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## UNSOLVED PROBLEMS OF INTERNATIONAL ORGANIZATIONS\*

*Giorgio Del Vecchio\*\**

International law, as everyone knows, is a law "in a state of formation," or (as has been said) "*ein werdendes Recht*." Several problems, even ostensibly simple ones (for example the limits of territorial waters), still await a definitive solution. But even problems of a very serious nature, connected with international organizations, have been solved only partially or imperfectly. Their solution belongs perhaps more to the future than to the present. It is important, however, that such problems be postulated and formulated clearly, in their precise terms; since, as has been pointed out, a problem well postulated is already half solved.

This is the aim of the present brief considerations which are hence of a preparatory nature, so to speak, and do not pretend to provide definitive solutions.

We may consider as fully ascertained two highly significant factors characteristic of our modern age: first of all, the formation of extensive international organizations, which should embrace virtually all the nations of the world, and which in reality include a very large part; secondly, the cessation of many colonial dominions, and as a corollary development the creation of many new states which have already gained their independence and which therefore enter into the international organizations.

All this would be simple enough if all the States, new and old, were of the same nature and if there were no grave differences in their constitutions and the levels of civilization. Serious differences, however, have been noted since the very creation of the international organizations, (League of Nations and United Nations); and it did not take long before it became patently clear that the functioning of these institutions was in reality greatly threatened and at times outright paralyzed by heterogeneousness of their component parts.

The absolute equalizing of all states seems, in the abstract, to correspond to a principle of justice, just as does, in the internal order of a state, the granting of suffrage to all citizens without distinction, despite the differences between them. But in both cases it is legitimate to ask oneself whether (though admitting and supporting the principle of a fundamental equality) it would not be possible to implement a system mindful of the varying conditions of the members of the same socio-political organism. This would be done not to constitute arbitrary privileges nor to favor one group of members over the others. It would be done for purely objective capability of contributing to the existence of the organism with the sole aim of the common good.

As regards internal order, I proposed in a recent essay a system in accordance with which 40 per cent of the representatives would be elected by individuals (of all ages) who have been educated to a certain extent; whereas 20 per cent should be elected by individuals of a youthful age and 40 per

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\* This article is to be part of a volume in honor of Professor Rudolf Laun, on the occasion of his 80th birthday. It was translated by R. Parsons.

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cent by mature persons, subtracting, needless to say, all those included in the first category. These figures, however, have only an indicative value, and can be modified according to the circumstances; they are only aimed at clarifying the concept of the greater weight that should be given, in my opinion, to those sectors of the components of a state which are most cultured and richest in experience. The elected, in any event, would have equal authority and there would be no difference between them in the legislative assemblies, which would thus be perfectly homogeneous. Wherever such a system is adopted, in my opinion, the age limit could be lowered, and the voting right extended to all those who have reached 18 years of age; maintaining therefore and actually augmenting the universality of suffrage.

Only to draw an analogy have I made mention of this proposal, which does not directly concern the object of the present article. I wish to point out, however, that this proposal was based on the fact that large numbers of illiterate or semi-illiterate people live in certain countries. It was also based on the fact that in these same countries, and perhaps even in others, the forming of certain groups, composed largely of uneducated immature individuals — subject therefore to the most varied dangerous passions — constitutes a danger and a threat to peaceful civilized cohabitation and to the very existence of freedom. In those countries where such conditions are not prevalent, and where such dangers are non-existent, the reform I outlined will certainly not be necessary.

If (returning to our topic) we shift our gaze to international relations, and particularly to the United Nations, we observe that two contradictory principles have been accepted. On one hand, supremacy is accorded to five states (the so-called original members), each of which can block the deliberations of all the others in connection with the most important issues, including the admission of new members. On the other hand, is the principle of an avowed equality between the states, save for those favored by the above-mentioned privilege. But this obvious contradiction is not the sole defect of the United Nations. According to its Charter, its fundamental objective is the assuring of all fundamental human rights, the dignity and value of the individual, the equal rights of men and women. All the members of the organization are compelled to espouse these principles, which logically should be respected also in the internal constitutions of the individual states, without which adherence to the institution in question would be a fraud. But it is unfortunately only too well-known that even some of the "original member states" by no means recognize the right to the equal and individual freedom of their citizens, nor much less do they respect this freedom in international relations.

Also well-known is the fact that, particularly in recent times, the organization has admitted several states altogether devoid of constitutional norms in conformity with the above-mentioned principles. As a result, the organization has a much larger membership, but is much less capable of attaining the proposed ends. The grave anomaly that several of the most civilized and important states of the world were placed in a condition of permanent inferiority compared with the five privileged members has become increasingly glaring. The

inferiority of the nations in question, in fact, has become even more serious and unjust by virtue of the numerical prevalence, augmented constantly, of countries which have only recently issued forth from barbarity.

The highly acclaimed principle of the equality of rights of all nations ("equal rights of nations large and small"), already openly violated by the preponderance of the countries which were victors or so-called victors of the Second World War (in truth it is difficult to say just how much China really contributed to this victory, although it took part at the San Francisco Conference), was then applied mechanically and irrationally, with equal rights being given to states which are constitutionally respectful of the fundamental human rights and those which ignore even the most elementary guarantees of these human rights. Since it is by no means out of the question that one or more of the privileged states will line up with those of the last mentioned type, the conclusion is that not only the cause of civilization but also that of human freedom is now placed in jeopardy precisely because of the defects of the organization which was designed to represent its most valid defense.

It would be exceedingly naive to think that the flaws of the United Nations organization, though grave and obvious, can easily be rectified. Not only would a plan for a radical reform be most certainly rejected at the present time, but even any proposal for amendments would run up against opposition, probably insurmountable today. This does not eliminate, however, the necessity for studying this problem, whose importance no one will deny, so that it may possibly be propelled toward a just solution, when, in a more-or-less near future, a solution will be recognized as feasible.

According to a postulate of philosophy, which corresponds to the tenets of Christianity, all states must build a society — *societas humani generis* — because the spirit and fundamental law of humanity is one and indivisible. It has been rightly said, hence, that "*totus orbis aliquo modo est una respublica.*" Adherence to this universal society therefore must be conceived as a mandatory act, and not as a matter of choice, as it is considered by the Charter of the United Nations. And such an adherence logically implies the obligation of observing the principles of humanity and justice which must characterize the society in keeping with its own nature and which must similarly characterize the legislation of each single state.

Although these principles have been formulated repeatedly, in philosophic works, pontifical documents, and acts of the United Nations (particularly the "Universal Declaration of Human Rights," approved Dec. 10, 1948), it is an unquestionable fact that, as we have pointed out above, they were transgressed in the very structure of the United Nations, which has also neglected to demand their observance when it was a matter of deciding on the admission of new member states.

It is certainly true, in a sense, that a well-constituted organization of states should register and include, by virtue of its own universality, all existing states (both by reason of their request and *ex officio*); but all this does not mean that all the member states should have equal powers and equal functions. There should be a rigorous sifting to distinguish the states "of law" or

better "of justice" (in other words those which guarantee right to freedom) from the despotic (or "police") states. These latter could be permitted to attend the meetings of the former, as this would represent an object lesson for them; but they would not be permitted to take part in the deliberations and voting until they have modified their constitutions in the above-indicated sense. Only in this way could the society of states become truly effective, in keeping with its objectives, and truly grow into the champion and defender of our most sacred human ideals.

This, however, would not entirely solve the problem, since a number of points would still remain to be clarified. One difficulty, of no negligible proportions, and on which I have sought to call attention, consists of the following: the fact that an individual legitimate state has the right to be recognized on a par with all other states, in other words (according to the Bentham formula) to "count as one." On the other hand, since the personality of one individual is juridically equal to that of others, a state which has many millions of citizens should carry a weight, in the common deliberations, much greater than that of a state with a thousand times fewer citizens. It seems to me that this aspect has not yet received due consideration, nor that the procedure adopted by the United Nations (particularly that of the temporary election of "non-permanent" members of the Security Council) actually help to reconcile in an organic and rational manner these opposed exigencies. Simply as a suggestion, and without excluding the fact that better solutions may be found, I would make bold to propose that, at least for the deliberations of cardinal importance, there should be dual approval, in other words an approval of the majority of states, and of the majority of populations represented by them. It should be well understood, that the principle that all voting will include only those states which are legitimate or *based on justice* remains unchanged.

The objections which by reason of divergent interests and political ideologies would be raised against any reform of the United Nations, we hope, may soon be surmounted by the organization itself. If this reform is not forthcoming, it is possible that a new organization will be created, an organization built over a more rational foundation. No one can make forecasts in this regard.

In any event the cause of liberty and human civilization must be defended at all costs.