes regarding Iraq? Both parties must be willing to follow as written in the Charter of I.O. But no dispute btwn Iraq and US. still valid in today’s situation. Think about it.
  - **George Wil:** Commentary. The reason why thrre are conditions to argue. **Anticipatory**
(threats likely to take place?) defense? If we don’t do it now, it will be too late. Nuclear weapons, chemical weapons, Think of Israel case. ➔ can we justify this?

- **Issue: Article 39:** UN Technical expertise not enough to cover state conflicts. UN mostly depend on Western countries ➔ uncomfortable to the others

- **Issue:** if UN can make decisions independently without the intervention of the superpower govtvs, wd it be better?

- **Issue: Article 42:** UN does not have its own troops, thus they need to recruits resources from all the nations. What’s pros and cons for not having the own army for the UN?
  - Hypo: “Make sure that Mr. Hussein has this weapons and the prediction that he will use it.” If they support Charter, the problems are easier to be settled?
  - Iraq, supportive of Suicide bombers, terrorisms
  - what are the US claims? Or facts supported with firm evidence?
  - Iraq was the first case the enforcement was made under Chp 39.

- **Issue: Article 51: Inherent right of self defense** if armed attack occurs.
  - **YR 1951:** armed attacks= forces from outside weapons over the border in need of collective measures.
  1) How does this concept work now?
  2) Afghanistan attack is a self-defense? How about Taleban and Al Qaeda?
    - So many problems of intl law. Prisoner of War(POW) brought o Guantanamo. ➔
    - American Law or Intl Law of Geneva Convention to be applied?
  3) Germany, Spain, Sudan, Saudi Arabia, Pakistan, Afghanistan, Yemen, Somalia… the idea of self-defense.
  4) **Biggest contradiction of Intl Law** ➔ war crimes in Nurenberg. Emperor Hirohito was not tried. Stalin was not tried. How can we justify these?

- **Issue: Article 103:** Vienna Convention of Intl Treaty. Victors are victors.
  - Think about what it means.
  - Is that a good idea?
  - Or shall it be changed to reflect the recent changes so that the more recent IO shall prevail?

- **Issue: Under the basic concept of the charter.**
  - There are so many clauses so contradictory lacking uniformity so that it does not function well.
Chp 2: peaceloving
Purely “objective” or not. “subjective” factors.
Women’s right to vote/minority/ segregation/equality/non-discrimination/

-Peace-loving=> not in a war crossing the border. If we expel every country for breach, more than half the states are not qualified.

*Issue: Credential issues rather than admission issue for China and Taiwan.
-How can we make the objective definition of “state.”?

*Soviet union(1)→ Russia/Ukraine/soviet socialist(3 representations)
*Palestine: Is this a state or not in general intl law. Terrorist org. Palestine office in NY and Wash as observer to the UN, the US can close its offices?

-Membership in article 4 in UN charter is purely objective in its meaning? Fairly reasonable economy, police power, military….

-Admission of states into membership. ICJ decided in fact that article 4 on page 46 that you cannot go beyond that. → premise in 1945 agreement:
-Rodesia(?) was not admitted tho Conditions of statehood were met. Political setup there mattered. → Yugo. Servia.

-Article 5-6: suspension by 2/3 of the members on what circumstances?

-Once u r in, there is no way out of UN? South africa’s apartheid. → only if there is persistent violation of principles, there cd be expellment. Article 6. expelling seems easier? Suspension is like a warning step while expelment is getting it out for good.

Why only states can be a member in the UN? Nothing mentioned as an observer in the UN charter. Why not the red cross or other important org cannot be a member of the UN?
-UN itself is an org for nations.
-Global AIDS Fund, Red Cross, Humanitarian Activities….their experiences are important for intl decision-making process

-How has the UN done with South Africa? No acceptance of credentials.

*Issue: How is the principles in article2& 6 and article 55 that different?

-Article 2, 6: higher order. Written with capital P. jus cogens.


-4th generation of human rights: any country that denies that can be suspended.

-good governance matters.
-’45: more state rights.

-now more focused on human rights and other issues.

*Issue: page 41-42: case 1. Taliban has preponderance of power in control.
case 2. What to do with the govt-in-exile?  
Case 4. vacuum of power. no central govt. Somalia.  
⇒ in consideration of rule 27.

*Issue: Global commission and governance. Find and read.
⇒ the idea of partnership.
⇒ not necessarily by charter

Chp III. Succession problems.

• issue of state succession and not consistent int'l law  
  - P. 75 Q1(a): case-by-case decision.  
  - Where do we find bases for the resolution of GA/SC? Who is to interpret facts?  
  - Who is generally to initiate the interpretation?  
  ⇒ legal committee/GA(p. 87): opinion to interpret the charter.  
  ⇒ Succession is a very sensitive matter of treaty.  
  ⇒ power of bureaucracy in the UN. (para2, p87)  
  ⇒ India: independence of India act⇒ historical aspects might play in the membership succession?  
  - Puerto Rico: member of Caribbean development bank which is open only to nation states.  
  - Virgin Island: well paid holidays and good support from the us fed govt.  
  Costa rica: French support.  
  - Scotland…etc.⇒ new question of membership to emerge later.  
  - UK and India: devolution agreement On the basis of Independence of India Act:  
  - Autochthony. How to make Indian constitutional law.:  
  - Constitution+ assembly btwn two parties⇒ more than just a state.  
  - Quebec, Canada⇒participate as a member of French speaking int'l org.  
   Questions: Representation not necessarily one-nation or one-state based or not  
    - Issue: think what’s in the people’s minds, especially a lot of political considerations and practical concerns about the succession problems. (p.91)

1.(a)alternative approaches

• I traditional rules of succession(para2, p85)⇒ automatic membership.
new membership application requirement
Making one of the state to follow the previous got ‘s foot.
* no legal challenge to the membership of India. Pakistan, Polan said, needs to be admitted.

**new member’s qualifications matters** (P86)

1) Russia: automatic succession ➔ Russia
2) Federal Yugoslavia: denied, becuz it represent only 2/6 republics. ➔ stiff resistance form SC and GA.
3) Chech: splitting republics decided to apply for invididual membership. ➔ divide btwn themselves the seats in a variety org but UN demanded formal elections.

➔ article 4(1): the criteria of eligibility. 4(2)

2. (b) rules of new state’s automatic membership assumption? Declaration of formal admission by the UN.

Issue: What interests are served? Recognition of the new state by international org.

3.(c) why Russia was permitted? Russia took over the former Soviet seat (including the USSR’s permanent seat on the Security Council) as it was the only politically practical and viable solution under the circumstances (bttm para, p80) that Russia’s share in the population and territory of the remaining ten republics rise to almost 68% and almost 80%. (see the footnotes on PP80-81)

*Issue: why not Serbia-Montenegro?*

(d) P. 81. para 4. SC Res. 777(1982) constitute a legal rejection of Serbia-Montenegro’s claim to the Yugoslavia seat, suspension, or anything new? The two remaining republics of the old fed 7 republics comprises 42% of the old territory, and 45% of the population. But rejected the automatic membership faced with the opposition (PP.80-81)

(e) politics/interests of Serbia_montenegro?

rejected Yugo’s requests on the basis of lack of jrxn. (bttm para, p143)

Serbia+Montenegro to stay within the state of Yugoslavia under the new name of Federal Republic of Yugoslavia on the other hand the other four republics declared independence (para2, p101)

➔ UN sanctions against Serbia for hostilities
go not comprise majority.

➔ do not admitted to the UN based on the religion.

➔ 47/1 resolution (p.108)

(f), page 75

SC REC. 777 (page 121. footnote 43): FRY not accepted.
Mechanism of access

*****Iraq issues
- Read Ch6, carefully
  - If there is a threat posing instability in a certain region can be regarded by the UN SC
    as sth under the UN Charter for justifying peace-keeping operation?
  - Think: How is Iraq different from NK and Iran in terms of threat to the neighboring nation under the UN Charters?
  - Weapons of mass destruction→How about the others? Strong basis for physical threat?
  - Threat of oil can be a threat to peace?→ let’s see Bush’s speech on Wednesday and discuss at Thu class.
  - Iraqi response to the UN for unconditional inspection.
  - UN inspection on Iraqi soils.
    -Chp 6: peaceful settlement of conflicts.
      - Cuba, yemen...’s example: short time span to comply with the inspection. If not, -it will be on Hussein’s responsibility.
      -Inspectors, based on resolution 687, are already there in UN.
      -what if some of the inspectors might have been spies?
      -US expecting another coercive resolution: no more nego but just force…
      -USAmbassodor of the UN: 6-8 resolutions.
      -Fairly observe resolution of GA (that is to be obeyed)
      -The only way we can use force is article 51: self-defense only one can use force
  - Issue: Who has a final say in interpreting article 51 to determine the self defense? SC as in Korean war for the legitimacy
  - If SC says no, any state has a right to bring a unilateral action?
    → know that SC is a very political body.
    →preemptive attack in anticipation of the possible terrorist attack by Minister Rumsfeld can be justified for the US to go ahead with their plan to attack Iraq?

Cf: UN resolution toward Iraq.
  Nuclear weapons
  Ballistic missile
  Human rights
  Violence against women(torture)
  Execution of political opponents
Abuse of children
Crimes against Moslims
  ➔ two-prong approaches: going tough based on the self defense against Iraq
  UN Resolution687: unusual but outreaching

*Issue: Yugo v. NATO (page 142-143)
  -Nigeria, Ethiopia against South Africa for apartheid: ICJ was not interested in hearing the case, and therefore dismissed.
  - Nohebcchau: a German→ nationalized to Lichten Stein→ Guate Mala court ruling.

*issue: think again about What the principle of succession is.
  Obligations.
  Conditional succession
  1) the state to continue or not in form or substance?
  2) Who should get what? And to what portion?
  3) Based on the assets? IMF says depending on the economic size the assets and liabilities are to be determined.
  4) Q7/p.76: How about foreign assets such as embassies, overseas investments, …..? who is to succeed?

*issue: Speech by Mr. Ko YungTung: Issue of the role of the world bank for the promotion of the rule of law. Is this real or joke?
  -Worldbank PJT building up oil pipes in Africa.
    Wb has Internal unit that monitors the causese of the wb consistent with the activities of the wb.
  - background of intl financial institutions starting from the Brettonwoods system.
    ➔ IMF: for short term financial problems in famine, currency, finnacil risk, foreign reserves....
      through the instrument of Special Drawing Rights( thru the baskets of 7 currencies):
        accounting-system- based transfer
    ➔ IBRD=world bank/ Washington DC is composed of five orgs.
      worldbank itself. International Financial Corporation(private investment), International Development A? (soft loans), MIGA(Multilevel investment and guarantee agreement; political insurance risk ), ICSID(internatl center of settlement and investment dispute)
    ➔ GATT→ WTO
      1. *World Bank(less political) & UN(human rights issue)
      2. -strain over the human rights issue
3. -where to draw the line?
4. -WB: loans to dictators abound to Korea, Taiwan, China, etc.
5. WB lending for women’s rights, women’s ed., … → South Africa women really pushed hard WB for the solution of apartheid and some of them were successful.
   Lending policy change: Structural → infra → human rights → now more social area (Dam, railway … bridge)
6. Based on the WB lending policy change, are there any need to divide up how the money was spent in case of Yemen? NO, becuz any money spent in any section of the country will be used for other sectors as well interdependently.

**Hypo example:** E African Community: one-yr nego for solution about how to distribute the loans from WB. Kenya asked for the biggest shares as it has the largest population. Uganda, Tanzania … etc. It is very difficult to know who got how much.
- Intl law usually depends on the geographic basis about the distribution of the loan and benefits though there could be different opinions
- India and Pakistan: former soviet union; … → pragmatic formula depending on circumstances.

- **Issue:** Difference btw WB and UN:
  → UN itself is not a money giving org. succession and membership is key issue.
  Inconsistency rampant. Aggression/inhuman action of Yugo, for example, worked as deterrent for membership.
  → WB stakes are much higher for helping the poor countries. Principles of consistency are maintained or not?

*Intl coop necessary for modern world for peacekeeping, or against money laundering … etc.

Middle East problem as well needs multilateral coop.
- crossborder threat to peace in India/Pakistan border, Middle east,…
- the role of Intl org like the UN, or the regional org to play the crucial ones.
- President’s speech

*Issue: Bush’s UN address on Sep 17, 2002 and the U.N.

1) the validity of the U.N. raised: asked “the UN to do action or be irrelevant”
- how to deal with the global problems for the us with regard to SC and GA.
- George Soros’ remark: “on the role of the U.S. whether this power can be used to more useful way”
- the question of the breach of UN resolution.
nothing mentioned about PLO or Israel.

Charter Article 51: not mentioned about the self defense
- "clear and apparent danger" present or not?
- new natl strategy about American foreign policy:
  - massive retaliation against massive destruction attempts.

Bush said he would choose for democratic independent nation. By this criteria of "democratic" can we include PLO? validity issue for the election for Arafat?
  → Florida election for example.
  → can we have observers for democratic election for PLO?

article 27: any substantive matters shall be determined by members' voting.
  " concurrence" → if a state abstains, that country concurs.

- failure to observe UN resolution; possession of weapons of mass destruction;
- how do we decide if we are UN president that a certain country's weapons of mass destruction is problematic.

ex. China's threat → can US do that in the same way?
  → global police state possible or police works possible with good intent possible?

*collective security emphasized by UN charter
- Think about the conservative moves of this nation now

*Question: possession itself of the weapons of the mass destruction can be amounting to the threat of peace according to the UN charters? → if these weapons had been used before, it could be a threat to predict that it would be used again? (In terms of deterrence and historical context) → How about domestic laws like the way of scarlet letter? → possession itself is not violation by intl law standard.

Issue: Page. 76: Yemen and succession issue
- NIC/Developed nations' Needs, welfare system → opportunity thru assistance is the model for loan providing.
- UN Membership dues? Article 17
  → what's the position of the UN: NY and SY: same size/population/
  → shall both states of Yemen equally take up the burden together?
  → North Yemen: successor state
  → South Yemen: new membership: can we buy SY's position asking for only small fraction of dues?

cf. see the case of Russia (completely took up the whole share of the old Soviet
*Union), Czech(members agreed to divide the dues), Yugo and think whether we can apply the same rule to Yemen case

*For membership, in addition to money, economic standings….etc what are to be considered?

• Principle in succession: dominant states shall be successor states as in Yugo, Russia, Czech.

Chap IV: privileges and immunities.
- Privilege and immunities: constitution itself such as UN, ISO, etc./. Agreement and treaties/, Laws
- UN HQ Agmt:
  * study PLO case.: PLO: observer but as an equivalent of states. PLO’s status in the UN. It is not a Govt in exile though.
  * Does America has a jrxn over the UN?
  * Failure of US scct against the Executive Body’s closure of the PLO.
  * UN Charter does not say anything about observer’s status.
- danger from terrorism: how to deal with the states:
  * U.S. will charge any states that might challenge the US supremacy ➔ what’s implication for this announcement in intl law and UN charter?
  * why the US chose the legal solution in the ct to kick PLO out?
    - Convention btwn the states?
    (f) PLO kickout by the US govt
      - solicitor general of the US is what?
    - Political question by the executive department to kick out the PLO rather than the judicial decisions.
  • Secretary of state Hague: political consideration ➔ to PLO
  P 149: Q1(a): immunity and privilege needed?
    ➔ League Of Nations tradition: 50 countries ➔ set of rules needed.
    ➔ Vienna convention not accepted till 1960
  • (Q1 (b)) New provisions needed to the present structure of immunities and privileges?
- Payment of parking tickets;
- 1976: diplomatic relations acts by the US, a modified Vienna convention making it necessary for all the diplomatic missions insured.
- Cases of GA diplomat’s conviction after drinking and killing by his car.
- NK diplomat’s rape attempt: US ceased the operation of the NK observer’s mission for one yr when NK was not still a UN member.

P.150. **Immunities of the diplomatic missions on the UN**

- US natl security exception→ section 6; UN HQ AGMT
  - section 6: natl security-interpretation by the US not by the UN.
  - many cases of visa rejection by the US in the name of national security and other political considerations.
  - always not conclusive.

1. Hypo Example. Austrailian president was refused the visa for what he did during the wwII as a young soldier partisan.
2. hypo Example. soviet embassy explosion took place and the us police moved in. can this be a probable cause? see page954; section 20; the right and duty of the Secretary general of the UN.

- Q3, p150(a) immunity from civil action? NO. see page 943 section 7.
  - (b) buying a car for diplomatic mission: section 18, page 954
    → diplomatic exception is not likely to apply.

***Issue: Pay careful attention to the Joint resolution by Congress:***

*Congress Resolution on Iraq.*
→ all necessary means determined to be appropriate. for the president inclusive of the use of force→ unilateral power to the president
→ enforce UN resolution
→ defend natl security of the U.S.

→ if this is to be passed, what will be the response of the Iraq according to the UN charters? Can Iraq raise arms as a way of self defense?
  - UN charters were violated by Iraq, and the forces are to be used by the US?
  - Iraq is Threat to intl peace+ security to the US?
Chp. 9: regional arrangement.

In terms of regime change pressure on Iraq. What does that mean in UN law? The intl community has a collective right to remove such a terrible regime like Pol Pot and Idi Amin.

If China, Russia, France say no, what if the US goes ahead alone? For the first time, US is official announcing the regime change.

Chp. V; US Natl security can go far extended how much?

* Arafat, one of the leading faction in the PLO was denied his visa in 1984
* a French with the experiences of high jacking of airfrance can be denied visa for the security background by the US?

- no constitutional background for the visa denial for sb who wants to make speech in UN by UN charters, Vienna convention, etc.
- what does this national security really means? Congress has any clear in mind idea of what’s against the natl security?
  - us record of deporting a south African freedom fighter who protested against the apartheid. Simply, govt doesn’t want to disclose all the standards of the visa denial.

- US interpretation, not negotiated with the secretary general.
- Vienanna convention article IV: no reasons needed for refusing diplomatic missions.

HQ act/privilege & immunities/...=> combine these rules together and then us will decide the grant of visa.

chap. 4: privileges and immunities: right of entry.

Page 199 the U.S. 1986 visa denial for Mr. Yasser Arafat for his speech in the U.N.

- **Fact** Arafat’s interest in coming to NY for the UN speech in June 1986 twelve years after his previous speech in 1974 when he got the standing ovation by anti-americanism and anti-israel audiences. Senator Robert Dole and other 50 members of the senate’s request for the visa denial against Mr. Yasser Arafat for the fear of poison spreading namely “terrorism”

**pro**: The U.S. legal background: **US section 212(a) (27)** of the Immigration and Nationality Act(McCarran Walter Act) permits the expulsion of aliens who seek to enter the US solely, principally, or incidentally to engage in activities which would be prejudicial to the public interest or endanger the welfare, safety, or
security of the U.S.

The HQ Agmt of 1947 PL 357: Nothing in the agmt shall be construed as in anyway diminishing, abridging, or weakening the right of the US to safeguard its own security and completely to control the entrance of aliens. (para 2, p 201)

➤con: State dept officials’ comment: Shultz’s unusually personal act arising from his abhorrence of terrorism(para 4, p202) 1947 HQ Agmt: article IV: section 11-12-13: the fed, state or local authorities of the US shall not impose any impediments to transit to or from the hq district of representatives of members or officials of the UN.(bttm, p 204 –beginning p205)

➤ by a lopsided 154:2 the UN GA rebuked the US for barring PLO leader Arafat and decided to meet in Geneva for three days to hear the speech by Arafat during Dec.13-15. virtually all of the us traditional allies think that barring Arafat violated the obligations of the US as the UN’s host country.(p205) and it was a damage to the US credibility in the world arena(p206)

(a) the US visa denial for a member of Iranian delegation who was involved with the seizure of the US embassy in 1979;

my answer: ICJ ruled it that Iranian embassy seizure was a violation of intl law. we should ask under what nature did he moved into the embassy? Was it as a violant student vandal? Or as a revolutionary? very possible becuz his criminal record shows the terroist records.

(b) Hypo: Libya’s foreign minister’s visa application for the UN speech who had a record of working with the Libyan Intelligence Agency especially for the bombing of the Pan Am bombing in 1988

➤ Every embassy has intelligence staffs under outside covers, but in the deep side most of them are spies, if the visa denial is okay, all the Vietnam war veterans shall be rejected of his us visa. While carrying out the official or public job of the govt shall be condoned for the visit to the US after the war/operation is over especially when such a person wants to come to a speech in UN after the US made diplomatic normalization of the very country.

(c) Kicking out of the Zaire mission for the rent due to the NY landlord

Fed. Dis ct: diplomatic immunity does not extend to nonpayment of rent(second para from the bttm, p 206) for Zaire mission $400,000.

Nopayment for 18 mo, it had no legal right to remain in the bldgs. (p 207)

COA holding for the non-eviction of the Zaire mission
reversed the lower ct decision by saying(bttm para, p207, p208)
becuz the coa is not blind adherence to the rule of law in an intl treaty, uncaring of justice at home, but that
by upsetting existing treaty relationship American diplomats abroad may well be denied lawful protection of
their lives and property to which they would otherwise be entitled.
Article 22 of Vienna convention: a mission premises inviolable.(p 208, p961)
UN charter A. 105(2)/UN HQ agmt Art V(4)/UN privilege and immunities Art IV#11(para 2-3, p211)
foreign sovereign immunities act inapplicable.

(d) What other options NY landlord can have against the due Zaire mission rent?
remedy for the landlord:bttm para, p216 ct ruling
state dept landlord’s application for the inviolability in advance or by demanding additional security.

ChpVI. Negotiation, Mediation, and Arbitration.

- UN Charter A35(1)(2) any member or non-member can bring any dispute or any
situation to the attention of the SC or GA possible.(p236)
- UN Charter A36(1) and 37(2) SC may recommn appropriate procedures or
methods of adjustment
- UN Charter A 14; GA may recommend measures for peaceful adjustment.

Arbitration is possible because it is permitted by a national laws. All developed
countries, and many other countries, have arbitration laws that permit arbitration
of commercial disputes between companies, if the companies either:

1. agree to arbitration in a contract, before a dispute arises (see section 1.2 below), or
2. agree to arbitration in an ad-hoc agreement, after a dispute arises (see section 1.3
below).

*arbitration in general page 222.
(a) NY convention: boundary of land or money.
Monetary compensation.
(b) corruption: cancellation A 35(p241)
© American laws: default judgement if not appearing. civil case
rules of evidence will not apply in the intl arbitration law.
Genocide convention: any country can prosecute for genocide criminals.

**Mediator** tries to reconcile the views and claims of the parties and in appropriate cases makes confidential suggestions for this purpose.

Such suggestions have no binding force. (page 235)

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**Issue: Muslim and Croatian in B-H voting for independence from Yugoslavia**

- B’s ethnic groups: Slavic Muslim(43%), Serbs(31%), Croats(17%) → 63% pro-independence
  
  04/26 EC recognized the independent B-H and so did the US next day. Serbs however proclaimed their own independence under the Republika Srpska (Serbian Republic of B-H). → govt in SE of B
  
  → Immediately attacked on the Croatian and Muslim population in NE and S of B.
  
  → by the help of 45 k Yugo Natl Army troops, the Serbs seized 70% of the B’s territory.

- 11/95 the two sides for a peace treaty (Dayton Accord). Line drawing in BRCKO considered. Population in Brcko: 20,000 Muslims and croats before the war and now 500 muslims and croatians but 25000 serbs.

**Two accounts of explanation:**

1) The Serbs took over Brcko they forced the Muslims and Croats out of their house.

2) Voluntary departure of the Muslims and the Croats.

**Arguments by Serbs:** the town of Brcko shall be divided in half allowing 15000 Muslims and vacating 10,000 serbs out of the Brcko.

**Arguments by Muslims and Croats:** division shall be made to reflect the pre-war distribution and to compensate for them for the murder and torture that they were at the hands of the serbs. → go for arbitration binding. By the UNCITRAL arbitrage rule

- relative to the protection of civilian persons in time of war.

  Geneva, 08/12/49 page 225

**Arbitration judges:** what the people affected want? What’s the possible?

→ arbitration can be refused NY convention V-2(a)(b), law of the country/ public policy of the country/procedural reasons.

- **Issue: conflict between UN laws and US laws.**
municipal cts are losing confidence and nations wd like to bring suit aginst the intl org for the settlement.

*wb convention: settlement and investment convention( very important investment disputes): consensus

→ provision btwn conflicts btwn investor nations and the invested nations.

*wto convention:

*ICJ

*think about the Yugo case.(page 221)

→ Bosnian serb negotiator

- **Issue: NY convention:** consensus bldg for the arbitration to be applied or to be refused. Page 241

- **Rewanda prosecution.**
  - 20,000 suspects for genocide….30 yrs for trial might be necessary.
  - basic rule ojusitce/private order/etc….lacking

- **page 225:** convention IV protection of civilian persons in time of war, signed at Geneva.

- **Un commission of internal trade law. UNCITRAL.**
  → the rules are not binding….

- **Issue: We are supposed to go by rules or not?**
  - equitable principle: binding norms. Considerably fair by mpost people.

  - Geneva convention article 54
  - arbitration and tribunal’s difficulty in solving the Kossovo issue.
  - NY convention has nothing to do with American law.
  - The treaty doesn’t specifically provide for solutions.

- **ISSUE: how do we ensure a system that will ensure consistency?**
  - how can we achieve consistency for the court in a country where award is enforced, particularly? -anyway to reform?-more efficient, more consistent….  

  Answer1)-Like the Erie doctrine , federal/state can we use the interpretations by intl -tribunal/regional/country tribunal on the parties’ consent.

  Answer 2) country-to-country special ct to cover intl issues?
Chapter VII. The Role of Law in Peace Negotiations

Page 249

GRP A: de facto military leader of Haiti, Raoul Cedras and Philippe Bimbay
GRP B: exiled democratically elected Govt Jean Betrand Aristide and Robert Malval

Issue: workout a peace agmt whereby the military leaders will step down and allow the democratically elected govt return to power.
Mediators: Dante Caputo of the UN and Lawrence Pezzullo of the US.

Page 250

Inter-American Ct of Human Rights: Rodriguez; Godinez Cruz; Fairen Garbi and Sollis Corales cases

The Ct tried to see whether between 1981-1984 a practice of disappearances existed in Honduras

3. Commission invoked A.50 and A51 of the Convention and requested the Ct to decide based on A4(rights to life), A5(right to humane treatment) A7(right to personal liberty)=> see page 259-260

*The decision to grant amnesty to the military leaders in Haiti reflected a balance of ethical imperatives against political constraints, there is no indication that international law was factored into the equation. (p278)

P.279

A,27; Vienna convention: a party may not invoke the provisions of its internal law as justification for failure to perform a treaty.
1949 Geneva Convention: duty to persecute grave breaches
Genocide Convention:(P281): definition of genocide
Torture convention(1987) (P.282)

Definition of torture

four general criteria of crimes against humanity p.291
1. inhumane in character
2. widespread and systematic
3. directed against a civilian population
committed on a natl, political, ethnic, racial or religious grounds.

Truce reconciliation:

*Long night’s journey to day. What do we do with the all these people who committed these crimes? *page 249

rewanda women’s travails in NY times:

1) problems of prosecution. How do we find evidence?
2) The woman raped for example wd not come forward.
3) How do we really successffuly prosecute somebody?

Issue: why the us and un were reluctant in invading Haiti?
Page 300. Haiti was not a member of torture convention, genocide convention, Geneva convention, etc…..not to be applied for this case.

Page 305:

- **Spain’s ICJ membership with reservation:** Not to be applied to disputes arising under a multilateral treaty unless all parties to the treaty affected by the decision are also parties to the case before the court.

- **Canada;** no reservation.
  Sep.1, 1999: emergency legislation prohibiting the turbot fishing with 300 nautical miles from Canada’s coast. To protect endangered species in the high seas of the Grand Banks.

- Spain : letter of protest for the livelihoods of the 10000 fishermen. Spain naval gunboats protecting the Spanish fishing boats at 280 nautical mls of the Canadian coast(outside of the Canadian territorial sea and exclusive economic zone)

- Canadian coast guard cutter fired a shot and killed a French sailor.
  Spain’s charges: 1) canad’a new law unacceptable violation of the interntl law of the sea
  2)Spain was justified in firing upon the Canadian coast cutter
  3) Canada is liable for the death of the French sailor.

- **Canada:** World ct’s jurisdiction oiver this dispute raised.
*Recommended reading: *Lexus and Olive Tree*

*Issues to think over: how corporations should behave.*
- common value shall emerge. Labor unions. Regulating rational ethic outside national scope.
- ECJ (Under European Council): Luxemburg. Maastrict treaty
- European ct of human rights: conventional
- American ct of justice
- judicial establishment in the western hemisphere mostly.

1) subject matter jrxn of ICJ can be extended? Temporary restrictions: only states can bring the case to the ct.

2) procedural jrxn: appellate ruling shall be allowed.

*Recommended reading: 17th 1996: Michigan journal of review. The UN role in African case* by Prof. Muthariska wb, imf…. (this is very important. Be sure to read it)

*Recommended reading: our global neighborhood:* on the problems of the UN/ 5 weeks after the iraq attack plan, nothing has been reached yet despite the simple mechanism of doing things done only by five permanent members of UN SC.

*Issue: How to draft a UN resolution*

1) future consideration about future of UN whether to use forces against Iraq.
2) consider the US and other potential powers. Germany, Brazil, India, Japan, etc…
3) regulation btwn the rich and the poor, the north and the south.
   - preemptive self defense: what’s the meaning, and the limits.
   A. The problems of arabs and their futures.
   B. UN SC: the only super power at this age:
4) think about the regime change.
5) If Iraq abides by the resolution of the uN, the regime shall be changed?

*Page 375: the UN SC power.*

- Article 99: UN Secretary general ➔ attention to the UN.
Substantive matter and procedural matter/ ask for the ceasefire by both parties/parties shall agree to the intl observers.
• Issue: What if one party does not listen to the UN SC recommendation, observer troops, PKO?

Recommended reading: Bruttos: Agenda for peace 4-10 pages; Access to peace; peacekeeping and intervention by UN; preventive diplomacy.

Peacebuilding → peacemaking → peacekeeping.

• Wolfowitz was right? If any sovereign states says no, there is no way for the military troops to be deployed? Article 2, page 920 domestic jxn issue: but the charter does not say anything about PKO in the UN charter. Then how? Nothing about the observers in the UN charter. Then how?

• Issue: Article 40: provisional measures A 41. page 375

Hypo: Who is to decide with regard to Iraq? Is it UN or the US? Shall we make the UN as a debating club? Terms of inspection/who shall inspect? Think about it. Send By email.
- question of powers of SC (chp 10)/
- no fly zone (charter chap 7 article 42)
- Somalia: enforcement measures
- Namibia: SW Africa: in carrying out the powers, UN SC...does really have the power to do those things? To set up the govt? even the K in good faith?
  * no American law authorizes the suppression of K.
  * holding of election in Namibia, Mazombiq, Nicaragua: where is the basis for the UN SC actions for that? Although the results were quite successful.
  * Referendum....in West Sahara.
  * UN totally failed in their resolution ...
  * threat to peace: security measures; diseases....
  * if we are to reform the UN?
  * Line has to be drawn somewhere....

• Issue: how far can we get back in history for the sovereignty issues?
  * Traditional intl law: victory in war entitles me to territorial claims, title to occupation.
  * occupation of the west bank. Accession of the Israel is in the violation of the intl law.
  * do UN get involved with disputes over a case over 100 yrs.

• Issue: What’s your peace plan for Venezuela. How do we set up the peace plan?
*Guatemala dispute: Terms of reference? Working well. Addressing all the aspects to be handled.

*Haiti: OAS discussion.
*new economic zone/continental shelf/
*Bosnia: Measured violation of civilian monuments. Human rights issue,
*why SC has a role to resolve intl security issues?
* powers of sc.

Chp XI. The security council: reform.
*issue: how to reform the UN.SC?
The context of 1945 not working.
Possession of atomic bomb by soviet union.
Governance of the big power wasnot mentioned at all for the permanent members of the UNSC.

   1) big power governance
   2) veto power
   3) absenteeism means consenting…
   4) claim of self-defense can be endless…

*Issue: think more about how to go ahead  Reform of the UN SC.

1)If germany and japan be admitted, there will be too many powers with northern hemisphere.
2)instead of geographical representation, how about civilization represetation as
3)Huntington arguments. What’s the problem here?
   *Ex. Pakistan as a un sc member.
   * possibility of economy and geographical, population,… representation
4)*weighted voting sytem suggested: economic
   contribution+demographic+geographical…UN access system, etc….problem: who is to decide by what standard?
5)NGO: Global Compact with TNC suggestions. ➔ UN global system
   conference of religious leaders
   Human rights/ environmental contamination/ labor problems➔ sustainable
developments
   • another body representing all the NGO, TNC, etc… might be needed at least to represent their voice to UN.

6)Secretariat itself needs to be reformed ➔ needs to be premonitored.
nothing mentioned about qualification how secretariat is selected. Nothing mentioned of
process. Now secretary general is more than just an administrator of world peace
organization. Think of past secretary generals.
* 25,000 staffs and bureaucracy as well needs to be reformed.
*determine session for GA

issue: Use of Forces must be proportional. What else do we need for the use of forces?

- issue: What next after Iraq attack?
  * what if the U.S. goes ahead with Iraq attack plan? Can they resume the stability of the intl
  world order?
  * any country shall be disarmed if they have biological weapons/chemical weapons. No matter
  how power it is, any country shall be disarmed of its biological/chemical weapons.
  * EU came out with an outline of treaty for stronger org. united states of Europe with stronger
  nations.
  - where shd the power reside?
  - do we need the SC at all?
  - what kind of reform can be made?
  - veto power: gradually to be changed?

The real representation
* Veto power; China-Taiwan issue/Tibet issue
* veto power: Chechen…

- Issue: NATO case (page 390) going ahead all alone.
  - question of shifting the veto power from SC to GA possible or not?
  - various proposals.
  - imf associated with UN) such as wto, e.g.

(p. 403) Chp.XII. UN sanctions
Chemical convention:
ICJ posting in the general assembly: read annual report about centralization of ICJ.
(read from the homepage of icj under “what’s new”)


issue: immunity does not mean impunity. Really?
*ex. Genocide, crime against the humankind. Rwanda, Congo, Zimbabwe, Uganda:
  fundamental changes of circumstances
*some *jus cogens needed.*
*sanction contingent veto problem;
* sort of double standard of sanction;
*reinforcement matter in the global perspectives
*sanction depends on the good will of the UN members.

***issue: Example of Iraq.

What is it aimed at? Overall purpose is what? If leaders are not affected, how would we make sanction efficient without the general public suffering?

if sanction is to be imposed rationally what do we need?
or do we need sanctions at all?
  rational way of enforcement of sanction? UN charter A.41
  people’s uprising is difficult becuze of natl security police….

What else is left to force compliance.

smart sanctions: list of people in the govt. biz, military…..freeze their assets, prohibit travels… => how much effect we can do so in a clinical and surgical way

big issue: are we trying to achieve developments of the human right, the UN does sth contrary to its own charter? In terms of overall objective of UN

issue: is it possible to structure sanction on the regime to comply with intl law?
That’s his function cannot be imposed in violation of UN SC principles.

*question of ur obligation under the charter
*question of my obligation under the Vienna convention.
*say, if one nation is trying to close an embassy, then what? treaty is much higher than domestic law. By American law, decision of UN sc might be ignored by the Vienna treaty.
  *In intl law the numbers of votes do not matter so much, maybe the number of those storng powers matters.

UN Sanctions. P.433
Difference of UN sanctions committee v. traditional judicial body.

- **Sanctions**
  - humanitarian exceptions.
  - whole problem of drafting for the sanctions regime; for example against Iraq?
  - FRY, Kosovo, …what factors account?
  - human rights aspects?
  - virgin island, guam, Puerto rico: colony or not?
  - problems of interpretations and meanings….Page. 425

- **Ambiguously left intentionally:** “of all weapons and military equipment.”
  - ex. Dual-purpose helicopter for medical purpose/military purpose as well.
  - ex. Truck/van: unicef or Oxfam…etc. wd not be considered as weapons or military equipments.
  - ex: south African sanctions:

  page 403
  *15 member states of the UN sanctions committees
  there is no reason not to appoint any lawyers familiar with intl laws/economics
  *whether or not we can really structure a sanction without hurting any of the people in the nation
  but only with the aim to topple the top leaders? It is too bitter to influence all the people.
  * Vienna convention on diplomatic relations?: interpret a.103
  *total draconian sanctions would work better? How about Assisnation of top leaders would be
  better? Change of regime.
  *History of sanctions against Cuba, Iraq, North Kora as a total failure.

- **Page 433 3(c) political decision -making**
  *The difference of sanction committee(quasi-judicial body) v. traditional judicial system And
  how to make improvements about the sanctions.
  -composition difference(diplomats v. judges)
  -case-by-case approach v. stare decisis and consistent basis
  -interpretation varies v. rule of law and principles.
  -they give no reasons for passing the vote in sanctions.

  *** humanitarian/medical/diplomatic/// more specific definitions shall be made
  “food and commodities,” “weapons and military equipments”-----
  *** although it is not easy, there should be consensus regarding for example
pornography….among the 15 members of Sanction Committee and establish the rules.

***, see the movie “Lumumba”: describes Congo situation and PKO problems.

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**CHp. XIV. PKO**

Strictly speaking, UN charter does not say exactly about PKO. Chp6 talks about peaceful settlement only. Where does PKO fit? Chp 6 or chp7?

➤ hidden invisible chap 6 and half.

**Nb: be sure to tell peace keeping, peace enforcement, and peace building.**

*Peacekeeping*: non-military forces. Sometimes PK looks like military enforcement.

(know the difference of peace building, peace keeping, peace enforcement)

Consent needed for PKO operation but in case of somania, there was no consent as there was a vacuum of political powers. No agreement about Somalia about PKO intervention.

*Peace enforcement*: UN decision of military use against any agressional nations.

*when there is no SOFA, then how wd the intl law would rule if a PKO soldier keeps murder? How about the sending nations of the PKO?* Not quite established yet about this issue.

*(page 477 q1 (e)): what’s the different function btwn Peacekeeping and enforcement?*

Use forces in proportionate to threat.

➤ what if PKO turns into enforcement? Then what happens? Shall we withdraw them becuz of lack of agreement? Sometimes the distinction is difficult btwn the two.

*Butros Ghali: Agenda for peace. read this material from website.*

-preventive diplomacy

-Peace monitoring might be a better term than peace keeping becuz of the delicate difference as follows;
• **Issue:** High ranking UN officers in PKO are usually US citizens. They show a strong allegiance to the U.S., though they are supposed to be working only for the UN. Where are they supposed to be between the US and the UN?

• **Issue:** Read the UN resolution against Iraq. Interesting implication points

  1) Reference to sovereignty and territorial integrity.
  2) Who should actually decide whether Iraq complies with the resolution? → inspectors or SC? Who is the final decision maker?
  3) Some elements of self defense? → supportive of terrorist groups and so as to protect American national security?

• **Issue:** Accession of Turkey to EU? First time accepting an Islamic country for Europe for the first time? Why turkey was not accepted? 1. living expense not living up to European average. 2. asian mind...(now former soviet nations are joining EU now and why not Turkey?)

• **Issue:** Pope John Paul recommendation to EU to include European Christianity means what? Is he suffering from senile dementia to say that? Or What's the implications?

• **Issue:** Traditional idea of PKO starts where?

  - 1) int'l conflicts btwn a few countries? 2) now very few interstate conflicts nowadays but only a small size conflicts.

*Issue: Page 478. the respective role of SC and GA in peacekeeping.*

- SC v. GA in leadership for the PKO. What if there is a threat to peace? How wd we define them? Intermingling and intertwining exist. GA office needs to be reformed. we need to define more about the roles of SG.

  - Process of PKO decision making process within UN: SC → SG → GA
  - SC shall notify the GA of the deployment.
  - Some pacific countries pulling their resources and share bldg offices.

*Issue: Page 478. 1(g) consent needed or not for internal or international?
Angola case. Al Queda, for example, does belong to intl issue or intl issues? Consider Vienna convention…etc.

*Issue: Page 478 Venezuela-Guyana (read pages 364-366) Is it PKO? Or enforcement?

*Issue: text of UN resolution on Iraq

*Issue: problems of UN PKO and Its Reform.

*why US shall be involved at all in PKO? (p.525. Q1.a) * US wd not withdraw from the global operations as there will be a vacuum and as the US is a global power.

*US benefit by UN participation is more sophisticated than it appears to be.

Q1.b. why more complex, expensive, and dangerous? Difficult to find out today who is the violator and who is not? Not well covered by conventional concepts.

Q: what's the role of US in a certain country which still has the govt there?

Q: Creating local resentment?

*different kinds of PKO in Cambodia, Namibia, Angola, mozambique.

=⇒ building, constitution, election, democratization.

*Somalial: balancing natl interests v. intl interests.

PDD25=President Bill Clinton's decision directive on peacekeeping.

Chapter XVI. Humanitaria Intervention of Case Study of Kosovo.

*Nato's support of UN resolution against Iraq. Regional body participating into a global operation.

How about Pakistan and Indian case?

*What's wrong with NATO intervention into Kosovo? What wd be the possible consequences?

→ Any big power may decide whatsoever they want to do. → No legal background.

→ intl customary law. : foundation for NATO and other nations? → Some theory of eras omnes may help for the mankind as a Whole??? when Serious humanitarian situation like Kosovo,,,,,going on and when nobody acts, a unilateral act may save the whole world.

*question: what wd be the criteria for the futue intervention for something like Kosovo intervention.

-see page.638.

-intervention has no reference in UN charter while PK may have some implications from the charters.

-now it is widely accepted that intervention is sth inevitable.

*Page 641: UN Peace resolution:important: read with care. All the intl initiatives are made by the US and the UN charter itself is an American creation.

Chapt. XXII. Financial issues (p.849)

- How to regain the old influence for the US in the UN? Is it the legal or political problems?
of the UN Charter; A.19 is very specific about the payment duties. But to see the sliding scale beginning with the Permanent Members of SC, …there are so many and so many countries.

*Issue: A19* deals with the question of adversity the UN is facing. It’s a matter of GA rather than SC.

(1) In WTO, Taiwan and China joined with different considerations. but in UN, The considerations seem a little strange.

(2) Haiti and Panama cases:

p.849 q.1(a): what are the various options for the UN framers for funding the UN? The best would be the voluntary contributions and assessment.

What wd be the most feasible alternative for the UN? Suggestions include WB-styled shareholding system; securities issuance of the UN: taxing for every airticket, sea freight, radio frequency… for the UN; there could be a very creative way.

q.1( c) The duty to pay the UN is a legal duty or a moral duty? Legal duty with moral implications.
Ex. Abortion. 1995 Beijing women’s conference’s declarations: consensus about women’s health; Pregnancy and delivery;

q.1(d) enforcement of payment really impossible. ICJ can attend matters raised only by the states.

q.1(e) the consequences of the UN by the US?

q.2. can we accept the accord and satisfaction concept of the contract laws into the UN funding? Whether we can get a small amount of money and forget the arrears?

P.858 Financial Responsibility: certain expenses for the UN members to pay, for example, ICJ;

Exam hint: listen carefully as all the answers are at the class discussion, not in the books of any kind. Some students who did mechanically used the commercial outlines got the worst scores, while those who actively participated in the class got the best scores.

-Essay type exams (double space; 15 pages)

-interested in creativity

-more of ideas but do not refer to the library. Use only the class materials and lectures.